

**SIERRA COUNTY
ORDINANCE NO. 19-03
ORDINANCE AND PROCLAMATION
RESTRICTING OPEN AND CONTROLLED BURNS
IN THE UNINCORPORATED AREAS OF SIERRA COUNTY**

WHEREAS, pursuant to NMSA 1978, Section 60-2c-7 and Section 60-2c-8.1 (E) (1999) the Board of County Commissioners held a public hearing on April 16, 2019, at 10 a.m. in the Sierra County Administration Building located at 855 Van Patten., Truth or Consequences, New Mexico 87901, to consider imposing restrictions on the sale and use of fireworks; and,

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

WHEREAS, the Board of County Commissioners finds, based upon current drought indices published by the national weather service and other information supplied by the United States forest service and New Mexico State Forestry that moderate drought conditions affect the unincorporated areas of Sierra County; and,

WHEREAS, the Board of County Commissioners provide and declare a moratorium an open and controlled burning as detailed herein within the unincorporated area of the County; and,

WHEREAS, the possibility of fire situations will severely tax current local, state and federal resources; and,

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

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

Section 1. The Board of County Commissioners hereby declares that Sierra County

is suffering from moderate drought conditions and high fire hazard, which represents a significant immediately threat to the peace, safety, health and welfare of Sierra County.

- Section 2. The following types of open burning shall be prohibited unless a permit is obtained from the County Emergency Services Administrator:
- A. Campfires ("Campfire" means a fire set for cooking, warming, or ceremonial purposes, which is not more than three feet in diameter by three feet high, and has had the ground five feet from the base of the fire cleared of all combustible material);
 - B. Open fires;
 - C. Open Burning of vegetation or rubbish; and,
 - D. Any other smoke producing substance and material that creates a fire safety hazard.

Section 3. REPEAL OF PREVIOUS ORDINANCE

This Ordinance & Proclamation hereby replaces, repeals and supersedes all previous Ordinances and Proclamations regulating open fires and fireworks.

Section 4. 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 take effect immediately after passage. This Ordinance may be repealed by the Board or by a written finding of the County Manager, after consultation with the Emergency Services Administrator, that conditions have improved to the point where this this Ordinance is no longer necessary.

Section 5. ENFORCEMENT

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

Section 6. PERMITS

The Sierra County Emergency Services Administrator may issue burn permits to allow for controlled fires (any fire that is not a campfire) between the hours of 5:00 am and 10:00 am and to allow for campfires at any time of the day if the conditions are determined to be safe by the Emergency Services Administrator. The Emergency Services

Administrator may grant or deny permits to burn based on the relative humidity, wind conditions and available county fire-department manpower in the area of the proposed burn. The Emergency Services Administrator may place additional conditions on a burn permit based on the condition of the area to be burned and atmospheric conditions at the proposed burn time. The permit may be revoked at any time by the Emergency Services Administrator if the conditions for a safe burn cease to exist.

Section 7. 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 8. 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, Adopted, and Ordained this 16th day of April, 2019.

BOARD OF COUNTY COMMISSIONERS

JAMES PAXON, CHAIR

TRAVIS DAY, VICE-CHAIR

FRANCES LUNA, COMMISSIONER

ATTEST BY:

SHELLY TRUJILLO, COUNTY CLERK