

ORDINANCE NO. 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 DURING RED FLAG DAYS, HIGH WIND WATCH DAYS AND HIGH WIND WARNING DAYS

WHEREAS, pursuant to § 30-15-401, C.R.S., the Board of County Commissioners of the County of Boulder has the power to adopt ordinances for control of those matters of local concern; and

WHEREAS, pursuant to § 30-15-401(1)(n.5), C.R.S., the Board adopted Ordinance 2012-2 An Ordinance Establishing an Open Burn Permit System, Notification Process of Open Burns, and Restrictions During Red Flag Days, High Wind Watch Days and High Wind Warning Days; and

WHEREAS, the Board would like to clarify that certain restrictions, including required permits and Red Flag Days, High Wind Watch Days and High Wind Warning Days, do not apply to Agricultural burning pursuant to C.R.S. §30-15-401(III); and

WHEREAS, the Board continues to find that disposal by burning of slash material aids in the reduction of hazardous fuels in forested areas and reduces the threat of unwanted wildfire; and

WHEREAS, the Board was required to develop an open burning permit system for the unincorporated areas of Boulder County for the purpose of safely disposing of slash material pursuant to § 30-15-401(1)(n.5)(II), effective as of January 1, 2012, and did so under Ordinance 2012-2, the requirements of which shall be contained herein; and

WHEREAS, the Board desired to provide a consistent, one-stop process by which residents could obtain a permit that met the requirements of both CDPH Regulation No. 9, 5 CCR 1001-11, regarding air quality restrictions for open burning as well as compliance with

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permitting and notification as required by C.R.S. §30-15-401(1)(n.5)(II); for open burning and open burn of slash and did so under Ordinance 2012-2, the requirements of which shall be contained herein; and

WHEREAS, the Board, upon the advice of the Sheriff, had previously required restrictions and penalties for burning on red flag days in Boulder County Ordinance 2009-1, which for continuity was repealed and those restrictions were added to Ordinance 2012-2 and are now contained herein; and

WHEREAS, the Board continues to find that those days on which the National Weather Service notifies Boulder Sheriff's Communications of a high wind watch day, a high wind warning day, a fire weather watch day or a red flag warning day, such notification creates conditions that the danger of forest or grass fires is high; and

WHEREAS, the Board, upon the advice of the Sheriff, continues to find it to be prudent and necessary to require notification to the Boulder County Sheriff's Office before open burning and to provide penalties for failure to follow the requirements of the open burn permitting and notification process as well as penalties for violating restrictions on fire weather watch days, red flag warning days, high wind watch days and high wind warning days and those requirements shall be contained herein;

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

I. SHERIFF'S AUTHORITY

A. The Sheriff, in cooperation with Boulder County Public Health, is authorized to develop a permitting and notification system that meets the purpose of state statute, state regulation and this Ordinance. The Sheriff is authorized to develop education, outreach, and information sharing programs that will assist the public in preserving public health and safety as

it relates to open burning, fire weather watch days, red flag warning days, high wind watch days and high wind warning days.

B. The Sheriff is authorized to establish restrictions for burning on days that have been designated fire weather watch days, red flag warning days, high wind watch days and high wind warning days.

II. DEFINITIONS

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

Agricultural Burning: Burning of cover vegetation for the purpose of preparing the soil for crop production, weed control, or maintenance of water conveyance structures related to agricultural operations.

Broadcast Burn: The controlled application of fire to wildland fuels in their natural or modified state over a predetermined area. Broadcast Burns do not include the burning of wildland fuels that have been concentrated in piles by manual or mechanical methods.

Burn Plan: Burn plans are an important component of any open broadcast burn. A burn plan is a written document that, at a minimum, provides a description of the burn area, target weather conditions, hazards that may be encountered, personnel and safety needs, contacts to make prior to burning, goals and objectives, burn site description, fire prescription, fire operation, and control and cleanup.

Extinguished: No visible flame, smoke, or emissions exist.

Fire Weather Watch: Conditions are favorable for red flag conditions in and close to the watch area in the next 12 to 48 hours, as defined by the National Weather Service.

