



OFFICIAL RECORDS OF  
PINAL COUNTY RECORDER  
LAURA DEAN-LYTLE

When recorded return to:

Clerk of the Board  
Pinal County  
P.O. Box-827  
Florence, Arizona 85232

DATE/TIME: 01/08/08 1034  
FEE: \$0.00  
PAGES: 6  
FEE NUMBER: 2008-001862

**ORDINANCE NO. 121207-AQ1**

AN ORDINANCE APPLICABLE THROUGHOUT INCORPORATED AND UNINCORPORATED PORTIONS PINAL COUNTY LYING WITHIN OF AREA A AS DEFINED IN A.R.S. §49-541, REVISING RESTRICTIONS ON OUTDOOR BURNING, ON RESIDENTIAL WOOD COMBUSTION, AND ON USE OF OPEN BURNING PERMITS, AND RESCINDING-PREDECESSOR ORDINANCE NO. 122000-AQC.

**WHEREAS**, the Pinal County Board of Supervisors ("Board") is empowered under A.R.S. §49-479 to adopt rules for the purpose of controlling the release of air contaminants throughout the County, including Township 1 North, Range 8 East;

**WHEREAS**, 40 CFR-§81.303 identifies that portion of Pinal County designated as Township 1 North, Range-8 East, and commonly known as Apache Junction, as a portion of the Phoenix Planning Area Serious PM<sub>10</sub> Nonattainment Area;

**WHEREAS**, at 72 Fed. Reg. 13723 (March 23, 2007) the EPA found that the Phoenix Planning Area, including Township 1 North, Range 8 East, has failed to attain the PM<sub>10</sub> standard, and that finding triggered an obligation to submit by December 31, 2007 a "5% SIP" pursuant to Clean Air Act §189(d);

**WHEREAS**, the 2007 Arizona Legislature adopted Laws-2007, Chapter 292, commonly known as Senate Bill 1552, and that Bill mandated adoption of revised county ordinances more stringently regulating burning throughout both Township 1 North, Range 8 East and Area A as defined in A.R.S. §49-541;

**WHEREAS**, A.R.S. §49-471.01, *et seq.*, establish the procedural requisites for the Board's adoption of air quality rules or ordinances, and those requisites have been met;

**THEREFORE, for the purposes of:**

- 1. Protecting and preserving the quality of air within Pinal County in a sensible and orderly manner;**
- 2. Committing for purposes of the Phoenix Planning Area PM<sub>10</sub> serious nonattainment area "5% SIP" to the definition and enforcement of control measures to achieve reductions from PM<sub>10</sub> sources in Township 1 north, Range 8 east; and**
- 3. Responding to the statutory mandates of Senate Bill 1552;**

**BE IT ORDAINED** by the Board of Supervisors of Pinal County, Arizona, as follows:

(Remainder of page intentionally left blank.)

**PINAL COUNTY  
NO BURN ORDINANCE FOR AREA A**

**1. Title.**

This Ordinance shall be known as the "Pinal County Area A No Burn Ordinance."

**2. Repeal**

Predecessor Ordinance-No. 122000-AQC (December 20, 2000) is hereby repealed.

**3. Geographic Applicability**

This prohibitions under this ordinance apply to the "affected area," namely the Pinal-County-portion of Area A as defined at A.R.S. §49-541, which includes the following areas, defined relative to the Gila-&-Salt River Base and Meridian:

Township 1 north, Range 8 east  
Township 1 north, Range 9 east  
Township 1 south, Range 8 east  
Township 1 south, Range 9 east  
Township 2 south, Range 8 east  
Township 2 south, Range 9 east  
Township 3 south, Range 7 east  
Township 3 south, Range 8 east  
Township 3 south, Range 9 east

**4. Triggering and Duration of Prohibition**

The "no burn" restrictions and prohibitions under this ordinance shall arise by operation of law for any calendar day or days covered by a High Pollution Advisory declared by Arizona Department of Environmental Quality for the Phoenix urban-area for either carbon monoxide or particulate matter.

**5. Prohibition - Indoor Residential Wood Combustion**

a. Subject to the exceptions defined in subsection b. below, a "no burn" restriction shall arise in the affected area with respect to use of indoor residential wood stoves or fireplaces.

b. The restriction under this subsection shall not apply to solid fuel combustion in

any of the following:

1. A residential wood stove or fireplace that provides the sole or primary source of heat or fuel for cooking for a residence.
2. A stove or fireplace that meets performance standards for new residential wood heaters manufactured on or after July 1, 1990 or sold at retail on or after July 1, 1992 as prescribed by 40 C.F.R. Part 60, Subpart AAA.
3. A stove or fireplace that burns gaseous fuels.
4. A stove or fireplace that conforms to rules adopted by the Board of Supervisors for burning wood in approved appliances.

