

CHAPTER 5

Law Enforcement

- Article 1 Damage to County Property
Resolution No. 83-45, July 25, 1983**
- Article 2 Keg Tagging Requirements
Ordinance No. 98-1, September 8, 1998**
- Article 3 Sheriff's Fees for Service of Process
Resolution No. 2007-05, May 20, 2007**
- Article 4 Otero County Jail Booking Fee
Resolution No. 2007-06, July 9, 2007**
- Article 5 Open Fires and Open Burning
Ordinance No. 2008-001, November 24, 2008**

ARTICLE 1

Damage to County Property

Resolution No. 83-45

July 25, 1983

WHEREAS, the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF OTERO AND STATE OF COLORADO has experienced severe loss of public property through vandalism, malicious destruction and theft, partly to highway signs, including stop and yield signs posted on County roadways, and to other County property such as vehicles and buildings; and

WHEREAS, the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF OTERO AND STATE OF COLORADO believes that it is incumbent upon it as its public trust to take such steps as may be necessary to protect County property to the best of its ability, and attempt to recover the cost to the public for such vandalism and malicious destruction.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF OTERO AND STATE OF COLORADO THAT:

1. A reward to be paid by the County shall be initiated, such award to be granted to that person, firm, corporation, partnership or other individuals who shall provide the Sheriff of Otero County, Colorado, or any other peace officer within the County, including deputized County peace officers, with information leading to the arrest and conviction of any person or persons, firm, corporation, partnership or individuals, of the crime of destruction of public property belonging to the County of Otero.
2. The County shall pay the sum of one hundred fifty dollars (\$150.00) for the information leading to the arrest and conviction, and if the information is supplied by more than one (1) person or entity, the total award in each incidence shall not exceed the aggregate amount of one hundred fifty dollars (\$150.00).
3. The County may post notice of the availability of the County reward and may further advertise the same through the various media.
4. All information obtained in connection with matters of this resolution will be referred to the District Attorney of the Sixteenth Judicial District for prosecution.

ARTICLE 2

Keg Tagging Requirements

Ordinance No. 98-1

September 8, 1998

AN ORDINANCE IMPOSING KEG TAGGING REQUIREMENTS WITHIN OTERO COUNTY AND PROVIDING PENALTIES FOR VIOLATION THEREOF

WHEREAS, Otero County has determined that there is consumption of alcoholic beverages by persons under the age of twenty-one; and

WHEREAS, that consumption is in part as a result of beer being supplied through the use of kegs; and

WHEREAS, it is the desire of Otero County to be able to track the purchase of kegs so as to identify those persons who may be purchasing kegs of beer and allowing the same to be consumed by persons under the lawful age; and

WHEREAS, it is the desire of Otero County that action be taken so as to provide a mechanism whereby law enforcement officials may track the purchase of kegs, as well as to punish offenders who have violated this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OTERO COUNTY, COLORADO, AS FOLLOWS:

Section 1. That any retail liquor establishment selling alcoholic beverages by the keg within the unincorporated area of Otero County shall be required to affix to the keg, at the time of sale, a self-locking plastic identification seal.

Section 2. That any retail liquor establishment selling alcoholic beverages by the keg within the unincorporated area of Otero County shall be required at the time of sale to fill out an identifying form with information as to the purchaser's name, address, date of birth, driver's license number and date of sale. The form shall be provided by the Otero County Sheriff's Department.

Section 3. At the time of sale of any keg of alcoholic beverage, the retail liquor establishment shall be obligated to affix the seal and fill out the form and maintain those identifying records for purposes of inspection by the Sheriff's Department of Otero County.

Section 4. That retail liquor outlets shall keep said identifying forms for a period of six (6) months, and that said records shall be kept in a place open for inspection at all reasonable times at the request of the Otero County Sheriff.

Section 5. Any retail liquor outlet who shall fail to affix the plastic seal as required in Section 3 above, or to fill out the forms as required pursuant to Sections 2 and 3 above, shall be a violation of this Ordinance, and, as such, shall be subject to fines and penalties as authorized herein.

