

GREENLEE COUNTY BOARD OF SUPERVISORS

OUTDOOR FIRE ORDINANCE – 13-01

An ordinance of the Greenlee County Board of Supervisors; establishing fire zones in the unincorporated area; establishing restrictions on certain outdoor fires; providing for the implementation of emergency fire restrictions; and specifying penalties for violations.

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, 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.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF GREENLEE COUNTY AS FOLLOWS:

1. Title

This ordinance shall be known as the Greenlee County Outdoor Fire Ordinance.

2. Effective Area/Fire Zones

This Ordinance is effective in the unincorporated areas of Greenlee County, exclusive of areas under the jurisdiction of the United States, the State of Arizona or a federally recognized Indian tribe.

3. Purpose/Authority of Emergency Management Director

3.1 The purpose of this Ordinance is to help provide a uniform system for political subdivisions in Greenlee County to determine what fire restrictions are needed and when they are to be put into place during emergency fire conditions.

3.2 It is the duty of the Greenlee County Emergency Management Director, after consultation, as deemed appropriate, with the U.S. Forest Service, local fire districts, state or municipal fire officials, to initiate fire restrictions within any

unincorporated areas of Greenlee County during emergency fire conditions as described in Section 6.

3.2(a) The Emergency Management Director shall attempt to coordinate with other fire officials a uniform date for implementing such restrictions.

3.2(b) 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 shall 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 action to notify residents and visitors of the nature and extent of the restrictions and the effective date.

4. Definitions

- 4.1 **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.
- 4.2 **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.
- 4.3 **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.
- 4.4 **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.
- 4.5 **Bonfire** means a fire built outdoors for burning rubbish, waste material, refuse, or brush.
- 4.6 **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).
- 4.7 **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.
- 4.8 **Emergency Management Director** means the County official so designated by the Greenlee County Board of Supervisors.

5. Non-Emergency Fire Restrictions

The following restrictions are in effect at all times in the unincorporated areas of Greenlee County, except as they may be superseded by emergency fire restrictions pursuant to Section 6:

- 5.1 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 via applicable fire district, Emergency Management Director, or the Arizona Department of Environmental Quality. The following fires are **exempt** from this restriction:
 - 5.1(a) 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.
 - 5.1(b) 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.
 - 5.1(c) Fires set or permitted by authority of the director of the Arizona Department of Agriculture or by Greenlee County agricultural agents for the purposes of disease and pest prevention/control.
 - 5.1(d) Fires authorized by special permits as issued by the Emergency Management Director.
 - 5.1(e) 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.
 - 5.1(f) 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, 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 Greenlee County where the fire is located.

6. Emergency Fire Restrictions

- 6.1 In addition to the fire restrictions set forth in Section 5, the following emergency fire restrictions, when ordered and in effect pursuant to Section 3.2, shall apply:

6.1(a) 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.

6.1(b) Burn, start, ignite, build, attend, or use flammable or combustible materials.

6.2 **Exemptions:** The following fires are exempt from the prohibition:

6.2(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 firefighting.

6.2(b) Fires used only for cooking of food conducted on a barbecue.

6.2(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.

6.2(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.

6.2(e) Fires permitted by the Emergency Management Director or designee. The conditions of any permit issued by the Emergency Management Director shall be stated on the permit.

6.2(f) Nothing in this Restriction/Ordinance 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.

7. **Enforcement/Penalties**

7.1 This Restriction/Ordinance 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.

7.2 Each violation pursuant to this Restriction/Ordinance shall result in a civil penalty of \$500.00 for each violation. A person found to have violated this Restriction/Ordinance shall pay restitution for any medical treatment required and property damage or other economic loss suffered by any person as a result of such violation.

- 7.3 If any violation of this Restriction/Ordinance is a continuing one, each day shall be deemed a separate violation.
- 7.4 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 Restriction/Ordinance.

IT IS SO ORDAINED by the Greenlee County Board of Supervisors at Clifton, Arizona on July 3, 2012.

GREENLEE COUNTY BOARD OF SUPERVISORS

By /s/ Richard G. Lunt, Chairman

ATTEST: /s/ Yvonne Pearson, Clerk of the Board

APPROVED AS TO FORM: /s/ Derek Rapier, County Attorney