



RESOLUTION NO. 2011-16

RESOLUTION TO RECOGNIZE THE EXISTING DRAUGHT CONDITIONS IN TORRANCE COUNTY AND REITERATE THE STATE'S BAN ON BURNING AND FIREWORKS

WHEREAS, The Governing Body of Torrance County has obtained information and forecasts from the National Weather Service as well as the United States Forest Service and New Mexico State Forestry Division concerning drought conditions; and,

WHEREAS, The Governing Body of Torrance County, pursuant to the Open Burning Ordinance, Section 4-E Burning Restrictions, has determined based on drought information that an emergency exists; and,

WHEREAS, The Governing Body of Torrance County, pursuant to the NMEMNRD State Forestry Order number 2011-01, recognizes the importance of including those restrictions; and,

WHEREAS, The Governing Body made certain findings of the fact based upon information provided; and,

WHEREAS, One of the findings of the Governing Body included Torrance County being affected by extreme or severe drought conditions based on current drought indices published by the National Weather Service and other information supplied by the United States Forest Service and New Mexico State Forestry Division;

NOW THEREFORE, BE IT RESOLVED, per Torrance County Ordinance No. 87-2:

- Section 1: Extreme or severe drought conditions exist within the boundaries of Torrance County;
Section 2: Pursuant to aforementioned ordinance Section 4, as defined in Section 4, The following types of open fire are prohibited: "open burning", "ceremonial burning", "recreational burning";
Section 3: Barbequing as defined in Section 4 is permissible;

BE IT FURTHER RESOLVED, per NM State Forestry Order Number 2011-01: Fireworks are prohibited in wildland areas. Wildland areas include lands covered wholly or in part in timber, brush, grass, grain, or other flammable vegetation. The Governing Body of Torrance may allow exceptions to the ban on fireworks where they are a part of a public exhibit approved by the local fire department(s).

BE IT STILL FURTHER RESOLVED, due to the emergency conditions described herein, the Governing Body of Torrance hereby prohibits the use of any firework. The definition of fireworks included in the New Mexico Fireworks Licensing and Safety Act is hereby incorporated. Consequences for the unauthorized use of fireworks will be in accordance with the Act and include confiscation of the fireworks and potential civil fines.

BE IT STILL FURTHER RESOLVED, this resolution is effective for a period of thirty days from this date, or may be lifted prior to the thirty days when recommendation is made by the Fire Marshal and approved by the Commission in writing.

DONE, this 25th day of May 2011.

Attest:

Linda Kasper / M Jones
County Clerk



TORRANCE COUNTY COMMISSION

Venessa Chavez-Gutierrez, Chair

Lonnie Freyburger, Member

Leanne Tapia, Member

fire / Admin

ORDINANCE NO. 87-2



AN ORDINANCE REGULATING IMPROPER HANDLING OF FIRE AND OPEN BURNING; ESTABLISHING POWERS OF COUNTY MANAGER, EMERGENCY SERVICES DIRECTOR AND PEACE OFFICERS; ESTABLISHING PROVISIONS FOR DECLARING SEVERE FIRE HAZARD RESTRICTIONS AND FIRE DANGER EMERGENCIES AND AUTHORITY TO MITIGATE; ESTABLISHING PENALTIES; PROVIDING FOR THE SEVERABILITY OF PARTS HEREOF; REPEALING ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the health, safety and general welfare of the residents of the County of Torrance require the establishment of guidelines for the proper handling of fire and the establishment of a procedure for declaring an extreme fire danger emergency to minimize the risk of loss of life and property within the County from wildfires; and

WHEREAS, the Board of County Commissioners desires to set forth procedures to address prescribed burns and open burns, and to address wildfire risks and mitigation within its jurisdiction when drought conditions exist; and

WHEREAS, NMSA 1978, §§ 4-37-1, *et seq.*, (1975) provides that the Board of County Commissioners may adopt ordinances to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morale, order, comfort and convenience of the County and its inhabitants.

NOW, THEREFORE, be it enacted by the Board of County Commissioners of the County of Torrance as follows:

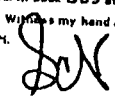
Section 1. Definitions.

