

**CHAFFEE COUNTY
ORDINANCE NO. 2018-03**

TITLE: AN ORDINANCE RESTRICTING OPEN FIRES AND OPEN BURNING IN THE UNINCORPORATED AREAS OF CHAFFEE COUNTY AND PROVIDING PENALTIES FOR VIOLATION OF SUCH ORDINANCE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF CHAFFEE COUNTY COLORADO:

WHEREAS, the Board of County Commissioners of Chaffee County (the "Board"), pursuant to Sections 30-11-107(l)(a) and 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 Chaffee County; and

WHEREAS, pursuant to Section 30-15-401(l)(n.5) C.R.S., the Board has specific authority to adopt an ordinance banning open fires to a degree and in a manner that the Board deems necessary to reduce the dangers of wildfires within those portions of the unincorporated areas of the County where danger of forest or grass fires is found to be high; and

WHEREAS, pursuant to Section 30-15-201 C.R.S., persons who leave campfires unattended and fail to totally extinguish such fires before breaking or leaving camp are subject to a fine; and

WHEREAS, Section 30-15-405 C.R.S., provides that except for ordinances calling for special elections or necessary to the immediate preservation of the public health or safety and containing the reasons making the same necessary, such ordinances shall not take effect and be in force before thirty days after they have been so published; however, an excepted ordinance shall take effect upon adoption; and

WHEREAS, the Sheriff of Chaffee County (Sheriff) is authorized under the provisions of Section 30-10-512 and 30-10-513 C.R.S., to act as fire warden of the County in case of prairie or forest fires, and to assume charge or assist other governmental authorities in controlling or extinguishing forest or prairie fires; and

WHEREAS, the Sheriff may appoint a Deputy Fire Warden to act on his behalf in matters relating to fire prevention and fire control in Chaffee County; and

WHEREAS, open fires and open burning can be a prime cause of forest and prairie fire in Chaffee County; and

WHEREAS, the Sheriff has advised the Board that atmospheric conditions, including lack of moisture, and other local conditions may create a high danger of forest and prairie fires in Chaffee County, thereby making open fires and open burning within the unincorporated areas of Chaffee County hazardous; and

WHEREAS, the Sheriff, either directly or through the Deputy Fire Warden, monitors fire weather conditions and fire danger ratings; and

WHEREAS, fire danger ratings and restrictions need to be coordinated among the various wildland fire agencies within the County and surrounding Counties; and

WHEREAS, objective criteria have been developed among cooperating counties, state and federal Forest Service and other wildland fire agencies; and

WHEREAS, changing conditions require that fire restrictions need to be implemented and/or released in a timely manner;

WHEREAS, the Colorado State Forest Service, the Division of Fire Prevention and Control in the Department of Public Safety and the United States Forest Service have, at times, requested restrictions be placed on open burning in unincorporated areas of Chaffee; and

WHEREAS, the Board finds that competent evidence has been presented indicating that the danger of forest and prairie fires in Chaffee County is periodically high, and therefore it is necessary to the preservation of the public health, safety, and welfare of the citizens of Chaffee County to impose restrictions on all open fires and open burning within the unincorporated areas of Chaffee County;

Section 1. Repeal and Re-Enactment. The Board of County Commissioners hereby repeals Ordinance No. 2006-02 and re-enacts said ordinance as indicated below.

Section 2. Title. This ordinance shall be known and referred to as the "Chaffee County Open Fire and Open Burning Restriction Ordinance," and may be cited and referenced as such.

Section 3. Purpose. The purpose of this Ordinance is to preserve and protect the public health, safety, and welfare of the citizens of Chaffee County, Colorado, by restricting open fires and open burning in the unincorporated areas of Chaffee 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 Chaffee County.

Section 4. 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), C.R.S.

Section 5. Interpretation. This Ordinance shall be so interpreted and construed as to effectuate its general purpose to preserve and protect the public health, safety, and welfare of the citizens of Chaffee County, Colorado, by restricting open fires and open burning in the unincorporated areas of Chaffee County in order to prevent forest and prairie fires given the high danger of such fires in Chaffee County. Section headings and any cross references, if any, of this Ordinance shall not be deemed to govern, limit, modify or affect in any manner the scope, meaning or extent of the provisions of this Ordinance or any section thereof.

Section 6. Application. This Ordinance shall apply throughout the unincorporated areas of Chaffee County, including public, private, state, and applicable federal lands.

Section 7. Definitions.

