

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS
OF LAS ANIMAS COUNTY, COLORADO
RESTRICTING PRESCRIBED BURNING, OPEN FIRES AND FIREWORKS
IN THE UNINCORPORATED AREAS OF LAS ANIMAS COUNTY
FOR THE PURPOSE OF REDUCING THE DANGER OF WILDFIRES**

Ordinance #2024-001

WHEREAS, the Board of County Commissioners of the County of Las Animas (the “Board”), pursuant to C.R.S. §§ 30-11-101(2) and 30-15-401, *et seq.* 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 Las Animas County; and

WHEREAS, pursuant to C.R.S. § 30-15-401(1)(n.5), the Board is authorized to enact an ordinance “to ban open fires to a degree and in a manner that the board of county commissioners deems it necessary to reduce the danger of wildfires within those portions of the unincorporated areas of the county where the danger of forest or grass fires is found to be high, based on competent evidence”; and

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

WHEREAS, the Board acknowledges that from time-to-time fire conditions resulting from extended hot, dry and windy weather in the area make it prudent to impose restrictions on open fires, prescribed burning and use of fireworks in order to reduce the danger of wildfire in the unincorporated areas of Las Animas County; and

WHEREAS, the Board specifically finds that in certain high fire-danger conditions such restrictions are in the best interests of the citizens and residents of Las Animas County in order to preserve the health, safety and welfare of the citizens and residents; and

WHEREAS, the Board finds that for those days on which the National Weather Service notifies Las Animas County Sheriff's Office of a "red flag warning" that such warning serves as competent evidence that the initiation of open fires, prescribed burning and use of fireworks within those sections of the unincorporated areas of Las Animas County that are subject to the "red flag warning" shall be prohibited and persons or entities that have received a permit or authorization to conduct such fires from their Fire Protection District shall have any such permit or authorization immediately suspended or revoked for the duration of the time period during which such a "red flag warning" remains in effect upon receiving notification from their Fire Protection District of any such "red flag warning"; and

WHEREAS, the Las Animas County Sheriff ("Sheriff") is authorized pursuant to sections C.R.S. §§ 30- 10-512 and 30-10-513, to act as fire warden of the county in certain circumstances in case of prairie, forest or wildland fires or wildfires occurring in unincorporated areas of Las Animas

County outside the boundaries of a fire protection district or that exceeds the capabilities of the fire protection district to control; and

WHEREAS, the Board believes that the Sheriff, in his/her capacity as fire warden, is the appropriate person, within his/her discretion and expertise, to make recommendations to the Board on whether a restriction of open fires, prescribed burning and use of fireworks should be implemented or elevated in times of extreme fire danger or suspended during times of decreased fire danger.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Las Animas County, Colorado as follows:

SECTION 1. PURPOSE

The purposes of this Ordinance are to:

- Preserve and protect the public health, safety, and welfare of the citizens and residents of the County by restricting open fires, prescribed burning and the use of fireworks in the unincorporated areas of the County when certain high fire-danger conditions exist in order to prevent forest and prairie fires.

SECTION 2. 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 and residents of Las Animas County, Colorado, by burning responsibly under appropriate parameters, and by documenting open fires and prescribed burning in the unincorporated areas of the County. Section headings and any cross-references shall not be deemed to govern, limit, modify or affect in any manner the scope, meaning or extent of any provision of this Ordinance.

SECTION 3. APPLICATION OF THE ORDINANCE

This Ordinance shall apply throughout unincorporated areas of the County.

SECTION 4. DEFINITIONS

For the purposes of this Ordinance, the following shall mean:

“Agricultural Burn”: The prescribed burning of cover vegetation for the purpose of preparing the soil for crop production, weed control, maintenance of water conveyance structures related to agricultural operations, and other agricultural cultivation purposes.

“Broadcast Burn”: The controlled application of fire to wildland fuels in their natural or modified state over a predetermined area. Broadcast Burns do not include the burning of wildland fuels that have been concentrated in piles by manual or mechanical methods.

“Campfire”: No larger than 3 feet wide and 2 feet high, in a noncombustible containment.

“Extinguished”: No heat or visible flame, smoke, or emissions exist.

“Fire Restriction Evaluation Guidelines”: That set of evaluation criteria currently in use by 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.

