



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.