

PALMER LAKE, COLORADO

ORDINANCE NO. 5 OF 2017

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE CONCERNING FIRE AND OPEN BURNING RESTRICTIONS WITHIN THE TOWN, SETTING AND IMPOSING THE PENALTY FOR VIOLATIONS THEREOF, AND DECLARING AN EMERGENCY

WHEREAS, THE TOWN OF PALMER LAKE IS A COLORADO MUNICIPAL CORPORATION AUTHORIZED BY STATE LAW, INCLUDING, BUT NOT LIMITED TO, SECTIONS 31-15-401 AND 31-23-301 OF THE COLORADO REVISED STATUTES, TO EXERCISE ITS POLICE POWERS TO PROMOTE AND PROTECT THE HEALTH, SAFETY, AND WELFARE OF THE COMMUNITY AND ITS CITIZENS; AND

WHEREAS, CHAPTER 8.10 OF THE TOWN OF PALMER LAKE MUNICIPAL CODE SETS FORTH REQUIREMENTS FOR OBTAINING PERMITS BEFORE CONDUCTING ANY OPEN BURNS WITHIN THE TOWN; AND

WHEREAS, DUE TO ITS URBAN WILDLAND INTERFACE, PROXIMITY TO NATIONAL FOREST AREA USED FOR HIKING, CAMPING AND OTHER ACTIVITIES WHICH ARE OFTEN ACCOMPANIED BY CAMP AND OTHER FIRES AND OTHER CONCERNS MAKING THE TOWN VULNERABLE TO WILDFIRES AND OTHER DANGERS FROM UNATTENDED OR CARELESS BURNING, THE TOWN DESIRES TO AMEND CHAPTER 8.10 TO SET FORTH MINIMUM PENALTIES FOR VIOLATIONS OF THE CHAPTER; AND

WHEREAS, THE TOWN BOARD FINDS THAT AN EMERGENCY EXISTS AND THE IMMEDIATE EFFECTIVENESS OF THIS ORDINANCE IS NECESSARY TO PRESERVE THE PUBLIC HEALTH, SAFETY AND WELFARE.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE, COLORADO:

Section 1. Chapter 8.10 entitled "Burn Permits" is repealed and readopted with a new title to read as follows in its entirety:

CHAPTER 8.10 FIRE RESTRICTIONS AND BURN PERMITS

Sections:

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| 8.10.010 | Definitions |
| 8.10.020 | Application of El Paso County Fire Restrictions and Town Imposed Fire Restrictions within Town |
| 8.10.030 | Prohibited Acts During Fire Restrictions |

- 8.10.040 Open Burning Prohibited Without Permit
- 8.10.050 Penalty for Violations

8.10.010 Definitions.

“*El Paso County Fire Restrictions*” means either Stage 1 Restrictions or Stage 2 Restrictions as imp

“*Open Burning*” means vegetation management that involves the combustion of one or more piles of clean, dry natural vegetative material on an open premises, or on any public street, alley or other land adjacent to such premises.

“*Open Fire*” means an outdoor fire, including, but not limited to, campfires, warming fires, charcoal grill fires, fires in wood-burning stoves, the use of explosives, outdoor welding or operating an acetylene or other torch with open flame other than in an area cleared of all flammable materials, fireworks of all kinds or brands, vegetation management burning and the prescribed burning of fence lines or rows, fields, farmlands, rangelands, wild lands, trash, and debris.

“*Stage I Restrictions*” means the following activities are prohibited:

1. Open fire and open burning, excepting fires and campfires within permanently constructed fire grates, charcoal grills and wood burning stoves in developed campgrounds and picnic grounds, or private residences in areas cleared of all flammable materials.
2. The sale or use of fireworks.
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 of and cleared of all flammable materials.

“*Stage II Restrictions*” means the following activities are prohibited:

1. All open fire and open burning as defined.
2. The sale or use of fireworks.
3. Outdoor smoking except within an enclosed vehicle or building.

Section 8.10.020. Application of El Paso County Fire Restrictions and Town Imposed Fire Restrictions within Town.

- A. Whenever the El Paso County Fire Marshall or his designee implements and advertises El Paso County Stage 1 Restrictions or Stage 2 Restrictions within the unincorporated areas of El Paso County, such restrictions shall also be automatically applicable within the boundaries of the Town of Palmer Lake and on Town owned property to include the Water System (which includes the hiking trail or road to the Water System) as described in Chapter 13.08 of this Code. The Town shall post notice of such fire restrictions on the Town web site, at Town Hall, at the Palmer Lake Post Office and at the major trailheads to the Water System. At cessation of El Paso County Stage 1 Restrictions or Stage 2

Restrictions within the unincorporated areas of El Paso County, such restrictions shall also automatically cease to be applicable within the Town, unless and without limiting the ability of the Town to impose Town fire restrictions in accordance with Subsection (B).