Section 6. Any owner or operator of any premises who, through act of omission or commission, fails to ensure that the owner's employees properly comply with this law, shall be guilty of violation of Sections 2 and 3 herein.

Section 7. It shall be unlawful for any person who has purchased alcoholic beverages by the keg within the Otero County to remove the self-locking plastic identification seal required pursuant to Section 3. It shall not be a violation of this Section if the person removing the tag is an employee of an owner or operator of a retail liquor establishment or a representative of a vendor of wholesale alcoholic beverages, who removes the tag after the return of the keg to the place of retail establishment and after any deposit has been returned to the consumer.

Section 8. It shall be unlawful for any purchaser of a keg of alcoholic beverage to allow anyone to remove the fixed seal from the keg prior to its return to the retail liquor outlet which sold the keg.

Section 9. It shall be unlawful for any person to purchase a keg of alcoholic beverage pursuant to the terms of this Ordinance, and to thereafter allow consumption of said alcoholic beverage by minors, unless said consumption is authorized and allowed pursuant to the laws of the State of Colorado as enumerated in Section 18-13-122, C.R.S. 1973, as amended.

Section 10. Any owner or operator of any retail liquor outlet, or an employee thereof, who, upon receipt of a keg being returned by any consumer of the alcoholic beverage, shall inspect the returned keg, and if the tag has been removed or any way tampered with, said owner or operator shall immediately notify the Sheriff's Department of the same. It shall be unlawful for any owner, operator or employee to fail to notify the Sheriff's Department as required herein.

Section 11. It shall be unlawful for any person to be in possession of a keg of alcoholic beverage, wherein that keg was purchased within the unincorporated Otero County, and that keg fails to have the appropriate self-locking plastic identification seal as required by Section 1.

Section 12. Any person who violates the provisions of this Ordinance shall be subject to a fine up to five hundred dollars (\$500.00) plus thirty (30) days in jail or both.

Section 13. The Sheriff may use the penalty assessment procedure as provided in Section 16-2-201, C.R.S., as amended, for the enforcement of this Ordinance.

ARTICLE 3

Sheriff's Fees for Service of Process

Resolution No. 2007-05

May 20, 2007

A RESOLUTION CONCERNING SHERIFF'S FEES FOR SERVICE OF PROCESS

WHEREAS, on January 17, 2005, the Board of County Commissioners of Otero County passed Resolution #2005-004 concerning the designation of mileage rate for service of process fees charged by the Otero County Sheriff; and

WHEREAS, the Board determined and resolved that the mileage rate for both criminal and civil process would be the rate identified under Section 24-9-104, C.R.S.; and

WHEREAS, at present, the Sheriff collects a fee for mileage for each mile actually and necessarily traveled in serving each writ, subpoena or other process in a criminal action at the rate of thirty-one cents (\$0.31); and

WHEREAS, at present, the Sheriff collects a fee for mileage for each mile actually and necessarily traveled in serving each writ, subpoena or other process in a criminal action at the rate of thirty-two cents (\$ 0.32); and

WHEREAS, Section 30-1-104(1), C.R.S., provides: Fees collected by sheriffs shall be as follows:

Subparagraph (h): Mileage for each mile actually and necessarily traveled in serving each writ, subpoena, or other process in a criminal action, not less than twelve cents nor more than the maximum mileage allowance provided for state officers and employees under Section 24-9-104, C.R.S., as determined by resolution of the board of county commissioners of each county or as provided by the charter of a home rule county; except that actual and not constructive mileage shall be allowed in all cases; and, where more than one warrant is served by any officer on one trip, the actual mileage only shall be allowed such officer, and the actual mileage shall be apportioned among the several warrants served on the trip;

and

WHEREAS, Section 24-9-104(2)(c)(I), C.R.S., provides:

