

ORDINANCE 19-01

AN ORDINANCE REPEALING ORDINANCE NO. 07-02 AND AUTHORIZING THE EAGLE COUNTY SHERIFF TO DECLARE FIRE RESTRICTIONS WITHIN UNINCORPORATED EAGLE COUNTY

Whereas, C.R.S. § 30-15-401, C.R.S. (2017) authorizes the Eagle County Board of County Commissioners (the “Board”) to adopt ordinances for the control of matters of local concern; and

Whereas, C.R.S. § 30-15-401(n.5) authorizes the Board to ban open fires to a degree and in a manner that the Board deems necessary to reduce the danger of wildfires within the portions of the unincorporated Eagle County where the danger of forest fires is found to be high; and

Whereas, C.R.S. § 30-15-401(n.7) authorizes the Board to prohibit or restrict the sale, use, and possession of fireworks within the unincorporated areas of Eagle County where the danger of wildfire is found to be high; and

Whereas, the Board previously enacted Eagle County Ordinance No. 07-02 to address the authority of the Sheriff to implement fire restrictions, and shall continue that authority herein; and

Whereas, the Board now desires to clarify certain terms in Eagle County Ordinance No. 07-02 including by allowing the Sheriff to specify the parameters for fire restrictions to ensure that health, safety, and welfare are adequately protected; and

Whereas, Ordinance No. 19-01 (the “Ordinance”) is necessary to preserve the public peace, health, safety, and welfare of the citizens of Eagle County.

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

SECTION 1. DECLARATION OF FIRE RESTRICTIONS.

During extremely dry times of the year in unincorporated Eagle County, open fires easily escape control, endangering the health and safety of the citizens of Eagle County. The Sheriff or his designee, after consultation with the local fire chiefs and the fire management officer of the U.S. Forest Service or Bureau of Land Management and upon competent evidence of high fire danger, is authorized to declare by resolution fire restrictions on any activity that produces or maintains, or attempts to produce or maintain, spark, flame, or any known ignition sources for open fires, and which may include a prohibition on the use and sale of fireworks. In any declaration of fire restrictions made pursuant to this section, the Sheriff or his designee shall include an express finding that fire danger is high, and shall specify the duration and parameters of the fire restrictions, as deemed necessary and appropriate.

SECTION 2. AUTOMATIC FIRE RESTRICTIONS.

The Board finds that during “Red Flag Warnings,” as designated by the National Weather Service, low humidity and strong winds combine to produce ideal conditions for wildland fires that may quickly spread out of control.

During such times of high fire danger that the National Weather Service issues a Red Flag Warning, and for the duration of the Red Flag Warning, the restrictions as set forth in Exhibit A, attached, shall automatically apply without further action by the Board or Sheriff.

Specifically, where no fire restrictions have been in effect immediately prior to the Red Flag Warning, the Stage 1 Restrictions set forth in Exhibit A shall apply. Where Stage 1 fire restrictions are in effect immediately prior to the Red Flag Warning, the Stage 2 fire restrictions set forth in Exhibit A shall apply.

SECTION 3. UNLAWFUL CONDUCT.

It is unlawful for any person to start or maintain a fire in violation of fire restrictions declared pursuant to Section 1 or Section 2, above. It is unlawful for any person to use or sell fireworks in violation of fire restrictions declared pursuant to Section 1 or Section 2, above.

SECTION 4. APPLICABILITY.

This Ordinance shall apply to all portions of unincorporated Eagle County for the entirety of each year.

SECTION 5. ENFORCEMENT.

The Eagle County Sheriff shall enforce the provisions of this Ordinance.

SECTION 6. PENALTIES.

Any person who violates declared fire restrictions commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of five hundred dollars (\$500) for a first offense, seven hundred and fifty dollars (\$750) for a second offense, and one thousand dollars (\$1000) for a third and subsequent offense, in addition to any restitution, as defined in C.R.S. § 18-1.3-602(3), including but not limited to the costs of fire suppression costs or property damage caused by the violation. The penalty assessment procedure provided in C.R.S. § 16-2-201 shall be followed by the arresting deputy sheriff or other officer for any violation of a fire ban and the graduated fine schedule set forth herein shall be followed when issuing any summons and complaint in accordance with such procedure.

