

## **ORDINANCE NO. 1777**

### **AN ORDINANCE ESTABLISHING A NEW CHAPTER (CHAPTER 44) WITHIN TITLE 9 (PUBLIC PEACE, MORALS, AND WELFARE), OF THE FOUNTAIN MUNICIPAL CODE, RESTRICTING OPEN FIRES AND OPEN BURNING IN THE CITY OF FOUNTAIN**

**WHEREAS**, the City of Fountain, Colorado is municipal corporation duly organized and operating as a home-rule city under the Constitution of the State of Colorado and the Charter of the City; and

**WHEREAS**, it is in the best interests of the citizens of the City of Fountain (the “City”) to insure the safety of its citizens; and

**WHEREAS**, the City has the authority to regulate and restrain the use of fireworks, firecrackers, torpedoes, roman candles, skyrockets, and other pyrotechnic display pursuant to C.R.S. § 31-15-601(1)(j); and

**WHEREAS**, the City, pursuant to C.R.S § 31-16-101, *et. seq.* and § 1.12.010 of the Fountain Municipal Code, has the governing authority to provide for enforcement of ordinances adopted, by imposing a fine not more than two thousand six hundred fifty dollars (\$2,650), or by imprisonment for not more than one year, or both such fine and imprisonment; and

**WHEREAS**, the State of Colorado including the City of Fountain is at risk for fire as a result of a drought and heat threatening the health, welfare and safety of the City of Fountain residents.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FOUNTAIN, COLORADO AS FOLLOWS:**

**Section 1.** The Fountain Municipal Code is hereby amended by establishing Chapter 9.44 (Open Fire and Open Burning Restriction), in Title 9 (Public Peace, Morals, And Welfare) attached hereto.

**Section 2.** Conflicts. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed or amended to the extent necessary to conform to this ordinance.

**Section 3.** The City Council hereby finds, determines and declares that this Ordinance is promulgated under the home rule authority of the City of Fountain, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare, by restricting open fires and open burning within the municipal limits of the City in order to prevent fires given the high danger of fire as a result of atmospheric conditions, including lack of moisture and other local conditions.

**Section 3. Severability.** If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any Court, such decision shall not affect the validity of the remaining portions of this Ordinance.

Introduced, read and passed this 24 day of May , 2022, by the City Council, Fountain, Colorado, signed by the Mayor, and ordered published in the El Paso County Advertiser and News, a newspaper of general circulation in the City of Fountain, Colorado.

\_\_\_\_\_  
Sharon Thompson, Mayor

ATTEST:

\_\_\_\_\_  
Silvia Huffman, City Clerk

Passed on second and final reading this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by the City Council, Fountain, Colorado, signed by the Mayor, and ordered published in the El Paso County Advertiser and News, a newspaper of general circulation in the City of Fountain, Colorado.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## TITLE 9 (PUBLIC PEACE, MORALS, AND WELFARE)

### CHAPTER 9.44 OPEN FIRE AND OPEN BURNING RESTRICTION

#### Sec. 9.44.010 Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

*Fireworks:* As defined in Section 12-28-101 (3)(a),C.R.S., including any composition or device designed to produce a visible or audible effect by combustion, deflagration, or detonation, and that meets the definition of articles pyrotechnic, permissible fireworks (per Section 12-28-101(8)(a), or display fireworks.

*Open fire or opening burning:* For purposes of this Chapter, open fires or open burning shall be defined as any outdoor fire, including, but not limited to, bonfires, campfires, warming fires, the use of explosives, fireworks of all kinds or brands, burn barrels, and the prescribed burning of irrigation or drainage ditches, fence lines or rows, fields, farmlands, rangelands, wild lands, trash and debris.

*Recreational Fire:* An outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of 3 feet or less in diameter and 2 feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

*Red Flag Warning:* Warning issued by the National Weather Service in the United States to inform the public, firefighters, and land management agencies that condition are ideal for wildland fire combustion, and rapid spread. Red flag warning shall also be known as a period of extreme fire hazard.

