

ORDINANCE NO. 16

**AN ORDINANCE PROVIDING FOR THE BANNING OF OPEN FIRES
BY THE BOARD OF COUNTY COMMISSIONERS,
COUNTY OF CLEAR CREEK, COLORADO**

WHEREAS, the Board of County Commissioners of Clear Creek, State of Colorado (hereinafter referred to as “The Board”), desires to regulate intentional outdoor fires in Clear Creek County; and

WHEREAS, pursuant to C.R.S. § 30-15-401(1)(n.5), the Board is authorized to ban open fires to a degree that is 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; and

WHEREAS, pursuant to C.R.S. § 30-15-402, the Board has the authority to impose penalties in violation of an ordinance adopted pursuant to C.R.S. § 30-15-401(1)(n.5); and

WHEREAS, the Board is responsible for determining the level of open fire ban that is necessary to prevent wildfires as required by law; and

WHEREAS, the Board adopted Resolution R-01-83 authorizing the Clear Creek County Sheriff to declare and revoke fire bans; and

WHEREAS, the Board desires to appoint the County Sheriff as the person with primary responsibility for determining when and to what extent a fire ban is appropriate, based on consultation with appropriate agencies in the community; and

WHEREAS, The Board exercised its authority on this subject by enacting/adopting Ordinance No. 8 on June 25, 2002; and

WHEREAS, thereafter, the General Assembly of the state of Colorado enacted laws affecting the manner of enforcement, and the penalties for violations, of county ordinances and regulations, specifically SB21-271 and HB22-1229; and

WHEREAS, the County Attorney recommends that Ordinance No. 8 be amended to comply with this legislation, by amending the enforcement provisions; specifically by rescinding Ordinance No. 8 and re-enacting it, as amended, as Ordinance No. 16, both actions to be effective simultaneously;

WHEREAS, it is in the interest of public health, safety and welfare that open fires be regulated by the Board or the Board’s designee.

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

Section 1. Legislative Declaration.

The Board of County Commissioners of Clear Creek County, State of Colorado, hereby declares that open fires can be dangerous under certain conditions and are a matter of local and public concern and that in order to protect the public health, safety, welfare and natural resources of Clear Creek County it is necessary to control open fires in unincorporated areas.

Section 2. Definitions.

- A. (1) "Open Fire" means any fire outdoors for any purpose, including, but not limited to, bonfires, campfires, charcoal or wood barbeques; lighting off fireworks of any kind, trash or rubbish burning, smoking and lawn, weed, ditch or crop burning.
- (2) "Open Fire" does not mean propane or natural gas barbeque or liquid fuel stove if it is attended at all times and is in a fully enclosed, covered barbeque grill or is contained within a liquid fuel stove.

Section 3. Procedures.

- A. On its own motion, the Board may open a hearing on the issue of a fire ban in the unincorporated areas of Clear Creek County;
- B. The Clear Creek County Sheriff is empowered to invoke or lift a fire ban for unincorporated areas of Clear Creek County. The Clear Creek County Sheriff shall consult with appropriate authorities, including, but not limited to, local fire districts, the Board, State Forester, and the U.S. Forest Service, in making the decision to invoke or lift a fire ban.
- C. If the period of time that a fire ban shall be in effect was not specified in the declaration of the fire ban, the Board shall thereafter from time-to-time review the continuing need for such a ban, based on consultation with the County Sheriff and appropriate agencies, to determine when the fire ban shall expire.
- D. Pursuant hereto, the Board or County Sheriff shall limit Open Fires in any manner and to any extent deemed necessary or appropriate to reduce the danger of wildfire.
- E. All bans shall describe the manner and extent of such a ban, provided that if there is no limitation included in the ban, the ban will be deemed to be a ban of all Open Fires, applicable everywhere in unincorporated Clear Creek County.

Section 4. Open Fires Prohibited in Unincorporated Areas.

If the Board or the County Sheriff determines that an Open Fire Ban shall be in effect in Clear Creek County, no person shall build, maintain, attend or use an Open Fire as prohibited by

that particular fire ban on any private or public land in unincorporated Clear Creek County.

