

Before The Board of County Commissioners  
of San Miguel County, New Mexico

Ordinance No. SMC-D3-DA-99-ORD

**Declaring an Emergency; Prohibiting open fires and burning in containers; Identifying  
Fire Restriction Levels; Restriction Activation; Providing for a Criminal Offense and  
imposing a Penalty; and Providing an Immediate Effective Date.**

Whereas, The on going lack of precipitation, high winds, low humidity and unseasonably warm temperatures have created a severe, dangerous and imminent fire hazard in all areas of San Miguel County; and

Whereas, the National Weather Service is predicting the next significant, measurable moisture to be in late June, 1999 or later into the summer; and

Whereas, the New Mexico Energy, Minerals and Natural Resources Dept, State Forestry Division, Las Vegas District has recorded 85 fires with a total of 19,417 acres burned, including 25 fires with 3,148 acres burned within San Miguel County during this 1998-1999 fire season; and

Whereas, The foregoing conditions and Acts of Nature have created an emergency which presents an immediate danger to the public health, safety and welfare of the citizens of San Miguel County, New Mexico, for which an ordinance may be lawfully and immediately adopted as permitted by section 4-37-7(C), NMSA 1978, and as otherwise provided by law;

**BE IT NOW, THEREFORE, RESOLVED, ORDAINED AND DETERMINED BY  
THE BOARD OF COUNTY COMMISSIONERS OF SAN MIGUEL COUNTY, NEW  
MEXICO:**

**Section 1.** The provisions and requirements of this Ordinance are a proper and lawful exercise of the general police powers vested in the Board of County Commissioners to protect and promote the public health and safety, and advance the general welfare, of the citizens of San Miguel County.

**Section 2.** Whenever warranted by climatic conditions, drought, fire danger, fire frequency, fire behavior or other factors, effecting the danger of wildland fire, The San Miguel County Commissioners will initiate actions to prevent wildland fires by notifying the public of the fire danger and imposing restrictions governing the use of fire, equipment or personal access to lands when the danger level poses a threat to public safety, life, property and the natural resources of the county.

### **Section 3. COUNTYWIDE RESPONSIBILITY FOR WILDLAND PROTECTION**

The San Miguel County Fire Board shall consist of the following MEMBERS: The County Manager, the Fire Marshal, the District Fire Chief, or his designated line officer, and a representative from the New Mexico State Forestry. The San Miguel County Fire Board members are designated representatives of the San Miguel County Commission for the purpose of issuing orders, setting restriction levels and imposing restrictions in order to prevent wildland fires and rescinding orders as conditions warrant.

The Fire Board shall have the responsibility for prevention and suppression of wildland fires on all non-municipal, non-state and non-federal lands within the county. Activities authorized under this section shall include, but not be limited to, cooperation with federal, state and local agencies in the development of systems and methods for the prevention, control, suppression and prescribed use of fires on rural lands and within rural communities; and providing technical and related assistance to others to organize, train and equip local firefighting forces to prevent, control and suppress fires threatening the natural resources of rural wildland areas. For such purposes:

- A. The police power of the County shall extend to such control of private wildlands as shall be necessary for the prevention and suppression of wildland fires.
- B. The County Fire Marshal and his agents shall have unrestricted access to private and state lands, where authorized including the use of roads and trails, in order to carry out wildland fire prevention and suppression work.
- C. The County Fire Marshal and his agents shall not be liable to civil action for trespass or for damages for acts done in the course of their official duties unless otherwise expressly provided by contract or agreement with the landowner, which contract or agreement is made pursuant to the provisions of the Forest Conservation Act.
- D. The County Fire Marshal and his agents may, in the event of a wildland fire, summon and deputize any able-bodied man or woman to assist in suppressing the wildland fire and may request tools and equipment under the control of or owned by the landowner or timber operator upon whose lands the wildland fire is burning or whose lands are threatened by the wildland fire.
- E. A State of Emergency shall exist when wildland fires reach such magnitude as to qualify as disasters, especially if they threaten populated areas and are worsened by high winds, low fuel moisture and lack of rainfall. A State of Emergency will be declared by the San Miguel County Fire Board in conjunction with the Las Vegas/San Miguel County Emergency Manager when Fire Restriction Level III is declared.

#### **Section 4. SAN MIGUEL COUNTY ZONE DEFINITION**

San Miguel County has two distinct ground coverage areas and for this reason will be divided into two Zones as follows:

**Zone 1.** The area east of Trujillo, which is covered in pinon-juniper forest interspersed with grassy plains and rocky drainage systems tapering off into a high desert environment.

**Zone 2.** The area west of and including Trujillo, which is covered in pinon-juniper forest interspersed with grassy plains and high desert environment sloping upwards into high mountain environments.

