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2015-03684
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Requested By: Board Of Supervisors
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03-25-2015 01:28 PM Recording Fee $0.00

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CAPTION HEADING: Ordinance No. 01-15
Outdoor Fire Ordinance

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ORDINANCE NO. 01-15

OUTDOOR FIRE ORDINANCE

An ordinance of the Board of Supervisors of Navajo County, Arizona, repealing Ordinance No. 01-14 (Outdoor Fire Ordinance); establishing fire zones in the unincorporated area; establishing restrictions on certain outdoor fires; providing for the implementation of emergency fire restrictions; and specifying civil and criminal penalties for violations.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF NAVAJO COUNTY AS FOLLOWS:

1. TITLE

This ordinance shall be known as the Navajo County Outdoor Fire Ordinance.

2. REPEAL OF PRIOR ORDINANCE

Ordinance No. 01-14, the Outdoor Fire Ordinance, is hereby repealed in its entirety.

3. EFFECTIVE AREA / FIRE ZONES

This Ordinance is effective in the unincorporated area of Navajo County, exclusive of areas under the jurisdiction of the United States, the State of Arizona or a federally recognized Indian tribe. For purposes of this Ordinance, the unincorporated area has been divided into three fire zones as depicted on the map attached hereto.

4. PURPOSE / AUTHORITY OF EMERGENCY MANAGEMENT DIRECTOR

4.1 The purpose of this Ordinance is to help provide a uniform system for political subdivisions in Navajo County to determine what fire restrictions are needed and when they are to be put into place during emergency fire conditions.

4.2 It is the duty of the Navajo County Emergency Management Director/Manager (after consultation, as the Director deems appropriate, with the U.S. Forest Service ("USFS"), local Fire Districts/Fire Departments, state or municipal Emergency Management Directors or other fire officials) to initiate fire restrictions within any fire zone (or zones) during emergency fire conditions as described in Section 7.

4.2.1 The Emergency Management Director/Manager shall utilize the USFS Apache-Sitgreaves Energy Release Components ("ERC") Monitoring System to help determine when such restrictions are necessary.

4.2.2 The Emergency Management Director/Manager shall attempt to coordinate with other fire officials in the affected zone(s) a uniform date for implementing such restrictions.

4.2.3 When the Emergency Management Director/Manager determines that such restrictions are necessary and the date of implementation has been determined, the Director/Manager shall recommend to the Chairman of the Board of Supervisors that such restrictions be ordered pursuant to the Chairman's emergency powers under Title 26, Chapter 2, Article 1 of the Arizona Revised Statutes. Upon the issuance of the Chairman's order, the Director/Manager shall promptly take appropriate steps to notify residents and visitors of the nature and extent of the restrictions and the effective date.

4.2.4 Upon issuance of the initial order the County shall suspend issuance of burning permits until the emergency fire restriction order is lifted.

4.2.5 Upon issuance of the initial order, the Chairman authorizes the Emergency Management Director/Manager to modify the restriction level or cancel the restrictions as conditions warrant. The Emergency Management Director/Manager shall immediately notify the Chairman and the County Manager of any changes in restriction and provide an update of the change in restrictions at the next regularly scheduled Board meeting.

5. DEFINITIONS

5.1 "Campfire" means an open outdoor fire used only for the cooking of food or for providing personal warmth for human beings or for recreational purposes with a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height.

5.2 "Charcoal Fire" means an open outdoor fire which uses primarily charcoal as the combustible material, and which is used only for the purpose of cooking food.

5.3 "Combustion Engines" means an engine which generates mechanical power from a fuel. This includes an engine in which combustion is intermittent such as four-stroke, two-stroke, gas turbines, and diesel engines.

5.4 "Emergency Management Director" means the County official designated as such by the Board of Supervisors.

5.5 "Fire Arms" means a weapon that launches one or more projectiles at high velocity through the confined burning of a propellant.

5.6 "Fireworks" means any composition or device consisting of a combination of explosives and combustibles, detonated to generate colored lights, pyrotechnic displays, smoke, and noise for amusement or entertainment purposes.

5.7 "Flue" means a pipe, tube, channel, duct or passage through which hot air, gas, steam, smoke or fire may pass, such as a chimney, stovepipe or stack.

5.8 "Open Outdoor Fire" means any burning, oxidation or combustion of combustible material of any type in the open where the products of combustion are not directed through a flue, but not including campfires and charcoal fires.

