

SUBJECT

Emergency Ordinance No. 065, 2012, Banning Open Burning in the City.

EXECUTIVE SUMMARY

Fire danger is at an all-time high, which is evident with the High Park fire and others in the State. Governor Hickenlooper and the Larimer County Board of Commissioners have implemented bans on open fire and the sales and use of fireworks. Poudre Fire Authority (PFA) staff has worked with the Governor and the Commissioners to impose these bans. By the adoption of the International Fire Code, the City of Fort Collins already bans the sales, use and possession of fireworks. The county-wide ban covers the areas within the Poudre Valley Fire Protection District; however, there is no ban imposed within the City that can be enforced by City personnel or the PFA. Staff feels that a citywide fire ban is necessary to ensure that provisions of the state-wide ban are applicable within the City and can be enforced by Police Services and the PFA, to protect the safety and welfare of its citizens and property.

BACKGROUND / DISCUSSION

On June 14, 2012 Governor Hickenlooper issued an executive order banning open burning in the State of Colorado as a result of high temperatures, dry conditions, the High Park fire and numerous other reported wildfires burning in the state. This ban prohibits campfires, warming fires, charcoal grill fires at locations other than private residences and other activities that pose a significant risk of starting a fire.

The Larimer County Board of Commissioners imposed a total ban of open fire and the sales and use of fireworks on June 19, 2012.

The sales, use, and possession of fireworks in the City of Fort Collins have been banned since the ban was prescribed in the Fire Code over 20 years ago.

Within the City and consistent with the county-wide and state-wide bans, the proposed fire ban would prohibit all open burning except for liquid-fueled or gas-fueled stoves, grills or fireplaces; wood-burning fireplaces contained within buildings; charcoal grills at private residences; and commercial, professional and municipal fireworks displays where specific written approval has been granted by the Fire Chief. This proposed City ban is more restrictive than the Governor's Order in that it does not contain the exception for permanent fire pits or fire grates within developed campgrounds, picnic grounds, or recreation sites. Any fires (including charcoal grills) in those areas, including parks or natural areas, pose a significant risk as many of those areas abut open spaces where we do not have well irrigated grasses, but rather very dry native grass, that can be easily ignited with a single spark. There is also an increased risk within those areas of the charcoal or coals being left unattended and a subsequent wind may well spread the embers to combustible vegetation. Charcoal grills do pose a risk at private residences as well, but the risk is typically less. Most homes have well irrigated lawns and are surrounded by homes with well irrigated lawns. Further, experience shows that the use of charcoal grills at a home is usually attended and monitored by the homeowner and the coals properly disposed of.

Commercial, professional and/or municipal fireworks displays would be allowed with specific written approval from the Fire Chief. The City Park fireworks display provides a safe environment for citizens to enjoy fireworks. The fallout zone of the fireworks as mandated in the national standards (we actually exceed the standards) includes irrigated lands, non-combustible surfaces and City Park Lake. Other commercial and professional displays will be inspected and approved or denied on a case-by-case basis by the Fire Chief.

FINANCIAL / ECONOMIC IMPACTS

No additional costs are anticipated.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance.

EMERGENCY ORDINANCE NO. 065, 2012
OF THE COUNCIL OF THE CITY OF FORT COLLINS
BANNING OPEN BURNING IN THE CITY

WHEREAS, since June 9, 2012, the area immediately west of Fort Collins has been the scene of the High Park Fire, the most catastrophic forest fire in the state's history; and

WHEREAS, as of the date of this Ordinance, the High Park Fire is only 55% contained, has burned over 83,000 acres, and destroyed over 248 homes; and

WHEREAS, on June 14, 2012, pursuant to Article IV, Section 2 of the Colorado Constitution and C.R.S. § 23-31-308, Governor Hickenlooper issued an executive order (the "Order") banning open burning in the state of Colorado as a result of high temperatures, dry conditions, the High Park Fire, and numerous other reported wildfires throughout the state of Colorado; and

WHEREAS, the Order recognizes the ability of Colorado municipalities to enact more comprehensive or inclusive restrictions on open burning; and

WHEREAS, the Fire Chief has recommended that the City Council enact a local ban on open burning that is more restrictive than the ban imposed by the Order and that would be enforceable by City police and Poudre Fire Authority officials, so as to protect the public health, safety and welfare of the citizens of Fort Collins; and

WHEREAS, as a home-rule municipal corporation created and organized pursuant to Article 20 of the Colorado Constitution and the Charter of the City of Fort Collins, the City has the power to impose such a ban; and

WHEREAS, Article II, Section 6 of the City Charter authorizes the City Council to adopt emergency ordinances, which shall be finally passed on first reading by the affirmative vote of at least five members of the City Council and which shall contain the specific statement of the nature of the emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby finds that there presently exists in the City the potential for catastrophic fire events, as evidenced by the High Park Fire and that such situation presents an imminent threat of harm to property and persons within the City.

Section 2. That, in response to such emergency, it is appropriate and necessary in the interests of the public health, safety and welfare for the City Council to impose a ban on open burning in the City.

Section 3. That open burning is hereby prohibited in the City.

Section 4. That, for the purposes of this Ordinance, “open burning” shall mean any outdoor fire, including but not limited to campfires, warming fires, charcoal grill fires, fused explosives, fireworks, and any other activity that poses a significant risk of starting a fire. *Open burning* shall not include:

- (1) fires in liquid-fueled or gas-fueled stoves, grills or fireplaces;
- (2) fires in wood-burning fireplaces that are contained within buildings;
- (3) fires in charcoal grills at private residences;
- (4) commercial, professional and municipal fireworks displays where specific written approval has been granted by the Fire Chief; and
- (5) prescribed or controlled burns for agricultural or irrigation purposes along ditches located within and completely surrounded by irrigated farmlands where such burning is necessary for crop survival and specific written approval has been granted by the Fire Chief.

Section 5. That the provisions of this Ordinance shall be enforceable by the Chief of Police, City police officers, and the Fire Code Officials as defined in the 2006 International Fire Code adopted and amended at Chapter 9 of the City Code.

Section 6. That any person who shall violate or fail to comply with any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished as specified in Subsection (a) of Section 1-15 of the City Code.

Section 7. That any rule or regulation in the City Code or in the 2006 International Fire Code, whether existing at the time of the enactment of this ordinance or subsequent thereto, which addresses open burning, including but not limited to Section 307 of the 2006 International Fire Code as amended, shall be suspended and held in abeyance until this Ordinance is amended or rescinded.

Section 8. That the City Clerk is hereby directed to cause the publication of this Ordinance in the Fort Collins Coloradoan no later than July 3, 2012.

Introduced, considered favorably by five (5) members of the Council of the City of Fort Collins and finally passed as an emergency ordinance and ordered published this 26th day of June, 2012.

Mayor

ATTEST:

Interim City Clerk