

TOWN OF PINETOP-LAKESIDE

ORDINANCE 19-421

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, ADOPTING THE TOWN CODE AMENDMENTS TO TITLE 8, CHAPTER 8.04 – FIRE RESTRICTIONS.

WHEREAS, the Town Council of the Town of Pinetop-Lakeside believes that amending the Town Code Title 8, Chapter 8.04 – Fire Restrictions is in the best interest of the citizens of the Town.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF PINETOP-LAKESIDE, NAVAJO COUNTY, ARIZONA, as follows:

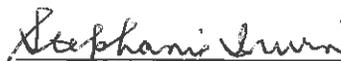
Section 1. **Adoption.** Chapter 8.04 – Fire Restrictions is hereby adopted and made a part of that certain document known as the “Pinetop-Lakeside Town Code.” Three (3) copies of Chapter 8.04 – Fire Restrictions are on file with the Town Clerk of the Town of Pinetop-Lakeside, Arizona, which document was made a Public Record by Resolution No. 19-1500 of the Town of Pinetop-Lakeside, Arizona; and hereby referred to, adopted and made a part hereof as if fully set forth in this Ordinance.

Section 2. **Effective Date.** This Ordinance is to be effective when publication and posting pursuant to A.R.S. § 9-812 is accomplished.

Section 3. **Repeal and Invalidation.** All ordinances, or parts of ordinances, adopted by the Town of Pinetop-Lakeside in conflict with the provisions of this ordinance or any part of the Town Code adopted herein by reference, are hereby repealed, effective as of the day this ordinance is effective. If any section, subsection, sentence, clause or portion of this Ordinance or any part of Title 8, Chapter 8.04, Fire Restrictions adopted herein by reference is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof or the remaining Articles and Sections of the Pinetop-Lakeside Town Code.

PASSED AND ADOPTED by the Mayor and Town Council in an open meeting by the Town Council, Town of Pinetop-Lakeside, Arizona, this 4th day of April, 2019, to be effective upon the expiration of a thirty (30) day period following adoption and publication pursuant to A.R.S. § 9-812 is complete.

TOWN OF PINETOP-LAKESIDE


Stephanie Irwin
Mayor

APPROVED AS TO FORM:


William J. Sims, III
Town Attorney

ATTEST:


Remilie S. Miller, MMC
Town Clerk



Chapter 8.04

FIRE RESTRICTIONS/OUTDOOR BURNING

Sections:

- [8.04.010 Guidelines.](#)
- [8.04.020 Definitions.](#)
- [8.04.030 General fire restrictions.](#)
- [8.04.040 Emergency fire restrictions.](#)
- [8.04.050 Stage I – Minimal Restrictions.](#)
- [8.04.060 Stage II – Moderate Restrictions.](#)
- [8.04.070 Exceptions from emergency fire restrictions.](#)
- [8.04.080 Failure to obey lawful order.](#)
- [8.04.090 Violations.](#)

8.04.010 Guidelines.

- A. The purpose of these guidelines is to help provide a uniform system for political subdivisions in southern Navajo County to determine what fire restrictions are needed and when they are to be put into place during emergency fire conditions. In addition, one goal of these guidelines is to have neighboring jurisdictions work together to try to establish a uniform date for implementation of fire restrictions.
- B. It shall be the duty of the Town's Emergency Management Director after consultation, if necessary, with the U.S. Forest Service, local fire districts, other emergency management directors in the region, etc., to initiate fire restrictions within the Town during emergency fire conditions.
- C. The Town's Emergency Management Director will utilize the U.S. Forest Service ("U.S.F.S.") Apache-Sitgreaves Energy Release Components ("ERC") Monitoring System to help determine when fire restrictions may be necessary. As a general guideline, when the ERC reading reaches 90% for at least 5 consecutive days, fire restrictions should be considered.
- D. The Emergency Management Director for Navajo County will work with the Town's Emergency Management Director to attempt to initiate and coordinate a uniform date for implementing fire restrictions.
- E. When the Town's Emergency Management Director, after consultation with the Town Manager, determines that fire restrictions are necessary and the date of initiation has been determined, the Town's Emergency Management Director will direct that appropriate fire restrictions be ordered, and will notify the public of the nature and extent of the fire restrictions and the effective date. Fire restriction information needs to be disseminated not only to local residents, but to visitors and tourists as well. (Ord. 12-362; Ord. 05-249 § 2 (part))

