

ORDINANCE NO. 172

AN ORDINANCE PROVIDING FOR A PERMIT SYSTEM  
FOR OPEN BURNING OF SLASH PILES IN UNINCORPORATED  
CLEAR CREEK COUNTY 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 "Board"), ~~is was~~ required pursuant to Senate Bill 11-110 ([2011 Colorado Session Laws, Ch 110](#)), codified at C.R.S. § 30-15-401(1)(n.5)(II), to ~~create a permit system to regulate the open burning of slash piles~~ regulate the open burning of slash piles in unincorporated Clear Creek County (hereinafter referred to as "County"); and

~~WHEREAS, C.R.S. § 30-15-401(1)(n.5)(II), requires counties in the State of Colorado to create a permit system to regulate the open burning of slash piles if a county does not already have an open burning permit system in place; and~~

~~WHEREAS, Clear Creek County does not have an open burning permit system currently in place, and therefore, is subject to C.R.S. § 30-15-401(1)(n.5)(II); and~~

~~WHEREAS, the Board recognizes that the Clear Creek Fire Authority ("CCFA") currently issues permits within its jurisdiction in the County for open burning, which includes the burning of slash piles; and~~

~~WHEREAS, the Board recognizes that the Evergreen Fire Protection District ("EFPD") currently issue permits within its jurisdiction in the County for open burning, which includes the burning of slash piles; and~~

~~WHEREAS, the Board recognizes that the Colorado Department of Public Health and Environment ("CDPHE"), under Regulation No. 9, 5 CCR 1001-11, currently issues air quality control permits for open burning within the entire County, which includes the burning of slash piles; and~~

WHEREAS, the Board desired s to be in compliance with C.R.S. § 30-15-401(1)(n.5)(II), and therefore, created d, s-by through the adoption of this Ordinance #12 on August 13, 2012, a permit system to regulate open burning of slash piles in the County; and

~~WHEREAS, the Board collaborated with County and local agencies about developing this permit system to regulate open burning of slash piles; and~~

~~WHEREAS, as part of this permit system, the Board considered developing an education plan to inform private property owners of the benefits, criteria, and required processes for open burning of slash piles; and~~

~~WHEREAS, the Board considered and developed this permit system for open burning of slash piles that is consistent with existing law and processes that ban, regulate, or have developed recommendations concerning open burning, including C.R.S. sections 18-13-109, 18-13-109.5, 23-31-312, 23-31-313 (6) (a) (II) and (6) (a) (III), 25-7-106 (7) and (8), 25-7-123, 29-20-105.5, and 30-11-124; and~~

~~WHEREAS, the Board considered existing county ordinances while developing this permit system for open burning of slash piles; and~~

~~WHEREAS, the Board considered existing scientific and applied knowledge of safe burning conditions while developing this permit system for open burning of slash piles and defers to the CCFA's, the EFPD's, and the Clear Creek County Sheriff's Office's expertise of safe burning conditions because those entities are the most knowledgeable about safe burning; and~~

WHEREAS, pursuant to C.R.S. § 30-15-402, the Board has the authority to impose penalties for violations of ~~this Ordinance #12, adopted pursuant to C.R.S. § 30-15-401(1)(n.5)(H); 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 #12 be amended to comply with this legislation, by amending the enforcement provisions found in subsections 7.A. and 7.B. and adding subsection 7.C.; specifically by rescinding Ordinance #12 and re-enacting it, as amended, as Ordinance #17, both actions to be effective simultaneously; and

WHEREAS, it is in the interest of public health, safety and welfare that the open burning of slash piles continue to be regulated under a County permit system.

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 burning of slash piles can be dangerous and is 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 create a permit system to regulate the open burning of slash piles in unincorporated areas.

Section 2. Definitions.

(1) "Open Burning" means fire that a person starts and that is intentionally used for forest management. "Open Burning" does not include recreational fires for burning piles of wood that are smaller than three (3) feet high and three (3) feet in diameter. The height of a wood pile is measured from the lowest point of the wood pile.

(2) "Slash" means 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.

(3) "Broadcast Burn" means 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.

(4) "Agricultural Burn" means the open burning of cover vegetation for the purpose of preparing the soil for crop production, weed control, maintenance of water conveyance structures related to agricultural operations, and other agricultural cultivation purposes.

Section 3. Open Burning of Slash Piles is Prohibited in Unincorporated Areas without First Obtaining the Necessary State and Local Permits.

Upon adoption of this Ordinance by the Board, no person shall conduct open burning of slash piles on any private or public land in unincorporated Clear Creek County without first obtaining burn permits from the CDPHE and, in their respective jurisdictions, the CCFA or the EFPD.

Section 4. Permittee Must Comply with all Laws and Restrictions.

