

RESOLUTION 11-11

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, RELATING TO THE ORGANIZATION AND CLARIFICATION OF THE MANATEE COUNTY CODE; REMOVING FROM CODIFICATION PART 3 OF THE COUNTY CODE IN ITS ENTIRETY; MAKING RELATED FINDINGS; PROVIDING FOR SEVERABILITY AND TREATMENT OF CONFLICTING RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the County Attorney's Office has recently completed a review of the Manatee County Code and has recommended certain revisions thereto in order to remove content which has become outdated or superseded; and

WHEREAS, the Manatee County Code (the Code) has been organized and divided by the codifier of the Code into three parts, commonly referred to as the Code of Local Laws (special Acts), the Code of Ordinances, and the Code of Resolutions; and

WHEREAS, while Florida Statutes § 125.68 requires that most ordinances adopted by a county be codified, the law does not require codification of resolutions; and

WHEREAS, the County Attorney's Office has, after careful study and consultation with the County Administration, determined that with the exception of one codified resolution, which will be relocated to the Code of Ordinances by separate act of the Commission, each of the individual sections and appendices contained in Part 3 of the County Code are either superseded by subsequent enactments of the Commission, constitute unnecessary regulatory burdens, are preempted by act of the Legislature, or otherwise outdated or unenforceable; and

WHEREAS, the County Attorney's Office has further advised that to the extent many of the sections of the Code of Resolutions attempted to place some regulatory burden or enforcement accountability upon non-County persons or businesses, these would likely be ineffective, since for a local laws to be binding and enforceable on such persons or businesses, same must be enacted via ordinance; and

WHEREAS, pursuant to this study and advice, as detailed in the County Attorney's report which is incorporated herein by reference, the County Commission finds that his recommendation to repeal Part 3 of the County Code is warranted and in the best interest of the County, its citizens and business community; and

WHEREAS, Appendix "A" to Part III of the County Code contains various environmental regulations; and

WHEREAS, the Attorney's Office study confirms these regulations, with the exception of Article III, Open Burning, are outdated, sunset, or otherwise superseded; and

WHEREAS, as to the Open Burning Article, based on Ordinance 96-23, the Administration has asked that it remain codified, with the intent that it be revised and merged with other sections of the Code dealing with the environment to create a single Code Chapter on that topic.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Manatee County, Florida, that:

1. The Manatee County Code of Resolutions, inclusive of each of the chapters and appendices listed below, shall hereby be removed from codification in its entirety:

Chapter 3-1 - GENERAL PROVISIONS
Chapter 3-2 - ADMINISTRATION
Chapters 3-3—3-5 - RESERVED
Chapter 3-6 - ANIMALS AND FOWL
Chapter 3-7 - AVIATION AND AIRPORTS
Chapter 3-8 - BUILDING AND CONSTRUCTION
Chapter 3-9 - CABLE TELEVISION
Chapter 3-10 - CEMETERIES
Chapter 3-11 - EMERGENCY PREPAREDNESS
Chapter 3-12 - FEES AND CHARGES
Chapter 3-13 - RESERVED
Chapter 3-14 - GARBAGE AND TRASH
Chapter 3-15 - LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS
Chapter 3-16 - MISCELLANEOUS PROVISIONS AND OFFENSES
Chapter 3-17 - MOTOR VEHICLES AND TRAFFIC
Chapter 3-18 - NUISANCES
Chapters 3-19—3-25 - RESERVED
Chapter 3-26 - RESERVED
Chapter 3-27 - PARKS AND RECREATION
Chapters 3-28—3-30 - RESERVED
Chapter 3-31 - ROADS AND BRIDGES
Chapter 3-32 - SHERIFF AND LAW ENFORCEMENT
Chapters 3-33, 3-34 - RESERVED
Chapter 3-35 - TAXATION AND FISCAL PROCEDURES
Chapter 3-36 - UTILITIES

2. Additionally, the codifier shall remove from codification all of the Articles contained in Appendix "A" (Environmental Regulations), with the exception that Article III (Open Burning). The codifier shall move Appendix "A", now only to contain the Open Burning Article, to the end of Part II of the County Code (the "Code of Ordinances").
3. The County Administrator is instructed to work with the County Attorney's Office to develop an ordinance creating a single Code Chapter concerning environmental regulations including these burn provisions, which shall be brought back to the Commission at a later time for consideration.
4. The codifier of the Manatee County Code shall codify the substantive amendments to the Code made in Sections 1 and 2 of this Resolution, and shall thereafter not show the Code as containing a "Part 3" unless and until the Manatee County Commission, by subsequent act, instructs the codifier to revive this Part for some use.

BE IT FURTHER RESOLVED that any existing Resolution or portion thereof of the Board of County Commissioners which contains terms or provisions which are in direct conflict with and cannot be harmonized with the provisions of this Resolution shall, as to such terms or provisions, be deemed as superseded by this Resolution.

BE IT FURTHER RESOLVED that the provisions of this Resolution are severable such that the invalidity of any one provision shall not operate to invalidate any other provision.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon its adoption.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Manatee County, Florida, with a quorum present and voting, this 11th day of January, 2011.

ATTEST:
R.B. SHORE
CLERK OF THE CIRCUIT COURT

By: *Joseph Shore*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

By: *Carol Whitmore*
Carol Whitmore—Chairman

