

**ORDINANCE CONCERNING THE BAN OF OPEN FIRES,
CONTAINED OPEN FIRES, AND FIREWORKS**

ORDINANCE NO. 02-01

WHEREAS, § 30-15-401, C.R.S. authorizes the Board of County Commissioners to adopt a ban in the open burning of fires when the danger of forest or grass fires is found to be high; and

WHEREAS, it is necessary to the immediate preservation of the public health, safety and welfare that a lawful means of enforcing fire bans be enacted;

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Ouray County, Colorado:

Section 1. Scope:

This Ordinance shall apply within the unincorporated territory of Ouray County and shall prohibit open fires, contained open fires or use of fireworks upon the conditions stated below or any potential source of ignition when environmental conditions such as gusting or high winds and dry conditions make such ignition source activity a risk to the public health, safety and welfare.

Section 2. Definitions:

For the purposes of this Ordinance:

1. Open fires shall mean: any open burning, including camp and cooking fires; except smoking within an enclosed vehicle or building, a developed recreation site, or while in an area at least ten feet (10') in diameter that is barren or cleared of all flammable material; or welding, or operating an acetylene or other torch with open flame. Open fires shall not include:
 - a. Fires in camp stoves or grills, fueled by bottled gas or pressurized liquid, and specifically designed for cooking or heating purposes.
 - b. Fires in permanently constructed stationary masonry or metal fireplaces specifically designed for the purpose of combustion.
 - c. Fires in commercially operated wood and/or charcoal fired grills designed for cooking.
2. Contained open fires shall mean: fires in permanently constructed stationary masonry or metal fireplaces specifically designed for the purpose of combustion; or operating or using any internal or external combustion engine without a spark arresting device properly installed, maintained and in effective working order meeting either Department of Agriculture, Forest Service Standard 5100-1a or appropriate Society of Automotive Engineers (SAE) recommended practice J335(b) and J350(a). Contained open fires shall not include fireplaces or wood stoves located inside permanent structures.

3. Fireworks shall mean: any article, device, or substance prepared for the primary purpose of producing a visual or auditory sensation by combustion, explosion, deflagration, or detonation which meets the description of fireworks as set forth in the United States Department of Transportation Hazardous Materials Regulations, Title 49, Code of Federal Regulations, Parts 173.88 and 173.100.
4. Fireworks does not include:
 - a. Toy caps which do not contain more than twenty-five hundredths of a grain of explosive compound per cap;
 - b. Highway flares, railroad fuses, ship distress signals, smoke candles, and other emergency signal devices;
 - c. 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;
 - d. Fireworks which are used in testing or research by a licensed explosives laboratory.
5. Public fireworks displays shall mean: - any display of fireworks conducted by a qualified pyrotechnic operator conducted only after the approval by the local fire authority and in compliance with any conditions imposed by the local fire authority.

Section 3. Ban On Open Fires, Contained Open Fires and Use of Fireworks:

1. At any regularly scheduled or special meeting of the Board of County Commissioners, the Board may, by resolution, impose a ban upon any or all types of open fires, contained open fires, and/or the use of fireworks in the unincorporated territory of Ouray County, or any defined portion thereof.
2. Such resolution shall be based upon a danger of wild fires within the areas where the danger of forest or grass fires is found to be high, by competent evidence which may include:
 - a. The recommendation of the Ouray County Sheriff or any fire chief of a fire protection district within Ouray County;
 - b. Any similar ban imposed under the authority of the Governor of the State of Colorado;
 - c. Any recommendation, or similar ban, from the State Forest Service, Federal Bureau of Land Management, National Park Service, United States Forest Service, or any other agency of the State or Federal Government;

