

ORDINANCE CONCERNING THE RESTRICTION OF OPEN FIRES, CONTAINED OPEN FIRES, FIREWORKS, PUBLIC DISPLAYS OF FIREWORKS AND USE OF COMBUSTIBLE DEVICES 2022

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LARIMER COUNTY, COLORADO:

Section 1. Repeal: Larimer County Ordinance No. 007-01, as Amended October 7, 2014 is hereby repealed.

Section 2. Authority: This Ordinance is authorized by C.R.S. § 30-15-401(1)(n.5) and (n.7).

Section 3. Scope of Ordinance: This Ordinance shall apply within the unincorporated territory of Larimer County and shall prohibit Open Fires, Contained Open Fires and the sale, use or possession of Fireworks upon the conditions stated in this Ordinance.

Section 4. Purpose: The purpose of this Ordinance is to preserve and protect the public, safety and welfare of the citizens of Larimer, Colorado, by restricting open fires and open burning in the unincorporated areas of Larimer County in order to prevent wildfires given the high danger of such fires as a result of atmospheric conditions, drought and other local conditions.

Section 5. Application: This Ordinance shall apply throughout the unincorporated areas of Larimer County, including public, private, state and federal lands and to any incorporated town or city which elects by ordinance or resolution to have the provisions thereof apply.

Section 6. Definitions:

- a. “Developed Recreation Area” shall mean an area which has been improved or developed for recreation. Developed recreation areas include campgrounds, day-use areas, picnic areas and any other amenities involving a “constructed facility”.
- b. “Fireworks” shall mean any composition or device designed to produce a visible or audible effect by combustion, deflagration, or detonation, and that meets the definition of permissible fireworks defined in C.R.S. 24-33.5-2001(11).
 1. “Fireworks” does not include:
 - i. Toy caps, party poppers, and items similar to toy caps and party poppers that do not contain more than sixteen milligrams of pyrotechnic composition per item and snappers that do not contain more than one milligram of explosive composition per item;
 - ii. Highway flares, railroad fusees, ship distress signals, smoke candles, and other emergency signal devices;

- iii. Educational rockets and toy propellant device type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two ounces of propellant and when such engines or model cartridges are designed to be ignited by electrical means;
 - iv. Fireworks that are used in testing or research by a licensed explosives laboratory. any article, device, or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration, or detonation.
- c. “Combustible Devices” shall mean any object which is flammable, explodes or is designed to or may cause fire. This includes sky lanterns, exploding ammunition, exploding targets, and tracer ammunition.
- d. “Open burning” shall mean fire that a person starts and that is intentionally used for forest management.
- e. “Open Fires” shall include both contained open fires and uncontained open fires.
 - 1. “Uncontained Open Fires” shall mean any fire (including but not limited to: campfire, fireplace, recreational fire, bonfire, firepit, etc...), coal, wood or pellet stove, fireplace, any type of charcoal, wood, or pellet fueled cooking, uncontained fire of any type in an undeveloped area including camp and cooking fires, welding, or operating acetylene or other torches with open flames.
 - 2. “Gas or Liquid Fueled Fires” shall mean fires fueled by bottled gas or pressurized liquid, which shall include but is not limited to: portable heaters, cooking stoves, heating stoves, hiking/camping stoves, grills, firepits, fireplaces, etc...)
 - 3. “Contained Open Fires” shall mean open fire that is in a permanently constructed stationary masonry or metal fireplaces specifically designed for the purpose of combustion. Contained Open Fires shall not include fireplaces or wood stoves located inside a permanent structure, such as a residential dwelling or commercial business.
- f. “Public Fireworks Displays” shall mean any display or Fireworks conducted by a qualified pyrotechnic operator in compliance with the International Fire Code, as is amended, and conducted only after the approval by the local fire authority, and in compliance with any conditions imposed by the local fire authority.

