

Resolution 2001-

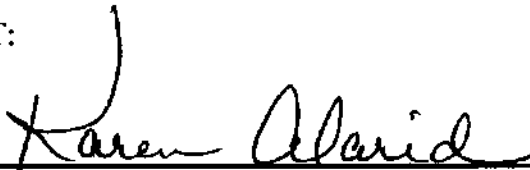
The Governing Body of the Town of Edgewood hereby supports Santa Fe County Ordinance No. 2001-8 and hereby calls upon the County to enforce the said ordinance within the Town of Edgewood.

Done this 20th day of June, 2001.



Howard Calkins - Mayor

ATTEST:



Karen Alarid - Clerk/Treasurer

SANTA FE COUNTY

Ordinance No. 2001-8

1921571

AN EMERGENCY ORDINANCE DECLARING HAZARDOUS FIRE CONDITIONS WARRANTING A SITUATION IN SANTA FE COUNTY TO IMPOSE RESTRICTIONS ON FIREWORKS, OPEN FIRES AND SMOKING WITHIN SANTA FE COUNTY

Be it ordained by the Board of Santa Fe County Commissioners:

A. The Board of County Commissioners hereby **FINDS**:

1. The danger of range fires, brush fires, grass fires, forest fires and structure fires is extremely high in Santa Fe County.
2. Current fire conditions such as low relative humidity, weather, and fuel content and condition have been extremely high in Santa Fe County.
3. The probability of ignition of materials and fire spread is extremely high in Santa Fe County.
4. In recent months, the Santa Fe County Fire Department has responded to numerous brush, grass, range and forest fires throughout Santa Fe County.
5. Many of the above fires have threatened structures/homes in Santa Fe County.
6. Many of these fires have been started by agricultural and other open burning, campfires and/or smoking.
7. In light of these conditions, the U. S. Forest Service and New Mexico State Forestry have implemented or will soon implement fire restrictions in Santa Fe, Carson and Cibola National Forests.

B. The Santa Fe Board of County Commissioners, therefore, declares that the dry conditions and high fire hazards represent a significant and immediate threat to the safety, health and welfare of Santa Fe County.

C. **WHEREFORE**, the Santa Fe Board of County Commissioners **ADOPTS** the following prohibitions:

1. Campfires
2. Open fires
3. Open burning of vegetation or rubbish
4. Use of aerial and ground audible fireworks as follows:

- a. Aerial spinners, helicopters, mines, missile-type rockets, roman candles. shells. stick-type rockets.
- b. Chasers and firecrackers

1921572

- 5. Smoking within a County park, campground or any wildland area except within an enclosed vehicle or building.
- 6. Unauthorized use of off-road vehicles, motor bikes and chain saws within County parks, campground and wildland areas.
- 7. The issuance of licenses or permits for burning.
- 8. Except as specifically set forth herein, nothing in this emergency ordinance shall be construed to limit the authority or responsibilities of the Santa Fe County Fire Marshal or the Santa Fe County Sheriff under the provisions of other ordinances.
- 9. Public displays of fireworks as defined in Santa Fe County ordinance 1988-3 are permitted in strict conformance with the requirements and conditions for public displays set forth in that ordinance.
- 10. Any individual, firm, partnership or other entity found violating this emergency ordinance shall be deemed guilty of a misdemeanor and shall be punished by imprisonment for up to six months or a fine not to exceed three hundred dollars, or both.
- 11. Each and every occasion on which this emergency ordinance is violated shall be considered a separate offense.
- 12. If any paragraph or provision of this ordinance is adjudged to be invalid for any reason, the remainder of this emergency ordinance, not so adjudged, shall remain in full force and effect.
- 13. This ordinance shall take effect on the earliest date allowed by law following its passage by the Santa Fe Board of County Commissioners.
- 14. This ordinance, including any extensions, shall remain in effect until the Fire Marshal determines that the fire danger has alleviated or for a period of one year, whichever comes first.

APPROVED, ADOPTED AND PASSED this 12th day of June, 2001.