“Fireworks”: As defined in C.R.S. §24-33.5-2001(5), any composition or device designed to produce a visible or audible effect by combustion, deflagration, or detonation, and that meets the definition of articles pyrotechnics, permissible fireworks, or display fireworks pursuant to C.R.S. §24-33.5-2001(11).

“Open Fire”: An outdoor fire, including, but not limited to, bonfires, campfires, warming and fires in outdoor wood-burning stoves.

“Person”: Any individual, association, organization, partnership, firm, corporation, business or other entity recognized by law.

“Prescribed Burning”: The controlled application of fire in accordance with a written prescription for wildland fuels under specified environmental conditions while following appropriate precautionary measures that ensure that the fire is confined to a predetermined area to accomplish the planned fire or land management objectives, in accordance with the Colorado Prescribed Fire Planning and Implementation Policy Guide, issued by the Colorado Division of Fire Prevention and Control.

“Private Household Trash”: Consists of paper and cardboard and does NOT include food waste, plastic, coated or treated wood, tires or rubber, appliances, aerosol cans, paint, insulation or any other non-paper or non-cardboard items.

“Red Flag Warning”: A forecast warning issued by the National Weather Service to inform area firefighting and land use management agencies that conditions are ideal for wildland fire ignition and propagation.

“Slash”: Woody material less than six inches in diameter consisting of limbs, branches, and stems that are free of dirt. “Slash” does not include tree stumps, roots, or any other material.

SECTION 5. UNLAWFUL ACTIVITIES

The following activity is unlawful at all times:

1. Burning of material that contains food wastes, plastic, coated or treated wood products, rubber, insulation, tires, car bodies, insulated wire, motor oil, aerosol cans, hazardous or toxic materials, or other materials that will produce substantial amounts of smoke and particulates.
2. Burning wood residue, which includes bark, sawdust, slabs, chips, shavings, mill trim, and other wood products derived from wood processing.
3. Burning of construction debris (includes both clean and treated wood).
4. Burning of buildings or structures for demolition purposes.

5. Fireworks that leave the ground without a Licensed and bonded Pyrotechnics Operator, and approval from local fire District.
6. Engaging in activity prohibited when Stage I, Stage II or Stage III Restrictions are in effect, other than as excepted or exempted, in the unincorporated areas of the County.

SECTION 6. APPLICATION FOR AND USE OF OPEN FIRE/BURN PERMIT

No person shall initiate an Open Fire or Prescribed Burning, to include the burning of Slash, without first applying to their Fire Protection District for a permit. Once the application has been received the Fire Protection District will first check current and forecasted weather conditions and current fire restrictions, and if appropriate issue the permit for the requested burn day. The burn is only allowed to take place on the day the permit is issued for and only for the approved material.

The permit holder shall attend the fire at all times and have at least one hand tool (i.e., shovel) and one fire extinguisher available on site at all times. All fires must be fully extinguished (out and cold) prior to departure from the site. The local Fire Protection District has the right to revoke any issued permit.

SECTION 7. EXEMPTION FROM APPLICATION REQUIREMENT IN SECTION 6

Pursuant to §30-15-401(1)(N.5)(II)(E), C.R.S., Broadcast Burns conducted within applicable federal and state guidelines that have a written prescribed fire plan and agricultural burns are exempt from the application requirement set forth in Section 6. However, the party conducting the broadcast and/or agricultural burn is required to notify both the Fire Protection District where the burn will take place, and the Sheriff's office prior to initiating the burn.

SECTION 8. FIRE PROTECTION DISTRICT PRESCRIBED BURNING LOG PROCEDURES

Each Fire Protection District shall keep an electronic log of each application it receives regarding an intent to initiate Prescribed Burning. The Fire Protection District shall inform each person making such an application whether that day is a Red Flag Warning period, as identified by the National Weather Service, in any part of unincorporated areas of the County which are located both outside of and within Fire Protection District boundaries; the Fire Protection District shall note in its log that the agency has provided such information and that initiating the fire during a Red Flag Warning period is a violation of this Ordinance. The Fire Protection District shall notify the appropriate personnel of such Prescribed Burn activity.

SECTION 9. NO OPEN FIRE/ PRESCRIBED BURNING WHEN RED FLAG WARNING IS IN EFFECT

No person shall initiate an Open Fire or Prescribed Burn in unincorporated areas of the County on a day identified by the National Weather Service as a Red Flag Warning period in any part of unincorporated areas of the County which are located both outside of and within Fire Protection District boundaries that are included within the identified boundaries of such Red Flag Warning. Any existing burn projects must be Extinguished under the applicable Red Flag Warning restrictions.