Fire Weather Zone: Three fire zones within Boulder County have been determined by the National Weather Service based upon elevation and weather patterns associated with the fuels and terrain located within these elevation ranges. These include: Fire Weather Zone 239, below 6000', Fire Weather Zone 215, between 6000' and 9000', and Fire Weather Zone 212, above 9000'.

High Wind Warning: One-minute average surface winds of 35 kt (40 mph or 64 km/hr) or greater lasting for 1 hour or longer, or winds gusting to 50 kt (58 mph or 93 km/hr) or greater regardless of duration that are either expected or observed over land.

High Wind Watch: Conditions that are favorable for high winds in and close to the watch area in the next 12 to 48 hours.

Open Burning: A fire started and intentionally used for grassland or forest management, including vegetative, habitat, or fuel management. Open burning includes both broadcast and pile burning. Open Burning for purposes of permitting does **not** include:

1. Agricultural burning.
2. Smokeless flares or safety flares for the combustion of waste gases.
3. Flares used to indicate danger.
4. Emissions from fireplaces, fire pits, chimeneas or other wood burning containers that have been approved and used for non-commercial, recreational or aesthetic purposes using clean, dry, untreated wood or charcoal.
5. Camp Fire: Any single fire, no larger than two (2) feet in diameter and three (3) feet high that is contained by a fireplace or fire pit, which is used for cooking, personal warmth, lighting, ceremonial or aesthetic purposes that is not within a building, mobile home or living accommodation or mounted on a motor vehicle. Camp fires include dry untreated wood fires, charcoal fires and portable gas stoves using gas, jellied petroleum or pressurized fuel.

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

Prescribed Burning: The controlled application of fire in accordance with a written prescription for wildland fuels under specified environmental conditions while following appropriate precautionary measures that ensure that the fire is confined to a predetermined area to accomplish the planned fire or land-management objectives.

Red Flag Warning: A forecast warning issued by the National Weather Service to inform area firefighting and land use management agencies that conditions are ideal for wildland fire ignition and propagation.

Slash: Woody material less than six inches in diameter consisting of limbs, branches, and stems that are free of dirt. "Slash" does not include tree stumps, roots, or any other material.

Substantial Forested Area: A county that has at least forty-four percent forest cover as determined by the State Forester appointed pursuant to Section 23-31-207, C.R.S.

III: PERMIT AND NOTICE SYSTEM AND PENALTIES

A. No person shall commence open burning without a permit. Any person who initiates open burning requiring a permit in an unincorporated area of Boulder County without having first obtained an Open Burning Permit commits a class 2 petty offense and, upon conviction, shall be punished by a fine of fifty dollars (\$50.00) for the first violation, two hundred fifty dollars (\$250.00) for the second violation, and one thousand (\$1,000.00) for each

subsequent violation, and for each violation shall pay the penalties and surcharges identified in § 30-15-402, C.R.S. The Board authorizes any arresting law enforcement officer to use the penalty assessment procedure provided in §16-2-201, C.R.S. for any such violation. Agricultural burning is exempt from this requirement.

B. Open burning and agricultural burning requires prior notification to the Fire Management Program of the Boulder County Sheriff's Office. Any person who initiates open burning or agricultural burning in unincorporated Boulder County without having first notified Boulder Sheriff's Communications of the intent to initiate such a fire, commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of fifty dollars (\$50.00) for the first violation, two hundred fifty dollars (\$250.00) for the second violation, and one thousand dollars (\$1,000.00) for each subsequent violation, and for each violation shall pay the penalties and surcharges identified in C.R.S. §30-15-402. The Board authorizes any arresting law enforcement officer to use the penalty assessment procedure provided in §16-2-201, C.R.S. for any such violation.

C. Any person who acquires a permit regulating the type of burn for which they are authorized must follow the conditions of the permit. Any person who fails to follow the conditions of the burn contained in the permit commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of fifty dollars (\$50.00) for the first violation, two hundred fifty dollars (\$250.00) for the second violation, and one thousand dollars (\$1,000.00) for each subsequent violation, and for each violation shall pay the penalties and surcharges identified in C.R.S. §30-15-402. The Board authorizes any arresting law enforcement officer to use the penalty assessment procedure provided in §16-2-201, C.R.S. for any such violation.

