

ORDINANCE NO. 221

AN ORDINANCE AMENDING ORDINANCE 220  
LIMITING OPEN BURNING AND FIREWORKS  
IN THE TOWN OF BERNALILLO, NEW MEXICO

WHEREAS, the danger of brush fires, forest fires and structure fires is high in the State of New Mexico and especially Town of Bernalillo and the surrounding jurisdictions; and,

WHEREAS, current conditions such as relative humidity; weather and fuel content and condition create an extremely high hazard in the Town of Bernalillo; and,

WHEREAS, the probability of ignition of material and fire spread is extremely high in the Town of Bernalillo; and,

WHEREAS, the Town of Bernalillo Town Council finds, based upon current drought indices published by the national weather service and other information supplied by the United States Forest Service and the New Mexico State Forestry – District 6, that severe drought conditions affect the Town of Bernalillo, New Mexico; and,

WHEREAS, The Town of Bernalillo Town Council finds that restrictions should be imposed upon the use of fire, combustibles and fireworks within the Town of Bernalillo, New Mexico; and,

WHEREAS, the possibility of extreme fire situations will severely tax current local, state and federal resources; and,

WHEREAS, the Town of Bernalillo Town Council finds that there exists and immediate danger to the public health, safety, and welfare of the Town on Bernalillo.

NOW THEREFOR BE IT ORDAINED BY THE TOWN OF BERNALILLO, TOWN COUNCIL, THAT:

- Section 1.                   The Town of Bernalillo Town Council hereby declares the conditions exist in the Town of Bernalillo creating high fire hazard that represents a significant immediate threat to the peace, safety, health and welfare of the Town of Bernalillo.

- Section 2. The following types of open burning shall be prohibited **except in gas cooking grills** unless a permit is obtained:
- a. Campfires;
  - b. Open Fires;
  - c. Open Burning of vegetation or rubbish; and,
  - d. Any other smoke producing substance and material that creates a fire safety hazard.
- Section 3. For purposes of this Ordinance, 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 the Ordinance includes but is not limited to the definition of the **word** “fireworks” provided in NMSA 1978, § 1978, § 60-2C-2K (cum. Supp. 1999)
- Section 4. Pursuant to NMSA 1978, § 60-2C-8.1F (2) (a) (Cum. Supp. 1999), the Town of Bernalillo Town Council gives itself the power to and does hereby limit the use fireworks to safe and sane fireworks; 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. (**Safe and Sane fireworks means hand-held sparklers, smoke devices, ground spinners, pinwheels, top trick noisemakers, crackling devices, cone fountains less than Six feet in height**).
- Section 5. Pursuant to NMSA 1978, § 60-C2-8.1 F (2) (b) (Cum. Supp. 1999), the Town of Bernalillo Town Council gives itself the power to and does hereby restrict the sale and use of illegal fireworks within the Town of Bernalillo Town Limits. (**Illegal fireworks means missile-type rockets, helicopters, aerial spinners, aerial shells, stick-type rockets, roman candles, firecrackers, cone fountains with a height greater than 6 feet, M-100’s, m-80’s, cherry bombs, and ground audible devices**).
- Section 6. Pursuant to NMSA 1978, § 60-2C-8.1F (2) (a) (Cum. Supp. 1999), the Town of Bernalillo Town Council gives itself the power to and does hereby ban the use of all fireworks within wild lands in its jurisdiction. (“Wild lands” means any lands covered wholly or in part by timber, brush or native grass).

Section 7. Except as permitted by this Ordinance, the use of all other fireworks of any kind or description are banned within the Town of Bernalillo.

Section 8. EFFECTIVE DATE AND DURATION:

Pursuant to NMSA 1978, § 3-18-11, the Town of Bernalillo Town Council hereby declares it is necessary for the public peace, health, safety and welfare that this Ordinance take effect immediately after passage. This Ordinance may be rescinded when favorable conditions exist.

Section 9. ENFORCEMENT

The Town of Bernalillo **Fire Chief, Fire Marshal or his designee**, Police Department, Planning & Zoning Officer and any of their agents shall have the ability to enforce the Ordinance.

Section 10. PENALTIES

Any violation of this Ordinance shall be deemed a misdemeanor and punishable by a fine of not more than three hundred dollars (\$300.00) and/or up to 90 days in Jail.

Section 11. This Ordinance supersedes and replaces any Ordinances of reference to burning, open fire, fireworks, campfires or celebratory events requiring open burning. Nothing herein shall relate to a licensed business pursuit

PROCLAIMED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006

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Mayor Patricia A. Chávez

ATTEST:

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Ida Fierro, Town Clerk