SECTION 10. CONSULTATION AND COORDINATION FOR IMPLEMENTATION OR SUSPENSION OF OPEN FIRE RESTRICTIONS

The Sheriff or his/her designee shall consult with the Fire Protection Districts and various state and federal land management agencies and obtain their recommendation prior to the Sheriff recommending the imposing or suspension of any Open Fire restrictions. Recommendations shall be made pursuant to Fire Restriction Evaluation Guidelines. Upon implementation or suspension of restrictions, LACSO personnel shall coordinate and cooperate with these agencies to enforce any restrictions.

SECTION 11. DECLARATION OF STAGE I, STAGE II OR STAGE III OPEN FIRE RESTRICTION

The Las Animas County BOCC, after considering the recommendations of the Sheriff or his/her designee at a legally noticed meeting, shall have the authority to declare Stage I, Stage II or Stage III Open Fire, Prescribed Burning and/or use of Fireworks restrictions, by resolution, whenever the danger of forest and grass fires is found to be high. Any resolution declaring such restrictions made pursuant to this section shall specify the Stage level, parameters, and the duration of the restrictions as deemed necessary and appropriate. The Sheriff or his/her designee shall promptly coordinate notification to the public through a general press release to local radio and print media, as well as posting on the County Internet Website and County Sheriff's Office Facebook page.

When conditions indicate a reduction or the suspension of restrictions, the Sheriff or his/her designee shall notify the BOCC of the competent evidence and recommendations for said reduction or suspension. The BOCC shall lift the restrictions by resolution and the same notification to the public shall occur.

SECTION 12. FIRE RESTRICTIONS STAGES

STAGE I Fire Restrictions

The following acts may be prohibited when STAGE 1 Fire Restrictions are imposed:

- Building, maintaining, attending, or using a fire, campfire coal or wood burning stove, fireplace, or charcoal or wood fueled cooking except:
 - Campfires contained in constructed, permanent fire pits or fire grates within a developed recreation site, or improved site. With local district approval.
 - Grills using propane and other bottle fuels with a shut off valve, which are in areas free of flammable vegetation and other flammable materials, used in a manner which presents no fire danger to the surrounding area, with an adequate water supply and/or fire extinguisher on site and is not left unattended.
 - Fires required to do business (i.e. barbecue restaurant) as long as the business has been inspected and approved by the local Fire Protection District.
- Smoking, except within an enclosed vehicle or building, or 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.
- Outdoor welding, grinding or use of any type of torch in any area which presents the possibility of igniting vegetation or other combustible material, unless:
 - There is a fire extinguisher and shovel on site with a minimum of ten (10) pound class A fire extinguisher.

- Operating any outdoor equipment or machinery powered by an internal combustion engine in an undeveloped area, unless;
 - There is a spark arresting device properly installed, maintained and in effect working order meeting either A) U.S. Department of Agriculture, Forest Service Standard 5100-1a, or B) Appropriate Society of Automotive Engineers (SAE) recommended practice. J335(b) and J350(a).
 - There is a fire extinguisher and shovel on site with a minimum of ten (10) pound class A fire extinguisher.
- The burning of trash, refuse or other debris.
- The use of explosives.
- The use of fireworks (as defined above) pursuant to C.R.S. §30-15-401(1) (n.7).

STAGE II Fire Restrictions

The following acts may be prohibited when STAGE II Fire Restrictions are imposed:

- Building, maintaining, attending, or using a fire, campfire or stove fire, to include any fire within a permanent constructed fire grate in a developed campground, developed recreation site, or improved site.
- Outdoor welding, grinding or use of any type of torch in any area which presents the possibility of igniting vegetation or other combustible material, unless:
 - There is an adequate water supply with a minimum of two hundred (200) gallons with a pump and minimum of two hundred (200) feet of hose.
 - Work is concluded a minimum of thirty (30) minutes prior to leaving the work site.
- Smoking, except within an enclosed vehicle or building, to include smoking in 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.
- Off road use or parking of a motorized vehicle in an area which presents the possibility of sparks or exhaust heat igniting surrounding flammable vegetation.
- Operating any outdoor equipment or machinery powered by an internal combustion engine in an undeveloped area, unless;
 - There is a spark arresting device properly installed, maintained and in effect working order meeting either A) U.S. Department of Agriculture, Forest Service Standard 5100-1a, or B) Appropriate Society of Automotive Engineers (SAE) recommended practice. J335(b) and J350(a);
 - There is an adequate water supply with a minimum of two hundred (200) gallons with a pump and minimum of two hundred (200) feet of hose.
 - Work is concluded a minimum of thirty (30) minutes prior to leaving the site.
- The burning of trash, refuse or other debris.
- The use of explosives.
- The use of fireworks (as defined above) pursuant to C.R.S. §30-15-401(1) (n.7).