#### **Section 5. DEFINITIONS OF FIRE FIGHTING TERMINOLOGY:**

**AREAS:** geographic locations in New Mexico where similarities in weather, topography and vegetation exist

**CAMPFIRE:** fire started for cooking, warmth or light outside of a structure

**CLOSURE:** a limitation to access to a given area as well as limiting the use of fire

**FIRE DANGER:** classification of fire danger as determined by the National Wildfire Danger Rating System. The classes are low, moderate, high, very high and extreme.

**HUMAN-CAUSED FIRE:** any fire caused directly or indirectly by a person(s).

**OPEN BURNING:** burning of crop land, fields, range land, debris, burning, slash piles, prescribed burning or weed burning.

**OPEN FIRE:** the use of any cooking, heating or ignition device using natural or artificial fuel that has either an open flame or requires that the heat source be placed physically within the device (e.g., charcoal, cigarette, fireworks).

**ORDER:** declaration by the San Miguel County Commission to prevent or suppress wild land fires.

**PREPAREDNESS:** the state of being ready or prepared for use or action

**PREVENTION:** all activities concerned with minimizing the incidence of uncontrolled human-caused fires.

**RESTRICTION:** a limitation on the use of fire, equipment or other usage of or entry into an area.

**SMOKING:** the use of lighted cigarette, cigar, pipe, etc.

**SPOTTING:** behavior of a fire producing sparks or embers that are carried by the wind and start new fires beyond the zone of direct ignition by the main fire.

**SUPPRESSION:** all the work of extinguishing or confining a wild land fire.

**UNCONTROLLED FIRE:** any fire, which threatens or destroys life, property or natural resources.

**WILDLAND FIRE:** fire burning uncontrolled on lands covered wholly or in part in timber, brush, grass, grain or other inflammable vegetation.

#### **Section 6. BURNING AND DISPOSAL RESTRICTIONS**

- A. It is unlawful for any person(s) to have an open flame on open ground or in any barrel, fireplace, stove or other container for the purpose of burning trash, refuse or garbage. All trash, refuse and garbage is to be disposed of into, not on the outside of the county dumpsters. Areas around the dumpsters are to be maintained and clear of wood, brush, weeds or other cover, trash, refuse or garbage which may create a fire hazard.
- B. It is unlawful for any person(s) to burn wood, slash, brush, weeds, or other ground cover or any other material or fuel without a permit from the New Mexico Environmental Department.
- C. The use of wood or coal inside a home or structure for heating or cooking shall have a spark arrestor on the chimney. The ashes from these fires will be disposed of by letting the ashes cool over night in a metal container outside of the structure or home in a safe area so as not to create a fire hazard. It is unlawful to dispose of any ashes in the county dumpsters or any other site creating a fire hazard.
- D. The use of propane grills and gas camp stoves is permitted by special permit in writing from the private landowner in designated campsites only and will be restricted in Level III and Level IV. These special permits must be kept on hand and provided to Fire Personnel and Law Enforcement Personnel upon request.
- E. Properly constructed bon fires, campfires or cook fires are permitted until Fire Restriction Level II has been issued. Water and fire fighting tools are to be kept nearby in case of an emergency. Once issued, it is unlawful to have a bon fire, campfire or cook fire consisting of wood, coal, charcoal, or any other material or fuel which may create a fire hazard.

- F. Smoking may be restricted to designated areas, within structures or within vehicles equipped with ashtrays while on paved or surfaced roads.
- G. Fireworks will be addressed in its own ordinance.

### **Section 7. WATER SUPPLY SOURCES**

The availability within the geographic limits and boundaries of the county fire district an adequate water supply to be used in connection with the fire fighting facilities of the county fire strict shall be identified by the water supply sources permit from all private landowners. This is a requirement from the State Fire Marshal's Office and the New Mexico State Forestry.

It is the responsibility of the district fire chief to have on hand a copy of all Water Supply Source Agreements. Provide a copy to the San Miguel County Fire Marshal and the New Mexico State Fire Marshal pursuant to Article 52 Subsection 59A-53-5 Paragraph 3.

### **Section 8. FIRE RESTRICTION LEVELS**

**LEVEL I: Low Fire danger**

**Includes normal fire prevention programs and public awareness**

Ⓒ Fuels do not ignite readily from sparks although a more intense heat source, such as lightning, may start many fires in duff and punky wood. Fires in open cured grasslands may burn freely a few hours after rain, but wood fires spread slowly by creeping or smoldering and burn in irregular fingers. There is little danger of spotting.

**LEVEL II: Moderate Fire Danger**

**Restricts fires and smoking to developed camp and picnic grounds and other areas as authorized by permit by the private landowner**

Public must notify the local fire department prior to starting campfires.

Fire and Law Enforcement Agencies have the authority to order the fires to be either controlled properly or extinguished as the fire danger dictates.

