

PARK COUNTY, COLORADO

Ordinance No. 19-01

AN ORDINANCE OF PARK COUNTY, COLORADO, REGULATING OPEN FIRES, REQUIRING A PERMIT FOR OPEN FIRES AND OPEN BURNING, AND AUTHORIZING THE PARK COUNTY SHERIFF TO DECLARE BURN BANS.

WHEREAS, the Park County Board of County Commissioners (hereinafter the "Board"), pursuant to section 30-11-107(1)(a) and section 30-15-401 et seq., C.R.S., has the general enabling power to adopt ordinances, resolutions, rules and other regulations as may be necessary for the control or licensing of those matters of purely local concern, and to do all acts which may be necessary or expedient to promote the health, safety, and welfare of the citizens of Park County; and

WHEREAS, sections 30-15-401(1)(n.5) and 30-15-401(1)(n.7), C.R.S., authorizes the Park County Board of County Commissioners (hereinafter the "Board") to adopt an ordinance banning open fires to a degree and in a manner that the Board deems necessary to reduce the danger of wild fires within Park County where the danger of forest or grass fires is found to be high, and to ban the sale of fireworks; and

WHEREAS, open fires and open burning can be a prime cause of forest and grass fires in Park County; and

WHEREAS, weather conditions, including the lack of precipitation, have created a threat of fire in the forests and prairies of Park County, and created a state of emergency with respect to fire danger; included in this is Red Flag Warnings issued pursuant to Fire Weather Zones within the County; and

WHEREAS, the Board finds that competent evidence has been presented to the Board indicating that the danger of forest and grass fires in Park County is periodically high, and therefore, it becomes necessary from time to time, for the preservation of the public health, safety and welfare of the citizens of Park County, to require permits for open fires and open burning and to, when necessary, impose a restriction on all open fires and open burning within Park County.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of the County of Park, as follows:

Section 1. Title.

This ordinance shall be known and referred to as the "Park County Open Fire and Open Burning Restriction Ordinance," and may be cited and referenced as such.

Section 2. Purpose.

The purpose of this ordinance is to preserve and protect the public health, safety and welfare of the citizens of Park County, Colorado, by restricting open fires and open burning in Park County in order to prevent forest and prairie fires given the high danger of such fires as a result of atmospheric conditions, including lack of moisture, and other local conditions in Park County.

Section 3. Authority.

This ordinance is authorized by, inter alia, generally, part 1 of article 11 of title 30, and part 4 of article 15 of title 30, and specifically, part 4 of article 15 of title 30 at section 401(1)(n.5), and (n.7), C.R.S.

Section 4. Application.

This ordinance shall apply throughout unincorporated Park County, including public, private, applicable state and federal lands.

Section 5. Definitions:

- a. **Approved Portable Exterior Fireplace.** For the purposes of this ordinance, a “portable exterior fireplace” shall mean any approved device used for outdoor recreational fires that completely prevents the emission of sparks and/or embers.
- b. **Model Rockets.** For purposes of this ordinance, "model rockets" include 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.
- c. **Fireworks.** For purposes of this ordinance, "fireworks" shall be defined as set forth in section 24-33.5-2001(5)(a), C.R.S., and specifically shall include "permissible fireworks" as defined in section 24-33.5-2001(11)(a), C.R.S. Fireworks shall 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 fuses, ship distress signals, smoke candles, and other emergency signal devices;
- iii. Educational rockets; or Fireworks which are used in testing or research by a licensed explosives laboratory.