Obtaining burn permits for burning to be conducted in unincorporated Clear Creek County from the CDPHE and either the CCFA or the EFPD does not absolve a permittee from the responsibilities expressed in the Colorado statutes, including but not limited to the criminal wildfire statutes under C.R.S. § 18-13-109 and 18-13-109.5. Obtaining a burn permit does not excuse any person from complying fully with any fire ban issued pursuant to Ordinance No. 8 for Clear Creek County, Colorado or by the US Forest Service (regarding US Forest Service lands).

Section 5. Notice of Open Burning of Slash Piles to Adjoining Property Owners and Individuals with Respiratory Conditions.

The CCFA and the EFPD shall notify the Clear Creek County Strategic and Community Planning Department Land Use Division (~~"Planning Department Land Use Division"~~) that an open burning permit has been issued for burning to be conducted in unincorporated Clear Creek County by providing to the Planning Department Land Use Division a copy of the permit immediately after it is issued.

### Adjoining Property Owners

Upon the ~~Planning Department's Land Use Division's~~ receipt of a copy of the open burning permit from the CCFA or the EFPD, the ~~Planning Department Land Use Division~~ will notify adjoining property owners that an open burning permit has been issued. The ~~Planning Department Land Use Division~~ notification will include: the date(s), time(s) and location of the proposed open burning of slash piles.

### Individuals with a Respiratory Condition

Individuals with a respiratory condition can request to be notified of proposed open burning of slash piles. -The ~~Planning Department Land Use Division~~ will maintain a list of individuals with a respiratory condition who wish to be notified of open burning of slash piles. Individuals with a respiratory condition who wish to be notified of open burning of slash piles can contact the ~~Planning Department Land Use Division~~ and request to be added to the notification list by giving the ~~Planning Department Land Use Division~~: his/her name, e-mail address, physical address and mailing address.

Upon the ~~Planning Department's Land Use Division's~~ receipt of a copy of the open burning permit from the CCFA or the EFPD, the ~~Planning Department Land Use Division~~ will give notification of the proposed open burning of slash piles to the list of individuals with respiratory conditions. The ~~Planning Department Land Use Division~~ notification will include: the date(s), time(s) and location of the proposed open burning of slash piles.

### Section 6. Exemptions.

Pursuant to C.R.S. § 30-15-401(1)(n.5)(II), the following shall not be regulated by this Ordinance and are hereby exempt:

- a. Broadcast Burns conducted within Federal and State guidelines that have a written prescribed fire plan, and
- b. Agricultural Burns

### Section 7. Penalties.

A. ~~The penalty for violating~~ Any person who violates Section 3 of this Ordinance commits a civil infraction and shall be punished by is 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 Pursuant to C.R.S. § 30-15-402(2), shall also be assessed and paid in accordance with the statutes imposing the surcharges. ~~Pursuant to C.R.S. § 30-15-402(2), persons convicted of any violation~~

under this Ordinance are subject to a surcharge of ten dollars (\$10.00), which shall be paid to the Clerk of the Court.

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 passes this Ordinance pursuant to the Colorado General Assembly's mandate under C.R.S. § 30-15-401(1)(n.5)(II). Further, the Board of County Commissioners of Clear Creek County finds that this Ordinance is necessary to preserve the public health and safety because of the drought and extreme fire hazard conditions that can exist in the County and the State, and, therefore, hereby adopts the Permit System for Open Burning of Slash Piles in unincorporated Clear Creek County 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

~~INTRODUCED, READ AND ORDERED PUBLISHED IN FULL AND SET FOR PUBLIC HEARING ON THE 23<sup>rd</sup> DAY OF JULY, 2012, and~~

~~NOTICE OF PUBLIC HEARING PUBLISHED IN THE CLEAR CREEK COURANT and CANYON COURIER ON THE 1<sup>ST</sup> DAY OF AUGUST, 2012.~~

~~AGAIN READ, AND ORDERED PUBLISHED IN FULL AND SET FOR PUBLIC HEARING ON THE 13<sup>TH</sup> DAY OF AUGUST, 2012.~~

~~NOTICE OF PUBLIC HEARING PUBLISHED IN THE CLEAR CREEK COURANT and CANYON COURIER ON THE 22<sup>nd</sup> DAY OF August, 2012.~~

~~BOARD OF COUNTY COMMISSIONERS  
CLEAR CREEK COUNTY, COLORADO~~

~~/S/ Kevin J. O'Malley, Chairman  
/S/ Joan Drury, Commissioner  
/S/ Timothy J. Mauck, Commissioner  
Clear Creek County~~

~~Published in the Clear Creek Courant and the Canyon Courier issues dated August 22, 2012.~~