8.04.020 Definitions.

- A. "Campfire" means an open outdoor fire that is used only for cooking of food or for providing personal warmth for human beings or for recreational purposes.
- B. "Charcoal fire" means an open outdoor fire that uses primarily charcoal as the combustible material, and which is used only for the purpose of cooking food.
- C. "Emergency Management Director" means a person who is designated by the Town Manager.
- D. "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.
- E. "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, but not including campfires and charcoal fires.
- F. "Red flag warning" or "red flag conditions" means a posting by the National Weather Service to inform the Town and other agencies of the imminent or actual occurrence of extreme fire danger or extreme fire conditions.
- G. "Wind Advisory" an advisory issued by the National Weather Service when there are sustained winds of 31-39 miles per hour and /or gust 46-57 miles per hour.
- H. "High Wind Warning" a warning when winds are expected to reach 40+ miles per hour and/or wind gust of 58+ miles per hour.
- I. "Smoking" means burning, smoldering or lit cigarettes, cigars, cigarillos, smoking pipes or other smoking products containing tobacco or other plant material. (Ord. 05-249 § 2 (part))

8.04.030 General fire restrictions.

It shall be unlawful for any person to start, ignite, cause or permit to be ignited, or to allow or maintain any open outdoor fire except as allowed by permit through the Town, the applicable fire district, or the Arizona Department of Environmental Quality, as set forth in Arizona Revised Statutes, Title 49. The following fires are exempted from these fire restrictions:

- A. Fires used only for cooking of food or for providing warmth for human beings or for recreational purposes (campfires and charcoal fires), or the branding of animals or the use of orchard heaters for the purpose of frost protection in farming or nursery or the disposal of flags pursuant to federal law.
- B. Any fire set or permitted by any public officer in the performance of official duty, if such fire is set or permission given for the purpose of instruction in the methods of fighting fires or the control of an active wildfire.

- C. Fires set by or permitted by the Director of the Arizona Department of Agriculture or Navajo County agricultural agents for the purposes of disease and pest prevention.
- D. Fires authorized by special permits as issued by the Town's Emergency Management Director, fire district or fire department.
- E. Fires set by or permitted by the federal government or any of its departments, agencies or agents or the state or any of its agencies, departments or political subdivisions for the purpose of watershed rehabilitation or control through vegetative manipulation.
- F. Fires permitted by any rule or regulation issued pursuant to Arizona Revised Statutes, Title 49, by any special or conditional permit issued by a hearing board established under Arizona Revised Statutes, Title 49, or by any rule or conditional permit issued pursuant to Arizona Revised Statutes, Title 49, and when pursuant to Arizona Revised Statutes, Section 49-402, the Arizona Department of Environmental Quality has assumed jurisdiction of the county in which the fire is located. (Ord. 05-249 § 2 (part))

8.04.040 Emergency fire restrictions.

A. In addition to the fire restrictions set forth in Section 8.04.030, the following emergency fire restrictions when ordered and in effect shall apply to all public and private properties:

1. During "red flag warning", "wind advisory" and /or "high wind warning" conditions, as posted by the National Weather Service, no open outdoor fires, campfires, charcoal fires or outdoor smoking shall be permitted on either public or private property within the Town.

B. When it has been determined by the Emergency Management Director, after consultation with the Town Manager and the Mayor, that additional fire restrictions are needed to assure the safety of the public, the Town's Emergency Management Director will initiate the appropriate restriction stage level.

8.04.050 Stage 1 – Minimal Restrictions.

A. The Following acts are prohibited until further notice:

- 1. Building, maintaining, attending, or using a fire or campfire unless noted in the exemptions below.
- 2. Smoking outside of designated areas.

B. Exemptions:

- 1. Persons with written permit that specifically authorize the otherwise prohibited act
- 2. Fires used only for cooking of food or for providing warmth for human beings or for recreational purpose (campfires and charcoal fires) in an area that is designated for that purpose and is barren or cleared of all debris.

3. Smoking within an enclosed building and inside vehicles is allowed. Smoking may also be allowed in or on porches, carports, garages, parking lots and other areas or properties which are cleared of all combustible materials so long as the smoking does not create a substantial risk of fire. Throwing or discarding lit cigarettes, cigars or other smoking materials from a vehicle or from one's possession out of doors is prohibited.
4. Persons using a device solely fueled by liquid petroleum or LPG fuels that can be turned on and off. Such devices can only be used in an area that is barren or cleared of all overhead and surrounding flammable materials within 3 feet of the device.
5. Persons conducting activities in those designated areas where the activity is specifically authorized by written posted notice.
6. Any Federal, State, or local officer or member of an organized rescue or firefighting force in the performance of an official duty.

An exemption does not absolve an individual or organization from liability of responsibility for any fire started by the exempted activity.

