

Resolution No.: 38-2012

**RESOLUTION
OF
THE BOARD OF COUNTY COMMISSIONERS
OF MONTROSE COUNTY, COLORADO
DECLARING A
STAGE II FIRE HAZARD EMERGENCY AND ADOPTING INCREASED FIRE
RESTRICTIONS**

WHEREAS, the Board of County Commissioners of Montrose County (“the Board”) enacted Ordinance No. 1-02 to provide for the ban of open fires, contained open fires, fireworks and public fireworks displays in the unincorporated areas of Montrose County when the danger of forest or grass fires is found to be high; and

WHEREAS, on May 31, 2012, the Board adopted Resolution 32-2012, in accordance with Ordinance No. 1.02, finding that there is a danger of wildfire based on competent evidence and imposing a fire ban PROHIBITING open fires, contained open fires, fireworks and public fireworks displays as stated in said Resolution; and

WHEREAS, on June 14, 2012, the Governor of the State of Colorado issued Executive Order D 2012-015 banning open burning throughout the State of Colorado, which order sets the minimum fire restrictions applicable to all lands within the state, but does not supersede more comprehensive or stricter fire bans adopted by counties within the State; and

WHEREAS, said Executive Order directs county sheriffs to enforce the Order pursuant to CRS 23-31-306; and

WHEREAS, pursuant to CRS 30-10-512, 30-10-513, 30-10-513.5 and other applicable legal authority, the Sheriff of Montrose County, acting in his capacity as the fire warden for the County, presented competent evidence of the imminent danger of wild fire in support of the adoption of Resolution 32-2012; and

WHEREAS, this Board relies on the Sheriff as fire warden to evaluate the current fire hazard conditions in Montrose and to make a determination as to the level of fire restrictions appropriate to the conditions; and

WHEREAS, since the adoption of Resolution 32-2012 on May 31, 2012, weather conditions have remained extremely hot, dry and windy and such conditions are forecast to continue or worsen for the foreseeable future, creating an even greater risk of wildfire hazard than existed on that date; and

WHEREAS, the Sheriff recommends that the Board adopt a more restrictive limitation on activities that pose a significant risk of starting a fire; and

WHEREAS, the Board finds based on competent evidence that a high to extreme fire danger exists in Montrose County and there is an imminent threat of the occurrence of widespread and destructive wildfires in Montrose County; and

WHEREAS, the Board finds it necessary for the preservation of the public health, safety and welfare and for the purpose of reducing the imminent threat of widespread and destructive wildfires that it repeal Resolution 32-2012 and adopt more restrictive and comprehensive limitations on activities that pose a significant risk of causing fires.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF MONTROSE, STATE OF COLORADO that:

- A. DECLARATION OF FIRE HAZARD EMERGENCY.** Based on competent evidence of high fire danger as presented to the Board by the Sheriff of Montrose County in the adoption of Resolution 32-2012 and based on further competent evidence presented by the Sheriff of Montrose County of the high fire danger in Montrose County, a fire hazard emergency is declared for all the unincorporated areas of Montrose County.
- B. STAGE II FIRE RESTRICTIONS.** The Board hereby adopts Stage II Fire Restrictions for the unincorporated areas of Montrose County, Colorado strictly prohibiting and making it unlawful for any person to engage in any activity that poses a significant risk of starting a wildfire, including without limitation:
1. Building, maintaining, attending or using any fire or campfire, charcoal grill, coal or wood burning stove. This includes without limitation all developed camping and picnic grounds.
 2. Smoking or disposing out of doors any burning object, including without limitation cigarettes, cigars or matches.
 3. Using fireworks or any explosive requiring fuse or blasting caps, including without limitation fireworks, rockets and exploding targets. All public and private fireworks displays are prohibited unless approved in writing by the Sheriff **and** other jurisdictional entities.
 4. Sale or selling of fireworks in the unincorporated area of Montrose County.
 5. Operating a chainsaw without an approved spark arrester and without a chemical pressurized fire extinguisher of not less than 8 ounces capacity by weight, and without one "O" or larger round point shovel with an overall length of at least 36 inches. The extinguisher will be with the equipment operator. The shovel may be kept with fueling supplies readily available for use.
 6. Welding, or operating an acetylene or other torch with open flame.
 7. Inflating and propelling hot air balloons.

