

ORDINANCE NO. 2011- 06

AN ORDINANCE OF THE COUNTY OF NASSAU, FLORIDA PROVIDING AUTHORITY FOR THE BOARD OF COUNTY COMMISSIONERS TO PASS BY RESOLUTION A BAN ON THE DISCHARGE OF FIREWORKS WITHIN THE UNINCORPORATED AREAS OF NASSAU COUNTY DUE TO WEATHER CONDITIONS INCLUDING LACK OF SUBSTANTIAL RAINFALL, HIGH TEMPERATURES, WORSENING DROUGHT, AND SYSTEMS WITH SIGNIFICANT WIND; PROVIDING FOR APPLICABILITY OF OPEN FIRES BAN TO SAID AREA; PROVIDING TERM OF BAN; PROVIDING PENALTIES; PROVIDING FOR JURISDICTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, weather conditions including a lack of substantial rainfall, low temperatures, worsening drought, and systems with significant wind considerably enhance the potential for and spread of wildfires within Nassau County; and

WHEREAS, further measures are required to protect Nassau County citizens and visitors and to protect their health, safety, welfare and property; and

WHEREAS, because of said conditions, wildfires once ignited, are extremely difficult to control and contain, and therefore the personnel and resources of the County and State battling the same are exposed to high risk, and the spread of said wildfires promotes an ever-increasing threat to the safety of the lives and property of the County; and

WHEREAS, said conditions demand that further precautions be taken to protect the citizens, visitors, and property of the County and to ensure that the health, safety, and welfare of the community is preserved; and

WHEREAS, the potential fires may become beyond the capability of the County to effectively respond and control without emergency procedures and assistance; and

WHEREAS, the Board of County Commissioners of Nassau County find that a resolution that temporarily bans the discharge of fireworks is necessary to avoid wildfire hazards until existing drought conditions end.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, as follows:

Section 1. **RESOLUTION DECLARING FIREWORKS AND BURN BAN.**

The Board of County Commissioners of Nassau County may pass by resolution a ban on the use or discharge of any or all of the following items:

(a). Fireworks as defined in Florida Statutes, § 791.01;

(b). Sparklers as approved by the Division of State Fire Marshal pursuant to Florida Statutes, § 791.013, and any other sparklers;

(c). Flares;

(d). Campfires or outdoor cooking fires, except those cooking fires in attended and monitored barbecue equipment; and

(e). Any other outdoor burning, such as lawn, debris, or trash burning except pursuant to permits issued by the Division of Forestry.

Section 2. **EXCEPTIONS.** The resolution declaring fireworks and burn ban enacted pursuant to Section 1 of this Ordinance shall not apply to the supervised public display of fireworks for which a permit has been issued by the County Fire Rescue Department. Notwithstanding any other provision of this Ordinance, the County Fire Rescue Department may, for good cause in the public interest, authorize and put into effect an exception to the prohibitions imposed by this Ordinance, only for a particular public fireworks display determined by such authority to be reasonably safe for private persons and the public. Furthermore the County Fire Rescue Department may authorize specifically or generally any burning authorized by the Florida Division of Forestry. Nothing herein shall be deemed to prohibit the smoking of tobacco products.

Section 3. **JURISDICTION.** The resolution declaring fireworks and burn ban shall apply to all unincorporated areas of Nassau County.

Section 4. **PENALTY.** Any person, firm, or corporation who refuses to comply with or violates the resolution enacted by Section 1 of this Ordinance shall be punished according to law, and upon conviction for such offense, shall be punished by a fine, not to exceed Five Hundred Dollars (\$500.00), or by imprisonment, not to exceed sixty (60) days in the County Jail,

or both. Each day of continued non-compliance or violation shall constitute a separate offense.

Nothing contained herein shall prevent the County from taking such other lawful actions in any Court of competent jurisdiction as is necessary to prevent or remedy any refusal to comply with, or violation of, this Ordinance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or any action at law for damages.

Section 5. **TERM OF BAN; EARLY TERMINATION.** The resolution enacted by Section 1 of this Ordinance shall be in effect for a period of seven (7) days, unless:

(a). Terminated earlier, or extended in seven (7) day increments, by resolution of the Board of County Commissioners of Nassau County, or by proclamation of the Chairman of the Board of County Commissioners or in his/her absence the Vice Chairman; or

(b). Terminated in writing by the County Manager at an earlier date upon determination that current drought conditions and the threat of wild fires, as defined in Florida Statutes, § 590.015 have been sufficiently alleviated through rainfall or other weather conditions.

(c). The County Manager shall have the authority to remove in writing specific types of activities otherwise banned by the resolution enacted by Section 1 of this Ordinance upon recommendation of the County Fire Rescue Chief.

Section 6. **SEVERABILITY CLAUSE.** If any phase or portion of this Ordinance is held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion.

In the event this Ordinance conflicts with any other Ordinance of Nassau County or other applicable law, the more restrictive shall apply.

Section 7. **EFFECTIVE DATE.** This ordinance shall take effect upon being filed with the Secretary of State.

PASSED AND ENACTED by the Board of County Commissioners of Nassau County, Florida, this 27th day of June, 2011.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



WALTER J. BOMTRIGHT
Its: Chairman

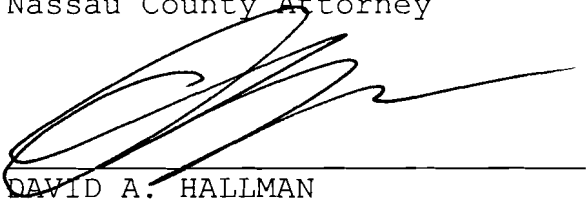
ATTEST:



JOHN A. CRAWFORD
Its: Ex-Officio Clerk

6/28/11

Approved as to form by the
Nassau County Attorney



DAVID A. HALLMAN