2006-03960
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Requested By: BOARD OF SUPERVISORS
Navajo County Recorder - Laurette Justman
02-07-2006 04:00 PM Recording Fee $0.00

ORDINANCE NO. 01-06

OUTDOOR FIRE ORDINANCE

An ordinance of the Board of Supervisors of Navajo County, Arizona, repealing Ordinance No. 01-05 (Outdoor Burning 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Ordinance No. 01-02, the Outdoor Burning Ordinance, is hereby repealed in its entirety.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 (after consultation, as the Director deems appropriate, with the U.S. Forest Service ("USFS"), local Fire Districts, 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 shall utilize the USFS Apache-Sitgreaves Zone K Energy Release Components ("ERC") Monitoring System to help determine when such restrictions are necessary. As a general guideline, emergency fire restrictions should be considered when the ERC reading reaches 65.

4.2.2 The Emergency Management Director 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 determines that such restrictions are necessary and the date of implementation has been determined, the Director 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 shall promptly take appropriate steps to notify residents and visitors of the nature and extent of the restrictions and the effective date.

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.

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

5.4 "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.

5.5 "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.

5.6 "Red Flag Warning" (or "Red Flag Conditions") means a posting by the USFS to inform the County and other agencies of the imminent or actual occurrence of extreme fire danger or extreme fire conditions. This is actually determined by the National Weather Service.

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 the Arizona Department of Environmental Quality pursuant to Title 49, Chapter 3 of the Arizona Revised Statutes. The following fires are excepted from this restriction:

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 any public officer 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 permits as issued by the Emergency Management Director.

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 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 USFS, no open outdoor fires, campfires, charcoal fires 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 that additional emergency fire restrictions are needed to assure the safety of the public in any zone(s), the Director shall recommend that the Chairman of the Board of Supervisors order some or all of the following additional emergency restrictions, whereby it shall be unlawful to:

7.2.1 Burn, start, ignite, build, attend, have, possess, maintain or use any open outdoor fire.

7.2.2 Burn, start, ignite, build, attend, have, possess, maintain or use flammable or combustible materials.

7.2.3 Engage in smoking or smoke, burn, start, ignite, build, attend, have, possess, maintain or use smoking materials, burning, smoldering or lit cigarettes, cigars, cigarillos, smoking pipes or other smoking products containing tobacco or other plant material.

Provided, however, that outdoor cooking on stoves or grills which use <u>only</u> propane, butane or other gases shall not be prohibited under this Section 7.2.

7.3 The Board of Supervisors may exempt or modify emergency fire restrictions, including but not limited to:

7.3.1 Allowing smoking within enclosed buildings and inside vehicles. Smoking may also be allowed in or on porches, carports, garages, parking lots and other areas on properties which are cleared of all combustible materials so long as the smoking does not create a substantial risk of fire danger.

7.3.2 Placing restrictions on open outdoor fires, campfires or charcoal fires which will ensure the safety of such fires.

8. FIRES EXEMPT FROM EMERGENCY RESTRICTIONS

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

8.1 Fires set or permitted by any public officer, 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.

8.4 Fires permitted by the Emergency Management Director or designee. The conditions of the permit, including permitted date(s) and the nature of the burning, shall be clearly stated on every such permit issued.

9. FAILURE TO OBEY LAWFUL ORDER

The failure to obey a lawful order by the Emergency Management Director, a peace officer, a firefighter or other officer of a Fire District, or uniformed personnel of the USFS 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 or designee, any peace officer acting within the officer's area of jurisdiction, a firefighter or other officer of a Fire District acting within the officer's 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 restitution for any medical treatment required 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 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 February 6, 2006.

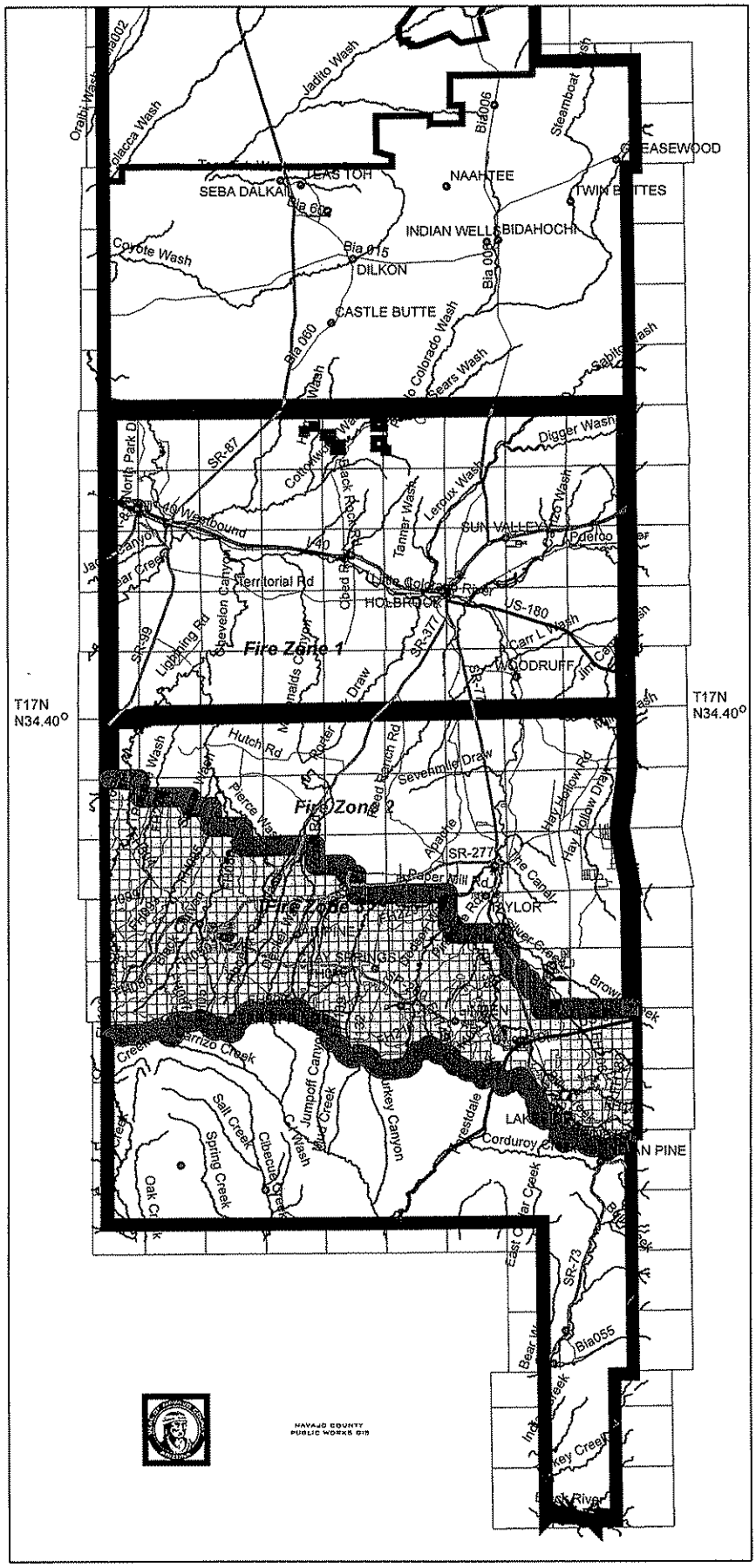
NAVAJO COUNTY BOARD OF SUPERVISORS

By Jesse Thompson

Jesse Thompson
Chairman

ATTEST:

Darlene Fraley

Darlene Fraley
Deputy Clerk

Fire Zone, Navajo County, AZ