

QUAY COUNTY, NEW MEXICO
EMERGENCY ORDINANCE NO. 27 AMENDED
AUTHORIZING THE ISSUANCE BY PROCLAMATION OF LIMITS
ON OPEN BURNING AND BAN ON THE SALE, POSSESSION AND
USE OF FIREWORKS IN THE UNINCORPORATED AREAS OF
QUAY COUNTY

WHEREAS, the danger of brush fires, grass fires, forest fires, and structure fires can be extremely high in the State of New Mexico and especially Quay County and the surrounding jurisdictions when drought conditions; and,

WHEREAS, fire conditions such as relative humidity, weather and fuel content and condition are extremely variable in Quay County; and,

WHEREAS, in extremely drought conditions, the probability of ignition of material and fire spread is extremely high in Quay County; and,

WHEREAS, the Board of County Commissioners finds, based upon current drought indices published by the national weather service and other information, that severe drought conditions may now or in the future affect the unincorporated areas of Quay County; and,

WHEREAS, the Board of County Commissioners finds that should extreme drought conditions exist, that open burning, campfire and fireworks restrictions should be imposed within the unincorporated areas of Quay County; and,

WHEREAS, the possibility of extreme fire situations at such times would severely tax local, state, federal resources; and,

WHEREAS, the Board of County Commissioners finds that there exists an immediate danger to the public health, safety, and welfare of Quay County which may necessitate the issuance of a Proclamation prohibiting fireworks, open fires and campfires in Quay County now or in the future.

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

Section 1. The Board of County Commissioners hereby resolves that should Quay County suffer from extreme or serious drought conditions and high fire hazards representing a significant immediate threat to the peace, safety, health and welfare of Quay County, Quay County acting through its Board of County Commissioners shall issue its Proclamation finding that such conditions exist and immediately ban all such activity identified herein which may pose a risk in such conditions.

Section 2. The following shall be prohibited upon the issuance of such a Proclamation:

- A. Campfires;
- 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).
- E. Fireworks of the type identified herein.

Section 3. For purposes of this Ordinance, 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 includes but is not limited to the “fireworks” provided in NMSA 1978, 602-2C-2K (Cum. Supp.1999)

Section 4. Pursuant to NMSA 1978, 60-2C-6.1 (E2) & (G) Cum. Supp. 1999), such proclamation by the Board of County Commissioners will allow the sale but limit the use of cone fountains, crackling devices, cylindrical fountains, flitter sparklers, ground spinners, illuminating torches, toy smoke devices, wheels and mines fireworks, within the unincorporated areas of Quay 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 60-2-2C-8.1 F (1) (Cum. Supp. 1999), upon the issuance of such a Proclamation, the following types of fireworks will be banned from sale and use within the unincorporated areas of Quay County; stick-type rockets, helicopters and serial spinners, missile-type rockets, ground audible devices, and firecrackers.

Section 6. Pursuant to NMSA 1978 60-2C-8.1 F (2) (b) (Cum. Supp. 1999), the Board of County Commissioners gives itself the power to ban the use of all fireworks within wild lands in its jurisdiction, (“Wild lands” means any lands covered wholly or in part by timber, brush or native grass).

Section 7. Pursuant to NMSA 1978, 60-2C-8.1 F (2) (c) Cum. Supp. 1999), the Board of County Commissioners gives itself the power to ban the sale or use in unincorporated areas of Quay County of display of fireworks. (“Display Fireworks” means devices primarily intended for commercial displays designed to produce visible or audible effects by combustion, deflagration or detonation, including salutes containing more than one hundred thirty milligrams of explosive composition: serial 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 8. Except as permitted by this Ordinance, upon the issuance of a Proclamation hereunder, the use of all other fireworks of any kind or description are banned within the unincorporated areas of Quay County.

Section 9. Pursuant to NMSA 1978, 4-37-9 C (Cum. Supp. 1999), 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. Any Proclamation issued pursuant to this Ordinance shall be rescinded when favorable conditions exist. Accordingly, this Ordinance shall become effective immediately on its passage, recordation and authentication, as provided by NMSA 1978, 4-37-9 C (Cum. Supp. 1999)

Section 10. Open Fires – Definitions

“Open burning” means any manner of burning, whether caused, suffered or allowed, not in a device or chamber designed to achieve combustion, where the products of combustion are emitted, directly or indirectly, into the open air. Open burning does not include burning in fireplaces and woodstoves to provide heat, or charcoal grills if placed on noncombustible material.

“Enforcement Officer” is any law enforcement officer employed by Quay County and any other person(s) as may be designated by the Quay County Sheriff, to enforce this chapter issue the appropriate citation and carry out the enforcement as provided herein.

Open burning will be allowed except in time of severe drought and fire danger as determined by the Board of County Commissioners. The open burning ban will remain in effect until it is determined by the Board of County Commissioners that the fire danger has passed. Any such open burning ban will be posted at the Quay County Courthouse; notices will be posted at designated areas in Quay County and announced through the local radio media as will the rescinding of said ban.

- A. Open burning shall meet the State of New Mexico air quality regulation for Open Burning (20.2.60 NMAC).
- B. Person(s) conducting burn shall notify Central Dispatch located in Tucumcari and the Fire Chief or Member in that Fire District, of the location and contact information for responsible party prior to ignition.
- C. Burning shall be attended at all times.
- D. Burning is allowed between one hour after sunrise and one hour before sunset.
- E. Refuse shall not be burned.
- F. Person in charge of property shall establish and maintain means of fire control, such as fire line, water source or other methods of extinguishment.
- G. Wind and weather conditions shall be considered prior to ignition.
- H. Only materials allowed to be burned (Class A combustibles i.e. dry vegetation, branches, grass, tree limbs, weeds, clean, non-treated, non-painted, natural lumber).

Open burning is not allowed under the following conditions:

- A. Open burning ban due to drought/fire hazards, enactment of such Ordinance No. 27 Amended
- B. Open burning is not allowed during days deemed “red flag warning” by the National Weather Service
- C. Burning of non-Class A combustibles, including but not limited to, petroleum products, plastic, metal, rubber, pressure treated lumber, creosote treated lumber, painted lumber, asphalt shingles, etc.

Section 11. Public Display:

The Board of County Commissioners may, on application, allow any municipal or civic organization to conduct an officially supervised and controlled fireworks display/barbecue grilling in connection with any public celebration. The Board of County Commissioners may further allow, on application, a licensed business to use blank cartridges in a controlled and supervised public display.

Section 12. Severability:

Should any section or subsection or clause of this ordinance be found to be in violation of state statute or other law or otherwise unenforceable, that section or subsection or clause shall remain in full force and effect.

Section 13. Penalties:

The penalties for any violation of this ordinance shall be a fine of not more than \$500.00 and imprisonment of not more than 90 days or both.

APPROVED, PASSED AND ADOPTED THIS 14 DAY OF July, 2014

BOARD OF COUNTY COMMISSIONERS



BRAD BRYANT, CHAIRMAN



SUE DOWELL, COMMISSIONER



MIKE CHERRY, COMMISSIONER

ATTEST BY:



VERONICA MAREZ, COUNTY CLERK