

26041

STATE OF NEW MEXICO
COUNTY OF LEA
ORDINANCE No. 71

LEA COUNTY FIRE CODE

AN ORDINANCE REPEALING, AMENDING AND REENACTING THE LEA COUNTY FIRE CODE, ESTABLISHING PREVENTION, FIREFIGHTING AND EMERGENCY RESPONSE AUTHORITY, FIREFIGHTING STANDARDS, RULES AND REGULATIONS APPLICABLE TO THE GENERAL PUBLIC, INCORPORATING INTERNATIONAL FIRE CODE 2009, INTERNATIONAL BUILDING CODE 2009, ARTICLE 17 OF THE NEW MEXICO CRIMINAL AND TRAFFIC LAW MANUAL, AND PORTIONS OF NATIONAL FIRE PROTECTION ASSOCIATION.

WHEREAS, there is a need to define the authority of the Fire Districts in Lea County with respect to fighting fires and responding to other emergencies in their designated areas and in responding to calls for assistance in other areas of Lea County; and

WHEREAS, there is a need to establish certain minimal standards for firefighting practices in the unincorporated areas in Lea County; and **WHEREAS**, there is a need to establish a means and a procedure for enforcement of the provisions of this Fire Code; and

WHEREAS, the Board of Commissioners of Lea County, New Mexico is authorized to provide for the safety of the inhabitants of Lea County pursuant to 4-37-1, N.M.S.A, 1978; and

NOW, THEREFORE, the Lea County Board of County Commissioners does hereby adopt the following Ordinance to meet these needs.

1. FIREFIGHTING AND EMERGENCY RESPONSE AUTHORITY:

- 1.1 General Authority: Officials of an Fire District conducting operations in the unincorporated areas of Lea County, New Mexico in connection with the extinguishment and control of any fire, explosion, hazardous material emergency or other emergencies shall have full power and authority to direct and engage in all operations of fire extinguishment and hazardous material control and to take all precautions necessary to save lives, protect property and establish incident stabilization. Such authority shall include the authority to investigate the origin, cause and circumstances of any fire, explosion, or hazardous material emergency and to secure the scene for that purpose. Provided, however, that when a fire or explosion occurs at a plant or facility such as an oil refinery or gas plant, that is manned by an in-house firefighting unit, trained in the firefighting techniques applicable to the facility, a responding public firefighting unit shall take a support role in the handling of the fire or explosion, subordinate to the plants in-house firefighting unit.
- 1.2 Obstruction of Operations: No person shall obstruct the operations of an Independent Fire District in connection with any fire, or actions relative to any other emergency, or disobey any lawful command of Fire Officials in charge of the emergency, or any part thereof, or any lawful order of police officers assisting the Fire Department.
- 1.3 Fire Line Barriers: Officials of an Independent Fire District in charge of an emergency scene shall have the authority to establish fire line barriers to control access in the vicinity of such emergency, no person, except as authorized by the Fire Officials in charge of the emergency, may cross such fire line barriers. No person, except a person authorized by the Fire Officials in charge of an emergency scene, or a public officer acting within the scope of public duty, shall remove, unlock, destroy or tamper with any gate, door, enclosure, sign or barricade that has been lawfully installed by a Fire Department.
- 1.4 Fire Lanes: Any road or other passage way created to allow the passage of fire apparatus shall not be blocked, closed, obstructed or otherwise interfered with so as to prevent or impede its use by Fire Officials, Fire Officials are hereby authorized to

force access to fire lanes when they are found to be blocked, and no liability shall accrue for such forced access. In firefighting and emergency response operations, Fire Officials may control or prohibit the approach of any person, vehicle, or thing to the scene.

Intent: Subject to the limitation set forth in Section 1.1 regarding oil refineries, gas plants and other facilities with in-house firefighting units, it is the intent of this Section that all the authority necessary to effectively respond to a fire, explosion, hazardous material emergency or other emergency, whenever it may occur in Lea County, be expressly conferred upon Fire Officials responding so that the primacy of their authority is clear to the public and the courts.

