

ORDINANCE
OF THE
BOARD OF COUNTY COMMISSIONERS
OF THE
COUNTY OF LOGAN, STATE OF COLORADO

ORDINANCE NO. 2009-01

AN ORDINANCE AUTHORIZING THE IDENTIFICATION OF “RED FLAG” WARNING DAYS; ESTABLISHING IMMEDIATE OPEN FIRE RESTRICTIONS ON “RED FLAG” WARNING DAYS; AND PROVIDING PENALTIES FOR CONDUCTING OPEN FIRES ON “RED FLAG” WARNING DAYS.

WHEREAS, the Board of County Commissioners of the County of Logan (Board), pursuant to Sections 30-11-101(2) 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 Logan 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 prairie or grass fires is found to be high according to the national fire danger rating system or similar indices or information; and

WHEREAS, the Logan County Sheriff is authorized under the provisions of Sections 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 entities in controlling or extinguishing prairie or forest fires; and

WHEREAS, the Board previously adopted and established Logan County Ordinance 06-01, which provides a process to restrict, by resolution, open fires and open burning within the unincorporated areas of Logan County, Colorado, during temporary periods of high fire danger; and

WHEREAS, the Board finds that the National Weather Service is a federal agency that monitors fire danger caused by weather and atmospheric conditions, and issues “Red Flag” warnings based on objective, measurable criteria on individual days when a combination of dry fuels and critical weather conditions support extreme fire behavior; and

WHEREAS, the Board finds that the conditions which give rise to extreme fire behavior

periodically exist in Logan County and open fires during such conditions may cause wildfires and endanger the health, safety and welfare of the citizens of Logan County; and

WHEREAS, the Board finds it prudent and necessary to establish, in addition to the temporary restriction on open fires and open burning during periods of high fire danger, an additional process to identify “Red Flag” warning days and activate immediate open fires restrictions, without delay, when weather and fire fuels conditions change rapidly and require the implementation of fire restrictions in a more timely manner.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LOGAN COUNTY, COLORADO, THAT:

Section 1. Title

This ordinance shall be known and referred to as the "Logan County Red Flag 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 Logan County, Colorado, by restricting open fires in the unincorporated areas of Logan County on individual Red Flag Warning days where a combination of dry fuels and critical weather conditions support extreme fire behavior and the attendant dangers.

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(l)(n.5), C.R.S.

Section 4. 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 Logan County, Colorado, by restricting open fires in the unincorporated areas of Logan County in order to prevent wildfires, including grass and prairie fires, during periods of extreme fire danger in Logan 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 5. Application

This Ordinance shall apply throughout the unincorporated areas of Logan County, including public, private, state, and applicable federal lands. This Ordinance shall also apply throughout any incorporated town or city which elects by ordinance or resolution to have the provisions hereof apply.

Section 6. Definitions

Open fire: For purposes of this Ordinance, “open fire” shall be defined as any outdoor fire or burning, including, but not limited to, campfires, warming fires, charcoal grill fires, fires in wood-burning stoves, the use of explosives, outdoor welding or operating an acetylene or other torch with open flame other than in an area cleared of all flammable materials, use of fireworks of all kinds or brands as defined in C.R.S. § 12-28-101, and the prescribed burning of fence lines or rows, ditches, fields, farmlands, rangelands, trash, and debris.

Red Flag Conditions: For purposes of this Ordinance, “Red Flag Conditions” shall consist of either of the following combinations of weather and fuels conditions for any three (3) hours or more in a twelve (12) hour period, all as measured and determined by the National Oceanic and Atmospheric Administration, United States Department of Commerce, National Weather Service, Denver/Boulder, Colorado Weather Forecast Office:

1. Fuel characteristics are favorable for large fire growth; AND EITHER
 - a. Frequent wind gusts of twenty-five (25) miles per hour or greater, and relative humidity of fifteen percent (15%) or lower; OR
 - b. Dry thunderstorms are occurring (15% coverage or more, constituting a Lightning Activity Level - LAL 6).

OR

2. Any of the following elements: Lower Atmospheric Severity Index (“Haines Index”) of 5 or 6, indicating a moderate or high potential for large plume dominated fire growth; wind shifts associated with cold frontal passages; significant wind shifts; microburst winds; first significant lightning (wet or dry, 15% coverage of thunderstorms or more) event after an extended hot and dry period; poor relative humidity recovery (relative humidity remains at 40% or lower).

Red Flag Warning: For the purposes of this Ordinance, a “Red Flag Warning” means the informational release from the National Weather Service, Denver/Boulder, Colorado Weather Forecast Office, that Red Flag Conditions are being met or exceeded, or will likely be met or exceeded within the next 24 hours, for the National Weather Service’s

Fire Weather Zone No. 248, Logan County, Colorado.

Red Flag Warning Day: For the purposes of this Ordinance, a “Red Flag Warning Day” means the time commencing upon the National Weather Service’s issuance of a Red Flag Warning for Fire Weather Zone No. 248 until 12:00 o’clock midnight the same day.

Section 7. Unlawful Acts

It shall be unlawful for any person to start, build, maintain, conduct, attend or use an open fire in the unincorporated areas of Logan County, including public, private, state, and applicable federal lands, at any time during a Red Flag Warning Day.

