

**ORDINANCE #17
OPEN FIRE BAN AND BURN PERMIT ORDINANCE**

AN ORDINANCE PROVIDING A PROCEDURE TO BAN OPEN FIRES WITHIN TELLER COUNTY, PROVIDING A PROCEDURE FOR FUTURE IMPLEMENTATION OF OPEN FIRE BANS WHEN NEEDED, AND IMPLEMENTING AN OPEN BURNING PERMIT SYSTEM, ALL PURSUANT TO COLORADO REVISED STATUTES SECTION 30-15-401(1)(n.5).

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

WHEREAS, Teller County, Colorado possesses the authority pursuant to C.R.S. 30-15-401(1)(n.5) to adopt an ordinance banning open fires within the unincorporated areas of the County, to determine the degree and manner in which open fire bans are to be implemented, and to provide for a penalty for violations of the open fire ban. It is the express intent of this ordinance to conform and comply with this statutory authority to the greatest extent possible while protecting the health, safety and welfare of the residents of Teller County; and

WHEREAS, the Board of County Commissioners ("Board") finds, and recognizes that it is common knowledge, that from time to time there exists an extreme or serious danger and threat of forest fires, grassfires, and wildfires due to dry weather and vegetation conditions in the County and that fires have routinely or periodically occurred during dry weather conditions in the County causing property damage and risk of loss of life; and

WHEREAS, the Board finds and declares that an emergency often exists in the County concerning the likelihood of forest fires, grassfires, and wildfires resulting from the dry weather and vegetation conditions in the County and the increased recreational use of properties within the County, particularly during the summer and fall seasons, and the Board finds that such conditions are reoccurring and frequent; and

WHEREAS, Teller County, Colorado possesses the authority pursuant to C.R.S. 30-15-401(1)(n.5) to adopt an ordinance implementing an open burning permit system; and

WHEREAS, the Board finds that this ordinance is necessary to the immediate preservation of the public health and safety for the reasons set forth herein, and in the previous two WHEREAS paragraphs and in Section 8, and therefore that this ordinance be effective immediately upon its adoption; and

WHEREAS, Teller County has had an open burning permit system, and burn permit forms, in place and used and managed by the Teller County Sheriff's Office since before April 16, 2001; and

WHEREAS, the Board finds that the publication and notice of this ordinance was or will be performed in accordance with C.R. S. 30-15-405 and 30-15-406; and

WHEREAS, the Board finds that amendment of the procedures regarding bans on open fires and implementation of an open burning permit system will reduce the danger and likelihood of forest fires, grassfires, and wildfires; and

WHEREAS, the Teller County Sheriff's Office is the appropriate agency to enforce violations of open fire bans and the open burning permit system imposed by this ordinance; and

WHEREAS, the Board finds that the Teller County Sheriff shall act under the provisions of C.R.S. Section 30-10-512 and 30-10-513 as the Fire Marshall of the County and is authorized hereby and under C.R.S. Section 30-15-401(1)(n5) to manage an open burning permit system, and to, in collaboration with Fire Protection Districts, inform private property owners of benefits, criteria and required processes for safe open burning of slash and debris piles; and

WHEREAS, the Board of County Commissioners hereby finds, determines and declares that adoption of this Ordinance is necessary for the preservation and protection of the public health, safety and welfare of the inhabitants of Teller County, Colorado, and that it is in the best interests of the people of Teller County and their property that the procedure for implementing open fire bans, as previously instituted in the County, creating a procedure for invoking future open fire bans when conditions warrant, which can be quickly implemented, be amended, and that the existing open burning permit system for open burning be replaced by this Ordinance establishing and implementing an open burning permit system in the County, and for the permitting of open burning, be instituted in the County.

NOW, THEREFORE, the following is adopted, which rescinds and replaces Ordinance #12 in its entirety, and replaces the current open burning permit system, as of the effective date of this Ordinance # 17:

Section 1: An open fire ban shall be in effect in Teller County, Colorado, when an open fire ban is implemented by resolution of the Board in accordance with the provisions of this Ordinance.