D. No person shall initiate **any** burning, including any open burning, and those

burns defined as “not” open burning in paragraph two (II) (1-5), while a fire weather watch, red flag warning, high wind watch or high wind warning is in effect in the fire weather zone of the designated burn. Any person who initiates burning in an unincorporated area of Boulder County on a day identified by the National Weather Service as a fire weather watch, red flag warning, high wind watch or high wind warning day, based on current fire weather zones commits a class 2 petty offense and, upon conviction thereof, will be punished by a fine of five hundred dollars (\$500.00) for the first violation, and one thousand dollars (\$1,000.00) for each subsequent violation, and for each violation shall pay the penalties and surcharges identified in C.R.S. § 30-15-402. The penalty assessment procedure provided in § 16-2-201, C.R.S. is authorized to be followed by any arresting law enforcement officer for any such violation. Agricultural burning is exempt from this requirement.

The Sheriff has the discretion to suspend or revoke any Open Burning Permit upon a violation of this Ordinance or upon finding it is in the interests of public safety to revoke the permit.

IV. RESTITUTION

Any person who violates the terms and conditions of a permit issued under this Ordinance or who violates this ordinance and causes a fire that requires response from the local fire protection district or Sheriff's Office responders must provide restitution to any and all responding agencies. Such restitution shall consist of all costs and expenses incurred by the local fire protection district and Sheriff's Office responders incurred as a result of the fire.

V. IMMEDIATE PRESERVATION OF PUBLIC HEALTH AND SAFETY ORDINANCE EFFECTIVE UPON ADOPTION

This Ordinance is necessary for the immediate preservation of the public health and safety because of the high danger of forest or grass fires developing as a result of open burning

of slash in all unincorporated areas of Boulder County which are located both outside of and within fire protection district boundaries, especially when red flag warning conditions are present. All provisions of Boulder County Ordinance 2012-2, adopted on second reading on July 3, 2012, except to the extent specifically amended by this Ordinance, shall remain in full force and effect. This Ordinance takes effect immediately upon its adoption.

INTRODUCED, READ AND ADOPTED ON FIRST READING on August 12, 2014 and ordered published in the BOULDER DAILY CAMERA.



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

By: Cindy Domenico
Cindy Domenico, Chair

ATTEST:

Mike Ryder
Clerk to the Board

ADOPTED ON SECOND AND FINAL READING on Sept. 4, 2014.



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

By: Cindy Domenico
Cindy Domenico, Chair

ATTEST:

Pecilia S. Lacey
Clerk to the Board

CERTIFICATE

I hereby certify that the foregoing Ordinance No. 2014-1 was introduced, read and adopted on first reading at the regular meeting of the Board of County Commissioners of the County of Boulder on August 12, 2014, and the same was published in full in the Boulder Daily Camera, a newspaper of general circulation published in Boulder County, on 8/15, 2014, and thereafter was adopted on second and final reading at a regular meeting of the Board of County Commissioners of the County of Boulder on 9/4, 2014. Said ordinance was published by reference to title only in the Boulder Daily Camera on 9/7, 2014.

Mike Ryder

Clerk to the Board

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

Subscribed and sworn to before me by Mike Ryder this 16th day of September, 2014.

(SEAL) **CECILIA G. LACEY**
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID# 20014023591
MY COMMISSION EXPIRES 06/11/2017

Cecilia G. Lacey
Notary Public

My Commission expires: 06/11/17

CERTIFICATION

I, Hillary Hall, Boulder County Clerk and Recorder, do hereby certify that the foregoing Ordinance No. 2014-1, entitled "AN ORDINANCE REPEALING ORDINANCE 2012-2 AND ESTABLISHING AN ORDINANCE CONCERNING THE OPEN BURN PERMIT SYSTEM, NOTIFICATION PROCESS OF OPEN BURNS, AND RESTRICTIONS DURING RED FLAG DAYS, HIGH WIND WATCH DAYS AND HIGH WIND WARNING DAYS"; 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 and is in full force and effect. Further, one (1) copy of the Ordinance adopted herein 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.

Hillary Hall
Clerk and Recorder

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

Subscribed and sworn to before me by Hillary Hall this 4th day of September, 2014.

(SEAL)



Mike Ryder
Notary Public

My Commission expires: _____