- d. **Hot Work.** For purposes of this ordinance, "hot work" shall include cutting, welding, brazing, glass blowing, operating acetylene or other torch with an open flame, or other similar type of operation. Small engine operation without a spark arrestor, including chainsaws, ATVS and motorcycles.
- e. **Open Fire or Open Burning.** For purposes of this ordinance, "open fire" or "open burning" shall be defined as any outdoor fire, including, but not limited to, campfires, bonfires, the use of explosives, outdoor welding or hot work, fireworks of all kinds or brands, and the prescribed burning of fence lines or rows, fields, rangelands, wildlands, trash, and debris. All open burning is regulated in Park County by burn permit. These permits are renewed annually and are obtained through the Park County Fire Protection Districts. Persons with permits must call the Burn information line before any outside burning occurs. Residents are required to notify their local fire districts for a 3-foot x 3-foot x 3-foot campfire. Slash burning is only allowed October 1st to April 30th with a minimum of 2 inches of snow on the ground. Slash burning is prohibited from May 1st to September 30th regardless of the amount of snow on the ground. A slash burn must be called into the jurisdictional fire department or Fire District and approved. Slash is defined as vegetation, pine needles, clean untreated lumber and tree branches. No burning of trash is allowed in Park County.
- f. **Open fires shall not include:**
 - i. Fires in camp stoves or grills, fueled by bottled gas or pressurized liquid, and specifically designed for cooking or heating purposes;
 - ii. Fires in permanently constructed stationary masonry or metal fireplaces specifically designed for the purpose of combustion;
 - iii. Fires in commercially operated wood and/or charcoal fired grills designed for cooking.
- g. **Smoking Within an Enclosed Vehicle.** For purposes of this ordinance, "smoking within an 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. All butts and/or stubs

must be disposed of within an appropriate receptacle or within the vehicle.

h. **Recreational Shooting.** Exploding targets, tracer rounds and incendiary rounds are prohibited in Park County at all times. Target and recreational shooting is not allowed during a Burn Ban.

i. **Burn Ban Restrictions:**

The following acts are **PROHIBITED** on **ALL PUBLIC AND PRIVATE PROPERTY** during a declared Burn Ban:

1. Building, maintaining, attending or using a fire or campfire, including charcoal.
2. Smoking except within an enclosed vehicle or building, a developed recreation site or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable materials.
3. Operating motorized vehicles off designated roads or trails.
4. Blasting, hot work or other activities, which generate flame or flammable material.
5. Fireworks and model rocketry.
6. Target and recreational shooting
7. Operating a chain saw without a 10lb ABC or 2 ½ gallon pressurized or equivalent fire extinguisher, and large size pointed shovel readily available for quick use.

Section 6. Open Burn Permit Required.

No person shall conduct open burning on private property within the unincorporated area of Park County without first having obtained an Open Burn Permit from the legally constituted Fire Protection District in which the property is located. Permits will be issued annually and will expire on December 31 of that year. The cost of the Open Burn Permit is Ten Dollars (\$10.00). All funds collected will be used by the Fire District having jurisdiction and having issued the permit.

Section 7. Unlawful Acts.

During a Burn Ban, it shall be unlawful for any person to build, maintain, attend or use an open fire, conduct an open burn, conduct sales of fireworks, engage in outdoor smoking other than as excepted, or engage in any other activity prohibited by Burn Ban Restrictions in Park County including public, private, applicable state and federal lands.

Section 8. Exceptions. The following are excepted from this ordinance:

- a. Activities conducted pursuant to a written exemption from the Local Fire Chief who will advise the Sheriff of the exemption that specifically authorizes the otherwise prohibited act.
- b. Fires solely fueled by liquid petroleum or LPG fuels.
- c. Activities in those designated areas where the activity is specifically authorized by the Sheriff.

- d. Activities conducted by any Federal, State or local officer or member of an organized rescue or firefighting force in the performance of an official duty.
- e. Approved fully contained outdoor wood burning furnace/boiler.
- f. Commercial operations authorized under contract or permit, and the use of internal and external combustion engines operated as approved by the Forest Service within designated areas.

Section 9. Ban On Open Fires and Open Burning.

a. The Park County Sheriff is authorized to issue orders implementing and repealing a County-wide Burn Ban and may issue orders that incorporate local jurisdictional Burn Bans, including Burn Bans imposed by Fire Districts, and to enforce the same, and to notify the public of such Burn Bans via CODE RED, County fire line or County Website.

b. Notice of such orders may be given by best means available including, press release, individual notification to any agency requesting or advising in favor of the Burn Ban, individual notification to law enforcement agencies or such other means as in its discretion the Board deems is appropriate under the circumstances.

Section 10. Enforcement.

This ordinance shall be enforced by the Sheriff, through his deputies, or by the administering agencies of the state and federal lands located therein, and they shall have authority to order any person to immediately cease any violation of this ordinance. This authority shall include, but not be limited to, the right to issue a penalty assessment notice and the right to take such person or persons into temporary custody.

