

ORDINANCE #5690

**AN EMERGENCY ORDINANCE TEMPORARILY BANNING CERTAIN
OUTDOOR FIRES WITHIN THE CITY OF LOVELAND**

WHEREAS, on June 14, 2012, Governor John W. Hickenlooper issued Executive Order D 2012-015 pursuant to C.R.S. § 23-31-308 imposing a statewide ban on "open burning" in Colorado (the "Executive Order"); and

WHEREAS, Governor Hickenlooper states in his Executive Order that he issued it to address the high fire danger that currently exists throughout much of Colorado, citing in particular the ongoing High Park Fire here in Larimer County; and

WHEREAS, on June 19, 2012, the Larimer County Commissioners adopted Resolution No. 06192012R004 (the "County Resolution") which, among other things, enacted for unincorporated Larimer County a temporary ban on "open fires" and "contained open fires," as these terms are defined in the Resolution, effective through September 30, 2012; and

WHEREAS, "open fires" are defined in the County Resolution to include, among other things, "any open burning," such as camp and cooking fires, welding, and operating an acetylene or other torch with open flame, but not to include fires in camp stoves or grills fueled by bottled gas or pressurized liquid that are designed for cooking or heating or fires in commercially operated wood and/or charcoal fueled grills designed for cooking; and

WHEREAS, "contained open fires" are defined in the County Resolution to include, among other things, fires in permanently constructed stationary masonry or metal fireplaces located outdoors, but not to include fireplaces or wood stoves located inside permanent structures; and

WHEREAS, the City's Fire Code, as adopted in City Code Chapter 15.28, ("Fire Code") currently regulates in Fire Code Chapter 3 "bonfires," "open burning," "recreational fires" and "portable outdoor fireplaces," as these terms are defined in the Fire Code, but some of these outdoor fires are not necessarily prohibited in the City; and

WHEREAS, certain outdoor fires currently represent an unacceptable risk to the public's health, safety and welfare considering the hot, dry and windy weather conditions that have existed in the City and Larimer County for the past few weeks and that are forecast to continue to exist for the foreseeable future; and

WHEREAS, the City is authorized under its home rule powers and C.R.S. §§ 31-15-401(q) and 31-15-601 to prohibit and ban outdoor fires; and

WHEREAS, the Council has determined that it is necessary for the public's health, safety and welfare that this Emergency Ordinance be adopted to temporarily ban certain types of outdoor fires as hereafter provided, with this ban to expire when Governor Hickenlooper rescinds

the Executive Order or earlier if the Council hereafter determines by ordinance that the fire danger in the City has subsided.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That the preceding recitals contained in this Ordinance are hereby adopted and incorporated by reference as findings of fact of the City Council.

Section 2. That allowing certain outdoor fires within the City during the current and forecasted weather conditions creates a very high risk of fire danger within the City and areas surrounding the City, as clearly evidenced by the High Park Fire and, therefore, an emergency exists requiring the immediate passage of this Ordinance for the preservation of the health, safety and welfare of the citizens of Loveland.

Section 3. That notwithstanding any provision to the contrary in Chapter 3 of the Fire Code or any other provision of the Fire Code and the City Code, until the Executive Order is rescinded or such earlier date as may hereafter be established by ordinance of the City Council, it shall be unlawful and a violation of this Ordinance for any person to start or maintain any outdoor fire within the City that creates an unreasonable risk to the public's health, safety and welfare under the weather and extreme fire danger conditions now existing in Larimer County, which shall include, without limitation, any of the following:

- (A) Bonfire, open burning, or recreational fire, as all are defined in Fire Code § 302.1;
- (B) Fire in a portable outdoor fireplace, as defined in Fire Code § 302.1, also commonly known as a portable fire pit;
- (C) Fire in a stationary and permanent masonry or metal solid-fuel-burning fireplace or fire pit; or
- (D) Welding or operating an acetylene or other torch with open flame.

However, the following outdoor fires shall not be considered a violation of this Ordinance unless any of these outdoor fires is being conducted in such a manner so as to create an unreasonable risk to the public's health, safety or welfare under the weather and extreme fire danger conditions now existing in Larimer County:

- (a) Fire in a gas- or liquid-fueled grill or camp stove;
- (b) Fire in a charcoal- or wood-fueled grill designed for cooking being operated at a private residence or being commercially operated;
- (c) Fire in a stationary and permanent masonry or metal gas-fueled fireplace or fire pit;

- (d) Smoking of a tobacco product provided any unsmoked portion of the product is completely extinguished and safely disposed of in a trash receptacle; or
- (e) Highway flares, railroad fuses, boat distress signals, smoke candles, and other emergency signal devices.

Section 4. Violations of Section 3. of this Ordinance shall be enforced, cited, prosecuted and punished as misdemeanor offenses in accordance with City Code Section 15.28.030B. This Ordinance may be enforced by both the City's fire and police officials.

Section 5. Nothing herein shall be deemed to prohibit the City from conducting its annual Fourth of July professional fireworks display at the City's North Lake Park as currently authorized under applicable law.

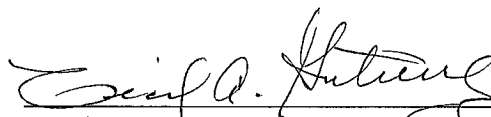
Section 6. That if any section, paragraph, sentence, clause or phrase of this Ordinance is held by the courts to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of and shall be severable from the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each part or parts thereof irrespective of the fact that any one part or parts may hereafter be declared unconstitutional or invalid.

Section 7. That all other City ordinances and City and Fire Code provisions, or portions thereof, which are inconsistent or in conflict with this Ordinance, or any portion hereof, are hereby superseded by this Ordinance and their legal effect shall be held in abeyance until the Executive Order is rescinded or earlier as so determined by the City Council by ordinance.

Section 8. That pursuant to City Charter Section 4-10(b), this Ordinance shall become effective immediately upon its adoption by the City Council.

ADOPTED this 3rd day of July, 2012.

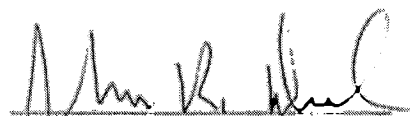



Cecil A. Gutierrez, Mayor

ATTEST

Susan S. Andrews
City Clerk

APPROVED AS TO FORM:


City Attorney

Ordinance #5690

I, Teresa G. Andrews, City Clerk of the City of Loveland, Colorado, hereby certify that the above and foregoing Ordinance was introduced at a regular (or special) meeting of the City Council, held on July 3, 2012 and was initially published in the Loveland Daily Reporter-Herald, a newspaper published within the city limits in full on July 7, 2012 and by title except for parts thereof which were amended after such initial publication which parts were published in full in said newspaper on – n/a emergency ordinance.

City Clerk

Effective Date: July 3, 2012