



ORDINANCE NO. 12

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 required pursuant to Senate Bill 11-110, codified at C.R.S. § 30-15-401(1)(n.5)(II), to 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 desires to be in compliance with C.R.S. § 30-15-401(1)(n.5)(II), and therefore, creates through this Ordinance 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, adopted pursuant to C.R.S. § 30-15-401(1)(n.5)(II); and

WHEREAS, it is in the interest of public health, safety and welfare that the open burning of slash piles 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 Land Use Division ("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 Land Use Division a copy of the permit immediately after it is issued.

Adjoining Property Owners

Upon the Land Use Division's receipt of a copy of the open burning permit from the CCFA or the EFPD, the Land Use Division will notify adjoining property owners that an open burning permit has been issued. The 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 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 Land Use Division and request to be added to the notification list by giving the Land Use Division: his/her name, e-mail address, physical address and mailing address.

Upon the Land Use Division's receipt of a copy of the open burning permit from the CCFA or the EFPD, the Land Use Division will give notification of the proposed open burning of slash piles to the list of individuals with respiratory conditions. The 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 Section 3 of this Ordinance 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. 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.

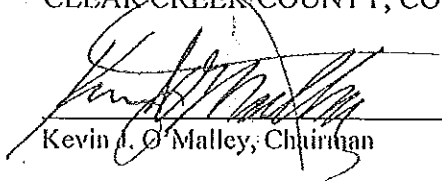


Section 8. Effective Date.

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, READ AND SET FOR PUBLIC HEARING ON THE 23rd DAY OF JULY, 2012.


BOARD OF COUNTY COMMISSIONERS
CLEAR CREEK COUNTY, COLORADO



Kevin J. O'Malley, Chairman



Joan Drury, Commissioner



Timothy J. Mauck, Commissioner

ATTEST:



County Clerk & Recorder

7-23-12

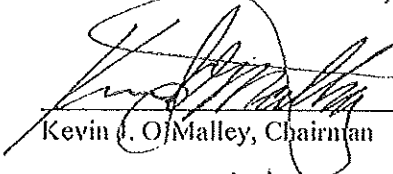
Date



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

NOTICE OF PUBLIC HEARING PUBLISHED IN THE *CLEAR CREEK COURANT* and *CANYON COURIER* ON THE 22nd DAY OF Aug, 2012.


BOARD OF COUNTY COMMISSIONERS
CLEAR CREEK COUNTY, COLORADO



Kevin J. O'Malley, Chairman




Joan Drury, Commissioner



Timothy J. Mauck, Commissioner

ATTEST:



County Clerk & Recorder

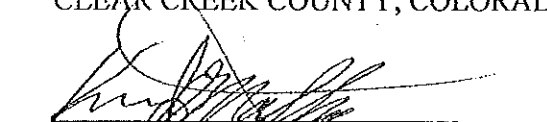
8/13-12

Date



READ, PASSED AND ADOPTED UPON SECOND READING AFTER PUBLIC
HEARING AND ORDERED PUBLISHED BY TITLE ONLY THIS 10th DAY OF
Sept, 2012.

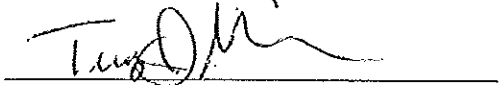
BOARD OF COUNTY COMMISSIONERS
CLEAR CREEK COUNTY, COLORADO



Kevin J. O'Malley, Chairman



Joan Drury, Commissioner



Timothy J. Mauck, Commissioner

ATTEST:



County Clerk & Recorder

9-10-12

Date



ACKNOWLEDGMENT

I, E. A. Luther, Deputy Clerk and Recorder of the County of Clear Creek, State of Colorado, do hereby acknowledge and attest that the above-stated Ordinance is a true and correct copy, and was introduced, testimony was heard and was adopted at a regular meeting of the Board of County Commissioners, on Sept 10, 2012; with publication of such meeting and the full text of the proposed ordinance appearing in the Clear Creek Courant and the Canyon Courier in the 8 - 22 -, 2012, issues.

E. A. Luther
County Clerk & Recorder

9-10-12
Date