c. **Penalties for Violation**

Violation of this subsection shall subject the person who commits such violation to:

1. A warning for the first violation.
2. The imposition of a civil penalty of fifty dollars (\$50.00) for the second violation.
3. The imposition of a civil penalty of one hundred dollars (\$100.00) for a third violation.
4. The imposition of a civil penalty of two hundred and fifty dollars (\$250.00) for a fourth or any subsequent violation.

d. For violations of this subsection of this ordinance, the control officer or his representative shall use a uniform civil ticket and complaint substantially similar to a uniformed traffic ticket and complaint prescribed by the rules of procedure in civil traffic cases adopted by the Supreme Court. The Control Officer or his representative may issue citations to persons in violation of this ordinance.

**6. Prohibition - Suspension of Open Burning Permits**

a. Existing open burn permits shall be suspended, and a "no burn" restriction within the affected area shall be imposed with respect to open burning regulated by an open burning permit issued pursuant to the Pinal County Code of Regulations.

b. No person affected by such a "no burn" restriction shall be entitled to a refund of any monies paid for an open burning permit that may be suspended by virtue of imposition

of such a "no burn" restriction.

c. Violation of this subsection shall constitute both a civil and a criminal offense, and shall subject to the violator to civil or criminal prosecution as set forth in Arizona Revised Statutes Title 49, Chapter 3, Article 3 (A.R.S. §49-510, *et seq*).

#### 7. Prohibition - Limitations on Otherwise Exempt Outdoor Fires

a. Notwithstanding any other exemptions under this ordinance, a "no burn" restriction shall also apply within the affected area with respect to any outdoor solid fuel combustion in chimneas, fire pits and similar outdoor fires.

b. Violation of this subsection shall constitute a civil offense, and a person who violates the prohibition of this subsection may be served a notice of violation and be subject to the enforcement provisions of Arizona Revised Statutes Title 49, Chapter 3, Article 3 (A.R.S. §49-510, *et seq.*), except that a violation that lasts no more than twenty-four hours and that is the first violation committed by that person is subject to a civil penalty of no more than five hundred dollars.

#### 8. Definitions

a. "Control Officer" as used in this ordinance, means the director and executive head of the Pinal County Air Quality Control District responsible for performing duties and exercising powers prescribed by law.

b. "Fireplace" as used in this ordinance, means a built in place hearth and fire chamber or a factory-built appliance designed to burn solid fuel and which is intended for domestic use.

c. "Inappropriate fuel" as used in this ordinance, includes but is not limited to leaves, grass clippings, green plants, refuse, rubbish, books, magazines, fiberboard, packaging, rags, fabrics, animal waste, animal carcasses, coal, waste oil, liquid or gelatinous hydrocarbons, tar, asphaltic products, waste petroleum products, paints and solvents, chemically soaked wood, wood with a moisture content of greater than 30 percent (30%), treated wood, plastic or plastic products, rubber or rubber products, office records, sensitive or classified wastes, or any substance which normally emits dense smoke or obnoxious odors.

d. "Open outdoor fire" means combustion of any combustible material of any type outdoors, in the open where the products of combustion are not directed through a flue. "Flue" means any duct or passage for air, gases or the like, such as a stack or chimney.

e. "Solid fuel" includes but is not limited to wood, coal, or other nongaseous or nonliquid fuels, including those fuels determined by the Pinal County Air Quality Control Director as "inappropriate fuel" to burn in residential woodburning devices.

f. "Woodstove" means a solid-fuel burning heating appliance including a pellet stove, which is either freestanding or designed to be inserted into a fireplace.

#### 9. Violations - Limitations on Defenses

Actions that violate this ordinance shall be *malum prohibitum*, and a lack of knowledge that a "no burn" restriction has been imposed shall not constitute a defense.

#### 10. Effective Date

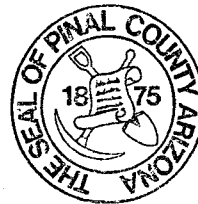
In accord with A.R.S. §49-471.08(D), this ordinance shall be effective on the date of adoption.

**IN WITNESS WHEREOF**, the undersigned, in accord with the vote of the Pinal County Board of Supervisors as duly reflected in the minutes of the Board meeting, have executed this document on behalf of the Board of Supervisors on this 12<sup>th</sup> day of December, 2007.

PINAL COUNTY, a political subdivision of the State of Arizona,

By: David Snider  
Chairman of the Board of Supervisors

ATTEST: Shea Cluff  
Clerk of the Board of Supervisors



APPROVED AS TO FORM:

James P. Walsh  
Pinal County Attorney

By: Seymour R. Frutkin  
Deputy County Attorney