The open fire ban authorized to be imposed by the terms of this Ordinance shall be implemented by:

- (A) Adoption of a resolution by the Teller County Board of County Commissioners declaring that conditions and circumstances within the County necessitate the imposition of an open fire ban to protect the health, safety, and welfare of the public. Such resolution shall specifically state that the resolution is intended to implement the open fire ban authorized by this Ordinance; and
- (B) That established evaluation criteria then currently in use by federal, state and local fire suppression/management agencies for monitoring fuel moistures, fire dangers class, then current impacts on suppression resources, then current fire cause types, weather forecasts and other predictive fire danger may be considered by the Board; and
- (C) The County may consider and, where deemed appropriate by the Teller County Board of County Commissioners, undertake efforts to advertise and publicize each open fire ban implemented by resolution in accordance with this Ordinance. Such efforts may include, but are not limited to, any one, none or more of the following: recording of the resolution in the records of the Clerk and Recorder, posting of the resolution on the Teller County website, publication of the resolution and notices in one or more newspapers and publications circulated within Teller County, the erection of signs referring to the open fire ban along public thoroughfares and/or in public places within Teller County, and/or notification sent to fire districts, the Colorado State Forest Service, the United States Forest Service, municipalities and other public agencies informing such agencies of the County open fire ban. The failure to undertake any such additional efforts to advertise and publicize the open fire ban shall not invalidate or preclude the enforcement of this Ordinance as implemented by any such resolution.

Section 2. When this Ordinance is so implemented, open fires of every kind and type are prohibited on all public and private lands in all unincorporated areas of the County to the greatest extent permitted by law, unless such prohibition is specifically limited by the terms of the implementing resolution.

Section 3. For purposes of this Ordinance and any resolution implementing an open fire ban, unless specifically otherwise defined in any implementing resolution enacting an open fire ban, "open fire" shall be defined as any outdoor fire, including but not limited to campfires, warming fires, charcoal grill fires, all explosives, firing of model rockets, welding or operating an acetylene or other torch with open flame other than in an area cleared of all flammable materials, and the prescribed burning of fence rows, fields, farmlands, wildlands, trash and debris, but shall not apply to commercial fireworks within city limits.

The above may be modified by the specific provisions of any resolution implementing an open fire ban pursuant to this Ordinance.

Section 4. An open fire ban imposed and implemented in accordance with this Ordinance shall commence upon the date of adoption of the resolution and shall remain in effect until the date identified in such resolution, if any, or the date of repeal of the resolution by a further resolution of the Board of County Commissioners.

Section 5. The Teller County Sheriff will implement this "Open Burning Permit System" for the purpose of safely burning of slash, slash piles, forest management slash, grasses and debris. In collaboration with Teller County Fire Protection Districts, the open burning permit system will provide private property owners burner education and required procedures for safe slash and debris burning. The Teller County open burning permit system, and the burn permit forms, currently being used and managed by the Teller County Sheriff's Office, are hereby adopted as the open burning permit system for Teller County. The Board has considered all matters, and collaborated with all entities, if and as required by C.R.S. 30-15-401(1)(n.5)(II) in the adoption of this open burning permit system. The open burning permit system also includes the following additional provisions:

5.1 No person shall conduct any open burning without obtaining and holding a valid and effective open burning permit, and notifying the Sheriff's Office of any proposed open burning under the open burning permit, and in all other respects complying with the open burning permit system, requirements, and the open burning permit.

5.2 Any individual with a respiratory condition, documented by a physician's letter, may, by written request delivered to the Teller County Sheriff's Office (with such documentation), and including a notification method and information, request the Sheriff's Office to advise such individual of a burn that will occur pursuant to a burn permit issued on contiguous property, including the date, time and location of such burn under an open burning permit.

5.3 The Sheriff's Office may, in authorizing a burn under an open burning permit, require the person who will be conducting the burn to notify contiguous land owners, of the date, time and location of any burning pursuant to an open burning permit.

5.4 Broadcast burns conducted within federal and state guidelines that have a written prescribed fire plan and agricultural burns are hereby exempted from the open burning permit system.

5.5 Nothing in the Teller County open burning permit system infringes upon or otherwise affects the ability of agricultural producers to conduct burning on their property.

5.6 Provisions or procedures of the open burning permit system may be amended by the Sheriff, with the prior approval of the Board, by motion or resolution.

Section 6. The Teller County Sheriff and the Sheriff's officers, deputies, designees and agents are authorized by the Teller County Board of County Commissioners to enforce the prohibition on open fires implemented by such resolution(s) adopted as provided in this Ordinance, and to enforce the open burning permit system. The Teller County Sheriff shall be responsible for the administration of this ordinance. All inquiries regarding the current status of open fire restrictions and bans in Teller County should be directed to the Sheriff's Office.

Section 7.

7.1 Violations of this Ordinance shall constitute a class 2 petty offense and may be prosecuted in accordance with C.R.S. 30-15-402 and 30-15-410, and upon conviction or confession of guilt thereof shall be punished by a fine of not more than One Thousand and 00/100 Dollars (\$1,000.00) for each violation of this Ordinance. The minimum fine shall be One Hundred and 00/100 Dollars (\$100.00) and the maximum fine shall be One Thousand and 00/100 Dollars (\$1,000.00). It is the intent of this Ordinance that the fine for repeated or multiple violations of an open fire ban implemented as provided herein, or of the burn permit system, by any one person, shall be significantly increased.

