

ORDINANCE NO. 2014-03

AN ORDINANCE CONCERNING BURNING WITHIN ROOSEVELT COUNTY AND WHICH ALLOWS FOR THE ROOSEVELT COUNTY COMMISSION TO PROHIBIT BURNING DURING DROUGHT SITUATIONS BY IMPLEMENTATION OF RESOLUTION.

BE IT ORDAINED BY THE GOVERNING BODY OF ROOSEVELT COUNTY, WHICH IS THE COUNTY COMMISSION OF THE COUNTY OF ROOSEVELT, NEW MEXICO

Section 1. Short Title

This Ordinance may be cited as the "OPEN BURNING ORDINANCE".

Section 2. Purpose

The purpose of this Ordinance is to allow for burning within Roosevelt County (as otherwise permitted by law), but to grant the Commission authority to prohibit burning by adoption of a resolution. If the Board of County Commissioners finds, based upon current drought indices published by the U.S. Drought Monitor Report and exceptional circumstances arise due to lack of precipitation, high winds, low humidity, abundance of wild land grass and dry, fine fuels in the unincorporated areas of Roosevelt County, then the Board of County Commissioners may prohibit burning as described herein.

Section 3. Conflicts.

In the event of conflicts with other County of Roosevelt Ordinances, the provisions of this ordinance shall supersede other previously enacted ordinances.

It is the intention of the Commission in enacting this Ordinance to harmonize this Ordinance with existing State and Federal law and regulations, including the Federal "Clean Air Act".

Section 4. Impermissible Burning/ Implementation of Burn Ban by Resolution

When conditions warrant, and from time to time, the Roosevelt County Commission by majority vote may adopt a resolution which implement all or some of the provisions of this ordinance, which may prohibit burning. When conditions improve, the Commission shall lift the ban by resolution. No prohibition in this ordinance restricting burning shall apply or be in force, unless a resolution restricting burning has been implemented.

Section 5. Definitions

As used in this Ordinance the following words, terms, phrases shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

Agricultural burning means the burning of crop residues for field preparation or that is otherwise used for the production of a crop.

Burn project means, in prescribed fires or in wildlands fire use, a burn regulated by 20.11.21.15 NMAC on an area that is contiguous and is being treated or managed for the same land management objectives.

County Commission or Commission is the duly elected Board of the Roosevelt County Commission, acting as a body in public meetings.

Established Crop Land shall mean crop land that is identified as crop land with the local USDA, FSA/NRCS Office.

Local Fire District means the Fire District for Portales, Dora, Floyd, Elida, Causey, Arch, or Milnesand as reflected on official County maps.

Open burning means the combustion of any substance which is not confined in a device having controllable fuel/air mixture capable of achieving nearly complete combustion, and from which combustion products are discharged into the open air without passing through a stack, duct, chimney, or vent.

Pile means vegetative materials that have been relocated and heaped together either by hand or machinery.

Prescribed fire or prescribed burn or PB means any fire ignited by any person to meet specific land management objectives. For the purposes of this regulation, wildland fire use is considered a prescribed fire.

Properly Ventilated means a category of fair or better in the ventilation of smoke or other pollutants from its heat source, and as more particularly described in §20.11.21.17, NMAC.

Rubbish means any discarded product or item which is combustible.

Sheriff is the Sheriff of the County of Roosevelt, or his deputies.

Vegetative material means untreated wood and untreated wood products, including tree stumps (whole or chipped), trees, tree limbs (whole or chipped), bark, saw dust, chips, scraps, slabs, millings, shavings, grass, grass clippings, weeds leaves, conifer, needles, brushes, shrubs, clipping from brushes and shrubs, and agricultural plant residue.

Section 6. The Commission May Limit The Ban to Designated Fire Districts.

If conditions warrant, so that implementation of a fire ban in a particular area only, is necessary or desirable, then the Commission by majority vote may limit the ban to a particular district(s) or make the ban applicable to the County as a whole.

Section 7. Outdoor Burning May Be Prohibited By Adoption Of A Resolution.

If conditions warrant, and if implemented by resolution after public notice of the Commission's intention to adopt such a resolution, or emergency ordinance enactment, then no person, firm or corporation shall burn any vegetative material, wood, brush, trash, papers, rubbish or garbage out of doors anywhere in the County. Burning of piles or rubbish in open pits, or containers is prohibited, except that burning in barrels or containers which are properly vented to dissipate

combustion products through a stack, duct, chimney, or vent shall be allowed. All other burning on or in yards of primary residence or business premises during such ban shall be confined to incinerators through which combustion products are passed through a stack, duct, chimney, or vent or burn barrels with proper grates (not more than ¼" openings) installed over the tops of burn barrels.

Section 8. Heating And Cooking Stoves.

Nothing in the preceding section of this ordinance shall be deemed to prohibit the use of wood in stoves used for cooking, the use of wood in fireplaces for decorative fires or the use of wood in fireplaces or stoves designed for heating. Section 7 shall not prohibit the use of an outdoor fire for cooking or for recreation, if such cooking is confined to a charcoal broiler, charcoal grill, wood grill, propane, gas grill, coal, or other confined fuel stoves in yards of primary residences or business premises with a top either mounted to the grill or readily available.

Section 9. Open Burning May Be Prohibited By Resolution

It is specifically ordained that open burning, agriculture burning, i.e. burning of crop land, fields, range land, debris burning/ piles, proscribed burning, weed burning, or other burning may be prohibited anywhere within Roosevelt County upon approval of a resolution making this section effective.

Section 10. Agricultural Burning

If Section 7 of this ordinance has been implemented by resolution, then agricultural burning shall not be permitted.

Notwithstanding any other provision in this resolution, and even if no burn ban has been implemented, the Roosevelt County Commission requires its citizens to notify emergency dispatch or the local fire department of any plan to burn so that effected fire departments are placed on notice.

Section 11. Severability

If any section, paragraph, sentence, clause or word contained in this ordinance or any State or Federal standards incorporated herein is for any reason held to be unconstitutional or otherwise invalid by any court, such decision shall not affect the validity of the remaining provisions of this ordinance.

Section 12. Penalty

Any person, firm, or corporation, violating any provision of this Ordinance shall be fined not less than \$100.00 or more than \$1,000.00 for each offense and a separate offense shall be deemed committed on each day during or which a violation occurs or continues. A person, firm, or corporation that is convicted of a subsequent violation shall be assessed a penalty of not less than \$250.00 or more than \$1,000.00. Violators of this Ordinance may also be civilly liable for damages and cost of responding and fighting said fires as of the violating a county burn ban.

Section 13. Repeal of Prior Ordinances

This Ordinance shall operate to repeal any and all prior Ordinances governing burning within Roosevelt County (as otherwise permitted by law) and/or granting the Commission authority to prohibit burning by adoption of a resolution. and any amendments on any prior ordinances dealing with the same subject matter.

ADOPTED BY THE GOVERNING BODY OF ROOSEVELT COUNTY THIS 15th
DAY OF April, 2014.

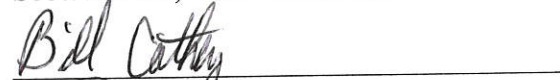
ATTEST:

BOARD OF COUNTY COMMISSIONERS
ROOSEVELT COUNTY, NEW MEXICO

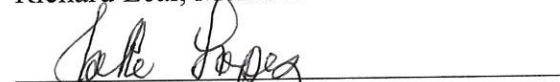

DeAun Searl, County Clerk


Kendell Buzard, Chairman


Scott Burton, Vice-Chairman


Bill Cathey, Member


Richard Leal, Member


Jake Lopez, Member