Section 8. Exceptions/Exemptions

The following are exempt and shall not be in violation of Section 7:

- 8.1. A. Commercial or community fireworks displays properly permitted as required by applicable law.
B. Fires fully contained within liquid-fueled or gas-fueled stoves.
C. Indoor fireplaces and wood-burning stoves.
D. Outdoor charcoal grills and wood burning stoves, provided they are at private residences and in an area cleared of all flammable materials, including dry vegetation.
- 8.2. Persons with a permit or written authorization from the Sheriff or his Deputy Fire Marshal specifically authorizing the otherwise prohibited act.
- 8.3. Any federal, state, or local officer, or member of an organized rescue or firefighting force, acting in the performance of an official duty.
- 8.4. Any further exemptions to the enforcement of this Ordinance shall be granted only by the Sheriff or his Deputy Fire Marshal, or for exemptions upon or within state or federal lands located within Logan County, by the administering state or federal agency, and only if the proposed action is deemed by the Logan County Sheriff, or his Deputy Fire Marshal, to be safe and mitigable.

Section 9. Public Issuance of Red Flag Warnings

The National Weather Service, Denver/Boulder Weather Forecast Office, provides public dissemination of the issuance of its Red Flag Warnings through a variety of media and media outlets, including television, radio, and its internet website. In addition to these outlets and to the extent of any intergovernmental agreement between the City

of Sterling and Logan County, persons may call the Sterling Emergency Communications Center (Sterling Dispatch) to determine whether Red Flag Warnings have been issued or are in effect. It shall not be an affirmative defense to any citation for violation of this Ordinance that any person lacked knowledge that a Red Flag Warning existed or a Red Flag Warning Day was in effect. This is a strict liability ordinance.

Section 10. Enforcement Agencies/Prosecution

10.1. This Ordinance shall be enforced by the Sheriff, through his Deputies, including the Deputy Fire Marshal, by any peace officer as defined by Colorado statute, or by the administering agencies of the state and federal lands located in Logan County, 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. 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 Logan County or the state or federal administering agency to be safe or mitigable.

10.2. 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 Logan County Sheriff's Department is authorized to devise a citation issuance system in conformance with Section 16-2-201, C.R.S.

10.3. 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.

10.4. Any person who violates this Ordinance from and after the effective date commits a Class 2 Petty Offense under Section 30-15-402(l) C.R.S., and, upon conviction or confession of guilt thereof, shall be punished by a fine of not more one thousand dollars (\$1,000.00), for each separate violation, plus a surcharge of ten dollars (\$10.00), under Section 30-15-402(2) C.R.S. Fines are to be set by the County Court, unless the violator chooses to confess guilt and, pursuant to the penalty assessment procedure, pay a fine in the amount of two hundred fifty dollars (\$250.00), plus the ten dollar (\$10.00) surcharge.

10.5. All fines paid for the violation of this Ordinance shall be in negotiable funds made payable to Logan County and submitted to the Logan County Treasurer's Office, 315 Main Street, Sterling, Colorado 80751. All fines for the violation of this Ordinance received by the County shall be remitted to the Logan County Treasurer and deposited into the general fund of Logan 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 Thirteenth Judicial District of the State of Colorado pursuant to Section 30-15-402(2) C.R.S.

Section 11. 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., or any applicable local, state or federal statute, ordinance, rule, order, or regulation.

Section 12. 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 Logan County, Colorado.

Section 13. Effective date

This Ordinance placing a restriction on all open fires and open burning within the unincorporated areas of Logan County on Red Flag Warning Days shall be effective immediately, and remain in effect until this Ordinance is amended or repealed by the Board, or enforcement is temporarily suspended by the Board. Likewise, the Board may also reinstate enforcement of this Ordinance at any time after such enforcement has been suspended. The Board further orders that this Ordinance be published in full in the Sterling Journal Advocate.

Section 14. Severability

Should any section, subsection, clause, sentence or phrase of this Ordinance be adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair or invalidate the other provisions of this Ordinance which can be given effect without such invalid provision.

Section 15. Repeal of Conflicting Provisions

All former County ordinances, resolutions, rules or regulations, or parts thereof, in conflict with this Ordinance are hereby repealed.

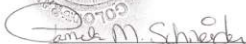
FIRST READING:

INTRODUCED, READ, AND ADOPTED ON FIRST READING on March 17,
2009, and ordered published in the Sterling Journal Advocate.



ATTEST

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF LOGAN, COLORADO


Clerk to the Board
Logan County

By


Jack H. McLavey, Chairman

Absent

Debra L. Zwirn


James Edwards

SECOND READING:

ADOPTED WITHOUT AMENDMENT ON SECOND AND FINAL READING on March 31, 2009, after being previously introduced, read, amended and adopted on First Reading on March 17, 2009 and published in the Sterling Journal Advocate on March 20, 2009.

THE BOARD OF COUNTY COMMISSIONERS OF
THE COUNTY OF LOGAN, COLORADO



Jack H. McLavey, Chairman

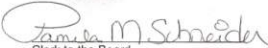


Debra L. Zwirn



James Edwards





Pamela M. Schneider
Clerk to the Board

(Seal)