

## **ORDINANCE 2014-02**

### **EMERGENCY ORDINANCE 2014-02 AND PROCLAMATION LIMITING OPEN BURNING AND RESTRICTING THE SALE AND USE OF FIREWORKS IN THE UN-INCORPORATED AREAS OF ROOSEVELT 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**, the danger of brush fires, grass fires, forest fires, and structure fires is extremely high in the State of New Mexico and especially Roosevelt County and the surrounding jurisdictions; and,

**WHEREAS**, current fire conditions such as relative humidity, high winds, weather, and dense fuel content and conditions are high in Roosevelt County; and,

**WHEREAS**, the probability of ignition of material and fire spread is extremely high in Roosevelt County; 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 the New Mexico State Forestry, that drought conditions affect the unincorporated areas of Roosevelt County; and,

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

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

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

Section 2. The following types of open burning shall be prohibited:

- 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. (Reference Regulation #301 of the Ambient Air Quality Standards and Air Quality Control Regulation).

Section 3.

For purposes of this Ordinance/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 4.

Pursuant to NMSA 1978, Section 60-2C-9.1 (F)(2)(a)(1999), the Board of County Commissioners does hereby allow the sale but limits the use of cone fountains, cracking devices, cylindrical fountains, flitter sparklers, ground spinners, illuminating torches , toy smoke devices, wheels, and mines fireworks within the unincorporated areas of Roosevelt 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 5.

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 Roosevelt County: stick-type rockets, helicopters & aerial spinners, missile-type rockets, ground audible devices, firecrackers, & display fireworks.

Section 6.

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 7.

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 Roosevelt County.

Section 8.

#### 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. However, the Board of County Commissioners shall 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 by resolution.

Section 9.

ENFORCEMENT

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

Section 10.

WRITTEN AUTHORIZATION

A District Fire Chief or his designee may issue written authorization for an exception to open burning and flaring of gas if the conditions are determined to be safe by the District Fire Chief. The District Fire Chief at his sole discretion may grant or deny authorization to burn or flare based on the relative humidity, wind conditions, conditions outlined below and available fire department manpower in the area of the proposed burn or flare. The District Fire Chief may place additional conditions on the written authorization based on the condition of the area to be burned and atmospheric conditions at the proposed burn time. The written authorization may be revoked at anytime by the District Fire Chief if the conditions for a safe burn or flare cease to exist.

- A. The District Fire Chief may issue a written authorization for an exemption to open burning when all of the following conditions are met:
  - 1. The cropland is irrigated (this does not apply to non-irrigated croplands, fields or rangelands);
  - 2. Burning is done with adequate planning
  - 3. Adequate personnel are present to monitor and control the burn to assure that it will not become an uncontrolled fire;
  - 4. The burn area is secured from becoming uncontrolled at the end of daily operations; and
  - 5. The person responsible for the burn notifies the local fire department (District Fire Chief) and follows all local burning guidelines.
- B. The District Fire Chief may issue a written authorization for an exemption for the flaring of natural gas when the following conditions are met:
  - 1. The day is not a "red flag day" as determined by the National Weather Service and the sustained wind is not in excess of 25 miles per hour in the area.
  - 2. The District Fire Chief and dispatch re notified at least 24 hours in advance of anticipated releases that will result in flaring. If flaring is done by an automated system then the schedule of flaring shall be provided to the District Fire Chief and dispatch. The area is mowed and maintained at a length not to exceed 4 inches and all other flammable products or debris shall be cleared in the area for a distance of one and one half times the height of the stack.
  - 3. At least one adult is on site with communications equipment adequate to reach dispatch and the district fire department in the event of a fire. The individual should also be equipped with a shovel and a water backpack pump or other equipment to deliver water to suppress a fire.
  - 4. If flaring is to take place at an unmanned facility, then the area around the flare stack is mowed and maintained at a length not to

exceed 4 inches and all other flammable products or debris shall be cleared in the area for a distance of three times the height of the tack.

Section 11.

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.

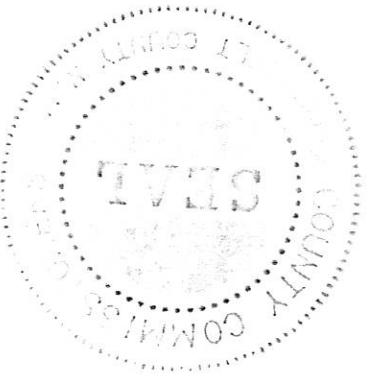
Section 12.

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 Roosevelt 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 11<sup>th</sup> Day of March, 2014.

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ROOSEVELT, NEW MEXICO



Kendall Byzard, Chairman

Scott Burton, Vice Chairman

Bill Cathey, Member

Richard Leal, Member

Jake Lopez, Member

Attest:

DeAun Searl, Roosevelt County Clerk