Commencing January 1, 2007, but before January 1, 2008, state officers and employees shall be allowed a mileage allowance for each mile actually and necessarily traveled while on official state business calculated at eighty percent of the prevailing internal revenue service mileage reimbursement rate to the nearest cent, and, when authorized to be utilized and necessary for official state business, eighty-five percent of the prevailing internal revenue service mileage reimbursement rate to the nearest cent for four-wheel-drive vehicles and forty cents per nautical mile for privately owned aircraft;

and

WHEREAS, Section 24-9-104(2)(d), C.R.S., provides:

On or after January 1, 2008, state officers and employees shall be allowed a mileage allowance for each mile actually and necessarily traveled while on official state business calculated at ninety percent of the prevailing internal revenue service mileage reimbursement rate to the nearest cent, and, when authorized to be utilized and necessary for official state business, ninety-five percent of the prevailing internal revenue service mileage reimbursement rate to the nearest cent for four-wheel-drive vehicles and forty cents per nautical mile for privately owned aircraft;

and

WHEREAS, Section 30-1-104(1)(w), C.R.S., provides:

For transporting insane or other prisoners, besides the actual expenses necessarily incurred, in counties of every class, not less than twelve cents per mile nor more than the maximum mileage allowance provided for state officers and employees under section 24-9-104, C.R.S., as determined by resolution of the board of county commissioners of each county or as provided by the charter of a home rule county, and for the service of mittimus or other process order, whether written or otherwise, in transporting prisoners, in counties of every class, not less than twelve cents per mile nor more than the maximum mileage allowance provided for state officers and employees under section 24-9-104, C.R.S., as determined by resolution of the board of county commissioners of each county or as provided by the charter of a home rule county; except that such mileage shall be only by one officer and no mileage shall be charged upon the guards attending the officer having custody of the prisoner and further except that the guards attending the officer in charge of the prisoner shall receive, besides the expenses necessarily incurred, the sum of twelve dollars per diem of twelve hours, or fraction thereof, to be paid out of the county treasury;

and

WHEREAS, the prevailing Internal Revenue Service mileage reimbursement rate for 2007 is forty-eight and one-half cents (\$0.485); and

WHEREAS, Section 30-1-104(1)(h.5), C.R.S., provides:

Mileage for each mile actually and necessarily traveled in serving each writ, subpoena or other process in other than a criminal action, thirty-six cents; except that actual and not constructive mileage shall be allowed in all cases; and, where more than one warrant is served by any officer on one trip, the actual mileage only shall be allowed such officer, and the actual mileage shall be apportioned among the several warrants served on the trip;

and

WHEREAS, the Board of County Commissioners has determined that the higher prices for fuel warrant an increase in the fee the Sheriff shall collect for mileage actually and necessarily traveled in serving each writ, subpoena or other process and/or for transporting prisoners;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the County of Otero, Colorado, that:

1. Effective immediately but before January 1, 2008, the Otero County Sheriff and/or his employees shall collect a fee for mileage for each mile actually and necessarily traveled in serving each writ, subpoena or other process in a criminal action at the rate of thirty-nine cents (\$0.39) per mile, except that actual and not constructive mileage shall be allowed in all cases; and, where more than one (1) warrant is served by any officer on one (1) trip, the actual mileage only shall be allowed such officer, and the actual mileage shall be apportioned among the several warrants served on the trip.

2. Effective immediately but before January 1, 2008, the Otero County Sheriff and/or his employees shall collect a fee for mileage for each mile actually and necessarily traveled for transporting insane or other prisoners and for the service of mittimus or other process order, whether written or otherwise, in transporting prisoners, at the rate of thirty-nine cents (\$0.39) per mile, except that such mileage shall be only by one (1) officer and no mileage shall be charged upon the guards attending the officer having custody of the prisoner.

3. Effective immediately, the Otero County Sheriff and/or his employees shall collect a fee for mileage for each mile actually and necessarily traveled in serving each writ, subpoena or other process in other than a criminal action at the rate of thirty-six cents (\$0.36) per mile, except that actual and not constructive mileage shall be allowed in all cases; and, where more than one (1) warrant is served by any officer on one (1) trip, the actual mileage only shall be allowed such officer, and the actual mileage shall be apportioned among the several warrants served on the trip.