5.9 "Recreational Fire" means burning of materials other than rubbish where fuel being burned is not contained in an incinerator, outdoor fireplace, barbecue grill or barbecue pit with a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking or similar purposes. Recreational fires shall not be conducted within 25 feet (7620 mm) of a structure or combustible material.

5.10 "Red Flag Warning" (or "Red Flag Conditions") means a posting by the National Weather Service that informs the County and other agencies of the imminent or actual occurrence of extreme fire danger or extreme fire conditions determined by the National Oceanic and Atmospheric Administration (NOAA).

5.11 "Bon Fire" means an outdoor fire utilized for ceremonial purposes and shall not be less than 50 feet (15,240 mm) from any structure.

5.12 "Special Event" means a one-time or infrequently occurring event outside normal programs or activities of the sponsoring or organizing body.

5.13 "Outdoor Fireplace / Commercial Smoker" means devices that have been manufactured and or built to current approved and tested standards (UL listed or equivalent) or to approved building codes.

5.14 "Deliberate or negligent" burning means to deliberately or through negligence set fire

to or cause the burning of combustible material in such a manner as to endanger the safety of persons or property.

5.15 "Attendance" Open burning, bonfires or recreational fires shall be constantly attended until the fire is completely and properly extinguished. Appropriate tools, equipment or approved devices and approved extinguishing agents such as dirt, sand, water or approved appropriate fire extinguishers shall be readily available for immediate utilization. A fire shall be considered "Unattended" if it is not constantly monitored with the appropriate tools and equipment and properly extinguished.

5.16 Explosive or reactive targets" means targets that are reactive or explosive in nature and creates a big bang and/or a cloud of smoke.

6. NON-EMERGENCY FIRE RESTRICTIONS

The following restrictions are in effect at all times in all zones, except as they may be superseded by emergency fire restrictions pursuant to Section 7:

6.1 It is unlawful for any person to start, ignite, cause or permit to be ignited, or allow or maintain any open outdoor fire except as allowed by permit through the Emergency Management Director, the applicable Fire District or Department, or the Arizona Department of Environmental Quality pursuant to Title 49, Chapter 3 of the Arizona Revised Statutes. The following fires are exempted from this restriction:

Exemptions:

6.1.1 Fires used only for the cooking of food or for providing warmth for human beings or for recreational purposes (campfires and charcoal fires); for the branding of animals; for the purpose of frost protection in farming or nursery; or for the disposal of flags pursuant to federal law.

6.1.2 Any fire set or permitted by authorized public official in the performance of official duty, if such fire is set or such permission is given for the purpose of instruction in the methods of fighting fires or the control of an active wildfire.

6.1.3 Fires set or permitted by authority of the director of the Arizona Department of Agriculture or by Navajo County agricultural agents for the purposes of disease and pest prevention.

6.1.4 Fires authorized by Special Use Permit as issued by the Emergency Management Director/Manager, Fire District or Fire Department.

6.1.5 Fires set by or permitted by the federal government or any of its departments, agencies or agents, or by the State or any of its agencies, departments or political subdivisions, for the purpose of watershed rehabilitation or control through vegetative manipulation.

6.1.6 Fires permitted by any rule or regulation adopted pursuant to Title 49, Chapter 3, Article 3 of the Arizona Revised Statutes, by any special or conditional permit issued by a hearing board established under said Article 3, or by any rule or conditional permit issued pursuant to Title 49, Chapter 3, Article 2, when pursuant to ARS § 49-402 the Arizona Department of

Environmental Quality has assumed jurisdiction of the portion of Navajo County where the fire is located.

7. EMERGENCY FIRE RESTRICTIONS

In addition to the non-emergency fire restrictions set forth in Section 6, the following emergency fire restrictions when ordered and in effect shall apply to the zone(s) in which they have been implemented:

7.1 During "Red Flag Warning" conditions, as posted by the National Weather Service, no open outdoor fires, campfires, charcoal fires, agricultural burning or outdoor smoking are permitted on either public or private property within the unincorporated area of the affected zone(s).

7.2 When it has been determined by the Emergency Management Director/Manager that additional emergency fire restrictions are needed to assure the safety of the public in any zone(s), the Director/Manager shall recommend that the Chairman of the Board of Supervisors order additional emergency restrictions at the appropriate restriction stage level.