Section 7. Declaration of Fire Restriction or Ban:

- a. At any regularly scheduled or special meeting of the Board of County Commissioners, the Board may, by resolution, impose restrictions or ban upon any or all types of Open Fires, Open burning, the sale, use or possession of Fireworks, and/or the use of Combustible Devices in the unincorporated territory of Larimer County, or any defined portions thereof.
- b. Such resolution shall be based upon a danger of wildfires within the areas where the danger of forest or grass fires is found to be high by competent evidence which may include:
 - 1. The recommendation of the Larimer County Sheriff or any fire chief of a fire agency within Larimer County;
 - 2. Any similar prohibition imposed under the authority of the Governor of the State of Colorado;
 - 3. Any recommendation, or similar prohibition, from the Division of Fire Prevention and Control, National Park Service, United States Forest Service, or other agency of the State or Federal Government;
 - 4. The recommendation of the any municipality within Larimer County;
 - 5. The recommendation, or similar prohibition, of any county adjacent to Larimer County;
 - 6. The use of the national fire danger rating system, predictions of future fire danger such as those issued by the national interagency coordination center or any successor entity, localized evidence of low fuel moisture content, and any other similar indices or information; or
 - 7. Any testimony or exhibits establishing that, due to weather, weather forecasts, or condition of forest, grass or other vegetation, the likelihood of a wildfire is high.
- c. Any such resolution shall specify an expiration date, but in no event shall such restriction or prohibition exceed one (1) year. The restriction or prohibition may be extended in the same manner as its original imposition and upon competent evidence that the wildfire danger from the date of the original resolution adopting the restriction or prohibition.
- d. Notice of such resolution may be given by best means available including, press release, individual notification to any agency requesting or advising in favor of the prohibition, individual notification to law enforcement agencies or such other means as in its discretion the Boards deems appropriate under the circumstances.

- e. Any such resolution shall state which of the following are subject to the restriction or prohibition:
 - 1. Open Fires (both Contained and Uncontained Open Fires)
 - 2. Uncontained Open Fires
 - 3. Gas or Liquid Fueled Fires
 - 4. Contained Open Fires
 - 5. Sale of Fireworks
 - 6. Use of Fireworks
 - 7. Possession of Fireworks
 - 8. Public Fireworks Displays
 - 9. Combustible Devices

- f. Any resolution which prohibits or restricts Opens Fires, Uncontained Open Fires, Gas or Liquid Fueled Fires, or Contained Open Fires, may authorize the Sheriff and Fire Authority to exempt from such restriction or prohibition any Open Fire, Uncontained Open Fire, Gas or Liquid Fueled Fire or Contained Open Fire, approved in advance by the Sheriff or Fire Authority, after inspection of the containment structure, surrounding vegetation and potential fire fuel, and the immediate availability of fire suppression apparatus.

- g. Exceptions – the Board may include, but is not limited to, the following exceptions within a Fire Restriction, Prohibition or Ban:
 - 1. Fires in camp stoves, grills, or fire pits, fueled by bottled gas or pressurized liquid.
 - 2. Fires in permanently constructed stationary masonry or metal fireplaces specifically designed for the purpose of combustion within a developed recreation area.
 - 3. Fires in commercially operated wood and/or charcoal fired grills designed for cooking,
 - 4. Smoking within an enclosed vehicle or building, a developed recreation area or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable material. Smoking within enclosed vehicle shall mean that the cigarette, cigar or other smoking instrument is at all times contained within the vehicle and is not allowed to leave the vehicle or protrude or be held outside the vehicle, including the window of the vehicle. Butts and stubs must be disposed of within the vehicle.
 - 5. Welding or other torch work within an enclosed building.
 - 6. Outdoor welding and other torch work provided that:
 - i. The area where the welding or other torch work is to be performed is free of vegetation for at least thirty feet in all directions;
 - ii. Wind speed is less than 10 m.p.h.;
 - iii. There is sufficient amount of fire suppressant immediately available to suppress any fire that may be started.