The following terms are defined for the purpose of this Ordinance:

"ashes" means fire residue of any kind, including, but not limited to, fireplace ashes, barbecue grill briquettes, wood chips, wood stove ashes, campfire ashes, hot waste, or other material susceptible of spontaneous combustion;

"ashes, hot" means any ashes that have not been cooled according to the provisions specified herein;

"critical fire weather" shall be defined as a set of weather conditions, usually involving a combination of low relative humidity and high winds, whose effects on fire behavior make control difficult and threaten the health, safety, and welfare of the citizens of Torrance County;

State of New Mexico County of Torrance
I, hereby certify that this instrument was filed for record on 06/15/2006 A.D. at 11:36 AM and duly recorded as instrument # 2062711 in book 309 at page 02352 in the records of Torrance County. 1+ 5 pages. Witness my hand and seal of Office, Linda Kayser, County Clerk, Torrance County, NM.
Deputy Clerk


to throw hot or burning substances, or objects such as cigars, cigarettes, papers, matches, and ashes, or the contents of a burning pipe, from windows and doors from any building, or public place, or from any moving vehicle, or upon any material or condition which is combustible or liable to damage by heat, fire or explosion.

D. Disposal of ashes.

(1) It is unlawful to dispose of hot ashes in any manner.

(2) Hot ashes may become cold ashes and subject to disposal as provided in Ordinance No. 2003-02, Solid Waste Management, by:

(a) cooling in place for a minimum of 48 hours and inspection to determine that no live embers capable of spontaneous combustion are present; or

(b) extinguishment with water or sand and stirring to the point where inspection reveals that no embers capable of spontaneous combustion are present.

(c) Cold ashes shall be placed in a bag or other enclosed container before placing in a dumpster.

Section 4. *Open burning.*

A. No person shall set fire or cause or procure a fire to be set to any trash, refuse, garbage, or solid waste unless in an approved incinerator.

B. Other than the exemptions listed in subsection D, below, it is a violation of this Ordinance for any person to ignite, cause to be ignited, permit to be ignited or suffer, allow, or maintain any open fire unless and until the Torrance County Central E-911 Dispatch/ Fire Administration Department has been notified.

C. **Notification of intended burn.** Prior to any such restricted open burn, a person shall be required to provide advance notice, within twenty-four (24) hours, of any such intended burn to the Torrance County Central E-911 Dispatch/ Fire Administration Department, by telephone, of the exact location of same. Notification shall be given by each such person prior to each anticipated day of burning.

D. **Unrestricted open burning.** Open burning is permitted for:

- (1) recreational;
- (2) ceremonial purposes;
- (3) barbecuing;
- (4) for heating purposes in fireplaces;
- (5) for noncommercial cooking of food for human consumption; and
- (6) for warming by small wood fires at construction sites.

Any such unrestricted open burn shall be thoroughly extinguished by completely covering it with dirt, saturating it with water, or otherwise treating it in such a manner to prevent rekindling of such fire. Nothing herein shall be interpreted so as to prohibit the

desist when a severe fire hazard or fire danger emergency has been declared shall constitute a distinct hazard to life or property and a citation may be issued.

Section 7. *Violations and penalties.*

Any person who shall violate any of the provisions of this Ordinance or shall fail to comply therewith, or shall violate or fail to comply with any order made thereunder found guilty by a court of competent jurisdiction shall be guilty of a misdemeanor punishable by a fine not to exceed three hundred dollars (\$300.00) or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment. Each day this Ordinance is violated shall be considered a separate offense. Notwithstanding any of the foregoing, in the event any person damages property, whether public or private, or causes injury to any person, and such damage or injury is found to have been an element of the violation of any provision of this Ordinance, the District Court or Magistrate Court may, at its discretion, require the defendant to make restitution within a reasonable time, to the victims of said damage or injury. Nothing in this Ordinance shall prohibit a person from being charged under NMSA 1978, § 19-6-1, *et seq.* or § 30-17-1, *et. seq.*, or federal laws relating to improper handling of fire.

Section 8 . *Severability clause.*

It is hereby declared to be the intention of the Board of County Commissioners that the sections, paragraphs, sentences, clauses and phrases of this Ordinance shall be deemed severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance is declared unconstitutional or otherwise invalid by the valid judgment of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections hereof.

Section 9 . *Conflict.*

Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 10. *Effective date and repeal.*

This Ordinance shall take effect thirty days after being recorded in the Public Records of Torrance County, New Mexico, at which time Ordinance No. 87-2 shall be repealed.



