



SIERRA COUNTY, NM  
SHELLY K. TRUJILLO, COUNTY CLERK  
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BY: CORTNEY

**SIERRA COUNTY  
EMERGENCY ORDINANCE/ PROCLAMATION 2014-005  
RESTRICTING THE SALE AND USE OF FIREWORKS  
IN THE UNINCORPORATED AREAS OF SIERRA COUNTY**

**WHEREAS**, NMSA 1978, Section 3-18-1 (1972) provides that municipalities, and also counties pursuant to NMSA 1978, Section 4-37-1 (1995), have the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order”; and,

**WHEREAS**, NMSA 1978, Section 4-37-1 *et seq.* provides that counties may adopt ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

**WHEREAS**, NMSA 1978, Section 4-37-7 (1975) eliminates the general ordinance publication requirement for ordinances “dealing with an emergency declared by the board of county commissioners to be an immediate danger to the public health, safety and welfare of the county;” and,

**WHEREAS**, NMSA 1978, Section 60-2c-8.1 (1999) provides that firework restrictions may only be implemented by the County’s governing body after a public hearing; and,

**WHEREAS**, NMSA 1978, Section 60-2c-8.1 (G) & (H) (1999) states that “[t]he county governing body’s proclamation declaring an extreme or severe drought condition shall be issued no less than twenty days prior to a holiday for which fireworks may be sold” and that “[e]xcept as otherwise provided in this subsection, a proclamation shall be effective for thirty days, and the county governing body may issue succeeding proclamations if extreme or severe drought conditions warrant;” and,

**WHEREAS**, New Mexico presently has the largest wildfire in the State’s history raging in the northern part of the State; and,

**WHEREAS**, the danger of brush fires, grass fires, forest fires and structure fires is extremely high in the State of New Mexico and especially Sierra County and the surrounding jurisdictions; and,

**WHEREAS**, current conditions such as relative humidity, weather and fuel content and condition create an extremely high fire hazard in Sierra County; and,

**WHEREAS**, the probability of ignition of material and fire spread is extremely high in Sierra County; and,

**WHEREAS**, the Board of County Commissioners finds that restrictions should be imposed upon sale and use of fireworks within the unincorporated areas of Sierra County; and,

**WHEREAS**, the Board of County Commissioners finds that there exists an immediate danger to the public health, safety, and welfare of Sierra County; and,

**WHEREAS**, the findings of the Board are based on current drought indices published by the national weather service and other relevant information supplied by the United States forest service, the Fire Marshal and the State of New Mexico and the County Fire Chief.

**NOW THEREFORE, BE IT ORDAINED & PROCLAIMED BY THE BOARD OF COUNTY COMMISSIONERS, THAT:**

Section 1. The Board of County Commissioners hereby declares that Sierra County is suffering from extremely or serious drought conditions and high fire hazards represent a significant immediately threat to the peace, safety, health and welfare of Sierra County.

Section 2. For purposes of this Proclamation, the word "fireworks" means any device intended to produce a visible or audible effect by combustion, deflagration or detonation. The term fireworks is used in this Ordinance/Proclamation includes but is not limited to the definition of the "fireworks" provided in NMSA 1978, Section 60-2C-2K (1999).

Section 3. Pursuant to NMSA 1978, Section 60-2C-8.1 (F)(2)(a)(1999), the Board of County Commissioners does hereby allow the sale but limits the use of cone fountains, crackling devices, cylindrical fountains, flitter sparklers, ground spinners, illuminating torches, toy smoke devices, wheels and mines fireworks within the unincorporated areas of Sierra County to areas that are paved or barren or that have a readily accessible source of water for use by the homeowner or the general public.

Section 4. Pursuant to NMSA 1978, Section 60-2c-8.1 (F)(1) (1999) the following types of fireworks are banned from sale and use within the unincorporated areas of Sierra County: stick-type rockets, helicopters & aerial spinners, missile-type rockets, ground audible devices, firecrackers & display fireworks.

Section 5. Pursuant to NMSA 1978, Section 60-2C-8.1 F (2) (b) (1999), the Board of County Commissioners gives itself the power to and does hereby ban the use of all fireworks within wild lands in its jurisdiction. ("Wildlands" means any lands covered wholly or in part by timber, brush or native grass).

Section 6. Except as permitted by this Ordinance/Proclamation, the sale and use of all other fireworks of any kind or description are banned within the unincorporated areas of Sierra County.

Section 7. EFFECTIVE DATE AND DURATION

Pursuant to NMSA 1978, Section 4-37-9 (C) (1997), the Board of County Commissioners hereby declares it is necessary for the public peace, health, safety and welfare that this Ordinance/Proclamation take effect immediately after passage. This Ordinance/Proclamation shall be in effect for a 30 day period after the date of adoption. The Board of County Commissioners may review the existing drought and fire conditions at each of its subsequent monthly meetings during that period. If improving conditions warrant action, the Board of County Commissioners may terminate the Ordinance/Proclamation.

Section 8. ENFORCEMENT

The Sheriff's Department of Sierra County, the Sierra County Emergency Manager or his designee, and any other legally qualified law enforcement officer or any of their agents shall have the ability to enforce this Ordinance/Proclamation.

Section 9. PENALTIES

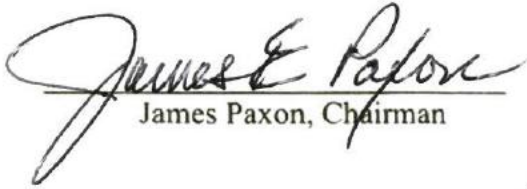
Any violation of this Ordinance/Proclamation shall be deemed a misdemeanor and punishable by a fine of not more than three hundred dollars (\$300) and/or up to 90 days in jail.

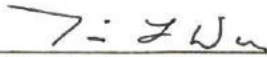
Section 10. SEVERABILITY

If any article, section, subsection, paragraph, sentence, clause, phrase, provision or portion of any article, section, subsection, paragraph, sentence, clause, phrase or provision in this Ordinance/Proclamation is, for any reason, held to be unconstitutional, invalid or void, the remaining portion shall not be affected since it is the express intention of the Sierra County Board of County Commissioners to pass such article, section, subsection, paragraph, sentence, clause, phrase or provision and every part thereof separately and independently from every other part.

APPROVED, PROCLAIMED, AND ORDAINED THIS 13<sup>TH</sup> DAY OF JUNE, 2022

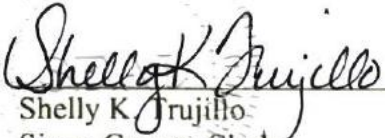
BOARD OF COUNTY COMMISSIONERS

  
James Paxon, Chairman

  
Travis Day, Vice-Chair

  
Hank Hopkins, Commissioner

Attest:

  
Shelly K. Trujillo  
Sierra County Clerk

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