

ORDINANCE NO. 20-02

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF ELBERT, COLORADO**

**AN ORDINANCE RESTRICTING OPEN FIRES, OPEN
BURNING, AND FIREWORKS IN THE UNINCORPORATED
AREAS OF ELBERT COUNTY.**

WHEREAS, section 30-15-401(1) (n.5), C.R.S., authorizes the Board of County Commissioners ("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 those portions of the unincorporated areas of the county where the danger of forest or grass fires is found to be high; and

WHEREAS, section 30-15-401(1) (n.7), C.R.S., authorizes the Board to prohibit the sale, use and possession of fireworks, including permissible fireworks, within those portions of the unincorporated areas of the county; and

WHEREAS, the Board finds, based upon competent evidence, that the danger of forest or grass fires is high within the unincorporated areas of the county, but that the danger tends to subside with seasonal and weather changes, such that the ban on Open Fires may reasonably be suspended from time to time; and

WHEREAS, the Board finds that the Sheriff or his designee is the appropriate person, within his or her discretion, to determine whether a ban on Open Fires should be suspended during times of decreased fire danger, or elevated to Stage 2 in times of extreme fire danger, as further described herein; now therefore,

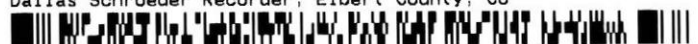
NOW THEREFORE, BE IT ORDAINED, by the Board of County Commissioners of the County of Elbert, as follows:

Section 1. Title.

This ordinance shall be known and referred to as the "**Elbert County Open Fire and Open During 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 Elbert County, Colorado, by restricting Open Fires, Open Burning, and the Use of Fireworks, in the Unincorporated areas of Elbert County in order to prevent forest and grass fires when a high danger of such fires exists as a result of atmospheric and natural fuel conditions, including lack of moisture and other local conditions in Elbert County.



Section 3. Application.

Unless suspended by the Sheriff, the restrictions set forth in *Section 6 and 7*, below, shall be known as a Stage 1 Fire Ban and shall apply throughout the unincorporated areas of Elbert County including public, private, state, and federal lands. In addition to the power to suspend the Stage 1 Fire Ban, the Sheriff shall also have the power to elevate the Fire Ban to Stage 2, as set forth in *Section 8*, below. If suspended the adopted fire code shall enforce open burning.

In exercising the discretion to suspend the Stage 1 Fire Ban or elevate the Fire Ban to Stage 2, the Sheriff shall consider, but not be bound by or limited to, weather conditions, lack of precipitation, and heavy fuel loading that creates a threat of fire in the forests and prairies of Elbert County, and that further creates in the discretion of the Sheriff a state of emergency with respect to fire danger; as verified by the following process according to the County's Annual Operating Plan (AOP);

- Elbert County uses the Fire Restriction Evaluation Guidelines checklist to determine whether or not Elbert County should implement or rescind fire restrictions.
- These guidelines include the following criteria as part of the assessment process as measured by the Franktown weather station: 1000 hour fuels, Energy Release Component, Fire Danger Adjective Rating, Availability of suppression resources, High occurrence of human caused fires, Adverse fire weather conditions predicted to continue, Local fire preparedness level, and Input from local fire officials. If the Franktown weather station is not available the Sheriff has the authority to use alternative methods to gain necessary data.

Section 4. Definition of Open Fire or Opening Burning.

For purposes of this ordinance, "Open Fires" or "Open Burning" shall be defined as the burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber, or a spark arrestor lid including, but not limited to, campfires, bon fires, the lighting of any explosives and fireworks of any kind or brand, the lighting of model rockets, and the burning of fence lines or rows, fields, farm lands, range lands, wildlands, burning of trash and debris.

Section 5. Definitions.

For purposes of this ordinance, "Fireworks" shall be defined as set forth in section 12-28-101(3), C.R.S., and specifically shall include "permissible fireworks" as defined in section 12-28-101(8), C.R.S. **Any devices that meet the statutory definition of fireworks referenced herein, but that are not "permissible fireworks" shall remain prohibited at all times.**

For purpose of this ordinance, "Portable Outdoor Fireplace" shall be defined as a portable, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other non-combustible material. A portable outdoor fireplace may be open in design, or may be equipped with a small hearth opening and a short chimney or chimney opening in the top.

For the purpose of this ordinance, "Recreational Fire" shall be defined as an outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or pit and has a total fuel area of feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth, or similar purpose.

