

OPEN FIRE AND OPEN BURNING RESTRICTIONS

8.24.010 Title.

This ordinance shall be known and referred to as the “Pueblo County Open Fire and Open Burning Restriction Ordinance,” and may be cited and referenced as such. (Ord. 2017-25 § 1)

8.24.020 Purpose.

The purpose of this Ordinance is to preserve and protect the public health, safety and welfare of the citizens of Pueblo, Colorado, by restricting open fires and open burning in the unincorporated areas of Pueblo County in order to prevent forest and prairie fires given the high danger of such fires as a result of atmospheric conditions, including lack of moisture and other local conditions in Pueblo County. (Ord. 2017-25 § 2)

8.24.030 Authority.

This Ordinance is authorized by, inter alia, generally, part 1 of article 11 of title 30, and part 4 of article 15 of title 30, and specifically, part 4 of article 15 of title 30 at C.R.S. § 401(1)(n.5). (Ord. 2017-25 § 3)

8.24.040 Interpretation.

This Ordinance shall be so interpreted and construed as to effectuate its general purpose to preserve and protect the public health, safety and welfare of the citizens of Pueblo County, Colorado, by restricting open fires and open burning in the unincorporated areas of Pueblo County in order to prevent forest and prairie fires given the high danger of such fires in Pueblo County. Section headings and any cross references, if any, of this Ordinance shall not be deemed to govern, limit, modify or affect in any manner the scope,

meaning or extent of the provisions of this Ordinance or any section thereof. (Ord. 2017-25 § 4)

8.24.050 Application.

This Ordinance shall apply throughout the unincorporated areas of Pueblo County, including public, private, state and federal lands and to any incorporated town or city which elects by ordinance or resolution to have the provisions thereof apply. (Ord. 2017-25 § 5)

8.24.060 Definitions.

Open fire or Open burning: For purposes of this Ordinance, open fires or open burning shall be defined as any outdoor fire, including, but not limited to, bonfires, campfires, warming fires, charcoal grill fires, fires in wood-burning stoves, the use of explosives, outdoor welding or operating acetylene or other torch with open flame other than in an area cleared of all flammable materials, fireworks of all kinds or brands, burn barrels, and the prescribed burning of irrigation or drainage ditches, fence lines or rows, fields, farmlands, rangelands, wild lands, trash and debris.

Fireworks: As defined in C.R.S. § 12-28-101(3)(a), including any composition or device designed to produce a visible or audible effect by combustion, deflagration, or detonation, and that meets the definition of articles pyrotechnic, permissible fireworks (per Section 12-28-101(8)(a)), or display fireworks.

Fire Restriction Evaluation Guidelines: That set of evaluation criteria currently in use by local Federal, State and local fire suppression/management agencies for monitoring fuel moistures, fire danger class, current impacts on suppression resources, current fire cause types, fire weather forecasts, and other indicators of predicted fire danger.

STAGE 1 RESTRICTIONS : Prohibits the following activities:

1. Open burning, excepting fires and campfires within permanently constructed fire grates in developed campgrounds and picnic grounds,

charcoal grills and wood burning stoves at private residences in areas cleared of all flammable materials, and those other exceptions/exemptions as noted in Section 8.

2. The sale or use of fireworks (as defined in Section 6) pursuant to C.R.S. § 30-15-401(1)(n.5).

3. Outdoor smoking except within an enclosed vehicle or building, a developed recreation site or while stopped in an area at least three feet in diameter that is barren or cleared of all flammable materials.

STAGE 2 RESTRICTIONS : Prohibits the following activities:

1. All open burning as defined other than those exceptions/exemptions as noted in Section 8.

2. The sale or use of fireworks (as defined in Section 6) pursuant to C.R.S. § 30-15-401(1)(n.7).

3. Outdoor smoking except within an enclosed vehicle or building.

4. Operating or using any internal combustion engine is not permitted on public lands without a spark arresting device properly installed, maintained and in effective working order meeting either:

a. Department of Agriculture, Forest Service Standard 5100-1a; or

b. Appropriate Society of Automotive Engineers (SAE) recommended practice J335(b) and J350(a).

