

ORDINANCE NO. 19

ORDINANCE FOR THE REGULATION OF OPEN BURNING IN
UNINCORPORATED GRAND COUNTY, COLORADO

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF GRAND COUNTY, COLORADO, THAT:

SECTION 1. TITLE

This Ordinance shall be titled Grand County Open Burning Permit Ordinance.

SECTION 2. AUTHORIZATION

1. Section 30-15-401, *et seq.* C.R.S. authorizes counties to adopt ordinances for the control or licensing of those matters of purely local concern described in the powers enumerated in that statute;
2. Section 30-15-401(1)(n.5)(II), C.R.S. authorizes counties that have a substantial forested area to develop an Open Burning permit system for the purpose of safely disposing of slash.
3. Pursuant to section 25-7-111(2)(f), C.R.S., the State of Colorado Department of Public Health and Environment has delegated to Grand County, Colorado, as the air pollution control authority, and designated agent of the State, to exercise and perform such powers and duties of the division as specified in that delegation, including to issue or deny Open Burning permits and to enforce various air quality and pollution matters as set forth in said delegation.

SECTION 3. PURPOSE/INTENT

The reduction of hazardous fuels on state, county and private land is beneficial to the safety of the general public by reducing the threat of unwanted wildfire and improves the healthy condition of Colorado's forests. An element of hazardous fuels reduction is the disposal of slash created by hazardous fuels treatment. Piling and burning slash is one effective means of slash disposal. The use of fire as a tool for the disposal of unwanted slash is most appropriate when accomplished with consideration of measures that contain the fire within a desired location, minimize smoke emission, mitigate negative impacts to residual live vegetation, and increase the consumption of the unwanted slash.

The purpose of this Ordinance is to provide a permitting system that will (1) allow persons to openly and safely burn slash piles; (2) inform persons of considerations for the appropriate, safe, and effective use of fire as a tool; and (3) reinforce knowledge of local requirements of homeowner associations, fire protection districts, and county ordinances to increase public awareness and protect the public health, safety and welfare.

SECTION 4. APPLICABILITY

This Ordinance shall apply in the unincorporated area of Grand County. This Ordinance does not prevent adoption of additional regulations and ordinances implementing additional fire restrictions under local, state and federal authority that supplement or exceed the restrictions of this Ordinance.

SECTION 5. DEFINITIONS

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

Air Curtain Destructor (also known as Air Curtain Burners or Air Curtain Incinerators): An Open Burning device that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Devices of this type may be constructed above or below ground and with or without refractory walls and floor. (Air Curtain devices are not conventional combustion devices with the enclosed fireboxes and controlled air technology such as mass burn, modular and fluidized bed combustors.)

Agricultural Open Burning: The burning of ground cover vegetation on agricultural land, as defined in section 39-1-102(1.6), C.R.S., for the purpose of preparing the soil for crop production and livestock grazing, 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.

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

Fire Weather Zone: Any fire zones within Grand County that 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 212, above 9000'; Fire Weather Zone 213, below 9000'; Fire Weather Zone 217, above 9000'; and Fire Weather Zone 218, above 9000'.

Open Burn/Open Burning: Fire that a person starts and that is intentionally used for grassland or forest management, including vegetative, habitat or fuel management. Open Burning includes broadcast and pile burning, as well as air curtain burning.

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

Pile Burning: Burning of vegetative material that has been concentrated by manual or mechanical methods

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 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 (44%) percent forest cover as determined by the State Forester appointed pursuant to §23-31-207, C.R.S. Grand County, Colorado is a county with Substantial Forested Area.

Other Definitions: The definitions set forth in Colorado Department of Public Health and Environment Regulation 9, 5 CCR 1001-11, are incorporated herein as if fully set forth. Any conflict between the definitions in Regulation 9 and this Ordinance shall be resolved by using the more restrictive definition.

SECTION 6: OPEN BURN PERMIT REQUIRED

No person shall conduct Open Burning on privately owned property within the unincorporated area of Grand County, Colorado, without first having obtained an Open Burn Permit from the Grand County Natural Resources Office.

An Open Burn Permit is not required in the following circumstances:

1. Burning of ground cover vegetation on agricultural land for the purpose of preparing the soil for crop production and livestock grazing, weed control, or maintenance of water conveyance structures related to agricultural operations.
2. Attended outdoor cooking and recreational fires covering a maximum area of three feet in diameter and less than two feet high, that are kindled for the purpose of recreation and/or cooking food, using only clean, dry untreated wood, charcoal, jellied petroleum, or pressurized fuel, which fires are contained by stoves, fireplaces, fire pits (free standing and/or above ground), fire grates, self-contained and enclosed charcoal grills (off the ground), barbecues at private residences, and such fires in a permanent fire pit or grate located on developed picnic grounds or campgrounds.

SECTION 7: PERMIT APPLICATION PROCESS

1. No Open Burning shall be conducted until the appropriate permits are issued.
 - a. For Open Burning on private property: the property owner shall obtain an open burn permit from the Grand County Natural Resources (GCNR).
2. An Open Burn Permit may be denied or revoked at any time if any of the conditions necessary for the issuance of the Permit are not complied with.
3. The Open Burn Permit application must be accompanied by the appropriate fee (if applicable).

