

COUNTY COUNCIL
OF
TALBOT COUNTY, MARYLAND

2012 Legislative Session, Legislative Day No. : July 24, 2012

Bill No.: 1220


Expiration Date: September 27, 2012

Introduced by: Mr. Bartlett, Mr. Duncan, Mr. Hollis, Mr. Pack, Ms. Price

AN EMERGENCY BILL TO AUTHORIZE THE COUNTY COUNCIL IN ITS CAPACITY AS COUNTY EXECUTIVE TO ADOPT A BURNING BAN IN ANY PART OF THE COUNTY OR THROUGHOUT THE COUNTY AS A WHOLE BASED UPON THE RECOMMENDATION OF A BURN BAN COMMITTEE, TO ESTABLISH THAT COMMITTEE, TO PROVIDE NOTICE OF ADOPTION OF THE BURNING BAN TO THE PUBLIC, TO PROVIDE A RIGHT OF ENTRY TO EXTINGUISH A FIRE STARTED IN VIOLATION OF A BURNING BAN AND OTHERWISE ENFORCE THIS ARTICLE, AND TO PROVIDE FOR CIVIL PENALTIES

By the Council: July 24, 2012

Introduced, read first time, ordered posted, and public hearing scheduled on Tuesday, August 14, 2012 at 2:00 p.m. at the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington Street, Easton, Maryland 21601.

By Order 
Susan W. Moran, Secretary

AN EMERGENCY BILL TO AUTHORIZE THE COUNTY COUNCIL IN ITS CAPACITY AS COUNTY EXECUTIVE TO ADOPT A BURNING BAN IN ANY PART OF THE COUNTY OR THROUGHOUT THE COUNTY AS A WHOLE BASED UPON THE RECOMMENDATION OF A BURN BAN COMMITTEE, TO ESTABLISH THAT COMMITTEE, TO PROVIDE NOTICE OF ADOPTION OF THE BURNING BAN TO THE PUBLIC, TO PROVIDE A RIGHT OF ENTRY TO EXTINGUISH A FIRE STARTED IN VIOLATION OF A BURNING BAN AND OTHERWISE ENFORCE THIS ARTICLE, AND TO PROVIDE FOR CIVIL PENALTIES

KEY	
Boldface	Heading or defined term
<u>Double underlining</u>	Added to bill by amendment
Double strikethrough	Deleted from bill by amendment
* * *	Existing law unaffected

SECTION ONE: BE IT ENACTED BY THE COUNTY COUNCIL OF TALBOT COUNTY, MARYLAND, that Chapter 119, Article II, *Fire Prevention and Control*, as set forth herein be and is hereby enacted as emergency legislation. In accordance with requirements for adoption of emergency legislation in the County Charter, § 213 (b), the County Council hereby declares that an emergency exists due to prolonged or unusual conditions that are conducive to the easy start and spread of fire, for the reasons set forth below:

WHEREAS, drought or near-drought conditions throughout Talbot County have created an unusually dry period with temperatures for the month of June the highest on record for the previous 5 years; and,

WHEREAS, the National Climactic Data Center shows 55 percent of the United States is in a moderate to extreme drought that includes the Delmarva Peninsula. Soil along Maryland’s Mid-Shore, including Talbot County, is extremely dry, not just from this year, but from an accumulation over the past three years of extreme heat and drought; and,

WHEREAS, the number and scope of recent fire reports and incidents have increased, including a single brush fire or wildfire that took multiple fire companies 9 hours to control, with firefighters in full fire gear in outside temperatures near or exceeding 100°F, causing severe stress both on individual volunteer firemen and companies and on available firefighting resources throughout the County; and,

WHEREAS, the exercise of sound and prudent discretion to protect public health, safety, and welfare, to conserve firefighting resources, and to protect the general public and their property from these increased risks and instances of fires, reasonably requires the County Council to be proactive by adopting emergency legislation to prohibit open air burning throughout the County.

* * *

FIRE PREVENTION AND CONTROL
Chapter 119, Article II

§ 119-5 Definitions

In this section the following words have the meanings indicated:

- (1) "Burning ban" means a complete ban on all open air burning declared by the County Council in its capacity as County Executive.
- (2) "Burn Ban Committee" means a committee consisting of voting members including the Talbot County Director of Emergency Services, Chair of the Fire Chiefs Committee, President of the Talbot County Volunteer Fire and Rescue Association, State Department of Natural Resources Forest Service, and the Talbot County Health Officer, who serves as an *ex officio* member, appointed by the County Council to serve during their term of office or employment.
- (3) "Fireworks" has the meaning set forth in the Public Safety Article, Title 10, *Fireworks and Sparklers*, § 10-101, Md. Ann. Code, as amended, modified, re-codified or re-enacted from time to time.
- (4) "Open air burning" means burning any material in the open or in a receptacle other than a barbecue grill, furnace, incinerator, or other equipment connected to a stack or chimney, including use of fireworks, sparklers, or sparkling devices, excepting lawfully permitted municipal fireworks displays.
- (5) "Public officer" means the Chief Code Compliance Officer, his designees, and Talbot County Fire Chiefs and their designees.