7.3 When it has been determined by the Emergency Management Director/Manager that additional emergency fire restrictions are needed to assure the safety of the public in any zone(s), the issuance of burning permits shall be suspended until the emergency fire restrictions are lifted.

7.3.1 Burn permits issued prior to the emergency fire restrictions declaration shall be suspended until the fire restrictions have been lifted.

7.4 Display Fireworks are only permitted by Navajo County Ordinance 01-12. Except as specifically allowed under the Fireworks Ordinance it shall be unlawful for any person to use fireworks when emergency fire restrictions are in effect. Prohibitions of fireworks include but are not limited to consumer or display fireworks, ground and handheld sparkling devices, cylindrical fountains, cone fountains, illuminating torches, wheels and ground spinners in the unincorporated areas of Navajo County.

STAGE I – Minimal Restrictions
The following acts are prohibited until further notice:

1. Building, maintaining, attending, or using a fire or campfire unless noted in the exemptions below.
2. Smoking, except within an enclosed vehicle or building, a developed recreation site or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable materials.
3. Use of any and all fireworks.

4. Use of explosive targets.
5. Use of tracer round ammunition.

Note: for the smoking provision, each agency/tribe must cite their actual regulations/laws; therefore the wording for the prohibition may be slightly different.

Exemptions:

1. Persons with a written permit that specifically authorizes the otherwise prohibited act.
2. Fires used only for the cooking of food or for providing warmth for human beings or for recreational purposes (campfires and charcoal fires) in an area that is designated for that purpose and is barren or cleared of all debris.
3. Persons using a device solely fueled by liquid petroleum or LPG fuels that can be turned on and off. Such devices can only be used in an area that is barren or cleared of all overhead and surrounding flammable materials within 3 feet of the device.
4. Persons conducting activities in those designated areas where the activity is specifically authorized by written posted notice.
5. Any Federal, State, or local officer or member of an organized rescue or firefighting force in the performance of an official duty.
6. All land within a city boundary is exempted unless otherwise stated by city ordinance.
7. Other exemptions unique to each agency/tribe.

An exemption does not absolve an individual or organization from liability or responsibility for any fire started by the exempted activity.

STAGE II – Moderate Restrictions

The following acts are prohibited until further notice:

1. Building maintaining, attending, or using a fire, campfire, charcoal, coal, or wood stove including fires in developed campgrounds or improved sites.
2. Smoking, except within an enclosed vehicle or building.
3. Outdoor Mechanical and Industrial Prohibitions
    a. Operating any internal combustion engine in the course of mechanical or industrial operations that would produce open flames or sparks.
    b. Welding, or operating acetylene or other torch with open flame.

c. Using an explosive.

4. Operating motorized vehicles off designated roads and trails.
6. Use of any and all fireworks.
7. Use of explosive targets.
8. Use of tracer round ammunition.

Exemptions:

1. Persons with a written permit that specifically authorizes the otherwise prohibited act.
2. Industrial operations where specific operations and exemptions are identified and mitigation measures are implemented as outlined in an agency plan.
3. Persons operating internal combustion engines with spark arrestors such as lawnmowers and landscaping equipment in maintained landscaped space.
4. Welding, or operating acetylene or other torch with open flame in an enclosed or developed area designated for that purpose that is equipped with appropriate fire protection.
5. Persons using a device fueled solely by liquid petroleum or LPG fuels that can be turned on and off. Such devices can only be used in an area that is barren or cleared of all overhead and surrounding flammable materials within 3 feet of the device.
6. Operating generators with an approved spark arresting device within an enclosed vehicle or building or in an area that is barren or cleared of all overhead and surrounding flammable materials within three feet of the generator.
7. Operating motorized vehicles on designated roads and trails so long as you park in an area devoid of vegetation within 10 feet of the roadway.
8. Emergency repair of public utilities and railroads and mitigation measures are implemented as outlined in an agency plan.
9. Persons conducting activities in those designated areas where the activity is specifically authorized by written posted notice.
10. Any Federal, State, or local officer, or member of an organized rescue or firefighting force in the performance of an official duty.
11. All land within a city boundary is exempted unless otherwise stated by city ordinance.

An exemption does not absolve an individual or organization from liability or responsibility for any fire started by the exempted activity.

STAGE III – EXTREME FIRE DANGER

Stage III is the method that would be employed if conditions are so extreme that the potential of a catastrophic disaster is highly likely.

