RESOLUTION 2020-37
A RESOLUTION TO IMPLEMENT A FIRE BAN IN BOULDER COUNTY PURSUANT TO THE DECLARATION OF LOCAL DISASTER EMERGENCY AND AMENDING AND SUPERSEDING IN ITS ENTIRETY RESOLUTION 2020-36

Recitals

A. The Governor of the state of Colorado and the President of the United States, declared state and national emergencies on March 10, 2020 and March 13, 2020 respectively; and

B. On March 14, 2020, the Board of County Commissioners (BOCC) of Boulder County declared a disaster pursuant to C.R.S. § 24-33.5-709 as a result of the ongoing COVID-19 pandemic; and

C. The Boulder County Board of County Commissioners have granted their authority to issue fire bans in the County to the Boulder County Sheriff, pursuant to Boulder County Ordinance 2018-1 under normal circumstances and have sought his input for this resolution; and

D. The Sheriff believes the same concerns exist for unincorporated Boulder County as were raised by the Forest Service in implementing its ban, including the protection of the public health, safety, and natural resources by preventing wildfires, as firefighting and law enforcement resources are limited, during the COVID-19 pandemic, a ban is necessary in unincorporated Boulder County; and

E. The United States Department of Agriculture Forest Service Rocky Mountain Region has implemented fire restrictions in the Arapaho and Roosevelt National Forests (both within unincorporated Boulder County) including igniting, building, maintaining, attending or using a fire, including charcoal grills and barbecues, coal and wood burning stoves and sheepherder’s stoves 36 CFR § 261.52(a), and smoking, except within an enclosed vehicle, trailer, or building. 36 CFR § 261.52(c), see Order #: R2-2020-02 attached hereto as Exhibit A; and

F. The BOCC agrees that under its authority to promote and protect the public health, safety and welfare of unincorporated Boulder County pursuant to C.R.S. § 30-15-401, et seq., the authority to adopt and enforce ordinances and resolutions regarding health, safety, and welfare pursuant to C.R.S. § 30-11-101(2); is appropriate to implement a local fire ban pursuant to the declaration of a local disaster emergency for unincorporated Boulder County; and

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Level 1 Fire Restrictions are now in effect and include the mountain area of Boulder County. The mountain area includes any and all unincorporated areas of
Boulder County west of Colorado Highway 93 from its intersection with the southern boundary of Boulder County up to and including its intersection with Colorado Highway 119; west of Broadway Avenue in the City of Boulder from its intersection with Colorado Highway 119 up to and including its intersection with United States Highway 36; west of United States Highway 36 from its intersection with Broadway Avenue up to its intersection with the northern boundary of Boulder County; west of the western boundary of Rabbit Mountain Open Space up to and including United States Highway 36; and all of Rabbit Mountain Open Space.

2. **Definitions:**
   Open Fires: For the purposes of this order, “open fires” shall mean any activity that produces or maintains, or attempts to produce or maintain, spark or flame or ignition. “Open fires” does not include fires wholly contained within an enclosed building or vehicle that are used in a safe manner and that do not permit any flame, spark or burning or ignited material to exit such building or vehicle.
   Undeveloped Lands: Lands that are not groomed, manicured, or watered, where grasses, brush and trees have been allowed to grow in a natural environment. This includes green belts that are not landscaped or manicured, open space lands, non-manicured park lands, and other areas where the fire hazard presented by the vegetation is determined to be an undue wildland fire hazard.

3. **PROHIBITIONS**
   a. Building, maintaining, attending, or using an open fire, campfire, or stove fire. This includes charcoal barbecues and grills.
   b. EXCEPT: Building, maintaining, attending or using a fire in constructed, permanent fire pits or fire grates within developed recreation sites, and on private lands along with the use of portable stoves, lanterns using gas, jellied petroleum, pressurized liquid fuel or a fully enclosed (sheepherder type) stove with a ¼” spark arrester type screen is permitted.
   c. Fireworks sales, use, and possession, including permissible fireworks.
   d. Smoking, except in 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.
   e. Operating a chainsaw without a USDA or SAE approved spark arrester properly installed and in effective working order, a chemical pressurized fire extinguisher kept with the operator and one round point shovel with an overall length of at least 35 inches readily available for use.
   f. Shooting or discharge of firearms for recreational purposes except for hunting with a valid and current hunting license on public lands.
g. Welding or operating acetylene or other torch with open flame except in cleared areas of at least 10 feet in diameter and in possession of a chemical pressurized fire extinguisher.

h. Using an explosive.

4. These Level 1 Fire Restrictions shall be in effect from the date of adoption until such time as this Resolution is rescinded or amended by the Board of County Commissioners of Boulder County, except that these restrictions shall not remain in effect for more than one year after the date of adoption.

