

INCORPORATED COUNTY OF LOS ALAMOS CODE ORDINANCE 02-339

**AN ORDINANCE OF THE INCORPORATED COUNTY OF LOS ALAMOS
AMENDING ARTICLE II, DIVISION 1, OF CHAPTER 22 TO CODIFY THE FIRE
RESTRICTIONS THAT MAY BE IMPOSED BY THE FIRE CHIEF TO LIMIT
THE POTENTIAL FOR WILDFIRES.**

WHEREAS, the Incorporated County of Los Alamos, New Mexico ("County") is a home rule county possessing the full power of local self-government pursuant to Article X, Sections 5 and 6 of the New Mexico Constitution, NMSA 1978, Chapters 3, 4 and 5, and County's Home Rule Charter; and

WHEREAS, the State Legislature, in NMSA 1978, § 3-18-11, has granted certain fire protection powers to County, including the authorization to adopt, by ordinance, regulations for the prevention of fires; and

WHEREAS, County has, by ordinance, adopted regulations governing the prevention of fires within the County in Chapter 22 of the Los Alamos County Code of Ordinances ("County Code"); and

WHEREAS, due to increasing drought conditions in the State of New Mexico, and throughout the Southwest, County needs the ability to limit and/or restrict the use of fire and certain outdoor activities; and

WHEREAS, the County has experienced severe to extreme drought conditions leading to an earlier start of wildfire seasons; and

WHEREAS, the County Council of the Incorporated County of Los Alamos, New Mexico, deems it to be in the best interest of the County and its residents and visitors to authorize the Fire Chief to issue orders to limit and restrict certain outdoor activities to limit and prevent the potential of wildfires.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF THE COUNTY OF LOS ALAMOS, NEW MEXICO, THAT:

SECTION 1. Section 22-33, Article II, Division 1, of Chapter 22 of the County Code of Ordinances is hereby amended as follows:

Sec. 22-33. - Duties and powers of Fire Chief

(a) The adopted codes including all inspections and permits authorized thereunder, and the provisions of this chapter of the county code shall be enforced by the ~~AHJ~~ Fire Chief, the Fire Marshal, or their designee.

(b) Authority to enter premises. ~~The AHJ and Fire Code Official~~ The Fire Chief, the Fire Marshal, or their designee shall have the power to enter all property within the county for purposes of enforcing this code and shall be for the purposes of fire and life safety. Entry into a building or structure shall be at a reasonable time for inspections. The authority to enter shall not include inspection of interiors of private parties, dwellings or living quarters, or the portions of commercial premises used as dwellings, or the non-public portions of commercial

premises, except upon obtaining a search warrant, or permission of the occupant thereof, or permission of the party responsible therefore in the event the premises are unoccupied. The provisions of this section do not apply in the event of explosion, fire or like emergency.

(c) ~~The AHJ~~ The Fire Chief, the Fire Marshal, or their designee shall have the authority to develop and implement a public fire safety education program as deemed necessary for the general welfare with respect to potential fire hazards within the county. ~~The AHJ~~ The Fire Chief, the Fire Marshal, or their designee shall have the authority to ensure duly authorized public fire safety education programs or public fire safety messages are disseminated to the general public.

(d) ~~The AHJ~~ The Fire Chief, the Fire Marshal, or their designee may issue the permits provided for in the adopted codes but is granted discretion to determine the necessity of said permits. Nothing herein is intended to create a duty to issue permits or to require that the ~~AHJ~~ Fire Chief, the Fire Marshal, or their designee to exercise the authority conferred by the adopted codes.

(e) Based on the threat of a wildland fire event as warranted by the overall fire threat as determined by the Fire Chief employing the accepted standards in wildfire science, the Fire Chief may impose the following restrictions county-wide:

1. Stage I.

(a) Violations of conditions and restrictions imposed by Article II (Fire Prevention Code) of Chapter 22 (Fire Prevention and Protection) of the County Code are unlawful.

2. Stage II.

(a) The violation of Stage I fire restrictions is unlawful.

(b) Any fire permit for recreational fire devices issued prior to the imposition of Stage II fire restrictions are suspended.

(c) The use of outdoor cooking or recreational fire device that uses charcoal or wood is unlawful.

(d) The use of unattended outdoor gas and pellet cooking devices is unlawful.

(e) The use of campfires and any recreational fire is unlawful.

(f) Outdoor smoking is unlawful unless an area has been specifically permitted by the Fire Marshall or Fire Chief.

(g) The operation of small internal combustion engine equipment is unlawful unless the small internal combustion engine is equipped with a spark arresting device.

(h) Outdoor welding, metal grinding, hot tar roofing, driveway sealing, and oxy-acetylene metal cutting, and any other outdoor work which produces a hot ember or visible flame is unlawful unless a permit is obtained from the Fire Marshal.

(i) The use of fireworks is prohibited.

3. Stage III.

(a) The violation of Stage II fire restrictions is unlawful.

(b) Outdoor smoking is unlawful and any permits issued by the Fire Marshall or Fire Chief during Stage II fire restrictions allowing outdoor smoking in specific areas are revoked.

(c) Outdoor welding, metal grinding, hot tar roofing, driveway sealing, and oxy-acetylene metal cutting, and any other outdoor work which produces a hot ember or visible flame is unlawful.

(d) Operating small internal combustion engine equipment is unlawful.

4. Except for Stage I restrictions which are always in effect by operation of law, Stage II and Stage III fire restrictions shall take effect immediately upon the issuance of an order executed by the Fire Chief and shall remain in effect until rescinded by a subsequent order. The order may be amended as conditions warrant.

5. The provisions of this section may be enforced by county police officers, the Fire Chief, the Fire Marshall, or the Fire Chief's or Fire Marshal's designee.

SECTION 2. Effective Date. This Ordinance shall become effective thirty (30) days after notice is published following its adoption.

SECTION 3. Severability. Should any section, paragraph, clause or provision of this ordinance, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

SECTION 4. Repealer. All ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

ADOPTED this 28th day of February 2023.

**COUNCIL OF THE INCORPORATED
COUNTY OF LOS ALAMOS**

**Denise Derkacs,
Council Chair**

ATTEST: (SEAL)

**Naomi D. Maestas,
Los Alamos County Clerk**