7.2 The Teller County Sheriff shall have the authority to take a violator or violators into custody for violations of this Ordinance. Criminal prosecution may be brought against a violator in accordance with Sections 30-15-402 C.R.S. and 30-15-410 C.R.S., or under the penalty assessment procedure provided in Section 16-2-201 C.R.S.

7.3 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, and each day during which violation of this Ordinance continues shall be deemed a separate offense.

7.4 When a person is issued a summons and complaint for a violation of this Ordinance, the issuing officer shall have the authority, but not be limited to, to issue a penalty assessment notice pursuant to and as authorized by Section 16-2-201C.R.S. to the person. The penalty assessment notice shall be a summons and complaint, shall identify the alleged offender, shall specify the offense and applicable fine and shall require that the alleged offender pay the fine or appear to answer the charge at a specified time and place. A duplicate copy shall be sent to the Clerk of the County Court. If the person given a penalty assessment notice chooses to acknowledge guilt, he/she may pay the specified fine in person or by mail at the place and within the time specified in the notice. If he/she chooses not to acknowledge his/her guilt, he/she shall appear as required in the notice. Upon trial, if the alleged offender is found guilty, the fine imposed shall be that specified in the notice for the offense of which he/she was found guilty. Customary court costs may be assessed against him/her in addition to the fine.

7.5 Each violation of any provision of this Ordinance, whether prosecuted in accordance with C.R.S. 30-15-402 and 30-15-410, under the penalty assessment provisions of C.R.S. 16-2-201, or otherwise, is punishable as follows:

First Violation	A fine of one hundred dollars (\$100.00)
Second Violation	A fine of five hundred dollars (\$500.00)
Third and subsequent violations	A fine of one thousand dollars (\$1000.00) for each subsequent violation

Section 8. Pursuant to C.R.S. 30-15-405, this Ordinance shall be effective immediately upon its adoption by the Board of County Commissioners. This Ordinance is necessary for the immediate preservation of the public health and safety because there periodically exists an extreme and serious threat of wildfire under the weather and vegetation conditions existing in Teller County, which can and do change quickly, and such threat may result in real and immediate harm to life and property. Absent the immediate effect of this Ordinance, it may not be possible to respond with sufficient speed in implementing an open fire ban, or adequately control open burning and the open burning permit system, to protect the health and safety of the public.

Section 9. Where any provision of this Ordinance conflicts with any other provision of this Ordinance, or any other law or ordinance, the more stringent requirement, regulation, restriction or limitation shall apply. Notwithstanding the foregoing, it is the intent of the Board that this Ordinance completely embody all rules, regulations and requirements within unincorporated Teller County regarding burn bans and an open burning permit system. Therefore, all prior Resolutions and Ordinances, including Ordinance #12, heretofore adopted by the Board in relation to the matters contained herein, are hereby declared null, void and of no effect as of and for matters occurring after the Effective Date of this Ordinance. To effectuate this purpose, all prior burn ban Ordinances, including Ordinance #12, are hereby rescinded as of and for matters occurring after the Effective Date of this Ordinance.

Section 10. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

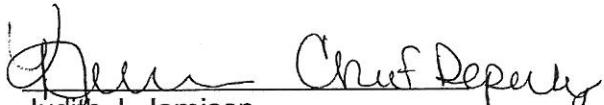
CERTIFICATION: THE FOREGOING ORDINANCE WAS INTRODUCED AND READ ON FEBRUARY 9, 2012 BY THE BOARD OF COUNTY COMMISSIONERS OF TELLER COUNTY, COLORADO, and APPROVED FOR PUBLICATION.

DATE OF PUBLICATION: FEBRUARY 22, 2012

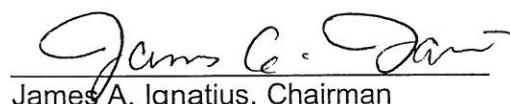
THE FOREGOING ORDINANCE WAS CONSIDERED ON APRIL 12, 2012 AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS

EFFECTIVE: APRIL 12, 2012

DATE OF SECOND PUBLICATION: APRIL 25, 2012


Judith J. Jamison
Teller County Clerk & Recorder

BY: THE TELLER COUNTY BOARD OF COUNTY COMMISSIONERS


James A. Ignatius, Chairman

Attest:


Judith J. Jamison,
Teller County Clerk & Recorder