- d. The recommendation of any municipality within Ouray County;
 - e. The recommendation, or similar ban, of any county adjacent to Ouray County;
 - f. 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.
3. Any such resolution shall specify an expiration date. The ban may be extended in the same manner as its original imposition and upon competent evidence that the wildfire danger continues.
 4. 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 ban, individual notification to law enforcement agencies or such other means as in its discretion the Board deems is appropriate under the circumstances.
 5. Any such resolution shall state which of the following are to be included in the ban:
 - a. Open fires
 - b. Contained open fires
 - c. Fireworks
 - d. Public fireworks displays
 6. Any resolution which bans open fires and contained open fires, may authorize the Sheriff to exempt from such ban any open fire or contained open fire, approved in advance by the Sheriff, after inspection of the containment structure, surrounding vegetation and potential fire fuel, and the immediate availability of fire suppression apparatus.

Section 4. Enforcement:

1. Any person who knowingly violates the open fire, contained open fire or fireworks ban imposed under the authority of this ordinance commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars for each separate offense.
2. The penalty assessment procedure provided in § 16-2-201 C.R.S. may be followed by any arresting law enforcement officer for any such violation. The graduated fine schedule for such penalty assessment procedure shall be:
 - a. One hundred dollars for the first offense;
 - b. Two hundred fifty dollars for the second offense within sixty days of the first offense;

- c. Five hundred dollars for each additional offense within sixty days of the first offense.
3. In addition to the penalty prescribed in this Ordinance, persons convicted of a violation of this Ordinance are subject to a surcharge of ten dollars. This surcharge shall be paid to the Clerk of the 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 witnesses assistance and law enforcement fund established in that judicial district pursuant to section 24-4.2-103 C.R.S.
4. When imposing a fine under this statute Ordinance, the court shall separately state, as a part of the total fine, the surcharge specified in § 24-4.2-104(1) C.R.S. The surcharge and fine shall not exceed the maximum allowed by section 4(a) of this Ordinance. The defendant shall also pay court costs and docket fees.
5. In addition, pursuant to § 18-9-117 C.R.S., any person who enters or remains on any public property or conducts himself in or on the same in violation of any fire ban imposed by resolution of the Board of County Commissioners of the County of Ouray commits a class 3 misdemeanor.

Section 5. 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.

Section 6. 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 7. Interpretation:

This Ordinance shall be so interpreted and construed as to effectuate its general purpose to reduce the danger of wild fires.

Section 8. Certification:

The Ouray County Clerk and Recorder shall certify 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 9. Effective Date :

As required by CRS § 30-15-405, the Ouray 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 for the

immediate preservation of the public health or safety for the protection against the imminent potential danger of wildfires.

Section 10. Prior Ordinances Repealed:

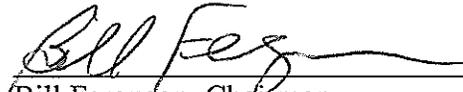
All fire ban ordinances inconsistent with this Ordinance are hereby repealed.

INTRODUCED, READ AND ORDERED PUBLISHED on the 20th day of May, 2002.

PUBLISHED on the 24th day of May, 2002

ADOPTED, APPROVED AND ORDERED PUBLISHED AS ADOPTED the 3rd day of June, 2002

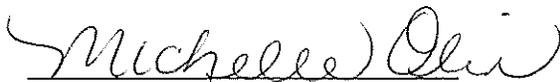
THE BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO



Bill Ferguson, Chairman

ATTESTATION:

I, Michelle Olin, Clerk and Recorder of Ouray County, Colorado, attest and certify that the foregoing Ordinance, was introduced, read, and ordered published at a regular meeting of the Board of County Commissioners of Ouray County, Colorado on the 20th day of May, 2002. The Ordinance was then published in the Ouray County Plaindealer on the 24th day of May, 2002. It was thereafter passed at a regular meeting of the Board of County Commissioners of Ouray County, Colorado, on the 3rd day of June, 2002 and published in the Ouray County Plaindealer, by title only, but setting forth the full text of any amendments on the 7th day of June, 2002.



Ouray County Clerk and Recorder

(County Seal)