2. FIREFIGHTING STANDARDS:

2.1 Wildfire Control: To the extent reasonably practicable and excepting requirements regarding medical examinations, Fire Departments responding to grass and brush fires in the unincorporated areas of Lea County, New Mexico shall abide by the firefighting standards pertaining to wildfire control as set forth by the Authority Having Jurisdiction (AHJ) for the Fire District. All considerations will be taken to stay within each department's Standard Operating Procedures (SOP's) and Standard Operating Guidelines (SOG's).

2.2 Structural Firefighting: To the extent reasonably practicable, Fire Departments responding to structural fires in the unincorporated areas of Lea County, New Mexico shall abide by the firefighting standards pertaining to structural fires as set forth by the Authority Having Jurisdiction (AHJ) for the Fire District. All considerations will be taken to stay within each department's Standard Operating Procedures (SOP's) and Standard Operating Guidelines (SOG's).

3. RULES AND REGULATIONS APPLICABLE TO THE PUBLIC:

3.1 Maintaining a Fire Hazard: No person shall knowingly maintain a fire hazard.

3.2 Vacant Buildings: Every person owning or having charge or control of any vacant building, except barns and livestock shelters, shall remove all combustible waste and refuse there from and lock, barricade, or otherwise secure all windows, doors and other openings in the building to prohibit unauthorized entry.

3.3 Hazardous Accumulations and Conditions: It shall be unlawful for any person or company to allow the existence of weeds, briars, brush, paper and other combustible materials to exist on any premises he owns, rents or occupies, if they accumulate to the point where such becomes; (a) a fire hazard, (b) is otherwise hazardous to the public safety, or (c) becomes a public nuisance, However, this Section shall not require the cutting or removal of natural growth and combustible refuse on the open range more than 300 feet from any occupied structure.

3.4 Reporting Hazardous Conditions: Any person, upon discovering evidence of spontaneous heating or other abnormal heating of any merchandise, commodity or other material of any kind, or any person upon discovering or being apprised of unnecessary accumulations of waste, paper, boxes, highly flammable material or dangerous accumulations of refuse or rubbish or of any uncontrolled hazardous gas leak or hazardous material or combustible or flammable liquid spill shall immediately notify the County Fire Marshal's Office. Commercial establishments shall comply with federal and state laws, standards and regulations applicable to their particular facility and operation In this regard. It shall be unlawful for any person or company to allow the following conditions to exist on any premises he owns/rents or occupies.

- 3.4.1 The existence of weeds, briars, brush, paper and other combustible materials if they accumulate to the point where such becomes (a) a fire hazard, (b) is otherwise hazardous to the public safety, or (c) becomes a public nuisance. However this section shall not require the cutting or removal of natural growth and combustible refuse on the open range more than 300 feet from any occupied structure.
- 3.4.5 The existence of piles of rubbish, household trash, tires, debris, grass, weeds, tree limbs or any other material emitting noxious odors, not within a licensed sanitary landfill or a New Mexico Environment Department or other regulatory agency regulated facility.
- 3.5 Discarding Burning Objects: No person shall throw or place, or cause to be thrown or placed, any lighted match, cigar, cigarette, matches or other flaming substance or thing on any surface or article where it may cause or start a fire.
- 3.6 Disposal of Hot and Glowing Materials: Hot ashes, cinders and smoldering coals shall be placed in non-combustible receptacles and in every case shall be kept a distance of at least 2 feet laterally away from any combustible material, structure, or any exterior window opening.
- 3.7 Dumping of Burning Load: Burning debris shall not be dumped at a waste disposal site where fire extinguishment can be accomplished before compacting, covering or other disposable activity is carried out.
- 3.8 Carelessness with Fire: No person shall deliberately, or through carelessness or negligence, set fire to or cause the burning of any material, in such manner as to endanger the safety of any person or property. No fire (including camp fires and cooking fires) shall be abandoned or left unattended so as to permit an unintended spread of fire.
- 3.9 Spread of Fire: No person shall knowingly permit any fire to spread so as to endanger life or property, or use or operate any device which may be a source of ignition unless proper removal of flammable or combustible material surrounding the operation is accomplished or such other reasonable precautions are taken to insure against the starting and spreading of unwanted fires.
- 3.10 Notifying the Fire Department: Whenever an unwanted fire occurs in any building or on any premise of any kind, the owner, manager, occupant, or any person in control of such building or premises, upon discovery of an unwanted fire, shall immediately cause notice of the existence of the fire to be given to the Fire Department responsible for his area,
- 3.11 Internal combustion Engines: Internal combustion engines either stationary, portable, or mobile, operating within grain, hay, grass or brush covered areas, shall be equipped with an effective means for arresting the issuance of burning carbon and sparks. As to vehicles, this provision shall only apply to those vehicles designed for off-road recreational use.
- 3.12 Open Range and Debris Fires: No person shall kindle or maintain any open fire not allowed under this ordinance in any location within the jurisdiction of the county without a Permit.