5. These Level 1 Restrictions shall not be construed as diminishing or reducing restrictions enacted by incorporated municipalities, the State of Colorado, or state or federal land management agencies regarding areas of Boulder County under their respective control or management.

6. Any person who violates this fire ban commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of five hundred dollars ($500) for a first offense, seven hundred and fifty dollars ($750) for a second offense, and one thousand dollars ($1000) for a third and any subsequent offense. The penalty assessment procedure provided in Colorado Revised Statutes § 16-2-201 shall be followed by the arresting deputy sheriff or other officer for any violation of this fire ban, and the graduated fine schedule set forth herein shall be followed when issuing any summons and complaint in accordance with such procedure.

7. These Level 1 Fire Restrictions shall be enforced by the Boulder County Sheriff.

8. Nothing in this order shall apply to an officer of federal, state, or local government or to a member of an organized rescue, police, or firefighting agency in the performance of an official duty.
Signed and effective this 9 day of April 2020 at 12:00 noon.

BOARDOF COUNTY COMMISSIONERS
OF BOULDER COUNTY:

Deb Gardner, Chair

ATTEST:

Michelle Krezek
Chief of Staff

BOULDER COUNTY SHERIFF

Joseph K. Pelle, Sheriff
EXHIBIT A

Order #: R2-2020-02

FOREST ORDER
UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
ROCKY MOUNTAIN REGION

FIRE RESTRICTIONS

Pursuant to 16 U.S.C. § 551 and 36 CFR § 261.50 (a) and (b), the following acts are prohibited on all National Forest System lands administered as National Forests or National Grasslands within the Rocky Mountain Region (Region 2) of the United States Department of Agriculture, Forest Service in the States of Colorado, Kansas, South Dakota, and Wyoming.

This Regional Order is supplemental to and does not rescind or replace those restrictions at 36 C.F.R. § 261 Subpart A, and/or any Forest Supervisor Order issued under 36 C.F.R. § 261 Subpart B. The purpose of this Order is to protect public health, safety, and natural resources by preventing wildfires, as Firefighting and Law Enforcement resources are limited, during the COVID-19 pandemic. COVID-19 has been declared a National Emergency.

National Forests (“NF”) and National Grasslands (“NGL”):

COLORADO
- Arapaho & Roosevelt NF
- Grand Mesa, Uncompahgre, and Gunnison NF
- Routt NF
- Pike & San Isabel NF
- Rio Grande NF
- San Juan NF
- White River NF
- Comanche NGL
- Pawnee NGL

KANSAS
- Cimarron NGL

NEBRASKA
- Nebraska & Samuel R. McKelvie NF
- Oglala NGL

SOUTH DAKOTA
- Black Hills NF
- Buffalo Gap NG
- Fort Pierre NGL

WYOMING
- Bighorn NF
- Medicine Bow NF
- Shoshone NF
- Thunder Basin NGL
- Black Hills NF

PROHIBITIONS: This Order prohibits the following acts in the Areas listed above:

1. Igniting, building, maintaining, attending or using a fire, including charcoal grills and barbecues, coal and wood burning stoves, and shepherder’s stoves. 36 CFR §261.52(a).

2. Smoking, except within an enclosed vehicle, trailer, or building. 36 CFR § 261.52(c).

EXEMPTIONS:

Pursuant to 36 CFR § 261.50(e), the following persons are exempt from specified Prohibitions of this Order:

1. Persons with a Forest Permit, Form FS-7700-48, specifically exempting them from the
effect of this Order in the areas listed above.

2. Any Federal, State or local officer or member of an organized rescue or firefighting force in the performance of an official duty is exempt from Prohibitions.

3. Persons using pressurized liquid or gas devices (stoves, grills or lanterns) with shut-off valves in an area at least three feet from any flammable materials are exempt from Prohibition #1.

4. Residents, owners or lessees within the areas listed above who are using a fire in a permanent dwelling with an effective and properly installed USDA- or SAE- approved spark arrestor, are exempt from Prohibition #1.

Notice regarding Exemptions: Holders of valid Forest Service permits, leases and authorizations and all other persons are on notice that when proceeding with activities that are authorized pursuant to these Exemptions, such persons are responsible for conducting authorized activities in a safe and prudent manner using extra precautions and are electing to proceed at their own risk. An exemption does not absolve an individual or organization from liability or responsibility for damage, injury or loss to the United States for any fire started while undertaking the exempted activity.

This Order will be in effect from 12:01 am on April 7th, 2020 and will remain in force until May 31st, 2020 or until rescinded, whichever event occurs first.

Executed in Lakewood, Colorado this 7th day of April, 2020.

A violation of the prohibitions in this Order is punishable as a Class B misdemeanor by a fine of not more than $5,000 for an individual or $10,000 for an organization, or imprisonment for not more than 6 months, or both. (16 U.S.C. § 551 and 18 U.S.C §§ 3559 and 3571).