



VALENCIA COUNTY
EMERGENCY ORDINANCE 2022-04 AND PROCLAMATION
RESTRICTING THE SALE AND USE OF FIREWORKS
IN THE UN-INCORPORATED AREAS OF VALENCIA COUNTY

WHEREAS, the Valencia County Board of Commissioners met upon notice of a Special Business Meeting, duly published, at the Valencia County Administration Building, 444 Luna Avenue, Los Lunas, New Mexico 87031 on Monday, June 13, 2022, at 5:00 PM as required by law; and,

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, with the adoption of Ordinance 2014-01 on January 15, 2014 the Board of County Commissioners of Valencia County authorized the Valencia County Fire Chief to implement bans on open burning in the unincorporated areas of the County based on conditions, nevertheless NMSA 1978, Section 60-2c-8.1 (1999) provides that firework restrictions may only be implemented by the County’s governing body after a public hearing;” and,

WHEREAS, NMSA 1978, Section 60-2c-8.1 (G) & (H) (1999) states that “[t]he county governing body's proclamation declaring an extreme or severe drought condition shall be issued no less than twenty days prior to a holiday for which fireworks may be sold” and that “[e]xcept as otherwise provided in this subsection, a proclamation shall be effective for thirty days, and the county governing body may issue succeeding proclamations if extreme or severe drought conditions warrant;” and,

WHEREAS, on April 25, 2022 Governor Michelle Lujan Grisham issued an executive order 2022-22 urging local governments to enact fireworks restrictions 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 Valencia County and the surrounding jurisdictions; and,

WHEREAS, current conditions such as relative humidity, weather and fuel content and condition create an extremely high fire hazard in Valencia County; and,

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

WHEREAS, the Board of County Commissioners declared an emergency for the big hole fire, with the adoption of Resolution 2022-37, which caused extensive damage and taxed limited resources in the County; and,

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

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

WHEREAS, the findings of the Board are based on current drought indices published by the national weather service and other relevant information supplied by the United States forest service, the Fire Marshal and the State of New Mexico and the County Fire Chief.

NOW THEREFORE, BE IT ORDAINED & PROCLAIMED BY THE BOARD OF COUNTY COMMISSIONERS, THAT:

Section 1. The Board of County Commissioners hereby declares that Valencia County is suffering from extreme or serious drought conditions and high fire hazards represent a significant immediately threat to the peace, safety, health and welfare of Valencia County.

Section 2. For purposes of this 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 3. Pursuant to NMSA 1978, Section 60-2C-8.1 (F)(2)(a)(1999), the Board of County Commissioners does hereby allow the sale but limits 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 Valencia 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 4. 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 Valencia County: stick-type rockets, helicopters & aerial spinners, missile-type rockets, ground audible devices, firecrackers & display fireworks.

Section 5. 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 6. 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 Valencia County.

Section 7. 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. The Board of County Commissioners may 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.

Section 8. ENFORCEMENT

The Sheriff's Department of Valencia County, the Valencia County Fire Chief or his designee, Valencia County Code Enforcement and any other legally qualified law enforcement officer or any of their agents shall have the ability to enforce this Ordinance/Proclamation.

Section 9. 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 10. 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 Valencia 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 PASSED on this 13th day June, 2022.



Gerard Saiz, Chairman
District I



Jhonathan Aragon, Vice-Chairman
District V


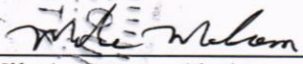
Troy Richardson, Commissioner
District II



David A. Hyder, Commissioner
District III



Joseph Bizzell, Commissioner
District IV


Attest:


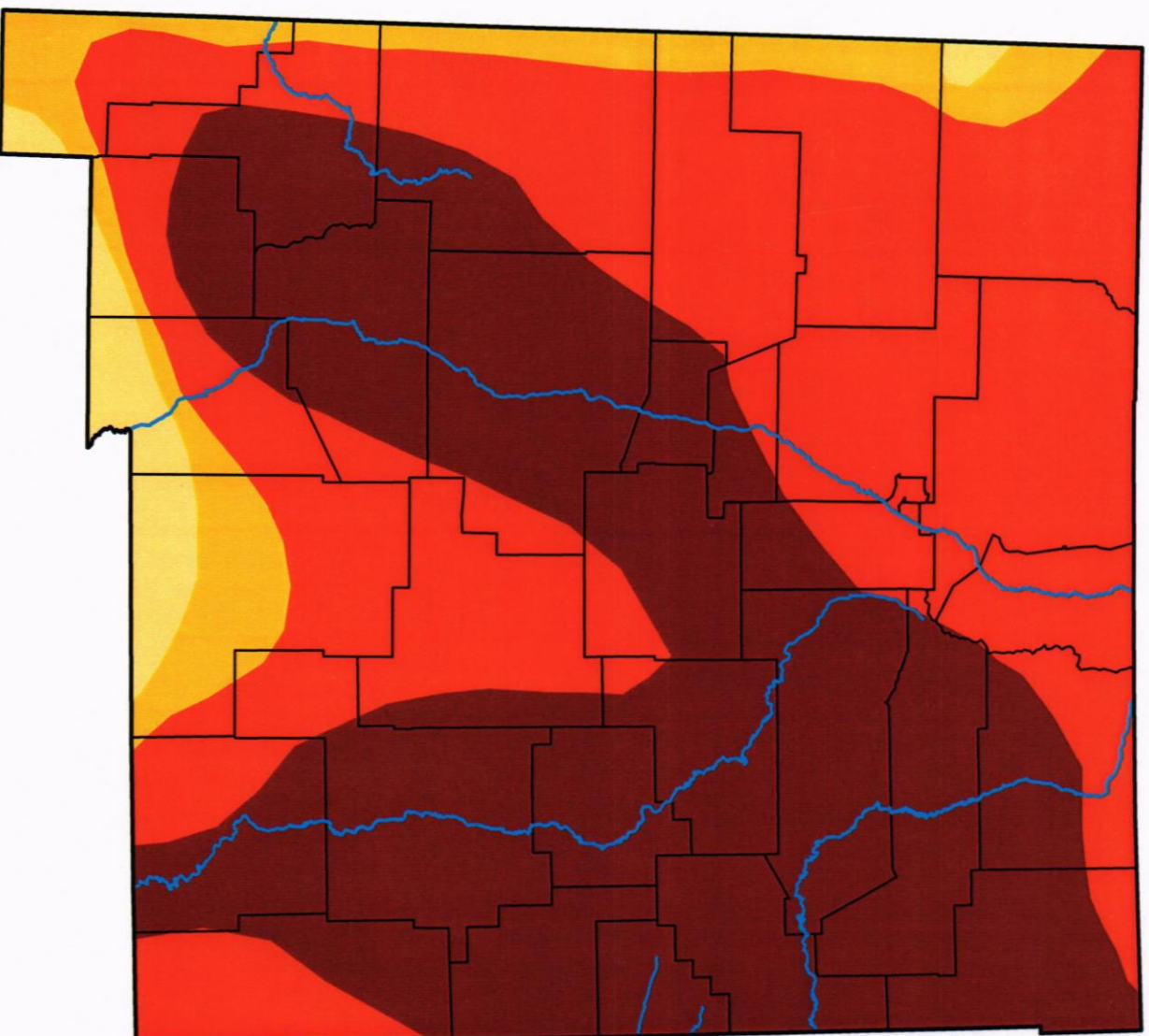
Mike Milam, County Clerk

U.S. Drought Monitor New Mexico

June 7, 2022




(Released Thursday, Jun. 9, 2022)

Valid 8 a.m. EDT



Drought Conditions (Percent Area)						
	None	D0-D4	D1-D4	D2-D4	D3-D4	D4
Current	0.00	100.00	100.00	97.18	90.06	46.76
Last Week 05-31-2022	0.00	100.00	99.26	97.20	90.06	45.84
3 Months Ago 03-08-2022	0.00	100.00	98.92	85.09	34.52	3.85
Start of Calendar Year 01-04-2022	0.00	100.00	97.83	75.86	20.91	0.00
Start of Water Year 09-28-2021	10.70	89.30	79.47	49.33	19.12	0.00
One Year Ago 06-08-2021	2.06	97.94	93.41	88.82	64.76	33.26

Intensity:

 None	 D2 Severe Drought
 D0 Abnormally Dry	 D3 Extreme Drought
 D1 Moderate Drought	 D4 Exceptional Drought

The Drought Monitor focuses on broad-scale conditions. Local conditions may vary. For more information on the Drought Monitor, go to <https://droughtmonitor.unl.edu/About.aspx>

Author:

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CPC/NOAA