Criminal prosecution may be brought against a violator in accordance with section 30-15-402, section 30-15-402(1), and/or section 30-15-410, C.R.S., and under the penalty assessment procedure provided in section 16-2-201 C.R.S. The Sheriff's Office is hereby authorized to devise a ticketing system in conformance with section 16-2-201, C.R.S.

Section 11. Penalties.

Any person who fails to obtain a burn permit or violates any open fire or open burning ban imposed under the authority of this ordinance commits a class 2 petty offense under section 30-15-402(1), C.R.S., and, upon conviction thereof, shall be punished by a fine schedule listed below:

The penalty assessment procedure provided in section 16-2-201, C.R.S., may be followed by any arresting law enforcement officer for any failure to obtain a burn permit or for any violation of any open fire or open burning ban

For Burn Ban Restrictions:

- a. Five Hundred Dollars (\$500.00) minimum for the first offense, plus a surcharge of fifteen dollars (\$15.00) pursuant to section 30-15-402(1), C.R.S.;

- b. Seven Hundred Fifty Dollars (\$750.00) minimum for the second offense within sixty days of the first offense, plus a surcharge of fifteen dollars (\$15.00) pursuant to section 30-15-402(1), C.R.S.;
- c. One Thousand Dollars (\$1,000.00) minimum for each additional offense within sixty days of the first offense, plus a surcharge of fifteen dollars (\$15.00) pursuant to section 30-15-402(1), C.R.S.

For Failure to Obtain a Burn Permit:

- a. Fifty Dollars (\$50.00) minimum for the first offense, plus a surcharge of fifteen dollars (\$15.00) pursuant to section 30-15-402(1), C.R.S.;
- b. One Hundred Dollars (\$100.00) minimum for the second offense within sixty days of the first offense, plus a surcharge of fifteen dollars (\$15.00) pursuant to section 30-15-402(1), C.R.S.;
- c. One Hundred Fifty Dollars (\$150.00) minimum for each additional offense within sixty days of the first offense, plus a surcharge of fifteen dollars (\$15.00) pursuant to section 30-15-402(1), C.R.S.

All fines paid for the violation of this ordinance shall be in negotiable funds made payable to Park County Sheriff's Office and submitted to the Park County Treasurer's Office. All fines for the violation of this ordinance received by the County shall be remitted to the Park County Treasurer and deposited into the general fund of Park County. All surcharges collected shall be paid to the Clerk of the Court and subsequently credited to the Victims and Witnesses Assistance and Law Enforcement Fund of the Eleventh Judicial District of the State of Colorado pursuant to section 30-15-402(2), C.R.S.

The penalties provided in this ordinance shall be cumulative and in addition to any other federal, state or local remedy, criminal or civil, which may be available. Nothing contained herein shall be construed to preclude prosecution under any other applicable statute, including, but not limited to, prosecution under section 18-13-109, C.R.S., or any other applicable statute, ordinance, rule, order or regulation.

Section 12. 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 13. Severability:

If any section, subsection, clause, sentence or phrase of this ordinance are for any reason adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair or invalidate any other provisions of this ordinance which can be given effect without such invalid provision. The Board hereby declares that it would have passed this ordinance and each part or parts thereof, irrespective of the fact that anyone part or parts be declared invalid.

Section 14. Interpretation:

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

Section 15. Effective date:

Pursuant to C.R.S. § 30-15-405, this ordinance shall be published in full following its initial introduction and reading and published by title only following final adoption by the Board of County Commissioners.

Section 16. Repealer.

Park County Ordinance 2018-02 is hereby repealed in its entirety.

Section 17. Emergency:

The Board hereby finds, determines and declares that this ordinance is necessary for the immediate preservation and protection of the health, safety and welfare of the citizens of Park County, Colorado. This ordinance shall take effect immediately upon adoption on second and final reading.

Section 18. Certification:

The Park 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.

SIGNED this ___ day of _____, 2019.

**PARK COUNTY BOARD OF
COUNTY COMMISSIONERS**

Richard Elsner, Chairman

ATTEST:

County Clerk

I certify that this ordinance was introduced and read at the _____, 20__, public hearing of the Board of County Commissioners and published in full in *The Flume* on _____, 20__.

County Clerk