STAGE III Fire Restrictions

The following acts may be prohibited when STAGE III Fire Restrictions are imposed:

- 1. All restrictions in Stage One & Two, listed herein and including the following additional restrictions.

- 2. Outdoor welding, grinding or use of any type of torch in any area which presents the possibility of igniting vegetation or other combustible material will **NOT** be allowed.
- 3. Operating any outdoor equipment or machinery in an undeveloped area with an internal combustion engine will **NOT** be allowed.
- 4. No fireworks of ANY kind.

SECTION 13. BOCC AUTHORITY TO IMPOSE AND SUSPEND STAGE IV CLOSURE

If the Sheriff, after consultation with various state and federal land management agencies, obtains a recommendation to impose a Stage IV Closure within the County, the Sheriff or his/her designee shall immediately inform the BOCC and shall provide the BOCC with a summary of the competent evidence and recommendations that are the basis of the decision to impose a Stage IV Closure. If there is a need for Stage IIV closure, the BOCC shall call for an emergency meeting to implement the following restrictions by county resolution. Upon passage of a Stage IV Closure resolution, the Sheriff or his/her designee shall promptly coordinate notification to the public through a general press release to local radio and print media, as well as posting on the County Internet Website and County Sheriff's Office Facebook page.

When conditions indicate a reduction or the suspension of Stage IV Closure restrictions, the Sheriff or his/her designee shall notify the BOCC of the competent evidence and recommendations for said reduction or suspension. The BOCC shall lift the Stage IV Closure restriction by resolution and the same notification to the public shall occur.

Stage IV is a closure prohibiting entry to the affected area. The affected area is closed to all entry other than the following:

- Persons with a written fire entry and activity permit.
- Any federal, state, or local officer or member of an organized rescue or firefighting force in the performance of an official duty.
- Resident owners and lessees of land within the closed area.

SECTION 14. DIFFERENT STAGES PER DISTRICT

As allowed under C.R.S. § 30-15-401.5, a Fire Protection District may propose fire code provisions for its district that may be different from the minimum fire safety standards adopted by the BOCC. Such provisions shall be effective within the petitioning fire protection district only upon the approval of the BOCC.

SECTION 15. ENFORCEMENT AGENCIES AND PROSECUTION

This Ordinance shall be enforced by the Sheriff, through his/her Deputies, including the Sheriff's designee, the Fire Chief or his/her designee of any Fire Protection District or 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 limited to, the right to issue a penalty assessment notice and the right of a Post Certified Deputy to take such person or persons into temporary custody.

SECTION 16. PENALTIES FOR VIOLATIONS

1. Pursuant to C.R.S. §30-15-402, any person who violates any provision of this Ordinance shall be guilty of a civil infraction. For each separate offense, the penalty for any person found to violate this ordinance shall be punished by fines of:

First Violation:	Five hundred dollars (\$500.00)
Second Violation:	One thousand dollars (\$1,000.00)
Subsequent Violations:	One thousand dollars (\$1,000.00)