BOARD OF COUNTY COMMISSIONERS

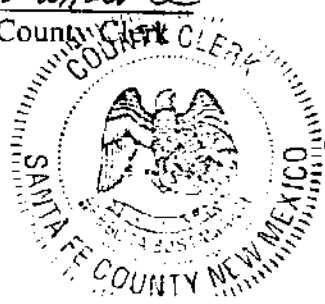


Paul Duran, Chairman

VERIFIED A TRUE AND CORRECT COPY

Ordinance #2001-8
 REBECCA BUSTAMANTE
 SANTA FE COUNTY CLERK
 Marcela Salazar
 6/13/01


Rebecca Bustamante
 Rebecca Bustamante, County Clerk



1159 953
 COUNTY OF SANTA FE
 STATE OF NEW MEXICO
 I hereby certify that this instrument was filed for
 record on the 13 day of June A.D.
 20 01 at 10:43 o'clock
 was duly recorded in Book 1921
 571- of the records of Santa Fe County
 573 Witness my hand and Seal of Office
 Rebecca Bustamante
 County Clerk, Santa Fe County, N.M.

Marcela Salazar

Approved as to Form:



County Attorney

1921573



NEW MEXICO MUNICIPAL LEAGUE
 PO Box 846
 1229 Paseo de Peralta
 Santa Fe, NM 87504-0846
 (800) 432-2036 - Toll Free
 (505) 982-5573 - Phone
 (505) 984-1392 - Fax

DATE: 6/20

PLEASE DELIVER TO
Karen Alarid
Edgewood

PHONE/FAX NO:
286-4519

NUMBER OF PAGES (including cover sheet): 8

FROM:		<input type="checkbox"/>	Linda Alira-Naranjo	Program Development Director	
<input type="checkbox"/>	Bill Fulginiti	Executive Director	<input type="checkbox"/>	Barbara Otero-Mazulis	Conference Coordinator
<input type="checkbox"/>	Randy Van Vleck	General Counsel	<input type="checkbox"/>	Anita Tafayo	Support Services Director
<input type="checkbox"/>	Regina Romero	Intergovernmental Relations Director	<input type="checkbox"/>	Jackie Portillo	Office Specialist
<input checked="" type="checkbox"/>	Diane Long	Information Services Director	<input type="checkbox"/>	Cherise Montoya	Receptionist/Secretary
<input type="checkbox"/>	Roger Makin	Communications Coordinator	<input type="checkbox"/>	Sharon Watson	Office Clerk
<input type="checkbox"/>	Margie Martinez	Information Specialist	<input type="checkbox"/>	Dan Cisneros	Controller
<input type="checkbox"/>	Anita Hisenberg	Staff Associate	<input type="checkbox"/>	David Keyser	Deputy Controller

If there is a problem with transmission, please call (800) 432-2036

Comments:

The New Mexico Municipal League is a nonprofit, nonpartisan association representing and serving New Mexico's cities, towns and villages.

- Information Services
- Training and Development
- Insurance Services
- Lobbying
- Publications
- Advocacy



P.O. Box 846 • Santa Fe, New Mexico 87504-0846
Phone (505) 982-5573 • In State Toll-Free 1-800-432-2036
FAX No. 1-505-984-1392

TO: Mayors, Managers, Clerks, Attorneys & Fire Chiefs
FROM: *RDV* Randy Van Vleck, General Counsel
SUBJECT: FIREWORKS RESTRICTIONS
DATE: May 21, 1999

As many of you are aware, the Legislature passed and the Governor signed CS/SB606 with Emergency Clause. This bill affords municipal and county governments limited authority to restrict or ban the use of fireworks. A copy of the bill is attached for your reference. In order to protect yourselves from potential liability, it is important to follow the instructions outlined in this memo and to use the attached model proclamation and ordinance if you intend to restrict or ban the use of fireworks. A few things to keep in mind:

I.

It is important to understand that the authority given to municipalities under this new law is **IN ADDITION TO** existing authority pursuant to NMSA 1978 §60-2C-7.C. Section 60-2C-7.C permits municipalities to restrict or ban the sale or use of aerial devices and ground audible devices. That authority is unchanged, and no drought conditions need to exist before a municipality is authorized to ban the sale or use of aerial devices or ground audible devices. Please see the statute for the definitions of aerial devices and ground audible devices. In fact, the definitions in §60-2C-7.C differ in one important respect. Under the authority of the prior law, §60-2C-7.C, municipalities have the authority to ban **ALL** aerial devices, including mines, shells and roman candles if the municipality adopts an ordinance imposing such a ban. No declaration of drought conditions is required. On the other hand, the new law permits municipalities, under conditions of extreme or severe drought, to ban all aerial devices **EXCEPT**, mines, shells and roman candles if the municipality adopts a Proclamation imposing such a ban. In other words, if your desire is to ban any or all aerial devices, adopt an ordinance imposing such a ban pursuant to §60-2C-7; do not attempt to do so by Proclamation. If you have previously banned all aerial devices by ordinance, that ban will continue to be enforceable whether or not a subsequent Proclamation is adopted.