SECTION 8: OPEN BURNING REQUIREMENTS

1. Persons with an Open Burn Permit must contact GCNR each day they want to burn.
2. If an Open Burn is to be conducted by someone other than the legal owner of the property, they must be shown on the permit as the Burn Supervisor and must sign the permit as such and as having read and understood all rules and regulations.
3. Open Burn fires must be constantly and directly attended and observed by a competent and non-physically/mentally impaired person. The Open Burn Permit must be in possession of the person attending and observing the Open Burn at all times during the Open Burn.
4. Precautions shall be taken to localize the burning and in no way constitute a fire hazard to persons or property within or adjacent to the area of burning. The granting authority and the employees or agents thereof, in the issuing of a permit, do not assume any responsibility or results in damage to the person or property of the permittee, or the person or property of any third person.
5. Items to be burned must be free of rubber, tires, plastics, wire insulation, household rubbish or refuse paper, cardboard, furniture, construction debris, fencing, treated wood, animal parts or carcasses, or any other excessive smoke producing or toxic material.

6. Local Fire Protection Districts and/or Homeowner/Property Owner Associations may have more restrictive codes, regulations, policies or standards. In those cases, the more restrictive provisions apply.
7. All permitted Open Burns conducted are required to have three or more inches of snow on the ground around the slash piles, unless an Air Curtain Destructor is used.
8. The following materials are prohibited from Open Burning under an Open Burn Permit:
 - a. Structures
 - b. Household garbage or food waste
 - c. Commercial business waste
 - d. Construction debris, fencing and furniture
 - e. Animal parts or carcasses
9. There shall be no permitted Open Burning or Agricultural Burning while a red flag warning is in effect in the fire weather zone of the designated burn.
10. There shall be no permitted Open Burning or Agricultural Burning during State or County authorized fire restrictions or bans pursuant to section 30-15-401(1)(n.5)(I), C.R.S.

SECTION 9: NOTIFICATION

Persons with respiratory conditions and persons contiguous to the property on which an Open Burn will be conducted who wish to be notified of the date, time and location of an Open Burn may contact GCNR for information and guidance.

SECTION 10: EDUCATION

Information about Air Quality Permits, Open Burning and Open Burning Guidelines may be found at:

<http://www.co.grand.co.us/142/Open-Burning>

<http://www.cdphc.state.co.us/ap/OpenBurning.html>

SECTION 11: ENFORCEMENT

1. This Ordinance may be enforced by the Grand County Sheriff's Office.
2. In addition, GCNR and the Grand County Sheriff each have the discretion to immediately suspend or immediately revoke any Open Burning Permit upon a violation of this Ordinance or upon finding it is in the interests of public safety to immediately revoke the permit.

SECTION 12: CIVIL LIABILITY

1. Anyone starting, maintaining, or permitting Open Burning in violation of this Ordinance shall be responsible for any and all costs associated with extinguishing the fire, and for any damages caused as a result of the fire.

2. Any person who violates the terms and conditions of a permit issued under this Ordinance, or who violates this ordinance, and such violation 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.

SECTION 13: VIOLATION AND PENALTIES

1. Violation of this Ordinance, or any part thereof, or failure to comply with any terms or conditions of an Open Burn Permit, shall constitute a class 2 petty offense and may be enforced through the penalty assessment procedure set forth in section 16-2-201, C.R.S.
2. The graduated fine schedule for the penalty assessment procedure is:
 - a. One hundred dollars for the first violation.
 - b. Two hundred fifty dollars for the second violation
 - c. Five hundred dollars for each successive violation
3. Upon conviction thereof, a class 2 petty offense 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 section 30-15-402, C.R.S. The penalty assessment procedure provided in section 16-2-201, C.R.S. is authorized to be followed by any arresting law enforcement officer for any such violation.
4. Any law enforcement officer is authorized to issue citations, summonses and complaints for violations of this Ordinance.
5. In addition to the foregoing penalty procedure, any law enforcement officer is authorized to initiate injunction or abatement proceedings or other appropriate legal action in a district court or other court having jurisdiction against any person who fails to comply with any provision of this Ordinance or any requirement or condition imposed under this Ordinance.

Sec. 14. GENERAL PROVISIONS.

1. If any part or parts of this regulation and ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of County Commissioners hereby declares that it would have passed this regulation and ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.
2. If any part or parts of any previous resolution, regulation, or ordinance of the Board of County Commissioners of the County of Grand, State of Colorado is in contradiction to this regulation and ordinance, said part or parts of the previous resolution, regulation, or ordinance be and are hereby repealed, rescinded, and of no further effect or force, without affecting the validity of any other portion or the remainder of the previous resolution, regulation, or ordinance.
3. Where any provision of this regulation or ordinance conflicts with any other provision of this regulation or ordinance, or any law, the more stringent requirement, regulation, restriction or limitation shall apply.

INTRODUCED, READ AND ORDERED PUBLISHED BY THE BOARD OF COUNTY COMMISSIONERS OF GRAND COUNTY, COLORADO, THIS 24th DAY OF April, 2018.

BOARD OF COUNTY COMMISSIONERS
GRAND COUNTY, COLORADO

Merrit Linke
Merrit Linke, Chair

Kristen Manguso
Kristen Manguso

Richard Cimino
Richard Cimino

CERTIFICATION: THE FOREGOING ORDINANCE WAS INTRODUCED AND READ ON April 24, 2018 BY THE BOARD OF COUNTY COMMISSIONERS OF GRAND COUNTY, COLORADO, AND APPROVED FOR PUBLICATION.

DATE OF PUBLICATION: May 3, 2018

Sara L. Rosene
Sara L. Rosene
Grand County Clerk & Recorder

THE FOREGOING ORDINANCE WAS CONSIDERED AT PUBLIC HEARING ON _____, 2018 AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS EFFECTIVE THE _____ DAY OF _____, 2018.

BOARD OF COUNTY COMMISSIONERS
GRAND COUNTY, COLORADO

Merrit Linke, Chair

Kristen Manguso

Richard Cimino

DATE OF SECOND PUBLICATION:

Sara L. Rosene
Grand County Clerk & Recorder