7. Fires in air curtain burners.
8. Persons with a permit specifically authorizing the otherwise act or omission.
9. Use of fire by firefighters in the performance of an official duty to stop or contain wildfires.
10. The sale or use of Fireworks (as defined in Section 5) pursuant to C.R.S. § 30-15-401 (1) (n.5).
11. Outdoor smoking.
12. Operating or using an internal combustion engine is permitted on public and state lands with a properly installed spark arresting device, maintained and in effective working order meeting either Department of Agriculture, Forest Service Standard 5100-1c or appropriate Society of Automotive Engineers (SAE) recommended practice J335(b) and J350(a).

Section 8: Unlawful Act

It shall be unlawful for any person to violate a Fire Restriction/Ban issued under this ordinance or unpermitted open burn within the unincorporated areas of Larimer County, including public, private, state and federal lands and to any incorporated town or city which elects by ordinance or resolution to have the provisions thereof apply.

Section 9. Enforcement:

- a. Any person who knowingly, recklessly or carelessly violates a Fire Restriction/Ban issued under this ordinance commits a violation as classified and allowed under C.R.S. § 30-15-401, *et seq.*, upon a finding thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000) for each separate offense or the maximum fine allowed per statute, whichever is less.
- b. The penalty assessment procedure provided in C.R.S § 16-2-201 may be followed by any law enforcement officer for any such violation. The graduated fine schedule for such a penalty assessment procedure shall be (or the maximum allowed per statute, whichever is less):
 1. Two hundred fifty dollars (\$250) for the first offense;
 2. Five hundred dollars (\$500) for the second offense within sixty days of the first offense;
 3. Seven hundred fifty dollars (\$750) for the third offense within sixty days of the first offense;
 4. One thousand dollars (\$1,000) for each additional offense within sixty days of the first offense.
- c. In addition to the penalty prescribed by in this Ordinance, persons convicted of a violation of this Ordinance are subject to a surcharge of ten dollars (\$10). This surcharge shall be paid to the Clerk of Court by the defendant. Each Clerk shall transmit the moneys to the Court Administrator of the judicial district in which the offense occurred

for credit to the victims and witness's assistance and law enforcement fund established in that judicial district pursuant to section C.R.S. § 24-4.2-103. Any other fees required by statute shall be assessed in addition.

- d. When imposing a fine under this Ordinance, the court shall separately state, as a part of the total fine, the surcharge specified in C.R.S. § 24-4.2-104 (1) The surcharge and fine shall not exceed the maximum allowed by section 9 (1) of this Ordinance. The defendant shall also pay court costs and docket fees.

Section 10. Procedure: All prosecutions for all offenses under this Ordinance shall be by the District Attorney according to the Colorado County Court Rules of Criminal Procedure, or under the Civil Infraction Process as is applicable.

Section 11. Validity: 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.

Section 12. Interpretation: This Ordinance shall be so interpreted and construed as to effectuate its general purpose to reduce the danger of wildfires.

Section 13. Certification: The Larimer County Clerk and Recorder shall certify as to the passage of this Ordinance and make not less than three copies of the adopted Ordinance available for inspection by the public during regular business hours.

Section 14. Effective Date: As required by CRS 30-15-405, the Larimer County Board of County Commissioners determines that this Ordinance shall be effective immediately upon approval at second reading by the Board of County Commissioners. This effective date is necessary to the immediate preservation of the public health or safety from the imminent potential danger from wildfire.

All fire ban ordinances inconsistent with this ORDINANCE CONCERNING THE BAN OF OPEN FIRES, CONTAINED OPEN FIRES AND FIREWORKS 2022 are hereby repealed.

BOARD OF COMMISSIONERS OF LARIMER COUNTY, COLORADO

By: _____
Chair

ATTEST:

Deputy Clerk of the Board

FIRST READING:

INTRODUCED, READ AND APPROVED ON FIRST READING on March 29, 2022 and ordered published in full.