II.

Any additional restrictions or bans of fireworks under this new legislation **MUST** be as a result of a public hearing and the resulting finding by the governing body of a condition of extreme or severe drought. Public Hearings must be properly noticed and all people must be afforded an opportunity to present their views on the issue. This public hearing should be much the same as the public hearings you conduct when adopting municipal ordinances.

LEAGUE HEADQUARTERS - 1229 PASEO DE PERALTA
On the Inner Loop, South of the State Capitol

III.

Any determination of extreme or severe drought must be made based on current drought indices published by the National Weather Service and other information supplied by the United States Forest Service.

IV.

Following the public hearing, if the governing body finds that a condition of extreme or severe drought exists, it shall issue a Proclamation. The Proclamation SHALL include the following information:

1. A declaration of extreme or severe drought within the municipal boundaries based on current drought indices published by the National Weather Service and other information supplied by the United States Forest Service.
2. A ban on the sale and use of missile-type rockets, helicopters, aerial spinners, stick-type rockets, and ground audible devices within the affected drought area.
3. A statement authorizing the governing body to limit the use of any fireworks not listed in the above paragraph to areas within the municipal boundaries that are paved or barren or areas that have a readily accessible source of water.
4. A statement authorizing the governing body to limit the use of any fireworks consulted with the state forester, within areas that are covered wholly or in part by timber, brush or native grass, after consultation with the state forester.
5. A statement authorizing the governing body to ban or restrict the sale or use of any display fireworks.

V.

The statute changed the permitted license fee from fifty dollars to twenty-five dollars. You may not charge a license fee in excess of twenty-five dollars.

VI.

The Proclamation declaring the extreme or severe drought MUST be issued NO LESS THAN twenty days prior to a holiday for which fireworks may be sold. Do not confuse this with the selling period provided for in the statute. A review of the statute governing sales periods results in a determination that the following are holidays for which fireworks may be sold:

- Independence Day, July 4
- New Years' Day
- Chinese New Year
- September 16
- May 5

VII.

The Proclamation is effective for thirty days and **MUST** specifically explain any restrictions on the sale or use of fireworks and also explain or detail the permitted sales or uses of fireworks.

VIII.

The governing body may issue succeeding Proclamations if extreme or severe drought conditions warrant.

IX.

A Proclamation may also be modified or rescinded following an emergency hearing, if the drought conditions have improved.

X.

If it is your desire to impose prohibitions or restrictions on the use of fireworks based upon the authority granted to you under the Proclamation, you must adopt a corresponding ordinance imposing such restrictions. We recommend that the municipality adopt an ordinance similar to the attached model. This ordinance will continue to be carried on the books as a valid ordinance, but it will only be enforceable in the event the governing body holds a public hearing and declares an extreme or severe drought and issues a Proclamation.

XI.

The following telephone numbers and worldwide web addresses might be helpful:

National Weather Service:
www.iwin.nsw.noaa.gov (505) 243-0702
(Refer to the Palmer Index)

www.cpc.ncep.noaa.gov/products/analysis_monitoring/regional_monitoring/palmer.gif

U.S. Forest Service:
www.fs.fed.us/ (505) 842-3292

If you have any questions concerning this law, the Proclamation or any other matters please do not hesitate to contact me.

(CITY, TOWN, VILLAGE) OF _____

PROCLAMATION

WHEREAS: The Governing Body of the (City, Town, Village) of _____ has obtained information and forecasts from the National Weather Service concerning drought indices; and

WHEREAS: The Governing Body of the (City, Town, Village) of _____ has obtained information and forecasts from the United States Forest Service concerning drought indices; and

WHEREAS: The Governing Body of the (City, Town, Village) of _____ held a public hearing on _____, to determine whether the (City, Town, Village) of _____ is affected by extreme or severe drought conditions and whether fireworks restrictions should be imposed within the municipal boundaries of the (City, Town, Village); and

WHEREAS: The Governing Body made certain findings of fact based upon information provided during the public hearing; and

WHEREAS: One of the findings of the Governing Body was that the (City, Town, Village) was 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.

NOW THEREFORE, BE IT PROCLAIMED BY THE GOVERNING BODY OF THE (CITY, TOWN, VILLAGE) OF _____:

Section 1: Extreme or severe drought conditions exist within the municipal boundaries of the (City, Town, Village) of _____.