Open burning shall be allowed for recreational fires including; outdoor cooking, outdoor barbecues, campfires and similar domestic needs.

- (A) Containers: Such burning is allowable only when contained within a metal, brick or similar fireproof receptacle specifically designed for containing fire.

- (B) Fire training: Fires purposely set for actual instruction and training of industrial and residential firefighting personnel in accordance with NFPA 1403 shall be allowed.

Due to hazardous fire conditions, the County Fire Marshal, with the advice of Fire Chief(s) involved, may designate periods of time and/or areas within the County in which no open fires will be permitted. During such periods, no permits for open range and debris fires will be issued.

4. CONTROLLED BURNS

4.1 Controlled Burn Permit: Permit required.

Open burning not specifically allowed by this ordinance, shall be allowed only after obtaining a permit from the Lea County Fire Department responsible for the area, in which the proposed controlled burn is to occur. Persons requesting a permit shall apply to the area Fire Department prior to burning in person during normal business hours. If approved, one copy of the completed permit shall be given to the permittee, one copy shall remain with the issuing department, one copy shall be faxed to the Sheriff's Office and one copy shall remain with the Lea County Fire Marshal's Office.

4.2 Open Burning Restrictions: Burning allowed by this ordinance or by permit shall be subject to the following restrictions and any other restrictions shown on the permit and deemed necessary by the issuing Fire Department.

4.2.1 Open burning by permit shall be allowed for NFPA Class "A" natural materials such as wood, paper, leaves, grass or brush. Burning of household trash is not permitted.

4.2.2 Hazardous materials: The burning of petroleum, plastic, natural or synthetic rubber products is not allowed.

4.2.3 Control of Burn: The Permittee must have sufficient manpower, tools, and water and take all reasonable precautions to control the fire. The controlled burn shall take place only while at least one person of mature age and judgment is in constant attendance.

4.2.4 Size of fires: fires must be of a manageable size so as to allow the attendant/permit holder complete control.

4.2.5 Hours of Burning: A burning, except agricultural burning and recreational fires, must take place thirty (30) minutes after sunrise and be extinguished thirty (30) minutes prior to sunset.

4.2.6 Location of burning: Burns authorized by permit shall be restricted to the real property of the permit holder, excluding county rights-of-way.

4.3 Cost of Suppression: The Permittee or any other person initiating a fire shall be solely responsible for the cost of any fire suppression, the damage to any property and/or any other consequences, regardless of whether the burn is conducted in accordance with the conditions of a permit or this Ordinance.

5. ENFORCEMENT:

5.1 Lea County adopts by reference, as if set forth fully herein, those standards known as; International Fire Code 2009 Edition, International Building Code 2009 Edition, Article 17 of the New Mexico Criminal and Traffic Manual and portions of the National Fire Protection Association; A copy of each code can be inspected in the office of the County Fire Marshal.