7.1 Open Fires: For purposes of this Ordinance, open fires shall be defined as any outdoor fire or burn, including, but not limited to, campfires, warming fires, charcoal fires, any type of charcoal-fueled broilers or bar-b-que grills, fires in wood-burning stoves, and the prescribed burning of fence lines or rows, ditches, fields, farmlands, rangelands, wildlands, slash piles, trash, and debris.

- Campfire and Warming Fires are fires within a ring or firegrate, no greater than three feet in diameter.
- Small Open Fires are Open Fires smaller than ten feet in diameter and no more than three feet in height.
- Large Open Fires are Open Fires at least ten feet in diameter or greater than three feet in height, or both.

7.2 Fire Restriction Evaluation Guidelines: That set of evaluation criteria currently in use by local federal, state and local fire suppression/management agencies for monitoring fuel moistures, fire danger class, current impacts on suppression resources, current fire cause types, fire weather forecasts, and other indicators of predicted fire danger.

7.3 No Burn Days: No Burn Days are days which no Open Fires are allowed, including all exempted fires.

7.4 Stage I Restrictions: Forbid building, maintaining or attending any Open Fire within Chaffee County. The following are exempt from Stage I fire restrictions and excluded from a Stage I ban:

- Campfires, warming fires and charcoal fires within a permanent constructed fire grate in a developed public campground or picnic ground or permanent constructed fire grate or fire ring in a commercial campground or on private property.
- LP gas or liquid fueled stoves and appliances which allow the operator to turn the flame on and off.
- Fireplaces within enclosed buildings which are equipped with adequate spark arresting screens on the flue.
- Charcoal grill fires at private residences.

All permitted fires must be diligently supervised, in person and never be left unattended.

7.5 Stage II Restrictions: Forbid building, maintaining or attending any Open Fire within Chaffee County. In addition, the following is prohibited during Stage II Restrictions:

- Using explosive material: i.e., exploding targets, tracer rounds, fireworks, blasting caps or any incendiary device that may result in ignition of flammable material.
- Smoking, except within an enclosed vehicle or building or in an area at least twelve feet in diameter that is barren or cleared of all flammable material.
- The use of combustion engines and chainsaws, except to the extent exempt (see below).
- Welding, grinding metal or operating an acetylene or similar torch with an open flame, except within an area of at least 20 feet in diameter that is barren or cleared of all flammable material.

The following are exempt from Stage II fire restrictions and excluded from a Stage II ban:

- LP gas or liquid fueled bar-b-ques/stoves and appliances which allow the operator to turn the flame on and off.
- Fireplaces within enclosed buildings which are equipped with adequate spark arresting screens.
- The use of combustion engines and chainsaws with adequate spark arrestors, provided the operator has with him or her a chemical-pressurized fire extinguisher of not less than 8 ounces capacity by weight, and has readily available for use a size 0 or larger round pointed shovel with an overall length of at least 36 inches.

All permitted fires must be diligently supervised, in person and never be left unattended.

7.6 Open Fire Regulation: Regardless of whether or not Stage I or Stage II restrictions are in place, Open Fires within Chaffee County shall be regulated as set forth below:

- All Open Fires must be diligently supervised, in person, by the appropriate number of persons given the extent and type of fire and the conditions at the time of the fire. No more than one Open Fire may be conducted by any person or group at any one time. Open Fires shall never be left unattended.
- All Large Open Fires and slash, trash, or debris piles that meet the definition of a Small Open Fire may begin no earlier than sunrise; from October through April, spreading must be contained by 1:00 p.m. the same day, and the fire must be completely extinguished by 2:00 p.m. the same day; from May through September, spreading must be contained by 11:00 a.m. the same day, and the fire must be completely extinguished by noon the same day. There are no time restrictions on Small Open Fires (except for slash, trash, or debris piles that constitute a Small Open Fire). The following is exempt from the time restrictions:

From October through April, slash, trash or debris piles that meet the definition of a Large Open Fire must be inspected and permitted by the Sheriff's Office before burning may begin. The Permit shall specify the location of the burn, the estimated size and duration of the burn, and the address and contact numbers of the person(s) responsible for the burn. Such fires may begin no earlier than sunrise and shall be diligently supervised at all times throughout the burn, including 24-hour-day watch (however, 24-hour-day watch shall not be required in areas having over six inches of snow on the ground and such has been specified in the Permit). From May through September, burning of slash, trash or debris piles that meet the definition of a Large Open Fire shall not be permitted. Consistent with Section 30-15-401(1)(n.5)(II)(E), C.R.S., broadcast burns conducted within federal and state guidelines that have a written prescribed fire plan and lawfully conducted agricultural burns in connection with agricultural operations are exempt from the permit requirement, although all such burns must still comply with all restrictions and limitations set forth in this Ordinance. See Section 25-7-123(1)(b), C.R.S. The Sheriff may require a deputy or other law enforcement personnel along with a fire suppression vehicle at any Open Fire, including an agricultural burn.

