

ORDINANCE NO. 2023-0822

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF MOFFAT, STATE OF COLORADO**

MOFFAT COUNTY OPEN FIRE AND OPEN BURNING RESTRICTION ORDINANCE

WHEREAS, the Board of County Commissioners of the County of Moffat ("Board"), pursuant to Sections 30-11-107(1)(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 Moffat County; and

WHEREAS, pursuant to Section 30-15-401(1)(n.5)(I), 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; 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 Moffat 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 grass fires, and to assume charge or assist other governmental authorities in controlling or extinguishing grass or prairie fires; and

WHEREAS, the Sheriff has appointed a Fire Management Officer to act on his behalf in matters relating to fire prevention and fire control in Moffat County; and

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

WHEREAS, the Sheriff, through the Fire Management Officer, monitors fire weather conditions and fire danger ratings; and

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

WHEREAS, objective criteria have been developed among cooperating counties, and state and federal agencies; and

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

WHEREAS, the Board finds that competent evidence indicates that the danger of grass and prairie fires in Moffat County is periodically high, and therefore it is necessary to the preservation of the public health, safety, and welfare of the citizens of Moffat County to impose a restriction on all open fires and open burning within the unincorporated areas of Moffat County when the danger of grass and prairie fires in Moffat County is high;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF MOFFAT AS FOLLOWS:

Section 1. Repeal and Re-Enactment.

The Board of County Commissioners hereby repeals any ordinances or resolutions which concern the same subject matter of this Ordinance, and are inconsistent with this Ordinance.

Section 2. Title

This ordinance shall be known and referred to as the "Moffat 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 Moffat County, Colorado, by restricting open fires and open burning in the unincorporated areas of Moffat County in order to prevent grass and prairie fires when conditions indicate the high danger of such fires as a result of atmospheric conditions, including lack of moisture, and other local conditions in Moffat 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 Moffat County, Colorado, by restricting open fires and open burning in the unincorporated areas of Moffat County in order to prevent grass and prairie fires given the high danger of such fires in Moffat 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 Moffat 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 7. Definitions

Open fire or open burning: For purposes of this Ordinance, open fires or open burning shall be defined as any outdoor fire, 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, fireworks of all kinds or brands, and the prescribed burning of fence lines or rows, fields, farmlands, rangelands, trash, and debris.

Fire Restriction Evaluation Guidelines: The set of evaluation criteria currently in use by local Federal, State and local fire suppression/management agencies for monitoring fuel moisture levels, fire danger class, current impacts on suppression resources, current fire cause types, fire weather forecasts, and other indicators of predicted fire danger.

Stage I Restrictions: Prohibits the following activities:

1. Open burning, excepting fires and campfires within permanently constructed fire grates in developed campgrounds and picnic grounds, charcoal grills and wood burning stoves at private residences in areas cleared of all flammable materials, and those other exceptions/exemptions as noted in Section 9.
2. Using explosive material: (i.e.: fireworks, blasting caps or any incendiary device which may result in the ignition of flammable material).
3. Welding or operating an acetylene or other torch with an open flame; except within an area that is barren or cleared of all flammable material at least 10 feet on all sides from the equipment and possess a chemical pressurized five-pound fire extinguisher and one round pointed shovel with an overall length of at least 36 inches. The extinguisher and shovel may be kept with the welding supplies but must be readily available for quick use.
4. Outdoor smoking except within an enclosed vehicle or building, 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.
5. Operating or using any internal combustion engine without a spark arresting device properly installed, maintained and in effective working order.

Stage II Restrictions: Prohibits the following activities:

1. All open burning as defined, other than those exceptions/exemptions as noted in Section 9.
2. Using explosive material: (i.e.: fireworks, blasting caps or any incendiary device which may result in the ignition of flammable material.)
3. Outdoor smoking except within an enclosed vehicle or building.
4. Welding, or operating an acetylene or other similar torch with open flame.
5. Operating or using any internal combustion engine without a spark arresting device properly installed, maintained and in effective working order.
6. Operating a chainsaw without a chemical pressurized fire extinguisher of not less than 8 ounces capacity by weight, and one size 0 or larger round pointed shovel with an overall length of at least 36 inches. The extinguisher shall be with the chainsaw operator. The shovel may be kept with the fueling supplies but readily available.

Section 8. Unlawful Acts

During Stage I or Stage II Restrictions, it shall be unlawful for any person to build, maintain, attend or use an open fire, conduct an open burn, conduct sales of fireworks, or engage in outdoor smoking other than as excepted, in the unincorporated areas of Moffat County, including public, private, state, and applicable federal lands.

