

ORDINANCE NO. 2006- 01

AN ORDINANCE AUTHORIZING THE BOARD OF COUNTY COMMISSIONERS TO BAN OPEN FIRES IN THOSE PORTIONS OF THE UNINCORPORATED AREAS OF PROWERS COUNTY WHERE THE DANGER OF FOREST OR GRASS FIRE IS FOUND TO BE HIGH AND PROVIDING PENALTIES FOR VIOLATING SUCH ORDINANCE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PROWERS COUNTY:

Section 1. AUTHORITY: Pursuant to C.R.S. 30-15-401(1)(n.5), the Board of County Commissioners is authorized to ban open fires to a degree and in a manner that the Board of County Commissioners deems necessary to reduce the danger of wildfires within those portions of the unincorporated areas of Prowers County where the danger of forest or grass fires is found to be high based on competent evidence.

Section 2. FIRE BAN: In the event of conditions requiring a ban on open fires within those portions of the unincorporated Prowers County where the danger of forest and grass fire is found to be high, the Board of County Commissioners, after consulting with the Sheriff and County Rural Fire Chief, may order an immediate fire ban by Resolution adopted at a regular or special meeting of the Board of County Commissioners.

Section 3. DEFINITION OF OPEN FIRE: For purposes of this Ordinance, "open fires" shall be defined as any out door fire, including but not limited to camp fires, warming fires, fires in trash barrels or other trash receptacles, and the burning of fence lines or rows, fields, farm lands, irrigation ditches, range lands, wild lands, trash and debris.

Section 4. UNLAWFUL ACTS: Except as set forth in Section 5, it shall be unlawful for any person to build, maintain, attend or use an open fire or conduct an open fire in the unincorporated areas of Prowers County including public, private, state and federal lands.

Section 5. EXCEPTIONS: The following shall be excepted from the provisions of Section 4 of this Ordinance:

- a. Fireworks displays which have been properly permitted.
- b. Fires contained within liquid-fueled or gas-fueled stoves or grills, fireplaces within buildings, charcoal grill fires which are immediately adjacent to a residential or commercial area, fires in wood burning stoves, fires in permanently constructed stationary masonry or metal fireplaces, and burning of trash in barrels, receptacles or other containers if fitted with a top screen to contain embers.

- c. Burning of explosive wastes by the manufacturer of explosives in areas zoned for industrial use, when the burning is supervised by a fire department or fire protection district.
- d. Open fires or open burning by any federal, state or local officer, or member of an organized fire protection district or department in the performance of an official fire suppression or training function.
- e. Small recreational fires at developed picnic or campground sites contained in permanent fire pits or fire grates with flame lengths not in excess of four feet and which are supervised by a responsible party at least 21 years of age; provided that the Sheriff has determined such fires will not be detrimental to the predicted fire danger conditions. If the Sheriff has determined that such fires may increase the fire danger risk in the County, such fires shall not be excepted from the provisions of Section 4.
- f. Open fires which have been approved by permit from the Prowers County Rural Fire Chief, who can be reached through the Prowers County Dispatch at 719-336-3977.
- g. Agricultural burning, provided notice of burning has been given to Prowers County Rural Fire Chief.
- h. All fires described in this Section 5 must be personally supervised and not left unattended.

Section 6. PENALTIES: Any person who violates this Ordinance commits a class 2 petty offense under C.R.S. 30-15-402(1) and, upon conviction thereof, shall be punished by a fine of not more than six hundred dollars for each separate violation. Costs of suppression of any fire for which a violator is convicted, together with attorney fees and costs incurred by the Board of County Commissioners in the prosecution of said violation, shall be assessed to the violator as restitution. Any law enforcement officer may follow the penalty assessment procedure provided in C.R.S. 16-2-201 for any such violation.

Section 7. 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, C.R.S. 18-13-109, or any other applicable statute, ordinance, rule, order or regulation.

Section 8. 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 9. 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 Prowers County, Colorado.

Section 10. EFFECTIVE DATE: This Ordinance shall be effective immediately, and shall remain in effect until such time as this Ordinance is amended, temporarily suspended or repealed. This effective date is necessary to the immediate preservation of the public health or safety from the imminent potential danger from wildfire. The Board, by Resolution, may temporarily suspend, in whole or in part, this Ordinance from time to time should the fire danger in Prowers County decrease. Likewise, the Board may reinstate this Ordinance, by Resolution, after it has been temporarily suspended.

INTRODUCED, READ AND ADOPTED ON FIRST READING THIS 11th day of April, 2006, and ordered published in full in the Lamar Daily News in Lamar, Prowers County, Colorado.

ADOPTED ON SECOND AND FINAL READING, as amended, this 11th day of May, 2006, and ordered published in full in the Lamar Daily News in Lamar, Prowers County, Colorado.

PROWERS COUNTY BOARD OF
COMMISSIONERS

By George Mauch
Leroy E. Mauch, Chairman

Clede Widener
Clede Widener

Gene Millbrand
Gene Millbrand

ATTEST:

By Dorothy J. McCaslin
Dorothy J. McCaslin, County Clerk