5. Welding, or operating acetylene or other similar torch with open flame unless said work is performed in an area at least thirty (30) feet in diameter that is clear of flammable vegetation and unless the worker has ready access to a fire extinguisher or water supply suitable to suppress any fire that results from the welding operation.

(Ord. 2017-25 § 6)

8.24.070 No Open Burning When Red Flag Warning is in Effect.

No person shall initiate or continue an open fire in unincorporated areas of Pueblo County on a day identified by the National Weather Service as a “red flag warning” period in any part of unincorporated areas of Pueblo County which are located both outside of and within fire protection district boundaries; any existing burn projects must be extinguished under “red flag

warning” restrictions. Stage 2 Restrictions shall be in place during red flag warning periods and open fire or burning during a red flag warning period shall be treated as a violation of Stage 2 burn restrictions as noted in Section 6. of this Ordinance. (Ord. 2017-25 § 7)

8.24.080 Unlawful Acts.

It shall be unlawful for any person to build, maintain, attend or use an open fire or conduct an open burn in the unincorporated areas of Pueblo County, including public, private, state and federal lands and to any incorporated town or city which elects by ordinance or resolution to have the provisions thereof apply. (Ord. 2017-25 § 8)

8.24.090 Exceptions/Exemptions.

The following shall **not** be in violation of Section 8:

A. Commercial or community fireworks displays properly permitted.

B. The following are exempt from this Ordinance:

1. Fires contained within liquid-fueled or gas-fueled stoves
2. Indoor fireplaces and wood-burning stoves
3. Outdoor charcoal grills and wood-burning stoves during Stage 1 Restrictions providing they are at private residences and in an area cleared of all flammable materials including dry vegetation.

C. The burning of irrigation ditches in the designated areas is prohibited by this Ordinance EXCEPT for 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 Pueblo County Sheriff, his or her designee, or the Fire Chief of any Fire Protection District for all areas within the official boundaries of their jurisdiction. Prior to such excepted ditch burning, notice must be given from the Sheriff, Sheriff’s designee, or Fire Chief if in an official fire protection area, to the Pueblo County Sheriff’s Office Communication Center of said burning.

D. Persons with a permit specifically authorizing the otherwise prohibited act

or omission.

E. Any federal, state or local law enforcement officer or member of an organized rescue or firefighting agency in the performance of an official duty.

F. Any further exemptions to either the meaning of terms or the enforcement of this Ordinance shall be granted only by the Sheriff or the Sheriff's designee, or for exemptions upon or within state or federal lands located within Pueblo County, by the administering state or federal agency, and only if the proposed action is deemed by the Pueblo County Sheriff, or the Sheriff's designee, to be safe and mitigable. (Ord. 2017-25 § 9)

8.24.100 Declaration of An Open Fire Ban.

The Pueblo County Board of County Commissioners or the Pueblo County Sheriff, or his designee Deputy Fire Warden, shall have the authority to declare an open fire ban whenever the danger of forest and grass fires is found to be high, and without further proceedings or resolution. Any declaration of an open fire ban made pursuant to this section shall specify the Stage level restriction, the parameters of the ban and the duration of the ban as deemed necessary and appropriate, and shall be promptly published through a general press release to local television, radios and print media, as well as posting on the Pueblo County internet website. Likewise, when conditions indicate a reduction or increase in restrictions, or the suspension or release of restrictions, the same notification to the public shall occur. (Ord. 2017-25 § 10)

8.24.110 Enforcement.

This Ordinance shall be enforced by the Sheriff, through his Deputies, the Fire Chief of any fire protection district or his designee, the administering agencies of the state and federal lands located therein, or Fire Chief or his designee of any incorporated city or town who adopts this Ordinance, and any peace officer in and for the State of Colorado as described in C.R.S. § 16-2.5-101, and they shall have authority to order any person to immediately cease any violation of this Ordinance. This authority shall include, but not be

limited to, the right to issue a penalty assessment notice and the right to take such person or persons into temporary custody. (Ord. 2017-25 § 11)

8.24.120 Violations.

A. Any person who violates this Ordinance from the effective date to and including the day prior to suspension or rescission of this Ordinance, commits a Class 2 Petty Offense under C.R.S. § 30-15-402(1) and, upon conviction or confession of guilt thereof, shall be punished by a fine of not more than one-thousand dollars (\$1,000.00) for each separate offense plus a surcharge of ten dollars (\$10.00), under C.R.S. § 30-15-402(2). Fines are to be set by the County Court, unless the violator wished to confess guilt and pursuant to the penalty assessment procedure within twenty (20) days of issuance of the ticket, pay the fine indicated plus the ten dollar (\$10.00) surcharge.