4. On or after January 1, 2008, the Otero County Sheriff and/or his employees shall collect a fee for mileage for each mile actually and necessarily traveled in serving each writ, subpoena or other process in a criminal action or for the transporting of insane or other prisoners at an amount to be calculated at ninety percent (90%) of the prevailing Internal Revenue Service mileage reimbursement rate for the year 2008.

5. That Resolution #2005-004 is hereby rescinded and repealed in its entirety.

**IRS Announces 2008 Standard Mileage Rates; Rate for Business Miles
Set at 50.5 Cents per Mile**

IR-2007-192, Nov. 27, 2007

WASHINGTON —The Internal Revenue Service today issued the 2008 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical or moving purposes.

Beginning Jan. 1, 2008, the standard mileage rates for the use of a car (including vans, pickups or panel trucks) will be:

- 50.5 cents per mile for business miles driven;
- 19 cents per mile driven for medical or moving purposes; and
- 14 cents per mile driven in service of charitable organizations.

The new rate for business miles compares to a rate of 48.5 cents per mile for 2007. The new rate for medical and moving purposes compares to 20 cents in 2007. The rate for miles driven in service of charitable organizations has remained the same.

The standard mileage rate for business is based on an annual study of the fixed and variable costs of operating an automobile; the standard rate for medical and moving purposes is based on the variable costs as determined by the same study. Runzheimer International, an independent contractor, conducted the study for the IRS.

The mileage rate for charitable miles is set by law.

A taxpayer may not use the business standard mileage rate for a vehicle after using any depreciation method under the Modified Accelerated Cost Recovery System (MACRS), after claiming a Section 179 deduction for that vehicle, for any vehicle used for hire or for more than four vehicles used simultaneously.

ARTICLE 4

Otero County Jail Booking Fee

Resolution No. 2007-06

July 9, 2007

A RESOLUTION CONCERNING IMPLEMENTATION OF A BOOKING FEE AT THE OTERO COUNTY JAIL

WHEREAS, Section 30-1-104(1)(n), C.R.S., authorizes the Board of County Commissioners of Otero County to implement a reasonable fee for committing and discharging convicted prisoners to and from the county jail, said fee not to exceed thirty dollars (\$30.00), which fee shall be collected directly from prisoners at the time of commitment, but shall be refunded to any prisoner who is not convicted; and

WHEREAS, the number of convicted prisoners committed and discharged to and from the Otero County Jail continues to increase and requires additional administrative and personnel resources; and

WHEREAS, the Otero County Sheriff has requested that the Board of County Commissioners authorize the implementation of a thirty-dollar booking fee for committing and discharging convicted prisoners to and from the county jail; and

WHEREAS, a booking fee is in effect in a number of county jails in Colorado;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the County of Otero, Colorado, that:

1. The Otero County Sheriff is hereby authorized to implement a thirty-dollar booking fee for committing and discharging convicted prisoners to and from the County Jail in any case. The booking fee is to be collected directly from prisoners at the time of commitment, but shall be refunded to any prisoner who is not convicted.

2. For purposes of this resolution, all new intakes at the County Jail will pay a thirty-dollar booking fee. The money for the booking fee is to be paid over to the County Treasurer and shall be kept by him in separate funds to be known as: The "Sheriff's Booking Fee Fund." The revenues generated annually from the fee for committing and discharging prisoners shall be distributed as provided in Section 30-1-119(2), C.R.S., as amended.

3. The Sheriff is further authorized to waive or otherwise defer the booking fee in cases where an indigent prisoner is granted a personal recognizance bond by the Court.

4. The thirty-dollar booking fee shall be effective on July 1, 2007, and shall remain in effect unless amended or rescinded by the Board of County Commissioners of Otero County.

ARTICLE 5

Open Fires and Open Burning

Ordinance No. 2008-001

November 24, 2008

AN ORDINANCE RESTRICTING OPEN FIRES AND OPEN BURNING IN THE UNINCORPORATED AREAS OF OTERO COUNTY, COLORADO.

