

ORDINANCE NO. 20

ORDINANCE ESTABLISHING FIRE RESTRICTIONS ON OPEN FIRES UNDER CERTAIN CONDITIONS, ESTABLISHING A RESTRICTION ON THE USE OF OTHER INCENDIARY DEVICES, ESTABLISHING A RESTRICTION ON THE SALE AND USE OF FIREWORKS, PROVIDING A PROCEDURE FOR INSTATING AND RESCINDING ANY OR ALL OF THE RESTRICTIONS HEREOF FROM TIME TO TIME BY RESOLUTION, ESTABLISHING CRIMINAL PENALTIES FOR THE VIOLATION THEREOF, AND REPEALING ALL PRIOR ORDINANCES IMPOSING FIRE RESTRICTIONS, BANNING INCENDIARY DEVICES AND BANNING FIREWORKS IN GRAND COUNTY, COLORADO

WHEREAS, section 30-15-401(1)(n.5), C.R.S. authorizes the Board of County Commissioners of the County of Grand, State of Colorado to restrict/ban open fires to reduce the danger of wildfire within those portions of the unincorporated areas of Grand County where the danger of forest or grass fires is found to be high based on competent evidence. "Competent evidence" may include, but is not limited to, the use of the national fire danger rating system and any other similar indices or information; and

WHEREAS, pursuant to section 30-15-401(1)(n.7), C.R.S., the Board of County Commissioners may prohibit or restrict the sale, use, and possession of fireworks, including permissible fireworks, within all or any part of the unincorporated areas of the county, except that such an ordinance shall not be in effect between May 31 and July 5 of any year unless the ordinance includes an express finding of high fire danger based upon competent evidence; and

WHEREAS, "open burning" and /or "open fires" can be a prime cause of forest and brush fires in Grand County; and

WHEREAS, fireworks and /or "incendiary devices" can be a prime cause of forest and brush fires in Grand County; and

WHEREAS, Grand County's climate is arid or semi-arid at least part of any year; and

WHEREAS, sixty-six percent of Grand County's 1.195 million acres of landmass is forest or has forest cover vegetation; and

WHEREAS, insect and parasitic infestations in Grand County have and will continue to result in large areas of unhealthy or dead standing and fallen trees; and

WHEREAS, Grand County has large areas of grass and brush that is dry a substantial part of each year; and

WHEREAS, the portion of the year considered to be "fire season" has lengthened substantially; and

WHEREAS, factors evidencing high danger of forest or grass fires is subject to rapid change; and

WHEREAS, the County's power to restrict or ban open fires is a power to be exercised by ordinance, and the procedure for regularly enacting ordinances can delay the beneficial effect of a fire restriction, exposing citizens to the deleterious effects of wildfire on public health, safety, and welfare for an undue additional period of time each fire season; and

WHEREAS, the Board of County Commissioners has considered competent evidence regarding the underlying, on-going dangers of forest or grass fires in Grand County; and

WHEREAS, the Board of County Commissioners has determined that the public health, safety and welfare will be best served by enacting by ordinance a restriction or ban on open fires, which is instated and rescinded by resolution of the Board as conditions dictate; and

WHEREAS, the County's power to regulate fireworks is a power to be exercised by ordinance, and the procedure for regularly enacting ordinances can delay the beneficial effect of

fireworks regulation, exposing citizens to the deleterious effects of wildfire on public health, safety, and welfare for an undue additional period of time each fire season; and

WHEREAS, the Board of County Commissioners has determined that fireworks and/or incendiary devices shall be regulated only upon competent evidence supporting an express finding of high fire danger; and

WHEREAS, the Board of County Commissioners has determined that the public health, safety and welfare will be best served by enacting by ordinance a restriction upon sale and use of fireworks and/or upon incendiary devices, which restriction is instated and rescinded by resolution of the Board as conditions dictate; and

WHEREAS, any restriction or ban on open fires or restriction on fireworks and/or incendiary devices shall be instated whenever and only whenever the Board determines, based on competent evidence, that the danger of fire or forest fire or grass fire is high; and

WHEREAS, competent evidence to be considered in instating any restriction or ban on open fires or restriction on fireworks and/or incendiary devices includes, but is not limited to, factors of recent weather conditions, fuel moistures, preparedness levels and the potential for destructive forest or grass fires in Grand County and the western region, the existence of an imminent threat of widespread or severe damage, injury or loss of life or property resulting from fire which requires action to avert danger or damage, and the existence of a fire danger emergency within Grand County; and