2. The penalty assessment procedure provided for in C.R.S. §16-2-201 shall be followed for any violation of this Ordinance. Any person who violates any provision of this Ordinance shall be given a penalty assessment notice by the apprehending peace officer or by the designated County enforcement personnel. The penalty assessment notice shall be a summons and complaint which contains: (i) the identity of the alleged offender by name and address, (ii) specifies the offense with which the person is charged; (iii) states the fine which may be paid directly to the Las Animas County Treasurer at their office in Trinidad, CO, and (iv) states the requirement that the alleged offender either pay the fine to the Las Animas County Treasurer in person or by mail, at the address specified in the penalty assessment notice within fourteen days of such penalty assessment notice, or else be required to appear to answer the charge before the Las Animas County Court, at the County Courthouse in Trinidad, CO, at the date and time specified in the penalty assessment notice. Any person who chooses to acknowledge that they are guilty of the charge specified in the penalty assessment notice may, within fourteen days of the date of issuance of the penalty assessment notice, pay a fine to the Las Animas County Treasurer either in person at the Las Animas County Courthouse in Trinidad, CO or by mail to the County Treasurer's address as specified on the penalty assessment notice. Any such payment of the fine specified in the penalty assessment notice shall be accompanied by a copy of the penalty assessment notice signed by the person acknowledging their guilt. Timely payment of the optional fine specified in the penalty assessment notice shall relieve the person receiving such notice of any further obligation to appear in the Las Animas County Court, at the date and time specified in such notice, to answer the offense charged in the notice. If the person cited chooses not to admit guilt and timely pay the fine in the penalty assessment notice, and is subsequently found guilty by the Las Animas County Court, court costs and any additional financial requirements deemed necessary or appropriate by the Court may be assessed in addition to the fine.
3. All fines, penalties or forfeitures for the violation of this Ordinance, but not any surcharge imposed by the Court upon conviction pursuant to C.R.S. §30-15-402, shall be paid to the County Treasurer of Las Animas County, CO, within thirty days of the Court's receipt of any such fines, penalties, and/or forfeitures.
4. Pursuant to C.R.S. §30-15-410, the Las Animas County Court shall have jurisdiction in prosecutions of violations of this Ordinance. The simplified county court procedures set forth in Part 1 of Article 2 of Title 16, C.R.S., and the penalty assessment procedures set forth in Part 2 of said Article shall be applicable to the prosecutions of alleged violations of this Ordinance. Any summons and complaint brought in the Las Animas County Court for the alleged violation of this Ordinance, shall be filed in the name of Las Animas County, by and on behalf of the people of the state of Colorado, and any process issued by the Las Animas County Court in such proceedings shall be likewise so denominated.

5. All suits for the recovery of any fine and prosecutions for the commission of any offense made punishable under this Ordinance shall be barred if not commenced within one year after the commission of the alleged Ordinance offense pursuant to C.R.S. §30-15-409.
6. 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, order or regulation.
7. The penalty assessment procedure provided in this Ordinance is authorized to be followed by any arresting law enforcement officer for any such violation.
8. If the first offense occurs during fire restriction the fine will be doubled. Pursuant to C.R.S. §13-21-105, a person violating fire restrictions or ban causing a fire would be either strictly liable or per se negligent for the actual damages to anyone injured including person or real property damage or loss of life and the costs to any fire department, governmental entity, or other emergency responders or resources responding to the incident.

SECTION 17. RESTITUTION

Any person who initiates prescribed burning in unincorporated areas of Las Animas County which are located both outside of and within Fire Protection District boundaries on a day identified by the National Weather Service as a "red flag warning" period and within the geographic area that is subject to such a "red flag warning" which requires response from the local Fire Protection District or Sheriff's office responders may be subject to provide restitution to any responding agencies.

SECTION 18. ADDITIONAL REMEDIES

The remedies 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 C.R.S. §18-13-109, or any other applicable statute, ordinance, rule, order or regulation.

SECTION 19. SEVERABILITY

If any section, subsection, clause, sentence or phrase of this ordinance is 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.

SECTION 20. 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 Las Animas County, Colorado. This ordinance shall take effect immediately upon adoption on second and final reading.

SECTION 21. EFFECTIVE DATE

This Ordinance shall be effective May 12, 2024, and shall remain in effect until such time as this ordinance is amended, temporarily suspended or repealed.

SECTION 22. CERTIFICATION

With her signature the County Clerk and Recorder shall certify and attest to the passage of this Ordinance, that the Ordinance was introduced and read at the regular meeting of the Board on March 19, 2024, and that the full language of this Ordinance was published in a newspaper of general circulation in Las Animas County at least ten days before its adoption. This Ordinance shall be recorded and made available for inspection by the public during regular business hours.

PASSED BY THE BOARD OF COUNTY COMMISSIONERS AFTER A PUBLIC HEARING AND SIGNED THIS _____ DAY OF _____, 2024.

BOARD OF COUNTY COMMISSIONERS
LAS ANIMAS COUNTY, COLORADO

Felix M. Lopez, Commissioner

Luis A. Lopez II, Commissioner

Tony C. Hass, Commissioner

SEAL OF LAS ANIMAS COUNTY

ATTEST:

Karrie L. Apple, Las Animas County Clerk & Recorder