

ORDINANCE 2023-1

AN ORDINANCE REPEALING AND REPLACING ORDINANCE 2022-7 AND AMENDING AND REENACTING THESE RULES AND REGULATIONS CONCERNING OPEN FIRE BANS AND OPEN BURNING PERMIT AND NOTIFICATION REQUIREMENTS

RECITALS:

- A. Pursuant to Colorado Revised Statutes (C.R.S.) § 30-15-401, the Board of County Commissioners of the County of Boulder may adopt ordinances for control of certain matters of purely local concern as statutorily enumerated; and
- B. Pursuant to C.R.S. § 30-15-401(n.5)(I), the Board may adopt ordinances to ban open fires to a degree and in a manner that the Board deems necessary to reduce the danger of wildfires within those portions of the unincorporated areas of the county where the danger of forest or grass fires is found to be high based on competent evidence; and
- C. The Board addressed the authority of the Board and Boulder County Sheriff to implement open fire bans in Ordinance 2006-2 and subsequently in Ordinance 2018-1, An Ordinance Repealing and Replacing Boulder County Ordinance 2006-2 and Authorizing the Declaration of Open Fire Bans by the Board of County Commissioners or the County Sheriff; and
- D. C.R.S. § 30-15-401(n.5)(II) required the Board to collaborate with the sheriff's office and fire protection districts to develop an open burning permit system for the purpose of safely disposing of slash; and
- E. The Board established an open burning permit system through Ordinance 2012-1 and subsequently through Ordinance 2014-1, An Ordinance Repealing Ordinance 2012-2 and Establishing an Ordinance Concerning the Open Burn Permit System, Notification Process of Open Burns, and Restrictions when the National Weather Service issues an alert for a Red Flag Warning, a Fire Weather Watch, High Wind Watch events and High Wind Warning events; and
- F. The Board amended and clarified the rules and regulations related to open fires and open burning formerly set forth in Ordinance 2014-1 and Ordinance 2018-1 by adopting Ordinance 2022-7 on December 15, 2022; and
- G. The Board continues to find that disposal by burning of slash material aids in the reduction of hazardous fuels and reduces the threat of unwanted wildfire; and
- H. The Board continues to find that National Weather Service alerts of High Wind Watch, High Wind Warning, Fire Weather Watch or Red Flag Warning events indicate a high danger of forest or grass fires; and

- I. The Board, upon the advice of the Sheriff, continues to find it prudent and necessary to require notice to the Boulder County Sheriff's Office before open burning and to provide penalties for failure to follow open burning permit and notification requirements and for violations of open fire restrictions when the danger of forest or grass fires is high; and
- J. The Board seeks to further amend and clarify the rules and regulations related to open fires and open burning set forth in Ordinance 2022-7, specifically concerning violations, penalties, and prohibition on rubbish burning.

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

I. DEFINITIONS

For the purposes of this Ordinance, the following shall mean:

Agricultural Burning: Burning of cover vegetation by an agricultural producer on its own property for agricultural purposes, including preparing the soil for crop production, weed control, and maintenance of water conveyance structures.

Board: Board of County Commissioners of Boulder County.

Fire Weather Watch: NWS designation indicating a significantly increased risk of fire danger.

Fire Weather Zone: Geographic area designated by NWS for purposes of issuing weather event alerts based upon elevation and associated wind patterns, fuels, and terrain. The NWS has designated three (3) Fire Weather Zones in Boulder County: Fire Weather Zone 239, below 6000'; Fire Weather Zone 215, between 6000' and 9000'; and Fire Weather Zone 212, above 9000'.

Fireworks: 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, or display fireworks as such terms are defined in C.R.S. § 24-33.5- 2001(5), as may be amended or replaced.

High Danger Conditions: Any time a Fire Weather Watch, Red Flag Warning, High Wind Watch or High Wind Warning is in effect.

High Wind Warning: NWS designation indicating sustained winds 40 mph (64 km/hr) or greater or wind gusts 58 mph (93 km/hr) or greater for any duration.

High Wind Watch: NWS designation indicating increased risk for high winds to develop over the next 24 to 48 hours.

NWS: National Weather Service.

Open Fire: Any outdoor fire, including, but not limited to, Open Burning, Agricultural Burning, campfires, warming fires, charcoal grill fires, wood pellet grills, fires in wood- burning stoves or grates, use of firearms, blasting, welding, grinding, and use of explosives or Fireworks of any kind. “Open Fire” does not include safety flares used to indicate danger.

Open Burning: Fire that a Person starts and that is intentionally used for grassland or forest management, such as broadcast and pile (slash) burning.

Person: Any individual, association, organization, partnership, firm, corporation business or other entity recognized by law.

Red Flag Warning: NWS designation indicating warm temperatures, very low humidities, and stronger winds are expected to combine to produce an increased risk of fire danger.

Rubbish: Garbage, trash, and junk including, but not limited to, unwanted or discarded household items; waste from building construction, remodeling, and repair; motor vehicle parts or tires, or abandoned, unlicensed, or inoperable motor vehicles including without limitation mobile or manufactured homes; liquid waste; newspapers, magazines, packaging materials, waste paper or cardboard; dead animal carcasses; hazardous waste; and domestic or household waste.

Sheriff: The Sheriff of Boulder County.

II. OPEN FIRE BANS

A. Declaration of Open Fire Bans

The Board or Sheriff shall, whenever the danger of forest or grass fires is found to be high, and without further proceedings or resolution, have authority to ban Open Fires as deemed necessary to reduce the danger of wildfires, which may prohibit Persons in unincorporated Boulder County from engaging in any activity that produces or maintains, or attempts to produce or maintain, spark, flame, or other ignition source for an Open Fire. The Open Fire ban may also ban the sale, in addition to the use, of Fireworks. The declaration shall specify the duration of the Open Fire ban and the geographic parameters of the ban, as deemed necessary and appropriate.