- The ability to control and extinguish the fire must be within the capabilities of the person or persons attending the fire, given the size of area being burned, the personnel and equipment present and immediately available and the conditions on the day of the fire. The size of the fire shall be such that the attending person or persons can extinguish the fire immediately if necessary.
- Prior to commencing a Large Open Fire (other than Large Open Fires requiring a Permit, as described above), the Sheriff's Department of Chaffee County must receive reasonable notice of the intent to have an Open Fire. Only 12 Large Open Fires shall be approved for any given day, six north of the community of Centerville and six south of the community of Centerville.

- Persons responsible for the Open Fire have the duty to contact the Sheriff's department immediately prior to the fire to determine whether a particular day is a "no burn" day, whether or not such person previously notified the department of the intent to have an Open Fire.
- In addition to the above restrictions, the burning of household trash and other trash, to the extent permitted by state law, must be performed in acceptable closed containers that are covered by a spark arrester-type screen. All combustion engines and chainsaws must be equipped with spark arrestors.
- Campfires and Warming Fires must be on private property or in an adequately constructed fire grate or fire ring. No household waste or trash may be used as fuel in a Campfire or Warming Fire and all fuel on the fire must remain fully within the ring or grate (no push logs allowed).

Section 8. Unlawful Acts.

- 8.1 During Stage I or Stage II Restrictions, it shall be unlawful for any person to build, maintain, attend or use an Open Fire, or otherwise violate the terms of the restrictions, other than as exempted, in the unincorporated areas of Chaffee County including public, private, state, and applicable federal lands.
- 8.2 During a "no burn" day, it shall be unlawful for any person to build, maintain, attend or use an Open Fire, conduct sales of fireworks, or engage in outdoor smoking, even if such would otherwise constitute an exempt fire.
- 8.3 If a law enforcement officer has required that an exempt fire be extinguished, it shall be unlawful to fail to immediately extinguish such a fire.
- 8.4 It shall be unlawful for any person to build, maintain, attend or use an Open Fire in violation of the Open Fire Regulation.
- 8.5 It shall be unlawful for any person to leave a campfire unattended or fail to totally extinguish a campfire before breaking or leaving camp.

Section 9. Exemptions. The following shall not be in violation of Section 8:

- Commercial or community fireworks displays properly permitted.
- Persons with a permit or written authorization from the Sheriff or the Deputy Fire Warden specifically authorizing the otherwise prohibited act or omission.
- Any federal, state, or local officer, or member of an organized rescue or firefighting force, in the performance of an official duty.
- Any further exemptions to either the meaning of terms or the enforcement of this Ordinance shall be granted only by the Sheriff or the Deputy Fire Warden, or for exemptions upon or within state or federal lands located within Chaffee County, by the administering state or federal agency, and only if the proposed action is deemed by the Chaffee County Sheriff or the Deputy Fire Warden, to be safe and mitigable.

Section 10. Implementation of Stages and "No Burn" Days. The Sheriff or the Deputy Fire Warden shall monitor fire danger conditions and coordinate with federal, state and local fire agencies to determine the appropriate stage of restrictions. When the established Fire Restriction

Evaluation Guidelines indicate that Stage I Restrictions should be imposed or reinstated, or that restrictions should be upgraded to Stage II Restrictions, the Sheriff or the Deputy Fire Warden shall coordinate notification of the public through a general press release to local television, radios and print media, as well as posting on the Chaffee County Website. Likewise, when conditions indicate a reduction in restrictions from Stage II to Stage I, or if Stage I Restrictions should be lifted, the same notification to the public shall occur. The Sheriff or the Deputy Fire Warden may also designate any day as a “no burn” day, in which case even exempt fires above shall be banned. If a law enforcement officer determines, in his or her sole discretion, that an exempt fire poses any public threat he or she shall have authority to require that such fire be extinguished immediately.

Section 11. Enforcement Agencies/Prosecution.