Section 2: In addition to any ordinance enacted pursuant to NMSA 1978 §60-2C-7.C, the sale and use within the municipal boundaries of the (City, Town, Village) of _____ of missile-type rockets, helicopters, aerial spinners and stick-type rockets is prohibited by this Proclamation.

Section 3: In addition to any ordinance enacted pursuant to NMSA 1978 §60-2C-7.C the sale and use within the municipal boundaries of the (City, Town, Village) of _____ of ground audible devices including: chasers and firecrackers is prohibited by this Proclamation.

Section 4: The Governing Body is authorized to limit the use of otherwise permissible fireworks, including: cone fountains, crackling devices, cylindrical fountains, flitte: sparklers, ground spinners, illuminating torches, toy smoking devices and wheels to areas within the municipal boundaries that are paved or barren or areas that have a readily accessible source of water.

Section 5: The Governing Body, having consulted with the state forester, is authorized to ban the use of all fireworks within areas that are covered wholly or in part by timber, brush or native grass.

Section 6: The Governing Body is authorized to prohibit or restrict the sale or use of display fireworks. For purposes of this Proclamation, Display fireworks: means devices primarily intended for commercial displays that are designed to produce visible or audible effects by combustion, deflagration or detonation, including salutes containing more than one hundred thirty milligrams of explosive composition; aerial shells containing more than forty grams of chemical composition exclusive of lift charge; and other exhibition display items that exceed the limits for permissible fireworks.

Section 7: This Proclamation is effective for a period of thirty days from this date unless a subsequent Proclamation is issued by the Governing Body.

APPROVED THIS _____ DAY OF _____.

Mayor

Date

ATTEST:

Municipal Clerk

(CITY, TOWN, VILLAGE) OF _____
ORDINANCE NO. _____

AN ORDINANCE OF THE (CITY, TOWN, VILLAGE) OF _____
CONCERNING THE SALE, USE AND POSSESSION OF FIREWORKS WITHIN THE
(CITY, TOWN, VILLAGE) OF _____

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE (CITY,
TOWN, VILLAGE) OF _____:

SECTION 1: SHORT TITLE.

This Ordinance may be referred to as the Fireworks Control Ordinance.

SECTION 2: PURPOSE.

This ordinance is intended to preserve and to protect the general health safety and welfare of the
(CITY, TOWN, VILLAGE) OF _____ during periods of extreme or severe
drought as proclaimed by the governing body.

SECTION 3: JURISDICTION.

The 1999 amendments to the Fireworks Licensing and Safety Act, NMSA 1978 §§60-2C-1
through 60-2C-11 authorize governing bodies of municipalities to limit and restrict the sale and
use of fireworks within the municipal boundaries of the municipality in times of extreme or
severe drought. This ordinance is enacted pursuant to authority granted to the governing body by
NMSA 1978 §60-2C-8.1.

SECTION 4: LIBERAL CONSTRUCTION.

This ordinance, being necessary to secure the public health, safety, convenience and welfare,
shall be liberally construed to affect its purpose.

SECTION 5: EFFECTIVE DATE.

This ordinance is enforceable only if the governing body issues a Proclamation declaring a
condition of extreme or severe drought following the procedures established in NMSA 1978 §60-
6C-8.1 and is only enforceable during the period of time in which the Proclamation is in force

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46

**SECTION 11: DISPLAY FIREWORKS.
(OPTIONAL)**

The sale or use of means devices primarily intended for commercial displays that are designed to produce visible or audible effects by combustion, deflagration or detonation, including salutes containing more than one hundred thirty milligrams of explosive composition; aerial shells containing more than forty grams of chemical composition exclusive of lift charge; and other exhibition display items that exceed the limits for permissible fireworks within the municipal boundaries of the (CITY, TOWN, VILLAGE) OF _____ is prohibited.

OR

The sale or use of means devices primarily intended for commercial displays that are designed to produce visible or audible effects by combustion, deflagration or detonation, including salutes containing more than one hundred thirty milligrams of explosive composition; aerial shells containing more than forty grams of chemical composition exclusive of lift charge; and other exhibition display items that exceed the limits for permissible fireworks within the municipal boundaries of the (CITY, TOWN, VILLAGE) OF _____ is [enter appropriate restrictions on the sale or use of such fireworks].

ADOPTED THIS ____ DAY OF _____, 1999.

Mayor


Date

ATTEST:

Clerk

(SEAL)

Approved as to Form:



County Attorney

1921873