Agricultural Burning is exempt from Open Fire bans except as provided in Section II(B) of this Ordinance.

B. Open Fire Ban During High Danger Conditions

During High Danger Conditions, no Person shall:

1. Engage in any activity that produces or maintains, or attempts to produce or maintain, spark, flame, or other ignition source for an Open Fire; or
2. Sell or use Fireworks.

Prior to engaging in any activity described in Section (II)(B)(1) or (2), above, a Person shall confirm that High Danger Conditions are not in effect by referring to the NWS website or other reliable source.

C. Publication of Notice

In the event that the Board or Sheriff declare an Open Fire ban pursuant to Section II(A) of this Ordinance, the Board shall promptly schedule a business meeting at which time it shall confirm or rescind the ban. The Board or Sheriff shall issue a media press release that includes notice of the Open Fire ban, its duration, and parameters.

D. Rubbish Burning Prohibited at All Times

No Person shall burn or ignite Rubbish outdoors at any time, whether or not High Danger Conditions are in effect.

E. Violations; Penalties

Any Person who violates any provision of this Section II commits a civil infraction punishable 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 each subsequent offense. Any arresting law enforcement officer may follow the penalty assessment procedure provided in C.R.S. § 16-2-201 for any violation of this Ordinance. Law enforcement shall follow the graduated fine schedule set forth herein when issuing a summons and complaint for a violation of this Section II.

III. OPEN BURNING PERMIT AND PRIOR NOTIFICATION REQUIREMENTS

A. Open Burning Permit Required

No Person shall commence Open Burning without a permit, except that Agricultural Burning does not require a permit. A Person must adhere to the conditions of their permit while Open Burning.

B. Prior Notice Required for Open Burning including Agricultural Burning

No person shall commence Open Burning, including Agricultural Burning, without first providing notice to the Boulder County Sheriff's Office prior to starting the fire.

C. Permitting and Notification System

The Sheriff is authorized to develop and operate an Open Burning permitting and notification system that serves the purposes of state statute, state regulation, and this Ordinance. The Sheriff is authorized to develop education, outreach, and resource sharing programs to assist the public in preserving public health and safety as it relates to Open Burning. The Sheriff shall consult with Boulder County Public Health as necessary and appropriate. Any Open Burning permit may be suspended or revoked if the Sheriff finds such action necessary for public safety purposes.

D. Violations; Penalties

Any Person who violates any provision of this Section III commits a civil infraction punishable by a fine of two hundred fifty dollars (\$250.00) for the first violation, five hundred dollars (\$500.00) for the second violation, and one thousand dollars (\$1,000.00) for each subsequent violation. For each violation, a Person shall also pay the statutory surcharge set forth in C.R.S. § 30-15-402. Any arresting law enforcement officer may follow the penalty assessment procedure provided in C.R.S. § 16-2-201 for any violation of this Ordinance. Law enforcement shall follow the graduated fine schedule set forth herein when issuing a summons and complaint for a violation of this Section III.

IV. DUTY TO PAY FIRE RESPONSE COSTS

Any Person who violates this Ordinance and causes a fire that requires a response by any first responder agency, including the local fire protection district and Boulder County Sheriff's Office, shall be responsible for reimbursing each responding agency for its expenses incurred in responding to the fire. This Section IV is intended to supplement other penalties or remedies set forth herein and available by law.

V. APPLICABILITY

This Ordinance shall apply to all portions of unincorporated Boulder County.

VI. ENFORCEMENT

The Boulder County Sheriff shall enforce the provisions of this Ordinance.

VII. DISPOSITION OF FINES

All fines for violations of this Ordinance shall be paid into the General Fund of Boulder County.

VIII. SEVERABILITY

If one or more provisions of this Ordinance is found by a court of law to be invalid, such finding shall not affect the validity of the remaining provisions of this Ordinance.

IX. SAFETY CLAUSE

This Ordinance shall take effect upon its adoption. This Ordinance is necessary for the immediate preservation of the public health and safety because of the high danger of forest and grass fires that could result from Open Burning in unincorporated Boulder County at times when conditions are favorable for the occurrence and spread of wildfires.

[SIGNATURE ON FOLLOWING PAGE]

ADOPTED ON SECOND AND FINAL READING on _____, 2023.

THE BOARD OF COUNTY
COMMISSIONERS OF THE COUNTY OF
BOULDER, COLORADO

Claire Levy, Chair

ATTEST:

Name:
Clerk to the Board

CERTIFICATION AND ATTESTATION

I, Molly Fitzpatrick, Boulder County Clerk and Recorder, do hereby certify that the foregoing Ordinance No. 2023-1, entitled “**AN ORDINANCE REPEALING AND REPLACING ORDINANCE 2022-7 AND AMENDING AND REENACTING THESE RULES AND REGULATIONS CONCERNING OPEN FIRE BANS AND OPEN BURNING PERMIT AND NOTIFICATION REQUIREMENTS**” is a true, correct and complete copy from the records in my office, that said ordinance was duly adopted by the Board of County Commissioners of the County of Boulder. The first reading of Ordinance 2023-1 took place on August 1, 2023, at a regular Board of County Commissioners Meeting. It was published in full in the Boulder Daily Camera on August 6, 2023. The Ordinance was adopted with amendments on second reading at a public hearing held before the Board of County Commissioners on September 19, 2023. Further, one (1) copy of the Ordinance is now filed in the office of the Clerk and Recorder for the County of Boulder, Colorado, and may be inspected during regular business hours.

Clerk and Recorder