B. Each violation of this Ordinance shall be deemed separate and distinct from any other violation of this Ordinance or of any other federal, state, or local law rule, order or regulation.

C. Criminal prosecution may be brought against a violator in accordance with C.R.S. §§ 30-15-402 and 30-15-410, and under the penalty assessment procedure provided in C.R.S. §16-2-201. The Sheriff's Office is authorized to devise a ticketing system in conformance with C.R.S. § 16-2-201.

D. The penalty assessment procedure provided in C.R.S. § 16-2-201 may be followed by any arresting law enforcement officer for any such violation. The graduated fine schedule for such penalty assessment procedure shall be:

1. Two Hundred and Fifty Dollars (\$250.00) for the first offense;
2. Five Hundred Dollars (\$500.00) for the second offense within sixty (60) days of the first offense;
3. Seven Hundred and Fifty Dollars (\$750.00) for the third offense within sixty (60) days of the first offense;
4. One Thousand Dollars (\$1,000.00) for each additional offense within sixty (60) days of the first offense.
5. In addition to the penalty prescribed in this Ordinance, persons convicted

of a violation of this Ordinance are subject to a surcharge of ten dollars (\$10.00). (Ord. 2017-25 § 12)

8.24.130 Disposition of Fines.

All fines paid for the violation of this Ordinance shall be in negotiable funds made payable to Pueblo County and submitted to the Pueblo County Treasurer's Office, 215 West 10th Street, Pueblo, CO 81003. All fines for the violation of this Ordinance received by the County shall be remitted to the Pueblo County Treasurer and deposited into the general fund. All surcharge dollars shall be paid by the defendant to the Clerk of the Court and credited to the Victims and Witnesses Assistance and Law Enforcement Fund of the Tenth Judicial District of the State of Colorado pursuant to C.R.S. § 30-15-402(2)(a). The defendant shall also pay court costs. (Ord. 2017-25 § 13)

8.24.140 Additional Remedies.

The remedies provided in this Ordinance shall be cumulative and in addition to any other federal, state or local remedies, criminal or civil, which may be available. Nothing contained herein shall be construed to preclude prosecution under any applicable statute, including but not limited to, prosecution under C.R.S. § 18-13-109, or any applicable local, state or federal statute, ordinance, rule, order or regulation. (Ord. 2017-25 § 14)

8.24.150 Safety Clause.

The Board hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation and protection of the health, safety and welfare of the citizens of Pueblo County, Colorado. (Ord. 2017-25 § 15)

8.24.160 Effective Date.

A. This Ordinance placing a restriction on all open fires and open burning within the unincorporated areas of Pueblo County shall be effective immediately and remain in effect until such time as this Ordinance is amended by the Board, or enforcement is temporarily suspended by the Board, Sheriff or his designee.

B. The Board further orders that this Ordinance be published in full in the Pueblo County Chieftain as an excepted Ordinance necessary for the

immediate preservation of the public health, safety and welfare of the citizens of Pueblo County. As an excepted Ordinance, a second reading and subsequent publication by reference to title only are not required. (Ord. 2017-25 § 16)

8.24.170 Severability.

Should any section, subsection, clause, sentence or phrase of this Ordinance be adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair or invalidate the other provisions of this Ordinance which can be given effect without such invalid provision. (Ord. 2017-25 § 17)

8.24.180 Repeal of Conflicting Provisions.

All former County ordinances, resolutions, rules or regulations, or parts thereof, in conflict with this Ordinance are hereby repealed. (Ord. 2017-25 § 18)