

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

**FIRST AMENDED ORDINANCE NO. 062620120001
ORDINANCE NO. 11192013O001**

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LARIMER COUNTY, COLORADO:

SECTION 1. TITLE

This Ordinance shall be titled Larimer County Ordinance for Open Burning.

SECTION 2. AUTHORIZATION

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.

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.

SECTION 3. PURPOSE/INTENT

The reduction of hazardous fuels on state 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; (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 Larimer County, including the Estes Valley Area.

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 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 and other agricultural cultivation purposes.

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 one of three fire zones within Larimer 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 238, below 6000'; Fire Weather Zone 215, between 6000' and 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 air curtain destructor, broadcast and pile burning. Open Burning does **not** include:

1. Burning in the course of agricultural operations.
2. Burning for the purpose of maintaining water conveyance structures.
3. Smokeless flares or safety flares for the combustion of waste gases.
4. Flares used to indicate danger.
5. Emissions from fireplaces, fire pits, chimineas 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.

6. Cooking fires that are smaller than three feet in diameter and less than two feet high that are kindled for the purpose of cooking food using only clean, dry untreated wood or charcoal, which are contained by fireplaces, fire pits (free standing and/or above ground), barbecues or other systems approved by a Fire Marshall.
7. Broadcast burns conducted within federal and state guidelines that have a written prescribed fire plan.

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.

SECTION 6: OPEN BURN PERMIT REQUIRED

No person shall conduct Open Burning on privately owned property within the unincorporated area of Larimer County, Colorado, without first having obtained an Open Burn Permit from the legally constituted Fire Protection District in which the property is located or from the Larimer County Sheriff's Office.

SECTION 7: PERMIT APPLICATION PROCESS

1. Prior to applying for an Open Burn Permit, persons must obtain an Air Quality Permit.
 - a. For Open Burning of 50 piles or less in a project area that will be extinguished by sunset, 10 acres or less of grass, or 5 acres or less of other vegetation, persons shall obtain an air quality permit from the Larimer County Department of Health and Environment: <http://larimer.org/burnpermit/>

- b. For Open Burning of more than 50 piles in a project area, piles that will not be extinguished by sunset, more than 10 acres of grass or more than 5 acres of other vegetation, or where Air Curtain Destructors are used, persons must obtain and complete an air quality permit from the Colorado Department of Public Health and Environment: <http://colorado.gov>
2. If an air quality permit is obtained from the Larimer County Department of Health and Environment, a request for an Open Burn Permit will automatically be sent to the Fire Protection District in which the property is located or to the Larimer County Sheriff's Office. A notice stating whether the Open Burn Permit has been approved or denied will be sent to the applicant by first class mail or electronically.
3. If an air quality permit is obtained from the Colorado Department of Public Health and Environment, the applicant must contact and obtain a signed Open Burn Permit from the Fire Protection District in which the property is located or from the Larimer County Sheriff's Office.
4. An Open Burn Permit may be revoked at any time if any of the conditions necessary for the issuance of the Permit are not complied with.

SECTION 8: OPEN BURNING REQUIREMENTS

1. Persons with an Open Burn Permit must notify the applicable Fire Dispatch on the day of and immediately before commencing burning. Persons must notify Fire Dispatch upon completion of the Open Burn.
2. If an Open Burn is to be conducted by someone other than the legal owner of the property, written permission for the Open Burn must be obtained from the legal owner or his/her agent and provided as part of the permitting process prior to obtaining the Open Burn Permit.
3. Open Burn fires must be constantly and directly attended and observed by a competent and non-physically/mentally impaired person. Appropriate extinguishing equipment must be available and ready for immediate use. 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. The Open Burn must be conducted 50 feet or more from any structures or combustible fence.
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, grass, leaves, yard waste, animal parts or carcasses, or any other excessive smoke producing material.

6. Open Burns can only be conducted between sun-up and sundown, whether permitted or not, unless the Open Burn Permit allows otherwise. Open Burn fires must be extinguished by sundown, except for cooking, recreation, and bon fires.

7. Local Fire Protection Districts may have more restrictive codes, regulations, policies or standards. In those cases, the more restrictive provisions apply.

8. Open Burns of Slash piles are allowed only when there are predicted or actual winds of 10 mph or less. All Open Burns of Slash pile burns conducted above 6000 feet elevation are required to have three or more inches of snow on the ground around the Slash, unless an Air Curtain Destructor is used.

9. The following materials are prohibited from Open Burning under an Open Burn Permit:

- a. Routine yard and garden clean up such as hay, straw, grass clippings, leaves, yard waste and old plants.
- b. Construction debris, fencing and furniture
- c. Structures, except for Fire Department training exercises.
- d. Household garbage, both indoors and outdoors.
- e. Commercial business waste.
- f. Any material that produces excessive smoke such as rubber, plastics, paper and cardboard.
- g. Treated wood.
- h. Hazardous materials
- i. Animal parts or carcasses.

10. There shall be no Open Burning, including permitted Open Burning, during State or County authorized fire restrictions or bans unless written permission is obtained from the Fire Protection District in which the property is located or from the Larimer County Sheriff's Office.

11. There shall be no Open Burning, including permitted Open Burning while a red flag warning is in effect in the fire weather zone of the designated burn.

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 must submit a written request for notification to the Fire Protection District in which their property is located and to the Larimer County Sheriff's Office. Such request shall include the name of the person(s) requesting notification, the physical address of the requestor's property, the requestor's mailing address, telephone number, and email address.

SECTION 10: EDUCATION

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

<http://larimer.org/burnpermit/>

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

SECTION 11: ENFORCEMENT

This Ordinance may be enforced by the Larimer County Sheriff's Office or by the Fire Protection District in which the property on which Open Burning is to be conducted is located.

SECTION 12: VIOLATION AND PENALTIES

1. Knowing violation of this Ordinance shall constitute a class 2 petty offense. Violations of this article may be enforced through the penalty assessment procedure set forth in C.R.S. §16-2-201.
2. The graduated fine schedule for the penalty assessment procedure is:
 - One hundred dollars for the first violation.
 - Two hundred fifty dollars for the second violation within sixty days of the first violation.
 - Five hundred dollars for each successive violation within sixty days of the prior violation.
3. Any person who initiates Open Burning in an unincorporated area of Larimer County on a day identified by the National Weather Service as a red flag warning, 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.

4. In addition to any other penalty, persons convicted of a violation of this Ordinance shall be subject to a surcharge in the amount set out in C.R.S. §30-15-402(2).

5. Any law enforcement officer or the fire marshal of the Fire Protection District in which the property on which Open Burning is to be conducted is located is authorized to issue citations, summonses and complaints for violation of this Ordinance.

6. In addition to the foregoing penalty procedure, any law enforcement officer or the fire marshal of the Fire Protection District in which the property on which Open Burning is to be conducted is located 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.

SECTION 13. SEVERABILITY.

The provisions of this Ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

PASSED AND ADOPTED this ____ day of _____, 20__, by the Board of County Commissioners of Larimer County, Colorado.

BOARD OF COUNTY COMMISSIONERS
LARIMER COUNTY, COLORADO

By: _____
Steve Johnson, Chair

ATTESTATION:

I, _____, Larimer County Deputy Clerk, attest that the foregoing ORDINANCE FOR THE REGULATION OF OPEN BURNING IN UNINCORPORATED LARIMER COUNTY, COLORADO was read at a meeting of the Board of County Commissioners and has been published in full in a newspaper of general compliance.

Deputy Clerk and Recorder