

VALENCIA COUNTY
EMERGENCY ORDINANCE 2012-__01__ AND PROCLAMATION
RESTRICTING THE SALE AND USE OF FIREWORKS
IN THE UNINCORPORATED AREAS OF VALENCIA COUNTY

WHEREAS, pursuant to NMSA 1978, Section 60-2c-7 and Section 60-2c-8.1 (E) (1999) the Board of County Commissioners held a public hearing on June _13_, 2012 at 1:30 p.m. in the Valencia County Administration Building located at 444 Luna Avenue, Los Lunas, New Mexico 87031, to consider imposing restrictions on the sale and use of fireworks; 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,”

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 fire conditions such as relative humidity, weather and fuel content and conditions are extremely high 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 finds, based upon current drought indices published by the national weather service and other information supplied by the United States forest service and the New Mexico State Forestry, that severe drought conditions affect the unincorporated areas of Valencia County; and,

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

WHEREAS, the possibility of extreme fire situations will severely tax current local, state and federal resources; and,

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

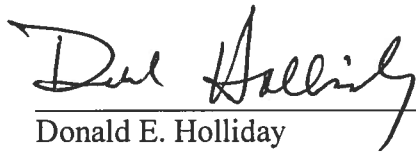
NOW THEREFORE, BE IT ORDAINED AND PROCLAIMED BY THE BOARD OF COUNTY COMMISSIONERS, THAT:


- Section 1. The Board of County Commissioners hereby declares that Valencia County is suffering from extremely 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 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 definition of the “fireworks” provided in NMSA 1978, Section 60-2c-2 (2007)
- Section 3. Pursuant to NMSA 1978, Section 60-2C-7 (2007), the following types of fireworks are banned from sale and use within the unincorporated areas of Valencia County: aerial and ground audible devices.
- Section 4. Pursuant to NMSA 1978, Section 60-2C-8.1 (F)(2)(c)(1999), the Board of County Commissioners gives itself the power to and does hereby ban the sale or use of display 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; 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 5. 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 6. Except as prohibited by this Ordinance, the use of all other fireworks of any kind or description are permitted 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 take effect immediately after passage. 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, Section 4-37-9 (C) (1997).
- Section 8. **ENFORCEMENT**
The Sheriff's Department of Valencia County and the Valencia County Fire Department, and any of their agents, shall have the authority to enforce this Ordinance.
- Section 9. **PENALTIES**
Any violation of this Ordinance 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.

PROCLAIMED, ORDAINED, AND ADOPTED THIS 13th DAY OF JUNE, 2012.

BOARD OF COMMISSIONERS OF VALENCIA COUNTY


Donald E. Holliday
Chair, District V

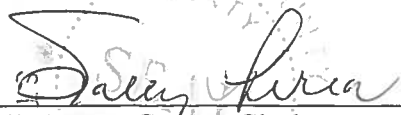

Georgia Otero Kirkham
Vice-Chair, District II


Mary J. Andersen
Commissioner, District I


Lawrence R. Romero
Commissioner, District III

Ron Gentry
Commissioner, District IV

Attest:


Sally Perea, County Clerk