As provided in C.R.S. § 16-2-201, the arresting officer may either give the person a penalty assessment notice and release him upon its terms or take him before a judge of the county court in the county in which the alleged offense occurred. The choice of procedures shall be based upon circumstances which reasonably persuade the officer that the alleged offender is likely or unlikely to comply with the terms of the penalty assessment notice.

SECTION 7. DISPOSITION OF FINES.

All fines for violations of this Ordinance will be paid into the General Fund of Eagle County.

SECTION 8. ABATEMENT BY COUNTY AS NUISANCE.

Violation of this Ordinance is hereby declared to be a nuisance pursuant to C.R.S. § 31-15-401(1)(c), which may be abated by Eagle County by restraining order, preliminary and permanent injunction, or other means provided by law, and the County may take action to recover the costs of nuisance abatement.

SECTION 9. SEVERABILITY.

If any one or more of the provisions of this Ordinance is determined by a court of law to be invalid, such determination shall not affect the validity of the remaining provisions of this Ordinance.

SECTION 10. EFFECTIVE DATE.

This ordinance is effective upon adoption, which is necessary for the immediate preservation of public health and safety, in part to ensure that restrictions may be immediately implemented for red flag warning days. This ordinance repeals and replaces Eagle County Ordinance No. 07-02.

[Signature Page to follow]

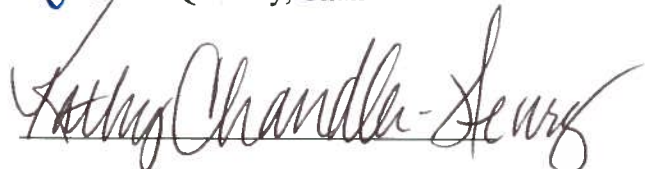
INTRODUCED AND READ ON FIRST READING May 21, 2019 and ordered published in the EAGLE VALLEY ENTERPRISE.

ADOPTED ON SECOND AND FINAL READING on June 10, 2019,

THE BOARD OF COMMISSIONERS
OF EAGLE COUNTY, COLORADO



Jeanne McQueeney, Chair

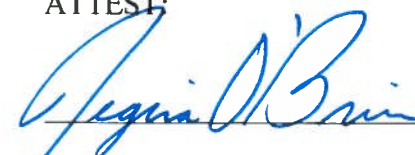


Kathy Chandler-Henry, Commissioner



Matt Scherr, Commissioner

ATTEST:



Clerk to the Board



EXHIBIT A

Stage 1 Red Flag Restricted Activity		Stage 2 Red Flag Restricted Activity	
Developed Land	Note	Developed Land	Note
Open fires	Allowed in a constructed, permanent enclosure	Open fires	
Personal fireworks		Personal fireworks	
Portable outdoor fireplace	Allowed in areas with at least 15' of clearance to combustibles or if it uses LP or natural gas with a valve that can be turned off	Portable outdoor fireplace	Allowed if it uses LP or natural gas with a valve that can be turned off
Undeveloped* Land	Note	Undeveloped* Land	Note
Open fires		Open fires	
Personal fireworks		Personal fireworks	
Welding/hotwork	May be permitted with hotwork permit and may require a site inspection	Welding/hotwork	May be permitted with hotwork permit and may require site inspection
Portable outdoor fireplace	Allowed if it uses LP or natural gas with a valve that can be turned off	Portable outdoor fireplace	Allowed if it uses LP or natural gas with a valve that can be turned off
		Smoking	Allowed in enclosed vehicle or building
Explosives, including explosive targets		Explosives, including explosive targets	
Tracer Rounds		Tracer Rounds	
		Engine without spark arrestor	
Agricultural burn	May be conducted with permit	Agricultural Burn	May be conducted with permit
Campfire	Allowed in permanent steel fire enclosure within official campground, park or picnic area	Campfire	
Charcoal grill or fire	Allowed in permanent steel fire enclosure within official campground, park or picnic area	Charcoal grill or fire	

Undeveloped Lands: Lands that are not groomed, manicured, or watered, where grasses, brush and trees have been allowed to grow in a natural environment. This includes green belts that are not landscaped or manicured, open space lands, non-manicured park lands, and other areas where the fire hazard presented by the vegetation is determined to be an undue wildland fire hazard.

Portable Outdoor Fireplace: A portable outdoor, solid fuel burning fireplace that may be constructed of steel, concrete, clay or other non-combustible material and equipped with a screen or other approved spark arrestor. A portable outdoor fireplace may be open in design or may be equipped with a small hearth opening and a short chimney or chimney on top.