- 5.2 Citation Authority: The authority to issue citations for any violation of this Fire Code Ordinance is vested in the Lea County Fire Marshal, Deputy Fire Marshal and Lea County Sheriff, his duly appointed Deputies, and all certified law enforcement personnel charged by State Statute with enforcement of County Ordinances. The Person issuing a citation shall be responsible for the prosecution of the case to its conclusion in the appropriate Magistrate Court and may call upon the County Attorney for his assistance in that prosecution.
- 5.3 Penalty: Any person or corporation who violates any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding \$300 or imprisonment for a period not exceeding 90 days, or both such fine and imprisonment, in addition to restitution were applicable for damaged property. The application of this penalty shall not be held to prevent the enforced removal of prohibited conditions.
- 5.4 Correction of Violation Required: The imposition of a penalty for any violation shall not excuse the violation nor shall the violation be permitted to continue. All such persons shall be required to correct or remedy such violations or defects within a reasonable time.

6. RECORDS:

- 6.1 Record Keeping by County Fire Marshal's: The following records shall be kept and maintained by the County Fire Marshal staff.
- A. All permit applications with dispositions.
 - B. All reports of hazardous conditions with dispositions.
 - C. All "No controlled burn" declarations issued pursuant to Section 3.12.
 - D. All citations issued with dispositions.
- 6.2 Record Keeping by Area Fire Chiefs: Each Fire Chief is designated as the responsible party for an area pursuant to the County's Fire District Divisions. County Fire Chief's shall maintain all documents of information pertaining to hazardous materials that may involve Firefighting, Emergency Medical Services Plan, and Mutual Aid Agreement as required by Sections 311 and 312 of the Federal Emergency Planning and Community Right to Know Act, and those Federal Regulations pertaining to hazardous materials for his area. A copy will be filed at the Lea County Fire Marshal's Office.
- 6.3 Retention of Records: All records required to be kept by this section shall be maintained until their usefulness has been served or as may otherwise be required by law.

7. PROCUREMENT:

- 7.1 Purchases by Fire Departments: All procurement by County Fire Districts using public funds shall be made -pursuant to the New Mexico Procurement Code, 13-1-28 et seq. NMSA 1978 Camp. and the Lea County Procurement Policy.

8. MISCELLANEOUS PROVISIONS:

- 8.1 Repeal and Savings: This Ordinance repeals Ordinance #60, adopted July 20, 2004, known as the Lea County Fire Code.
- 8.2 Severability: If any part of this ordinance is held to be unconstitutional or invalid or otherwise in conflict with the laws of the State of New Mexico and the United States of

America, the validity of the remaining portions of the Ordinance shall not be affected if such portions can stand alone.

8.3 Titles: Titles given to different sections herein are meant to facilitate the convenient location of different sections of this ordinance and not to limit or fully describe the application of the entitled sections.

8.4 Effective Date, Emergency: The Board of County Commissioners declares that it is necessary for the public peace, health and safety that this Ordinance take effect immediately after passage, and shall take effect when it is recorded in the book kept by the County for that purpose and authenticated by the signature of the Lea County Clerk.

THIS ORDINANCE IS PASSED, APPROVED, SIGNED AND ADOPTED IN OPEN MEETING this 4th day of January, 2011.

LEA COUNTY BOARD OF COUNTY COMMISSIONERS

Gregory H. Fulfer, Chairman

Michael Whitehead, Vice Chairman

Dale Dunlap, Member

Ron Black, Member

Hector Ramirez, Member

ATTEST: Pat Chappelle
Lea County Clerk

Angie Berge, Deputy

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Gary Don Reagan
Interim Lea County Attorney

**STATE OF NEW MEXICO
COUNTY OF LEA
FILED**

JAN 04 2011

at 11:43 o'clock AM
and recorded in Book _____
Page _____
By Pat Chappelle, Lea County Clerk
By Brenda Wolford, Deputy

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