Ⓒ Fires can start from most accidental causes, and lightning. Fires in open cured grassland will burn briskly and spread rapidly on windy days. Wood fires spread slowly to moderately fast. The average fire is of moderate intensity, although heavy concentration of fuel, especially draped fuel may burn hot. Short distance spotting may occur.

### **LEVEL III: High to Very High Fire Danger**

**A State of Emergency will be declared by the San Miguel County Fire Board in conjunction with the Las Vegas/San Miguel County Emergency Manager when Fire Restriction Level III is declared.**

**Restricts campfire, white gas stoves, open fires, controlled burning, charcoal grills, smoking, and fireworks. ATV's without spark arrestors, motorcycles and vehicles with catalytic converters are restricted to maintained roadways. Chain saw usage and logging operations will be restricted by State and Federal regulations.**

**(Fires start easily from all causes, spread rapidly and increase greatly in intensity. Spot fires are a constant danger. Fires burning in light fuels may quickly develop into high intensity characteristics such as long distance spotting and fire whirlwinds. Direct attack is rarely possible after burning more than a few minutes.**

### **LEVEL IV: Extreme Fire Danger**

**Area or total closures of all privately owned and county owned properties.**

**Closures will be imposed in specifically defined areas when widespread drought conditions, extreme fire danger, fire frequency, fire behavior and other factors exist within an area of the county that pose a threat to public safety, life, property and the natural resources of the county. All open fires, open burning and operation of equipment (i.e., chainsaws, cutting torches, welders, etc.) are prohibited without the prior written approval of the State Forester. Access to private lands is limited to landowners and persons with the landowner's written permission.**

**Prohibits ingress and egress to affected zones except by written permit from the private landowner. This excludes fire fighting, medical and law enforcement personnel so that they may perform their official duties. Fires start quickly, spreading furiously and burn intensively. All fires are potentially serious. Direct attack is impossible and will be dangerous to fire fighters. Fires that develop headway in heavy brush, slash, and tree stands may be unmanageable while the extreme burning conditions last. The only effective and safe control action by fire fighters is on the flanks of the fire until the weather changes or the fuel supply lessens.**

### **Section 9. IMPLEMENTATION OF RESTRICTIONS**

**Implementation of restrictions or closures will be coordinated by the San Miguel County Fire Board within the areas of the county where fire restrictions become necessary to protect public safety, life, property and natural resources from wild land fires. The county commission will provide notice to the public when restrictions are imposed, changed or rescinded. This will include publishing daily the fire restriction level in the**

*Las Vegas Daily Optic, Albuquerque Journal, Santa Fe New Mexican, Quay County Sun*  
and all local radio stations as the Level changes or until rescinded.

#### **Section 10. PENALTIES**

Penalties: Violation of this part is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail not to exceed one year or both for each and every violation pursuant to Section 68-2-17 NMSA 1978. Violators may be held responsible for losses and damages to the land and structures in the burned area.

Section 11. This Ordinance shall apply and be in effect in all areas within the exterior boundaries of San Miguel County, New Mexico, less and excluding the territorial boundaries of the City of Las Vegas, New Mexico and the Village of Pecos, New Mexico. This excludes state lands under the jurisdiction of the State of New Mexico and all federal lands under the jurisdiction of the United States Government, where these entities have their own rules and regulations pertaining to fire restrictions.


Section 12. This Ordinance shall become effective immediately upon its passage and adoption on \_ \_\_\_\_ , and shall remain in effect until rescinded and repealed as provided by law.

Section 13. Immediately upon its passage and adoption, this Ordinance shall be published at least twice in the *Las Vegas Daily Optic, Albuquerque Journal, Santa Fe New Mexican and Quay County Sun* newspapers published and/or having general circulation in San Miguel County, New Mexico and all local radio stations within the County of San Miguel.

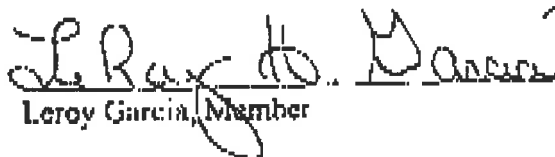
MOVED, SECONDED, ADOPTED AND ORDAINED this 9<sup>th</sup> day of March,  
1998 by the Board of County Commissioners of San Miguel County, New Mexico.

  
Lawrence R. Rascon, Chairman

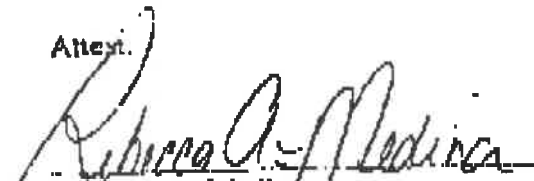
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Arthur Padilla, Vice Chairman

  
Eloy Gonzalez, Member

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Willie R. Salas, Member

  
Leroy Garcia, Member

Attest.

  
Rebecca A. Medina  
San Miguel County Clerk