8.04.060 Stage 2 - Moderate to Severe Restrictions

A. The following acts are prohibited until further notice:

1. Building, maintaining, attending, or using a fire, campfire, charcoal, coal, or wood including fires in developed campgrounds or improved sites.
2. Smoking outside of designated areas.
3. Outdoor Mechanical and Industrial Prohibitions
 - a. Operating any internal combustion engine in the course of mechanical or industrial operations that would produce open flames or sparks.
 - b. Welding, or operating acetylene or other torch with open flame.
4. Operating motorized vehicles off designated roads and trails.

B. Exemptions:

1. Persons with written permit that specifically authorize the otherwise prohibited act.
2. Industrial operations where specific operations and exemptions are identified and mitigation measures are implemented as outlined in an agency plan.
3. Smoking within an enclosed building and inside vehicles is allowed. Smoking may also be allowed in or on porches, carports, garages, parking lots and other areas or properties which are cleared of all combustible materials so long as the smoking does not create a substantial risk of fire. Throwing or discarding lit cigarettes, cigars or other smoking materials from a vehicle or from one's possession out of doors is prohibited.
4. Persons operating internal combustion engines with spark arrestors such as lawnmowers and landscaping equipment in maintained landscaped space.
5. Welding, or operating acetylene or other torch with open flame in an enclosed or developed area designated for that purpose that is equipped with appropriate fire protection.

6. Persons using a device solely fueled by liquid petroleum or LPG fuels that can be turned on and off. Such devices can only be used in an area that is barren or cleared of all overhead and surrounding flammable materials within 3 feet of the device.
7. Operating generators with an approved spark arresting device within an enclosed vehicle or building or in an area that is barren or cleared of all overhead and surrounding flammable materials within three feet of the generator.
8. Operating motorized vehicles on designated roads and trails so long as you park in an area devoid of vegetation within 10 feet of the roadway.
9. Emergency repair of public utilities and mitigation measures are implemented as outlined in an agency plan.
10. Persons conducting activities in those designated areas where the activity is specifically authorized by written posted notice.
11. Any Federal, State, or local officer or member of an organized rescue or firefighting force in the performance of an official duty.

8.04.070 Exceptions from emergency fire restrictions.

The following fires are exempted from the provisions of the emergency fire restrictions set forth in this chapter:

- A. Fires set or permitted by any public officer, federal, state or local, in the performance of their official duties.
- B. Fires set or permitted by the State Entomologist or Navajo County agricultural agents for the purpose of disease and pest prevention.
- C. Fires set or permitted by the federal government, the White Mountain Apache Tribe, the State of Arizona or any of their departments, agencies or political subdivisions for the purpose of fire prevention or control, or watershed rehabilitation or control through vegetative manipulation.
- D. Fires permitted by the Town's Emergency Management Director or his designee. The conditions of the permit, including permitted date(s), nature of the burning, etc., shall be on every such permit issued. (Ord. 05-249 § 2 (part))

8.04.080 Failure to obey lawful order.

The failure to obey a lawful order by the Town's Emergency Management Director or designee, a police officer, a firefighter or other officer of a fire district, uniformed personnel or certified peace officer of the USFS or failure to comply with the requirements of this ordinance (including without limitation an order to extinguish or put out any lit, burning or smoldering materials during emergency fire restrictions shall be a distinct and separate violation of this chapter. (Ord. 05-249 § 2 (part))

8.04.090 Violations.

A. Civil Violation. When a violation of this chapter is undesignated or designated a first offense by the police officer, other enforcement official or the Town Attorney, a person found to have been in violation of this chapter shall be deemed to have committed a civil offense and shall be subject to a civil penalty of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), plus restitution for medical treatment and property damage or any other economic loss suffered by any person.

B. Criminal Violation. When a person convicted of a violation of this chapter is a person who has been previously convicted of a violation of a provision of this chapter within a period of twelve (12) months, or has refused to obey the lawful order of an officer as set forth in Sections [8.04.090](#), the person shall be deemed to have committed a Class 1 misdemeanor, pursuant to Arizona Revised Statutes, Title [13](#), Chapters 6, 7 and 8, as amended, and shall be subject to a fine of not less than two hundred fifty dollars (\$250.00) nor more than two thousand five hundred dollars (\$2,500) for each violation or count, plus surcharges, fees and restitution for medical treatment and property damage or any other economic loss suffered by any person.

C. Continuing Violations. If any violation of this chapter continues, each day's violation shall be deemed as a separate violation, as long as the police officer or enforcement official notes the dates or the number of days on the citation(s). (Ord. 05-249 § 2 (part))