Examples include:

- Potential loss of life due to explosive fire conditions.
- Potential for extreme or blowup fire behavior.
- Level II restrictions are not effective in reducing the number of human-caused fires.
- Resources across the geographic area are at a critical shortage level.

The following acts are prohibited until further notice:

1. Building maintaining, attending, or using a fire, campfire, charcoal, coal, or wood stove including fires in developed campgrounds or improved sites.
2. Smoking, except within an enclosed vehicle or building.
3. Outdoor Mechanical and Industrial Prohibitions
    a. Operating any internal combustion engine in the course of mechanical or industrial operations that would produce open flames or sparks.
    b. Welding, or operating acetylene or other torch with open flame.
    c. Using an explosive.
4. Operating motorized vehicles off designated roads and trails.
5. Use of any and all fireworks.
6. Use of explosive targets.
7. Use of tracer round ammunition.

Exemptions:

1. Persons with a written permit that specifically authorizes the otherwise prohibited act.
2. Emergency repair of public utilities and railroads as per attached conditions.
3. Persons conducting activities in those designated areas where the activity is specifically authorized by written posted notice.
4. Any Federal, State, or local officer, or member of an organized rescue or firefighting force in the performance of an official duty.
5. All land within a city boundary is exempted unless otherwise stated in city ordinance.
6. Other exemptions unique to each city/tribe.

8. FIRES EXEMPT FROM EMERGENCY RESTRICTIONS

The following fires are exempted from the provisions of the emergency fire restrictions set forth in Section 7

8.1 Fires set or permitted by an authorized public official, federal, state or local, in the performance of the officer's official duties.

8.2 Fires set or permitted by the State Entomologist or Navajo County agricultural agents for the purpose of disease and pest prevention.

8.3 Fires set or permitted by the United States, the State of Arizona or any federally recognized Indian tribe, or any of their respective departments, agencies or political subdivisions, for the purpose of fire prevention or control, or watershed rehabilitation or control through vegetative manipulation.

9. FAILURE TO OBEY LAWFUL ORDER

The failure to obey a lawful order by the Emergency Management Director/Manager, a certified peace officer, a firefighter or other officer of a Fire District/Fire Department, or uniformed personnel or certified peace officer of the USFS or failure to comply with the requirements of this Ordinance (including without limitation an order to extinguish or put out any lit, burning or smoldering materials during emergency fire restrictions) shall be a distinct and separate violation of this Ordinance.

10. ENFORCEMENT / PENALTIES

10.1 This Ordinance may be enforced by the Emergency Management Director/Manager or designee, any certified peace officer acting within the officer's area of jurisdiction, a firefighter or other officer of Fire District/Fire Department acting within the authorized officials' area of jurisdiction, or uniformed personnel of the USFS acting within their area of jurisdiction.

10.2 Civil Violation. Except as set forth in Section 10.3, when a violation of this Ordinance is undesignated or is designated a first offense by the enforcement official or prosecuting attorney, a person found to have violated this Ordinance shall be deemed to have committed a civil offense and shall be subject to a civil penalty of not less than one hundred dollars ($100) nor more than seven hundred and fifty dollars ($750) plus surcharges, fees and court costs, plus restitution for any medical treatment required, reimbursement for emergency response personnel

and equipment and any property damage or other economic loss suffered by any person as a result of such violation.

10.3 Criminal Violation. When a person convicted of a violation of this Ordinance has previously been charged with a violation of this Ordinance during the preceding 12 months, or has refused to obey the lawful order of an officer as set forth in Section 9, the person shall be deemed to have committed a Class 2 misdemeanor and shall be subject to a fine of not less than two hundred and fifty dollars ($250) nor more than seven hundred and fifty dollars ($750) for each violation or count, plus surcharges, fees and restitution for any medical treatment required, reimbursement for emergency response personnel and equipment and any property damage or other economic loss suffered by any person as a result of such violation.

10.4 Continuing violations. If any violation of this Ordinance is a continuing one, each day shall be deemed a separate violation.

SO ORDAINED by the Navajo County Board of Supervisors at Holbrook, Arizona on March 24, 2015.

NAVAJO COUNTY BOARD OF SUPERVISORS

By _____
Chairwoman

ATTEST:

Melissa W. Buckley
Melissa Buckley
Clerk of the Board of Supervisors