WHEREAS, the Board of County Commissioners of Otero County, Colorado, pursuant to Section 30-11-107, et seq., and Section 30-15-401, et seq., C.R.S., has the general enabling power to adopt ordinances, resolutions, rules and other regulations as may be necessary for the control or licensing of those matters of purely local concern, and to do all acts which may be necessary or expedient to promote the health, safety and welfare of the citizens of Otero County, Colorado; and

WHEREAS, pursuant to Section 30-15-401(1)(n.5), C.R.S., the Board has specific authority to adopt an ordinance banning open fires to a degree and in a manner that the Board deems necessary to reduce the dangers of wildfires within those portions of the unincorporated areas of the County where danger of forest or grass fires is found to be high; and

WHEREAS, Sections 30-15-405, 406 and 407, C.R.S., provides the process for Boards of County Commissioners to utilize when adopting an ordinance; and

WHEREAS, the Sheriff of Otero County (hereinafter "Sheriff") is authorized under the provisions of Sections 30-10-512 and 30-10-513, C.R.S., to act as Fire Warden of the County in case of prairie or forest fires, and to assume charge thereof or to assist other governmental authorities in controlling or extinguishing forest or prairie fires; and

WHEREAS, open fires and open burning can be a prime cause of forest and prairie fires in Otero County; and

WHEREAS, the Sheriff and the Fire Chiefs throughout the County have advised the Board that atmospheric conditions, including lack of moisture and other local conditions, may create a high danger of forest and prairie fires in Otero County, thereby making open fires and open burning within the unincorporated areas of Otero County hazardous; and

WHEREAS, the Sheriff and the Fire Chiefs throughout the County monitor fire weather conditions and fire danger ratings, such as the U.S. Forest Service and Colorado State Forest Service rating systems; and

WHEREAS, changing atmospheric conditions require that fire restrictions need to be implemented and/or released in a timely manner; and

WHEREAS, the Board finds that competent evidence has been presented indicating that the danger of forest and prairie fires in Otero County is periodically high, and therefore it is necessary for the preservation of the public health, safety and welfare of the citizens of Otero County to impose a restriction on all open fires and open burning within the unincorporated areas of Otero County;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF OTERO AS FOLLOWS:

Section 1: Title

This Ordinance shall be known and referred to as the "Otero County Open Fire and Open Burning Restriction Ordinance" and may be cited and referenced as such.

Section 2: Purpose

The purpose of this Ordinance is to preserve and protect the public health, safety and welfare of the citizens of Otero County, Colorado, by restricting open fires and open burning in the unincorporated areas of Otero County in order to prevent forest and prairie fires given the high danger of such fires as a result of atmospheric conditions, including lack of moisture and other local conditions in Otero County.

Section 3: Authority

This Ordinance is authorized by various Colorado statutes, *inter alia*, generally, Part 1 of Article 11 of Title 30, Part 4 of Article 15 of Title 30, and specifically Section 30-15-401(1)(n.5), C.R.S.

Section 4: Interpretation

This Article shall be so interpreted and construed as to effectuate its general purpose to preserve and protect the public health, safety and welfare of the citizens of Otero County, Colorado, by restricting open fires and open burning in the unincorporated areas of Otero County in order to prevent forest and prairie fires given the high danger of such fires in Otero County. Section headings and any cross-references, if any, of this Ordinance shall not be deemed to govern, limit, modify or affect in any manner the scope, meaning or extent of the provisions of this Ordinance or any section thereof.

Section 5: Application

This Article shall apply throughout the unincorporated areas of Otero County, including public, private, state and federal lands, and to any incorporated town or city which elects by ordinance or resolution to have the provisions thereof apply.

Section 6: Definitions

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 Ordinance, open fires or open burning shall be defined as any outdoor fire, including but not limited to bonfires, campfires, warming fires, charcoal grill fires, fires in wood-burning stoves, the use of explosives, outdoor welding or operating acetylene or other torch with open flame other than in an area cleared of all flammable materials, 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.