Section 5. Exemptions

The following persons and acts shall be exempt from any fire ban:

- A. Persons with a valid written permit from the Clear Creek County Sheriff based on his consideration of the risks, time and location of the fire, fire hazard mitigation to be used, and safety measures to be taken during the event.
- B. Any federal, state, or local officer or member of an organized rescue or firefighting force in the performance of an official duty.
- C. Burning of irrigation 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 Clear Creek County Sheriff.
- D. A federal agency or the Clear Creek County Sheriff.

Section 6. Posting.

If a Fire Ban is invoked or lifted pursuant to this Ordinance, notice of a fire ban, or lifting thereof, will be posted at the following locations:

- A. Outside of the Commissioners' Hearing room at the Clear Creek County Courthouse; and
- B. In the lobby of the Courthouse; and
- C. At the entrance to the Sheriff's Department; and
- D. Along roads and other places as the County Sheriff may determine to be appropriate.

In addition to the posting, local newspapers, local radio, local cable access channels and community agencies (including, but not limited to, CDOT, Colorado State Forester, Clear Creek County Fire Authority, local fire protection districts, U.S. Forest Service) shall be informed when a fire ban is invoked or lifted.

Section 7. Penalties.

- A. Any person who violates any provision of this Ordinance commits a civil infraction and shall be punished by a fine of not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000.00) for each separate violation; provided that the fine for the second or subsequent offense during any 24 month period shall be not less than five hundred dollars (\$500.00).
- B. Surcharges as required by law, including pursuant to C.R.S. § 30-15-402(2), shall also be assessed and paid in accordance with the statutes imposing the surcharges.

- C. Any person having the authority and responsibility to enforce the ordinances of Clear Creek County and having knowledge of any violation of the rules and regulations stated herein may use the Penalty Assessment Procedure defined under § 16-2- 201, C.R.S., as amended, by issuing the violator a penalty assessment notice and releasing the violator upon its terms or, as the law allows, by taking the violator before a county court judge. The penalty assessment notice shall be a summons and complaint and shall contain the identification of the offender, the specification of the offense, and the applicable fine.

Section 8. Effective Date.

The Board of County Commissioners of Clear Creek County finds that this Ordinance is necessary to the immediate preservation of the public health and safety because of the drought and extreme fire hazards existing in the County and the State, and, therefore, hereby adopts the Clear Creek County Fire Ban Policy as set forth in this Ordinance effective immediately upon signing of this Ordinance.

INTRODUCED, FIRST READ, ORDERED PUBLISHED IN FULL AND SET FOR PUBLIC HEARING THIS _____ DAY OF _____, 2023.

BOARD OF COUNTY COMMISSIONERS
CLEAR CREEK COUNTY, COLORADO

Randall Wheelock, Chairman

George Marlin, Commissioner

Sean C. Wood, Commissioner

ATTEST:

Deputy Clerk and Recorder
for Brenda L. Corbett
Clear Creek County Clerk and Recorder

CERTIFICATION: THE FOREGOING ORDINANCE WAS INTRODUCED AND READ ON JANUARY 10, 2022, BY THE BOARD OF COUNTY COMMISSIONERS OF CLEAR CREEK COUNTY, COLORADO, AND APPROVED FOR PUBLICATION.

DATE OF PUBLICATION: _____

E.A. Luther, Deputy Clerk & Recorder
Clear Creek County

READ, PASSED, AND ADOPTED AFTER PUBLIC HEARING AND ORDERED
PUBLISHED BY TITLE ONLY THIS _____ DAY OF _____, 2023.

BOARD OF COUNTY COMMISSIONERS
CLEAR CREEK COUNTY, COLORADO

Randall Wheelock, Chairman

George Marlin, Commissioner

ATTEST:

Sean C. Wood, Commissioner

Deputy Clerk and Recorder
for Brenda L. Corbett
Clear Creek County Clerk and Recorder

CERTIFICATION: THE FOREGOING ORDINANCE WAS CONSIDERED AT PUBLIC
HEARING ON _____, 2023, AND ADOPTED BY THE BOARD OF
COUNTY COMMISSIONERS EFFECTIVE THE _____ DAY OF _____, 2023.

DATE OF SECOND PUBLICATION: _____

Beth Luther
Deputy Clerk & Recorder
Clear Creek County