Section 9. Exceptions/Exemptions

The following shall not be in violation of Section 8:

- 9.1. Commercial or community fireworks displays properly permitted.
- 9.2. The following are exempt from this ordinance:
 - A. Fires contained within liquid-fueled or gas-fueled stoves.
 - B. Indoor fireplaces and wood-burning stoves.
 - C. Outdoor charcoal grills, fire pits within commercially constructed fire pits and wood-burning stoves during Stage 1 Restrictions, providing they are at developed campgrounds or private residences and in an area cleared of all flammable materials including dry vegetation.
- 9.3. The burning of irrigation ditches in the designated areas is prohibited by this Order EXCEPT for ditches located within, and completely surrounded by, irrigated farmlands where such burning is necessary for crop survival. Prior to such excepted ditch burning, written authorization must be obtained from the Sheriff by and through the Fire Management Officer.
- 9.4. Persons with written authorization, a permit from the Sheriff by and through the Fire Management Officer specifically authorizing the otherwise prohibited act or omission.
- 9.5. Any federal, state, or local officer, or member of an organized rescue or firefighting force, in the performance of an official duty.
- 9.6. Any further exemptions to either the meaning of terms or the enforcement of this Ordinance shall be granted only by the Sheriff, through the Fire Management Officer, or for exemptions upon or within state or federal lands located within Moffat County, by the administering state or federal agency, and only if the proposed action is deemed by the Moffat County Sheriff, through the Fire Management Officer, to be safe and mitigable.

Section 10. Implementation of Stages

The Sheriff or his designee, Fire Management Officer shall monitor fire danger, fuel moisture, adverse weather conditions, suppression resource availability and high occurrence of human caused fires and coordinate with Federal, State and local fire agencies to determine the appropriate stage of restrictions. Moffat County uses the Fire Restriction Evaluation Guidelines developed in cooperation with U.S Forest Service, BLM, State and Local Fire Agencies. When the Fire Restriction Evaluation Guidelines

recommends enforcement of this ordinance, Stage I Restrictions should be initiated or reinstated, or restrictions should be changed to Stage II Restrictions.

Section 11. Declaration of an Open Fire Ban.

The Moffat County Board of County Commissioners or the Moffat County Sheriff, or his designee Fire Management Officer, shall have the authority to declare an open fire ban whenever the criteria are met as set forth in the Fire Restriction Evaluation Guidelines without further proceedings or resolution. Any declaration of an open fire ban made pursuant to this section shall specify the Stage level restriction, the parameters of the ban and the duration of the ban as deemed necessary and appropriate, and shall be promptly published through a general press release to local radios and print media, as well as posting on the Moffat County internet website. Likewise, when conditions indicate a reduction or increase in restrictions, or the suspension or release of restrictions, the same notification to the public shall occur.

Section 12. Enforcement Agencies/Prosecution

- 12.1 This Ordinance shall be enforced by the Sheriff, through his Deputies, including the Fire Management Officer, by any peace officer as defined by Colorado statute, 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 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 Moffat County or the state or federal administering agency to be safe or mitigable.
- 12.2 Prosecution may be brought against a violator in accordance with Sections 30-15-402 C.R.S., 30-15-402(1) 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.
- 12.3 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.
- 12.4 Any person who violates this Ordinance from the effective date commits a civil infraction under Section 30-15-402(1), C.R.S., and, upon conviction or confession of guilt thereof, shall be punished by a fine of not more than two hundred dollars (\$200.00) during Stage I Restrictions, or six hundred dollars (\$600.00) during Stage II Restrictions, 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 wishes to confess guilt and, pursuant to the penalty assessment procedure, pay a fine in the amount of one hundred dollars (\$100.00) during Stage I Restrictions, or three hundred dollars (\$300.00) during Stage II Restrictions, plus the ten dollar (\$10.00) surcharge.
- 12.5 All fines paid for the violation of this Ordinance shall be in negotiable funds made payable to Moffat County and submitted to the Moffat County Sheriff's Office, 800 West 1st Street, Craig,

Colorado 81625. All fines for the violation of this Ordinance received by the County shall be remitted to the Moffat County Treasurer and deposited into the general fund of Moffat 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 Fourteenth Judicial District of the State of Colorado pursuant to Section 30-15-402(2) C.R.S.