Stage 1 Restrictions – Prohibits the following activities:

- (1) Open burning, excepting fires and campfires within permanently constructed fire grates in developed campgrounds and picnic grounds, charcoal grills and wood-burning stoves at private residences in areas cleared of all flammable materials, and those other exceptions/exemptions as noted in Section 8 hereafter;
- (2) The sale or use of fireworks (as defined above) pursuant to Section 30-15-401(1)(n.5), C.R.S.;
- (3) Outdoor smoking, except within an enclosed vehicle or building, a developed recreation site or while in an area of at least three (3) feet in diameter that is barren or cleared of all flammable materials;

Stage 2 Restrictions – Prohibits the following activities:

- (1) All open burning as defined, other than those exceptions/exemptions as noted in Section 8 below;
- (2) The sale or use of fireworks (as defined above) pursuant to Section 30-15-401(1)(n.5), C.R.S.;
- (3) Outdoor smoking, except within an enclosed vehicle or building, a developed recreation site or while in an area of at least three (3) feet in diameter that is barren or cleared of all flammable materials;
- (4) Operating or using any internal combustion engine is not permitted on public lands without a spark-arresting device properly installed, maintained and in effective working order meeting either:
 - (a) Department of Agriculture, Forest Service Standard 5100-1a; or
 - (b) Appropriate Society of Automotive Engineers (SAE) recommended practice J335(b) and J350(a);
- (5) Welding or operating acetylene or other similar torch with open flame unless said work is performed in an area at least thirty (30) feet in diameter that is clear of flammable vegetation and unless the worker has ready access to a fire extinguisher or water supply suitable to suppress any fire that results from the welding operation.

Section 7: Unlawful Acts

It shall be unlawful for any person to build, maintain, attend or use an open fire or conduct an open burn in the unincorporated area of Otero County, including public, private, State and Federal lands and to any incorporated town or city which elects by ordinance or resolution to have the provisions thereof apply.

Section 8: Exceptions/Exemptions

The following shall not be in violation of Section 7:

- (1) Commercial or community fireworks displays properly permitted;
- (2) Fires contained within liquid-fueled or gas-fueled stoves;
- (3) Indoor fireplaces and wood-burning stoves;
- (4) Outdoor charcoal grills and wood-burning stoves during Stage 1 Restrictions, provided that they are at private residences and in an area cleared of all flammable materials, including dry vegetation;

(5) The burning of irrigation ditches in the designated areas is prohibited by this Ordinance EXCEPT for ditches located within and completely surrounded by irrigated farmlands where such burning is necessary for crop survival AND a specific written permit has been granted by the Otero County Sheriff or his designee or the Fire Chief of any Fire Protection District for all areas within the official boundaries of their jurisdiction;

(6) Persons with a permit specifically authorizing the otherwise prohibited act or omission;

(7) Any Federal, State or local law enforcement officer or member or an organized rescue or firefighting agency in the performance of an official duty;

(8) Any further exemptions to either the meaning of terms or the enforcement of this Ordinance shall be granted only by the Sheriff or the Sheriff's designee or for exemptions upon or within State or Federal lands located within Otero County by the administering State or Federal agency, and only if the proposed action is deemed by the Otero County Sheriff or the Sheriff's designee, to be safe and mitigable.

Section 9: Declaration of an Open Fire Ban

The Otero County Board of County Commissioners or the Otero County Sheriff shall have the authority to declare an open fire ban whenever the danger of forest and grass 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 through a general press release to local television, radios and print media. Likewise, when conditions indicate a reduction or increase in restrictions or the suspension or release of restrictions, the same notification to the public shall occur.

Section 10: Enforcement

This Ordinance shall be enforced by the Sheriff, through his deputies, and/or any peace officer in and for the State of Colorado as described in Section 16-2.5-101, C.R.S.; and they shall have authority to order any person to immediately cease any violation of this Ordinance. This authority shall include, but not be limited to, the right to issue a penalty assessment notice and the right to take such person or persons into temporary custody.

