

SIERRA COUNTY

EMERGENCY OPEN AND CONTROLLED BURN RESTRICTION ORDINANCE

ORDINANCE NO. 17-012

SIERRA COUNTY, NM
SHELLY K TRUJILLO, COUNTY CLERK
201700938
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BY LAURAH

**SIERRA COUNTY
ORDINANCE NO. 17-012**

**AN ORDINANCE DECLARING AN EMERGENCY AND ESTABLISHING
RESTRICTIONS ON ALL OPEN AND CONTROLLED BURNING IN SIERRA
COUNTY, NEW MEXICO**

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, Section 4-37-1 et seq. NMSA 1978 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, 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, an immediate danger to the public health, safety and welfare of Sierra County residents has arisen due to drought and fire conditions within the County; and,

WHEREAS, it is necessary to provide and declare a moratorium on open and controlled burning within the County.

NOW, THEREFORE, BE IT ORDAINED by the Sierra County Board of Commissioners as follows:

**SECTION I
SHORT TITLE**

This Ordinance shall be known as the “Sierra County 2017 Emergency Burn Moratorium Ordinance”, and shall be referred to herein as “this Ordinance”.

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**SECTION II
AUTHORITY**

2.1 This Ordinance is enacted pursuant to the authority granted to counties to provide for the safety and to preserve the health of the residents of the county as set forth in NMSA 1978 4-37-1 (1975).

**SECTION III
INTERPRETATION, CONFLICT AND WORD CONSTRUCTION**

3.1 **INTERPRETATION & CONFLICT.** The provisions herein are held to include the minimum standards necessary to carry out the purposes of this Ordinance. This Ordinance is not intended to interfere with, abrogate or annul any other valid ordinance. Where the provisions of this Ordinance conflict with other rules, regulations, agreements or other County Ordinances or resolutions, the provisions of this Ordinance shall be controlling. Where this Ordinance imposes greater restrictions than those imposed by other rules, regulations, agreements or other County ordinances or resolutions, the provisions of this Ordinance shall be controlling. Nothing in this Ordinance shall preclude criminal prosecution for the violation of any law set forth in the constitution of New Mexico or by statute.

3.2 **WORD CONSTRUCTION.** The words used in the present tense include the future tense; words in the masculine include the feminine; and words in the singular include the plural.

**SECTION IV
DEFINITIONS**

4.1 **AS USED IN THE EMERGENCY BURN MORATORIUM ORDINANCE:**

A. Moratorium is the temporary cessation of all open burning and controlled burning within the County as defined herein;

B. Open burning means any manner of burning where the products of combustion are emitted directly or indirectly into the open air. This shall not include a device or chamber designed and engineered for commercial purposes and manufactured commercially in accordance with required safety standards;

C. Controlled burn shall mean any burning intentionally started/ignited for purposes related to the incineration of dead or dry grass, weeds, brush or other vegetable matter. It shall also include camp fires and all other fires in open areas in the County;

D. Agricultural burning shall mean any burning of agricultural products, by-products or agricultural refuse by a farmer engaged in the commercial production of agricultural products or by a facility which processes agricultural products.

**SECTION V
PROHIBITED ACTS**

During the term the declared moratorium is in effect, except as stated herein, no person or entity within the County shall start, ignite or cause to be started or ignited:

- A. Any open burn
- B. Any Controlled Burn
- C. Trash Barrel Burn

**SECTION VI
AGRICULTURAL BURNING**

Any commercial farmer or agricultural processing facility may burn agricultural products, byproducts, or refuse after 24 hours notice to the County. The notice - either telephonic or written - shall be given to the County Manager and the Chief of the Volunteer Fire Department serving the area where the burn will take place. The notice shall include the date, time and product being burned.

**SECTION VII
VIOLATION; ENFORCEMENT**

Any person who violates any of the provisions above shall be subject to the following penalties in accordance with Section 4-37-3 NMSA 1978:

- A. A fine of up to \$300.00;
- B. Imprisonment of up to 90 days, or both.

**SECTION VIII
SEVERABILITY**

If any article, section or provision of this Ordinance is deemed invalid or void, the remaining portions shall not be effected and shall be enforced accordingly.

**SECTION IX
EFFECTIVE DATE; DECLARATION OF MORATORIUM**


8.1 The Board of County Commissioners hereby declares an emergency relating to fire conditions within the County, which is an immediate danger to the public health, safety and welfare of the County and its residents, and the ordinance shall take effect immediately upon adoption by the Board of County Commissioners and recordation by the County Clerk as required by statute. Due to the declared emergency and danger, no publication is required pursuant to Section 4-37-7.

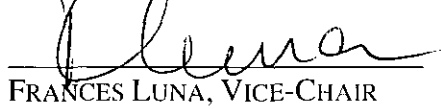
8.2 This Ordinance shall be in effect indefinitely until rescinded by resolution by the Board of County Commissioners of Sierra County.

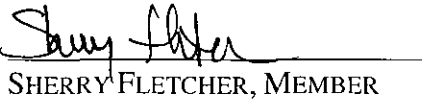
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APPROVED, ADOPTED, AND PASSED on this 17th day of May, 2017.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF SIERRA


KENNETH LYON, CHAIR


FRANCES LUNA, VICE-CHAIR


SHERRY FLETCHER, MEMBER

ATTEST BY:


SHELLY K. TRUJILLO, COUNTY CLERK