New Mexico Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

John H. Bemis
Cabinet Secretary - Designate

Brett F. Woods, Ph.D.
Deputy Cabinet Secretary

Tony Delfin
Division Director
Forestry Division



2011-01

**SMOKING, FIREWORK, CAMPFIRE, AND OPEN FIRE RESTRICTIONS FOR EASTERN,
SOUTHWEST, AND SOUTHCENTRAL NEW MEXICO**

Due to abnormally warm temperatures, low humidity, high winds, and the abundance of dry, fine fuels, fire danger throughout much of New Mexico is high. Fire incidents for all wildland fire agencies are increasing daily. Pursuant to NMSA, Section 68-2-16, and other sections of the Forest Conservation Act, NMSA 1978, Section 68-2-1 to 68-2-25, and 19.20.3 NMAC; Restrictions for Fire Prevention, the Energy, Minerals and Natural Resources Department, Forestry Division, State Forester, has placed the following restrictions on non-municipal, non-federal, and non-tribal lands in Bernalillo, Catron, Chaves, Cibola, Curry, DeBaca, Dona Ana, Eddy, Grant, Guadalupe, Harding, Hidalgo, Lea, Lincoln, Luna, Mora, McKinley, Otero, Quay, Roosevelt, Sandoval, Santa Fe, San Miguel, Sierra, Socorro, Torrance, Valencia, and Union counties. The State Forester has also placed the following restrictions on non-municipal, non-federal, and non-tribal lands in the following county for that portion of the county east of Interstate 25: Colfax.

SMOKING, FIREWORKS, CAMPFIRES, OPEN BURNING, AND OPEN FIRES ARE PROHIBITED UNLESS THE FOLLOWING CONDITIONS ARE MET:

Smoking is prohibited except in enclosed buildings, within vehicles equipped with ashtrays, and on paved or surfaced roads, developed recreation sites, or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable material.

Fireworks are prohibited in wildland areas. Wildland areas include lands covered wholly or in part in timber, brush, grass, grain, or other flammable vegetation. The State Forester is allowing exceptions to the ban on fireworks where they are a part of a public exhibit approved by the local fire department.

Campfires are prohibited unless the following exceptions are met. An exception is granted where cooking or heating devices use kerosene, white gas, or propane as a fuel in an improved camping area that is cleared of flammable vegetation for at least 30 feet or has a water source. New Mexico State Parks are included in this prohibition. For information on this contact the local State Park Manager or visit the website at www.nmparks.com.

Forestry Division

1220 South St. Francis Drive • Santa Fe, New Mexico 87505
Phone (505) 476-3325 • Fax (505) 476-3330 • www.emnrd.state.nm.us/FD



The State Forester is also allowing exceptions for charcoal grills and wood and coal stoves within yards associated with a residence or on the premises of a business.

Open burning, i.e., burning of cropland, fields, rangeland, debris burning, slash piles, prescribed burning, or weed burning, is prohibited. The State Forester grants an exception to open burning when the following conditions are met:

1. the cropland is irrigated (This exception 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. at the beginning of each day, before ignition, the person responsible for the burn notifies the local fire department responsible for fire protection and follows all local burning guidelines and 20.2.60.111 NMAC, Open Burning of Vegetative Material, related to state air quality.

Flaring of gas is prohibited. The State Forester grants an exception to the prohibition on open fires for the flaring of natural gas when the following conditions are met. Unless flaring is needed for safety purposes, flaring pursuant to this exception shall not be done on days that are "red flag days" as determined by the National Weather Service or on days when the sustained wind is in excess of 25 miles per hour in the area.

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 local fire department and county dispatch are 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 local fire department and county 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 county dispatch and the local 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 stack.

OTHER EXCEPTIONS MAY BE REQUESTED:

The State Forester may allow additional exemptions upon receiving a written request and granting subsequent approval in writing. You may apply for exemptions other than those listed above for flaring or agricultural burning on the Forestry Division website at www.nmforestry.com. The exemptions provided above for flaring and agricultural burning do not require a request or written approval so long as the conditions listed are met.

An exemption does not relieve a person from any civil or criminal liability associated with an uncontrolled fire, including costs associated with wildland fire suppression.

These restrictions become effective at 8:00 a.m. Saturday, April, 16, 2011 and will remain in effect until rescinded.

DONE THIS 15 DAY April, 2011



Tony Delfin, State Forester
Forestry Division



John H. Bemis, Cabinet Secretary-Designate
Energy, Minerals and Natural Resources Department