Section 11: Violations

(1) Any person who violates this Ordinance from the effective date to and including the day prior to suspension or rescission of this Ordinance commits a Class 2 Petty Offense under Section 30-15-402(1), C.R.S., and, upon conviction or confession of guilt thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) for each separate offense plus any surcharge required by law under Section 30-15-402(2), C.R.S., as well as any Court security fee. Fines are to be set by the County Court unless the violator wishes to confess guilt and, pursuant to the penalty assessment procedure, within twenty (20) days of issuance of the ticket, pays the fine indicated plus any surcharge required by law, as well as any Court security fee.

(2) Each violation of this Ordinance shall be deemed separate and distinct from any other violation of this Ordinance or of any other Federal, State or local law, rule, order or regulation.

(3) Criminal prosecution may be brought against a violator in Sections 30-15-402 and 30-15-410, C.R.S., and under the penalty assessment procedure provided in Section 16-2-201, C.R.S. The Sheriff's office is authorized to devise a ticketing system in conformance with Section 16-2-201, C.R.S.

(4) The penalty assessment procedure provided in Section 16-2-201, C.R.S., may be followed by any arresting law officer for any such violation. The graduated fine schedule for such penalty assessment procedure shall be:

- (a) Two hundred fifty dollars (\$250.00) for the first offense;
- (b) Five hundred dollars (\$500.00) for the second offense within sixty (60) days of the first offense;
- (c) Seven hundred fifty dollars (\$750.00) for the third offense within sixty (60) days of the first offense;
- (d) One thousand dollars (\$1,000.00) for each additional offense within sixty (60) days of the first offense;
- (e) In addition to the penalty prescribed in this Ordinance, persons convicted of a violation of this Ordinance are subject to any surcharge required by law, as well as any court security fee.

Section 12: Disposition of Fines

All fines paid for the violation of this Ordinance shall be in negotiable funds made payable to Otero County and submitted to the Otero County Treasurer's Office. All fines for the violation of this Ordinance received by the County shall be remitted to the Otero County Treasurer and deposited into the general fund. All surcharge dollars shall be paid by the defendant to the Clerk of the Court and credited to the Victims and Witnesses Assistance and Law Enforcement Fund of the Sixteenth Judicial District of the State of Colorado pursuant to Section 30-15-402(2)(a), C.R.S. The defendant shall also pay Court costs, including but not limited to any surcharge required by law and Court security fee.

Section 13: Additional Remedies

The remedies provided in this Ordinance shall be cumulative and in addition to any other Federal, State or local remedies, criminal or civil, which may be available. Nothing contained herein shall be construed to preclude prosecution under any applicable statute, including but not limited to prosecution under Section 18-13-109, C.R.S., or any applicable local, State or Federal statute, ordinance, rule, order or regulation.

Section 14: Safety Clause

The Board hereby finds, determines and declares that this Ordinance is necessary for the preservation and protection of the health, safety and welfare of the citizens of Otero County, Colorado.

Section 15: Publication/Effective Date

The Board orders that this Ordinance be published in full in a public newspaper published in Otero County, Colorado, and that a second reading and adoption shall occur no less than ten (10) days after publication.

This Ordinance placing a restriction on all open fires and open burning within the unincorporated areas of Otero County shall be effective thirty (30) days after the final publication following passage as required by Colorado law and shall remain in effect until such time as this Ordinance is amended by the Board, or enforcement is temporarily suspended by the Board, Sheriff or his designee.

Section 16: Severability

Should any section, subsection, clause, sentence or phrase of this Ordinance be adjudged by any Court of competent jurisdiction to be invalid, such invalidity shall not affect, impair or invalidate the other provisions of this Ordinance which can be given effect without such invalid provision.

Section 17: Repeal of Conflicting Provisions

All former County ordinances, resolutions, rules or regulations, or parts thereof, in conflict with this Ordinance are hereby repealed.