WHEREAS, the Board of County Commissioners further finds, based upon competent evidence, the danger of widespread or severe damage, harm or injury to life or property may necessitate immediate action to avoid such damage, harm or injury and protect the health, safety and welfare of the citizens of Grand County; and

WHEREAS, the Board of County Commissioners finds that passage of this ordinance is necessary to protect against human-caused fires; and

WHEREAS, the Board of County Commissioners also finds that open fire restrictions or bans and fireworks and incendiary device restrictions are not required on a year-around basis in each year; therefore, this Ordinance provides that it may be instated or rescinded by resolutions, each of which shall be based upon competent evidence developed at the time of the change through consultation with appropriate local government, state, and federal offices, agencies and departments and which resolutions may allow certain activities enumerated herein as may be determined at the time of instating restrictions.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF GRAND COUNTY, COLORADO, THAT:

A. Open Burning, Incendiary Devices and Fireworks Regulated

1. Open burning and/or open fires within unincorporated Grand County are restricted or banned effective upon passage of a resolution of the Board of County Commissioners that competent evidence of high danger of forest or grass fire then exists and that the restriction or ban should be instated. Any declaration of an open fire restriction or ban made pursuant to this section shall specify whether Stage I Restrictions, Stage II Restrictions, or Stage III Restrictions are to be included in the ban as well as to specify the duration of the fire ban, as deemed necessary and appropriate.

2. Use of incendiary devices within unincorporated Grand County is restricted effective upon passage of a resolution of the Board of County Commissioners that competent evidence of high fire danger and/or high danger of forest or grass fire then exists and that the restriction should be instated.

3. Use of fireworks and the sale of fireworks within unincorporated Grand County are restricted effective upon passage of a resolution of the Board of County Commissioners that competent evidence that high fire danger then exists, and that the restriction should be instated.

B. Definitions

1. "Open burning" and/or "open fires" means:
 - a. Building, maintaining, attending or using any fire including: campfires, recreational fires, cooking fires, portable outdoor fires, bonfires, or warming fires.
 - b. Burning of any material or substance, including wastepaper, wood, vegetative material or any other flammable material, in the ambient air on any open premises, or on any public street, alley, or other land adjacent to such premises.
 - c. Fire that is intentionally used for grassland or forest management, including vegetative, habitat or fuel management. This includes broadcast and pile burning, as well as air curtain burning.
 - d. The burning of ground cover vegetation on agricultural land, as defined in section 39-1-102(1.6), C.R.S., for the purpose of preparing the soil for crop production and livestock grazing, weed control, or maintenance of water conveyance structures related to agricultural operations.
 - e. Liquid or gas fueled appliances, including stoves, ovens, fire pits, grills, camp stoves and refrigerators that burn liquid or gaseous fuels and can be shut off.
 - f. Smoking, except within an enclosed vehicle or building or while stopped in an area of at least three feet in diameter that is barren or cleared of all combustible material.
 - g. Welding or cutting with any welding or cutting torch appliance, including: an open-flame torch or device such as an acetylene torch or a gas cylinder mixture torch or device, or an electric or electric arc device, and/or portable powered welders and cutting appliances, which produce heat, flame, sparks, molten metal slag, etc.
2. "Incendiary devices" means any fused explosives, exploding ammunition, exploding targets, tracer ammunition, fireworks, permissible fireworks, model rockets, or sky lanterns. This includes any object that is combustible, flammable, explodes or is designed to or may cause fire.
3. "Fireworks" means the same as the word is defined in section 12-28-101(3), C.R.S.
4. "Permissible fireworks" means the same as the word is defined in section 12-28-101(8), C.R.S.

C. Activities That May Be Excluded from Bans or Restrictions

A resolution instating any fire ban or fireworks or incendiary device restriction may, by specific determination by the Board of County Commissioners reflected in the resolution, exclude from the restriction any of the following fire and burning activities:

1. Use of liquid or gas fueled appliances.
2. Use of approved wood pellet grills and stoves.
3. Use of permanent or portable outdoor fireplaces, fire pits, chimineas, barbeque pits, or charcoal barbeque grills at private residences.
4. Use of permanently constructed fire pits at private residences or in a developed park, campground, or picnic area.
5. Welding and cutting torch appliances.
6. Permitted fires by persons with a permit specifically authorizing the prohibited act such as professional fireworks displays.