#### Sec. 9.44.020 Restrictions.

Activity	Stage 1 Burn Restrictions	Stage 2 Burn Restrictions
Outdoor blasting, welding, and torches	Allowed with permit	Allowed with permit
Campfires in developed campgrounds/picnic ground	Allows in permanently constructed fire grates, charcoal grills, and wood burning stoves	Allowed in gas fueled (LPG or CNG) constructed recreational fire pit
Model rockets	<b>Not allowed</b>	<b>Not allowed</b>
Public prescribed burning/burn permits	<b>Not allowed</b>	<b>Not allowed</b>
Outdoor smoking	No smoking outside except in an	No smoking outside, only in an

	enclosed building or vehicle, a developed recreational site or while stopped in an area with at least a 3 feet in diameter that is barren of and cleared of all flammable materials.	enclosed vehicle or building
Sale or use fireworks	<b>Not allowed</b>	<b>Not allowed</b>
Outdoor cooking (private property)	Allowed if they are smaller than 3 feet in diameter and less than two feet high, that are kindled for the purpose of cooking food using only clean dry, untreated wood or charcoal, which are contained by fireplaces, fire pits, (free standing and/or above ground), barbecues or other systems approved by the City of Fountain Fire Department	Allowed if the fire is contained within gas fueled (LPG or CNG) grills or electric pellet fed smokers
Outdoor fire at residence (recreational fire pits)	Allowed if the fire is contained within liquid-fueled or gas fueled stoves, indoor fireplaces and wood burning stoves. Allowed in permanently constructed fire grates, charcoal grills and wood burning stoves in outdoor areas cleared of all combustibles, using dry untreated wood and or charcoal	Allowed in gas fueled (LPG or CNG) constructed recreational fire pit

#### **Sec. 9.44.030 Exceptions/Exemptions.**

The following shall not be in violation of this Chapter:

- A. Commercial or community firework displays properly permitted;
- B. Fires contained within liquid-fueled or gas fueled stove;
- C. Indoor fireplaces and wood-burning stoves;
- D. Persons with a permit specifically authorizing the otherwise prohibited act or omission, issued by the Fire Department;
- E. Any Federal, State or local law enforcement officer or member or an organized rescue or firefighting agency in the performance of an official duty.
- F. Any further exemptions to either the meaning of terms or the enforcement of this Chapter shall be granted only by the proposed action is deemed by the Public Safety Director, or designee.

#### **Sec. 9.44.040 Declaration of an open fire ban.**

The Fire Chief of the City of Fountain, or designee, shall have the authority to declare an open fire ban whenever the danger of fires is found to be high, and 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 by posting in the same manner as ordinances and through a press release. When conditions indicate a reduction or increase in restrictions, or the suspension or release of restrictions, the same notification to the public shall occur.

**Sec. 9.44.050 Red Flag Warning.**

Red flag warnings issued by the National Weather Service shall have the same force and effect of a fire restriction issued by the Fire Chief. These warnings apply to both public and private lands within the warning area and indicate ideal weather conditions for the start and spread of wildfires. All activities within the City limits that involve the potential or intentional ignition shall be restricted during the Red Flag Warning event.

**Sec. 9.44.060 Trash burning.**

The burning of trash by residents or businesses is strictly prohibited. Trash typically burned can include but is not limited to yard waste, paper, cardboard, food scraps, plastics, rubber, and polystyrene. Burning of trash is dangerous to human health and contaminates the air, water, and soil.

**Sec. 9.44.070 Penalties.**

- A. Any person who violates this Chapter shall be punished in accordance with Sec. 9.04.080 and Sec. 1.12.010, but not less than a fine of two-hundred and fifty dollars (\$250.00) for each separate offense.
- B. Each violation of this Chapter shall be deemed separate and distinct from any other violation of this Chapter or of any other Federal, State or local law, rule, order or regulation.