§ 119-6 Adoption of a burning ban

- A. In its capacity as County Executive, a majority of the County Council by executive order may impose a burning ban at any time in any part or parts of the County or throughout the County as a whole, based on the affirmative recommendation and finding of the Burn Ban Committee that prolonged or unusual conditions exist that are conducive to the easy start and spread of fire.
- B. An executive order adopting a burning ban shall:

- (1) Include findings and describe the conditions that require the burning ban;
- (2) Identify the area(s) of the County in which the burning ban is to take effect;
- (3) Include the dates and times the burning ban is to take effect and terminate;
- (4) Expire no more than 45 days after adoption, but may be extended or re-adopted from time to time as conditions warrant.

C. Upon adoption of a burning ban, the County shall promptly provide notice by publication in a newspaper of general circulation in the County, including the information set forth in Subsection B (1) through (3) above. In addition, the County shall post a similar notice on the County website and, if available, as a crawler on local PEG cable television networks and as a public service announcement on local radio stations. Failure to provide any such notice or notices shall not invalidate the burning ban.

§ 119-7 Open air burning prohibited during burning ban

- A. Subject to paragraph (2) of this subsection, no person may allow, permit, cause, start, or continue despite a request to discontinue, any open air burning during a burning ban.
- B. This subsection does not apply to:
 - (1) The supervised burning of buildings or solid, liquid, or gaseous fuels conducted under the direct control and supervision of qualified instructors at a training center operated by a fire department; or
 - (2) Any other supervised burning conducted under the direct control and supervision of:
 - (a) Qualified fire instructors; or
 - (b) A fire chief, captain, or fire line officer of a fire department that has jurisdiction over the area where the supervised burning occurs.

§ 119-8 Negligently causing fires

- A. An individual or corporation may not carelessly or negligently set on fire, or cause to be set on fire any woods, brush, grass, grain, or stubble in violation of this Article.
- B. Causing a fire in violation of a burning ban, or allowing it to escape to the injury of adjoining lands, is prima facie proof of carelessness or neglect within the meaning of this subsection.
- C. The provisions of this section do not contravene other provisions of law relating to the liability for fires.

§ 119-9 Right of entry on private property

A public officer having reasonable suspicion to believe that open air burning is occurring in an area in which a burning ban is in effect may enter on the public or private property of any person to extinguish the fire. Nothing in this section authorizes any public officer to enter any dwelling, structure, or building.

§ 119-10 Civil penalties

In accordance with the provisions of Chapter 58, Talbot County Code, the Chief Code Compliance Officer may assess civil penalties against any person believed to have violated this Article in an amount not to exceed \$500 for each violation. All persons who commit, conspire, participate, or assist another to commit any violation, or who have ownership, possession, or control of the premises on which any violation occurs, or custody, supervision, or control of any minor who commits any violation, shall be jointly and severally responsible for all such violations.

* * *

SECTION TWO: BE IT FURTHER ENACTED, that if any provision of this Ordinance or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Ordinance which can be given effect without the invalid provision or application, and for this purpose the provisions of this Ordinance are declared severable.

SECTION THREE: BE IT FURTHER ENACTED, that the title and a summary of this Bill shall be published once on the first publication date after enactment of the Bill in accordance with County Charter § 213 (c). The title is not a substantive part of this Bill. If the Bill is amended, the title may be administratively revised if required to conform the title to the content of the Bill as finally enacted.

SECTION FOUR: AND BE IT FURTHER ENACTED, this act is an emergency measure that is necessary for the immediate preservation of the public health, safety, or welfare. If passed by an affirmative vote of four-fifths (4/5) of the members of the full Council, this act shall take effect on the date of its passage; if adopted not by four-fifths (4/5) majority, but by a simple majority of the full Council, it shall nevertheless be retroactive in its application and shall take effect sixty (60) days from the date of its passage.

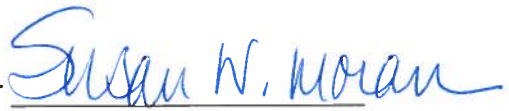
PUBLIC HEARING

Having been posted and Notice of time, date, and place of hearing, and Title of Bill No. 1220 having been published, a public hearing was held on Tuesday, August 14, 2012 in the Bradley Meeting Room, South Wing, Talbot County Courthouse, 11 North Washington St., Easton, Maryland.

BY THE COUNCIL

Read the third time.

ENACTED: August 14, 2012

By Order 
Susan W. Moran, Secretary

Pack	-	Aye
Hollis	-	Aye
Bartlett	-	Aye
Price	-	Aye
Duncan	-	Aye (via absentee ballot)