7. Fire department / district training fires.
8. Burning of explosive wastes by manufacturer of explosives in areas zoned for industrial use, when the burning is supervised by the fire protection district.
9. Open fires or open burning by any federal, state or local fire official in the performance of fire suppression functions.
10. Fires used to inflate commercial hot air balloons.

D. Fire Prevention

Individuals operating under any of the above exemptions shall take adequate measures to prevent uncontrolled fires. Possible measures include, but are not limited to:

1. Containers of adequate water or dry soil nearby
2. Shovels, fire extinguishers, or other extinguishing agents nearby
3. Locating open fires more than 30 feet from any structure or undeveloped area
4. Keeping recreational fires to a maximum area of three feet in diameter and less than two feet high
5. Extinguishing all smoking materials and disposing them in places where they cannot be a source of ignition
6. Operating in an area barren of any vegetation or other combustible material, which area has a radius of at least ten feet measured from any welding or cutting activity
7. Coordination with the local fire department or district to be on scene or standby during an activity
8. Ensuring constant attendance by a competent adult at all times while open burning or embers are present
9. Ensuring complete extinguishment of any open burning by means of quenching to a degree where there is no smoke, emissions or embers of any kind when a fire is to be left unattended for any time to eliminate the chance of re-kindling or spread

E. Enforcement

This Ordinance may be enforced by the Grand County Sheriff's Office and any other Peace Officer with authority in Grand County, Colorado.

F. Penalties

1. Violations of any provision of this Ordinance is a Class 2 Petty Offense, and upon conviction shall be punished by a fine of not more than One Thousand and 00/100 Dollars (\$1,000.00) for each separate violation together with a surcharge of Ten and 00/100 Dollars (\$10.00) that shall be paid to the Clerk of the Court by the defendant.

2. The penalty assessment procedure provided in section 16-2-201, C.R.S. may be followed when enforcing the provisions of this Ordinance. If a penalty assessment ticket is issued, the fines imposed shall be One Hundred and 00/100 Dollars (\$100.00) for the first offense and Two Hundred Fifty and 00/100 Dollars (\$250.00) for the second offense.

3. Anyone starting, maintaining, or permitting burning, open burning and/or open fires in violation of this Ordinance shall be responsible for all costs associated with extinguishing the fire and for all damages caused as a result of the fire.

G. Repealer

Resolution No. 2007-7-1 and Ordinance No. 8, Resolution No. 2012-6-5 and Ordinance Number 9, Resolution No. 2012-6-11 and Ordinance Number 10, Resolution No. 2012-7-27 and Ordinance No. 11, and Resolution No. 2013-6-28 and Ordinance No. 12, and Ordinance No. 16 are hereby repealed.

H. Savings Clause/Severance

If any part or parts of this Ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of County Commissioners hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.

INTRODUCED, READ AND ORDERED PUBLISHED BY THE BOARD OF COUNTY COMMISSIONERS OF GRAND COUNTY, COLORADO, THIS 24th DAY OF April, 2018.

BOARD OF COUNTY COMMISSIONERS
GRAND COUNTY, COLORADO

Merrit Linke
Merrit Linke, Chair

Kristen Manguso
Kristen Manguso

Richard Cimino
Richard Cimino

CERTIFICATION: THE FOREGOING ORDINANCE WAS INTRODUCED AND READ ON April 24, 2018 BY THE BOARD OF COUNTY COMMISSIONERS OF GRAND COUNTY, COLORADO, AND APPROVED FOR PUBLICATION.

DATE OF PUBLICATION: May 3, 2018

Sara L. Rosene
Sara L. Rosene
Grand County Clerk & Recorder

THE FOREGOING ORDINANCE WAS CONSIDERED AT PUBLIC HEARING ON May 15, 2018 AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS EFFECTIVE THE 3rd DAY OF June, 2018.

BOARD OF COUNTY COMMISSIONERS
GRAND COUNTY, COLORADO

Merrit Linke
Merrit Linke, Chair

Kristen Manguso
Kristen Manguso

Richard Cimino
Richard Cimino

DATE OF SECOND PUBLICATION: May 3, 2018

Sara L. Rosene
Sara L. Rosene
Grand County Clerk & Recorder