C. **EXCEPTIONS:** Except as may otherwise be provided in Executive Order D 2012-015, as amended, or other applicable law, rule or regulation, or Resolution of the Board of County Commissioners of Montrose County, the following activities are authorized in Montrose County, Colorado:

1. Welding by a person possessing a current permit, contract or letter of authorization from the Montrose County Sheriff **and** any other entity within whose jurisdiction or on whose property the activity is proposed, including municipalities, fire districts, metropolitan districts, resorts, private property owners, or the United States Forest Service when the subject welding area is barren or cleared of all flammable materials at least ten feet on all sides from equipment.
2. Fires contained within liquid-fueled or gas fueled stoves.
3. Smoking within an enclosed vehicle, trailer, building or tent.
4. Engaging in any activity by persons with a permit or letter of authorization from the Montrose County Sheriff **and** any other entity within whose jurisdiction or on whose property the activity is proposed including municipalities, fire districts, metropolitan districts, resorts, private property owners, or the United States Forest Service that specifically authorizes the prohibited act or omission.
5. Fires in fireplaces or stoves within all buildings.
6. Fires caused or administered by any Federal, State or local officer or member of an organized rescue or firefighting force in the performance of an official duty.

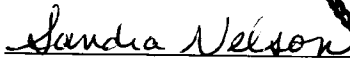
D. **ENFORCEMENT:** This Resolution shall be enforced in the unincorporated areas of Montrose County by the Montrose County Sheriff's Office. Pursuant to Executive Order 2012-015 the Montrose County Sheriff shall enforce applicable provisions of Executive Order 2012-015, as amended, throughout the geographical boundaries of Montrose County. Violations hereof shall be punished in accordance with the terms of Montrose County Ordinance No. 1-02 or any other applicable law, regulation or restriction. In the event of a conflict between applicable penalties for violations or where alternative penalties for violation are available, the more severe penalty shall apply.

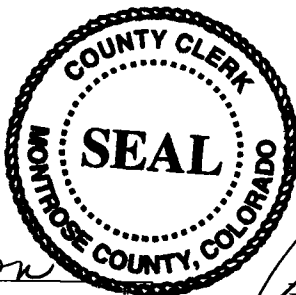
E. **DELEGATION OF AUTHORITY TO SHERIFF:** For the duration of this Resolution, the Board hereby delegates to the Sheriff of Montrose County authority to determine the level of fire restrictions that are appropriate to the current wildfire hazard conditions. With this delegation of authority, the Sheriff is hereby authorized, in the exercise of his judgment, to increase the level of fire restrictions to a Stage III level, by eliminating any of the exemptions for certain fires/burning that are permitted under Stage II fire restrictions and authorized under this Resolution, or to reduce the restrictions to a Stage I level upon written notice of such determination(s) to this Board, with such notice to specify what fires/burns are prohibited or authorized or which exemptions are eliminated as appropriate to the conditions.

- F. **SEVERANCE CLAUSE:** If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unenforceable, such invalid section, subsection, sentence, clause or phrase shall be severed from this Resolution and such invalidity or unenforceability shall not affect the validity or enforceability of the remaining portions of this Resolution, and the remaining portions of this Resolution shall be read and enforced as if they comprise the entirety of the Resolution hereby adopted and restrictions enacted.
- G. **REPEAL:** Resolution 32-2012 adopted May 31, 2012 is hereby repealed and replaced with this Resolution, except that this repeal of Resolution 32-2012 shall not affect or prevent the prosecution or punishment of any person cited for violation of that Resolution prior to the effective date of this Resolution.
- H. **EXECUTIVE ORDER D 2012-015:** In no event shall this Resolution or any provision of this Resolution be interpreted to supersede any more restrictive provision of Executive Order D 2012-015 or any other Executive Order duly issued by the Governor of the State of Colorado. However, any provision of this Resolution that is more restrictive than any such Executive Order, including but not limited to D 2012-015, shall be duly and lawfully enforced in the unincorporated area of Montrose County.
- I. **EFFECTIVE DATE:** This Resolution is necessary for the preservation of the public health, safety, and welfare due to the extreme fire hazard in Montrose County and shall take effect immediately upon adoption and shall remain in effect until repealed or modified by the Board.

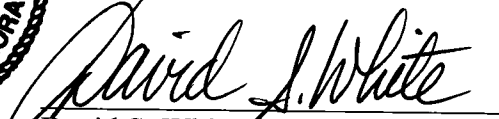
Adopted this 27th day of June, 2012.

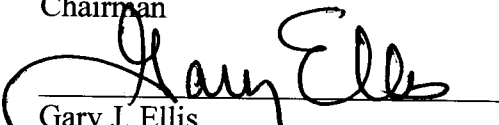
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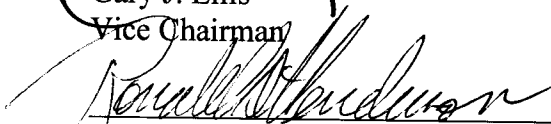

Sandra Nelson
Deputy Clerk to the Board



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