

RESOLUTION 11-06-01
of the
GREENLEE COUNTY BOARD OF SUPERVISORS

**REGULATION OF OPEN BURNING IN UNINCORPORATED
AREAS OF GREENLEE COUNTY DURING
DECLARATIONS OF FIRE EMERGENCIES**

WHEREAS, ARS 26-311 authorizes the county board of supervisors to declare that an emergency exists and to impose all necessary regulations to preserve the peace and order in the unincorporated areas of the county;

WHEREAS, ARS 26-307 authorizes counties to make, amend, and rescind orders, rules, and regulations necessary for emergency functions not inconsistent with orders, rules and regulations promulgated by the governor and to suspend any regulation or law in conflict with said county orders, rules and regulations;

WHEREAS, ARS 49-501 prohibits open burning in unincorporated areas of the county with certain broad exceptions;

WHEREAS, both ARS 11-251.05 and ARS 11-251(31) authorizes counties to adopt ordinances necessary or proper to carry out the duties, responsibilities, and functions of the county and to prescribe punishment by fine, imprisonment, or both, for the violation of the ordinance, not to exceed the maximum limitations established for a Class 1 misdemeanor;

WHEREAS, the Greenlee County Board of Supervisors is concerned about dry conditions, low humidity, increased winds, high temperatures, and the risk that manmade fires present to Greenlee County is great; and

WHEREAS, the United States Forest Service (USDA) and Bureau of Land Management (USDI) have issued fire restrictions governing all lands under their respective jurisdictions; and

WHEREAS, the Chairman of the Board of Supervisors has deemed that an emergency exists due to the extreme of risk of fire in the unincorporated portions of Greenlee County which risk endangers the health, safety, lives and property of the citizens of Greenlee County;

**WHEREFORE: THE GREENLEE COUNTY BOARD OF SUPERVISORS
HEREBY DECLARES THAT A FIRE EMERGENCY EXISTS AND RESOVLES
TO ADOPT THE FOLLOWING REGULATION RELATED TO OPEN
OUTDOOR FIRE RESTRICTIONS:**

OPEN OUTDOOR FIRE REGULATION

SECTIONS:

- 1. Definitions**
- 2. Prohibition**
- 3. Enforcement/Penalties**
- 4. Applicability**
- 5. Effective Date/Emergency Declaration**

DEFINITIONS:

- 1.1 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.
- 1.2 Campfire** means a fire not within any building, mobile home, or living accommodation which is used for cooking, personal warmth, lighting, ceremony, or aesthetic purposes.
- 1.3 Barbecue** means fixed or portable devices where food is cooked or reheated on a metal frame over a fire fueled by a propane or gas source.
- 1.4 Charcoal fire** means an open outdoor fire which uses primarily charcoal as the combustible material, and which is used for the purpose of cooking or reheating food.
- 1.5 Bonfire** means a fire built outdoors for burning rubbish, waste material, refuse, or brush.
- 1.6 Fireworks** means any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, that is a consumer firework or display firework as defined by ARS 36-1601(3) a.

PROHIBITION:

- 2.1 All open burning including: open fires, campfires, fireworks, bonfires, and other pyrotechnic displays on public and private lands in unincorporated areas of Greenlee County are prohibited. This prohibition supersedes the exceptions stated in ARS 49-501.
- 2.2 **Exemptions:** The following fires are exempt from the prohibition:
 - a) Fires set or permitted by any public officer, federal, state, or local in the performance of the officer's official duties, including, but not limited to: weed abatement, prevention of fire hazard or instruction in the methods of fire fighting.
 - b) Fires used only for cooking of food conducted on a barbecue.
 - c) Fires set or permitted by the Director of the Department of Agriculture of County Agricultural agents of Greenlee County for the purpose of disease and pest prevention.
 - d) Fires set or permitted by the Federal Government or any of its departments, agencies or agents of the state or any of its agencies, departments or political subdivisions.
 - e) Nothing in this Regulation shall be construed to prohibit the deployment of a public display of fireworks in the unincorporated areas of the county as approved by the Board of Supervisors.

ENFORCEMENT/ PENALTIES:

- 3.1 This Regulation may be enforced by the Emergency Management Director, and/or 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.
- 3.2 Each violation pursuant to this Regulation shall result in a civil penalty not to exceed \$500.00 for each violation as determined by the Justice of the Peace in which the violation is filed. In addition to any civil penalty imposed by this regulation, a person found to have violated this Regulation shall pay restitution for any medical treatment required for persons injured as a result of any fire that results from conduct prohibited by this regulation whether such injury is the result of the person's effort to subdue such fire or from any other cause related to said fire as well as all property damage or other economic loss suffered by any person as a result of such violation.
- 3.3 If any violation of this Regulation is a continuing one and each day shall be deemed a separate violation.

- 3.4 Failure to obey the lawful order by the Emergency Management Director, peace officer, firefighter or other officer of a Fire District shall be a distinct and separate violation of this Regulation.

APPLICABILITY:

- 4.1 This Regulation applies within all unincorporated areas of Greenlee County.

EFFECTIVE DATE/ EMERGENCY DECLARATION:

- 5.1 The Board of Supervisors having determined, by unanimous vote, that expedited enactment of this Regulation is necessary for the preservation of the public peace, health and safety of the County of Greenlee, Arizona, an emergency is hereby declared to exist and, therefore, this Regulation shall be effective immediately upon its passage, approval and adoption.

DATED this 21st day of June 2011.

GREENLEE COUNTY BOARD OF SUPERVISORS



Richard G. Lunt, Chairman

ATTEST:



Clerk of the Board

APPROVED AS TO FORM:



County Attorney