- 11.1 This Ordinance shall be enforced by the Sheriff, through his Deputies, including the Deputy Fire Warden, 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. Any further exception to the enforcement ability of this Ordinance by the administering agency shall be granted only by the administering agency, and only if the proposed action is deemed by the Sheriff of Chaffee County or the state or federal administering agency to be safe or mitigable.
- 11.2 Criminal prosecution may be brought against a violator in accordance with Sections 30-15-402 C.R.S. and 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 authorized to devise a ticketing system in conformance with Section 16-2-201 C.R.S.
- 11.3 Each violation of this Ordinance shall be deemed separate and distinct from any other violation of this Ordinance or of any other federal, state, or local law, rule, order or regulation.
- 11.4 Any person who violates this Ordinance or any County Ordinance adopted pursuant to Part 4, Title 30, Article 15, C.R.S. commits a class 2 petty offense, and, upon conviction or confession of guilt thereof, shall be punished by a fine of not more than \$1,000.00 for each separate violation, plus a surcharge of \$10.00, under Section 30-15-402(2) C.R.S. Fines are to be set by the County Court, unless the violator wishes to confess guilt and, pursuant to the penalty assessment procedure, pay a fine in the amount of \$300.00 during Stage I Restrictions, or \$700.00 during Stage II Restrictions, plus the \$10.00 surcharge. Costs of suppression of any fire for which a violator is convicted shall be assessed to the violator as reasonable restitution.
- 11.5 In addition to the above penalties, any person who violates the provisions of 30-15-201, C.R.S. by leaving a campfire unattended shall be punished by a fine of \$50.00. Any person who leaves a campfire unattended where the campfire is located in a forested or grassland area shall be punished by a minimum sentence of \$50.00 up to a maximum sentence of six months imprisonment or a \$750.00 fine, or both.
- 11.6 If the penalty assessment procedure is not used and the alleged offender is found guilty, court costs may be assessed in addition to the fine, penalties and surcharges set forth above.

11.7 All fines paid for the violation of this Ordinance shall be in negotiable funds made payable to Chaffee County and submitted to the Chaffee County Treasurer's Office. All fines for the violation of this Ordinance received by the County shall be remitted to the Chaffee County Treasurer and deposited into the general fund of Chaffee 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 judicial district in which the offense occurred pursuant to Section 30-15-402(2) C.R.S.

Section 12. Additional Remedies. The remedies provided in this Ordinance shall be cumulative and in addition to any other federal, state or local remedies, criminal or civil, which may be available. Nothing contained herein shall be construed to preclude prosecution under any applicable statute, including, but not limited to, prosecution under Section 18-13-109 C.R.S., Section 18-3-109.5 C.R.S. or any applicable local, state or federal statute, ordinance, rule, order, or regulation.

Section 13. Safety Clause. 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 Chaffee County, Colorado.

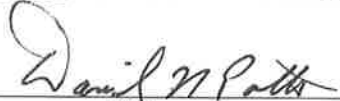
Section 14. Effective date. This Ordinance shall be effective immediately and remain in effect until this Ordinance is amended by the Board.

Section 15. Severability. If any section, subsection, clause, sentence or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 16. Repeal of Conflicting Provisions. All former County ordinances, resolutions, rules or regulations, or parts thereof, in conflict with this Ordinance are hereby repealed.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS this 17th day of July, 2018.

BOARD OF COUNTY COMMISSIONERS



Dave Potts, Chairman



Greg Felt, Commissioner



Keith Baker, Commissioner

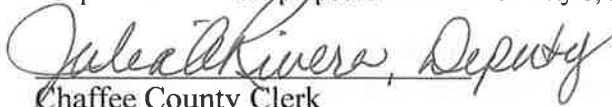
444465

444465 7/24/2018 8:30 AM ORD Lori A Mitchell
8 of 8 R\$0 D\$0 N\$0 S\$0 M\$0 E\$0 Chaffee County Clerk

STATE OF COLORADO
CHAFFEE COUNTY

ATTEST:

The above is a true and correct record of Ordinance 2018-03 duly and unanimously adopted by the Board of County Commissioners of Chaffee County at a regular meeting, properly noticed and held on July 17, 2018, at least ten days following introduction and reading of the proposed ordinance on July 3, 2018, and publication of the proposed ordinance on July 6, 2018 in the Mountain Mail.


Chaffee County Clerk



Adopted Ordinance Published in the Mountain Mail on July 23, 2018
and the Chaffee County Times on July 26, 2018