Section 13. 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 14. Safety Clause

The Board hereby finds, determines, and declares that this ordinance is necessary for the preservation and protection of the health, safety, and welfare of the citizens of Moffat County, Colorado.

Section 15. Effective date

This Ordinance shall be effective after it has been adopted and approved by the Moffat County Board of County Commissioners at a Second and Final Reading. It shall remain in effect until this Ordinance is amended or repealed by the Board, or enforcement is temporarily suspended by the Board, Sheriff or his designee Fire Management Officer. The Moffat County Board of County Commissioners or the Moffat County Sheriff, or his designee Fire Management Officer, shall have the authority to declare an open fire ban within unincorporated areas of Moffat County whenever the criteria are met as set forth in the Fire Restriction Evaluation Guidelines without further proceedings or resolution. Likewise, the Board, Sheriff or his designee Fire Management Officer 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 Craig Daily Press and on the Moffat County website.

Section 16. 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 17. Repeal of Conflicting Provisions

On the Effective date of this Ordinance, all former County ordinances, resolutions, rules or regulations, or parts thereof, in conflict with this Ordinance are hereby repealed.

FIRST READING:

INTRODUCED, READ, AND ORDERED PUBLISHED BY THE BOARD OF COUNTY COMMISSIONERS OF MOFFAT COUNTY UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD ON THE 22ND DAY OF AUGUST, 2023.

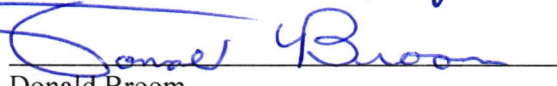
MOFFAT COUNTY BOARD OF COUNTY COMMISSIONERS, MOFFAT COUNTY, COLORADO



Tony Bohrer, Chairman



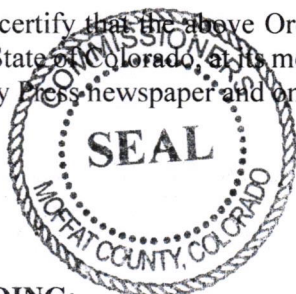
Melody Villard

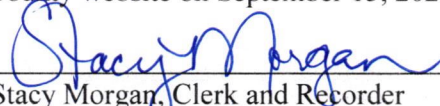


Donald Broom

I hereby certify that the above Ordinance was introduced to the Board of County Commissioners of Moffat County, State of Colorado, at its meeting of August 22, 2023 and ordered published one (1) time in full in the Craig Daily Press newspaper and on the Moffat County website on September 15, 2023.

ATTEST:



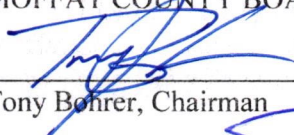


Stacy Morgan, Clerk and Recorder
Moffat County, Colorado

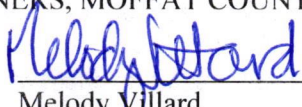
SECOND READING:

FINALLY ADOPTED, PASSED, APPROVED WITH AMENDMENTS, IF ANY, AND ORDERED PUBLISHED BY TITLE ONLY IN THE CRAIG DAILY PRESS AND ON THE MOFFAT COUNTY WEBSITE UPON A MOTION DULY MADE, SECONDED, AND PASSED AT ITS MEETING HELD ON THE 24TH DAY OF OCTOBER, 2023, AFTER BEING PREVIOUSLY INTRODUCED, READ AND ADOPTED ON FIRST READING ON AUGUST 22, 2023, AND PUBLISHED IN THE CRAIG DAILY PRESS ON THE 15TH DAY OF SEPTEMBER, 2023.

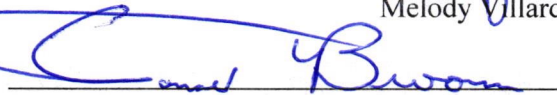
MOFFAT COUNTY BOARD OF COUNTY COMMISSIONERS, MOFFAT COUNTY, COLORADO



Tony Bohrer, Chairman



Melody Villard



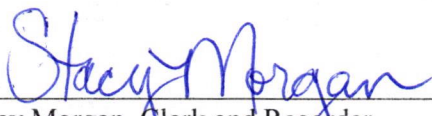
Donald Broom

I hereby certify that the above Ordinance was finally adopted by the Board of County Commissioners of Moffat County, State of Colorado, at its meeting of October 24th, 2023 and ordered published one (1) time by title only in the Craig Daily Press newspaper and on the Moffat County website on the 15th day of September, 2023.

ATTEST:



(SEAL)



Stacy Morgan, Clerk and Recorder
Moffat County, Colorado