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# Village of Cuba Burn Ordinance Information

ORDINANCE - - EFFECTIVE 6-1-2018

**ARTICLE , CHAPTER , OF THE VILLAGE OF CUBA NM ORDINANCES RELATING TO OUTDOOR BURNING**

The Village Council of the Village of Cuba NM hereby ordains that the newly adopted Section Chapter , Article:

**WHEREAS**, the danger of brush fires, grass fires, forest fires and structure fires is extremely high in the State of New Mexico and especially in Sandoval County, the Village of Cuba and the surrounding jurisdictions; and,

**WHEREAS**, current conditions such as relative humidity, weather and fuel content and condition create an extremely high fire hazard in the Village of Cuba; and,

**WHEREAS**, the probability of ignition of material and fire spread is extremely high in the Village of Cuba; and,

**WHEREAS**, the Village of Cuba Council finds, and 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 drought conditions affect the unincorporated areas of Sandoval County and thus the Village of Cuba; and,

**WHEREAS**, The Village of Cuba Counselors find that fireworks restrictions should be imposed within the incorporated areas of the Village of Cuba; and,

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

**WHEREAS**, the Village of Cuba Village Council finds that their exists an immediate dander to the public health, safety, and welfare of the Village of Cuba.

**NOW THEREFORE, BE IT RESOLVED AND PROCLAIMED BY THE VILLAGE OF CUBA VILLAGE COUNSELORS, THAT:**

**Section 1.** The Village of Cuba Council hereby declares that the Village of Cuba is suffering from serious drought conditions and high fire hazards that represent a significant immediate threat to the peace, safety, health and welfare of the Village of Cuba NM.

**Section 2.** The following types of open burning shall be prohibited unless a permit is obtained by request through the Village of Cuba Fire Department.

- 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.

(Reference Regulation #301 of the Ambient Air Quality Standards and Air Quality Control Regulation).

**Section 3.** For purposes of this Ordinance, the words "fireworks" means any device intended to produce a visible or audible effect by combustion, deflagration or detonation. The term fireworks is used in this Ordinance includes but is not limited to the definition of "fireworks provided in NMSA 1978, § 1978, § 60-2C-2K (Cum. Supp. 1999)

**Section 4.** Pursuant to NMSA 1978, § 60-2C-8.1 F 920 (a) (Cum. Supp.1999) the Village of Cuba Village Council gives itself the power to and does hereby limit the use of safe and sane fireworks to areas that are paved or barren or that have readily accessible source of water for use by the homeowner or the general public.

**Section 5.** Pursuant to NMSA 1978, § 60-2-2C-8.1 F (1) (Cum. Supp. 1999), the following types of fireworks are banned from sale and use within the Village limits of the Village of Cuba: stick-type rockets, helicopters and aerial spinners, missile-type rockets, ground audible devices, firecrackers.

**Section 6.** Pursuant to NMSA 1978 § 60-2C-8.1 F (2) (b) (Cum. Supp. 1999), The Village of Cuba Village Council gives itself the power to and does hereby ban the use of all fireworks within wildlands in its jurisdiction. ("Wildlands" means any lands covered wholly or in part by timber, brush or native grass).

**Section 7.** Pursuant to NMSA 1978 § 60-2C-8.1 F (2) (b) (Cum. Supp. 1999), The Village of Cuba Village Council gives itself the power to and does hereby ban the sale and use of display fireworks. ("Display Fireworks" means devices primarily intended for commercial displays designed to produce visible or audible effects by combustion, deflagration or detonation, including salutes containing more than one hundred thirty milligrams of explosive composition; aerial shells containing more than forty grams of chemical composition exclusive lift charge; and other exhibition display items that exceed the limits for permissible fireworks.)

**Section 8.** Except as permitted by this Ordinance, the use of all other fireworks of any kind or description are banned within all areas of the Village of Cuba.

### **Section 9. EFFECTIVE DATE AND DURATION**

Pursuant to NMSA 1978 § 4-37-9 C (Cum. Supp. 1999), The Village of Cuba Village Council hereby declares it is necessary for the public peace, health, safety and welfare that the ban on open burning contained in this Ordinance shall take effect immediately after passage. This Ordinance shall be rescinded only during times that favorable conditions exist. Accordingly, this portion of this Ordinance shall become effective immediately on its passage, recordation and authentication, as provided by NMSA 1978 § 4-37-9 C (Cum. Supp. 1999).

Although The Village of Cuba Village Council finds the ban on fireworks to be an emergency, under the provisions of NMSA §60-2C-8.1 (2006), restrictions on the sale and use of fireworks may not be imposed more than twenty (20) days prior to a holiday for which fireworks may be sold. Therefore, the ban on the sale and use of fireworks contained herein shall become effective June 14, 2018.

### **Section 10. ENFORCEMENT**

The Village of Cuba Police Department and any of their agents shall have the ability to enforce this Ordinance. The Village of Cuba Fire Department Officers have the authority to demand the extinguishment of any fire they deem to be a hazard due to conditions.

**Section 11. PENALTIES**

Any violation of this Ordinance shall be deemed a misdemeanor and punishable by a fine of not more than three hundred dollars (\$300) and/or up to 90 days in jail.

Any person violating any provision of this Ordinance, could be liable for actual costs incurred by the Village or its Agent to recover, repair or replace any public property, signage, equipment, public road /trail access and park facilities/landscaping, caused by fire damage or damage involving fire-containment.

**Section 12. RECISSION OF PRIOR ORDINANCES**

All prior Emergency Ordinances, Relating to Open Burning & Fireworks in the Village of Cuba are hereby rescinded.

**PROCLAIMED AND ADOPTED THIS DAY OF 2018**

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