- B. In addition to the El Paso County Fire Restrictions Stage 1 or Stage 2 restrictions automatically imposed as set forth in Subsection (A), in the event that the Mayor or the Town Board of the Town of Palmer Lake determines that the fire danger in the Town or on Town owned property, to include the Water System as described in Chapter 13.08 of this Code, is above normal, then the Mayor or his designee or the Town Board may declare that a fire danger exists and impose appropriate fire restrictions by written declaration that may or may not be the same as either El Paso County Fire Restrictions Stage 1 or Stage 2 fire restrictions. Upon issuance of such declaration, the Town shall post notice of such fire restrictions on the Town web site, at Town Hall and at the Palmer Lake Post Office. Fire restrictions imposed hereunder shall remain in effect for the entirety of the time that such restrictions are posted in accordance with this Section.

8.10.030. Prohibited Acts During Fire Restrictions.

- A. Unless exempted by Subsection (B), it shall be unlawful and a violation of this Chapter for any person to engage in any activity prohibited by any fire restriction imposed in compliance with Section 8.10.020 in the Town and on Town owned property to include the Water System as described in Chapter 13.08 of this Code, including on public, private, state, and applicable federal lands.
- B. The following shall not be in violation of this Section:
 - 1. Commercial or community fireworks displays properly permitted.
 - 2. Fires contained within liquid-fueled or gas-fueled stoves; indoor fireplaces and woodburning stoves; and outdoor charcoal grills and wood-burning stoves during El Paso County Stage I Restrictions, providing they are at private residences and in an area cleared of all flammable materials including dry vegetation, unless Town imposed restrictions adopted in accordance with Section 8.10.020(B) prohibit such fires.
 - 3. Persons with a permit issued pursuant to Section 8.10.040 specifically authorizing the otherwise prohibited act or omission during fire restrictions.
 - 4. Any federal, state, or local officer, or member of an organized rescue or firefighting force, in the performance of an official duty.

8.10.040 Open Burning Prohibited Without Permit.

- A. It shall be unlawful and a violation of this Section for any person to engage in any open burning in the Town or on Town owned property, to include the Water System as described in Chapter 13.08 of this Code, without a permit for same, except in compliance with this Section, regardless of whether fire restrictions are in place under this Chapter.
- B. The open burn must at all times be attended by a designated responsible party in whose name an open burn permit has been issued and signed by the Town.
- C. The open burn must be conducted at the location and date and time and in accordance with all conditions as set forth in the permit.
- D. The permit shall issue only upon:
 - a. Approval of the Fire Chief of the Town of Palmer Lake Volunteer Fire Department or, for property within the service area of the Tri-Lakes Monument Fire Protection District, the Fire Chief of such district.
 - b. Payment of a \$50.00 burn permit fee.
- E. During the duration of the open burn, Palmer Lake Volunteer Fire Department personnel shall stand by in the area of the burn. That permittee shall pay to the Town the fee of \$25.00 per hour per person to be deposited in the Palmer Lake Volunteer Fire Department fund as compensation for standing by during the term of the burn. A minimum of one hour fee shall be collected.
- F. The Mayor or Fire Chief or any member of the of the Palmer Lake Volunteer Fire Department standing by shall have the right to halt any open burning if such person determines that the same is not being conducted in accordance with all conditions as set forth in the permit or the burn is otherwise endangering the public safety or interest.

8.10.050 Penalty for Violations.

Any person found guilty of violating any provision of this Chapter shall be punished as follows:

- 1. For any violation involving fireworks, open burning or an open fire, to include without limitation prohibited campfires, a minimum fine amount of \$1000 and up to a maximum of one (1) year in jail.
- 2. For any violation involving prohibited smoking, a minimum fine amount of \$500 and up to a maximum of one (1) year in jail.

Section 2. Severability. It is hereby declared to be the intention of the Board of Trustees of the Town of Palmer Lake, Colorado that the sentences, clauses and phrases of this ordinance are severable, and if any sentence, clause or phrase of this ordinance be declared unconstitutional or invalid by the valid judgment or decree of Court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining sentences, clauses or phrases of this ordinance since the same would have been enacted by the Board of Trustees without the incorporation of any unconstitutional or invalid sentence, clause or phrase.

Section 3. Emergency Declared, Effective Date and Publication. The Town Board finds that an emergency exists in that the public health safety and welfare requires the immediate effectiveness of this Ordinance. This ordinance shall become effective upon its adoption and the Town Clerk shall certify to the passage of this ordinance and cause notice of its contents and passage to be published or posted by title only.

PASSED AND ADOPTED THIS ___ DAY OF _____, 2017 BY A VOTE OF __FOR AND ___ AGAINST.

JOHN CRESSMAN, MAYOR

ATTEST:

TARA BERRETH, TOWN CLERK

I hereby certify that the above Ordinance was adopted by the Board of Trustees of the Town of Palmer Lake at its meeting of _____, 2017, and ordered published by title only by _____ newspaper on _____, 2017.

Tara Berreth, Town Clerk