

PALMER LAKE, COLORADO

ORDINANCE NO. 1-2021

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE AMENDING CHAPTER 8.10 CONCERNING OUTDOOR BURNING, FIRE, AND SMOKING REGULATIONS WITHIN THE TOWN, AND SETTING AND IMPOSING THE PENALTY FOR VIOLATIONS THEREOF

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 FIRE REGULATIONS AND RESTRICTIONS AND BURN PERMITS FOR FIRES WITHIN THE TOWN; AND

WHEREAS, DUE TO (A) ITS URBAN WILDLAND INTERFACE, (B) 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, (C) TOWN ROAD CONFIGURATION, (D) LIMITED RESOURCES OF THE TOWN'S POLICE AND FIRE DEPARTMENTS, AND (E) OTHER DANGERS FROM UNATTENDED OR CARELESS BURNING, THE TOWN DESIRES TO AMEND CHAPTER 8.10, TO INCLUDE SETTING FORTH MINIMUM PENALTIES FOR VIOLATIONS OF THE CHAPTER

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

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 Chapter 8.10 entitled "Fire Restrictions and Burn Permits" is repealed and readopted with a new title to read as follows in its entirety:

CHAPTER 8.10

OUTDOOR BURNING, FIRE AND SMOKING RESTRICTIONS

Sections:

- 8.10.010 Definitions
- 8.10.020 Applicability, Violations and Table of Allowable Activity
- 8.10.030 Implementation of Fire Restrictions and Notice
- 8.10.040 Penalty for Violations

8.10.010. Definitions. As used in this Chapter, the following terms shall have the assigned meaning:

"Attendant": an adult 18 years of age or older.

"Attended": an attendant is within sight and near proximity to a fire until extinguished in order to timely respond in the event that a spark, flame or ember leaves the container in which the fire is located.

"Camp Lantern": a pressure lamp made to burn kerosene, gasoline, Coleman fuel (white gas) or propane and use one or two mantles to produce an intense white light.

"Camp Stove": a small portable stove fueled by liquid such as propane for cooking or heating, especially by campers or picnickers.

"Combustible": any solid material that will eventually burn if exposed to enough heat for a long enough time such as, without limitation, branches, firewood, and framing lumber.

"El Paso County Stage 2 Fire Restrictions": El Paso County Stage 2 Restrictions as imposed within the unincorporated areas of El Paso County, Colorado, in accordance with El Paso County Ordinance 15-001, as may be amended from time to time.

"Extinguish(ed)": no excessive heat, and no visible flames, smoke, or emissions exist or hot embers are present.

"Extinguishing materials": a charged hose, a bucket with a minimum of two gallons of water, or a commercial fire extinguisher is nearby such that an attendant can readily access such materials to extinguish a fire.

"Fire Pit": a commercial container for the purpose of containing combustible and/or flammable materials, embers, flame and sparks of an outdoor fire (recreational fire) to keep the fire from spreading beyond the container.

"Fireworks": a pyrotechnic device consisting of combustibles designed to burn or explode for the purpose of generating a loud noise, light, sparks, smoke or projectile propulsion for entertainment or display.

"Flammable": any liquid material that can easily catch fire quickly under normal circumstances and with the help of minimal ignition source(s) such as, without limitation, oil, gas, or varnish.

"Open burning": a type of open fire for (a) 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,

(b) the prescribed burning of fence lines or rows, fields, farmlands, rangelands, wild lands, and (c) the burning of trash and debris.

"Open fire" : an outdoor fire, including but not limited to open burning, recreational fires of all types, the use of explosives, outdoor welding or operating an acetylene or other torch with open flame or operating tools that produce flame or sparks, fireworks of all kinds or brands, or any other activity creating combustion or an open flame.

"Outdoor commercial gas-fueled fire pit": a type of fire pit that is commercially manufactured and sold as an ornamental structure, the flame of which is fueled by natural gas or propane for outdoor fires, the medium of which is decorative, such as ceramic logs, fire glass, or lava rock, and that does not produce embers or sparks.

"Recreational Fire" : an outdoor fire used for pleasure, religious, ceremonial, warmth or similar purposes, including, but not limited to, campfires, fire pits, warming fires, charcoal grill fires, fires in wood-burning stoves involving the burning of charcoal or clean firewood, as well as outdoor commercial gas-fueled fire pit fires. Outdoor cooking in other than a commercially manufactured appliance designed for the purpose of cooking of food outdoors shall be treated the same as a recreational fire.

"Red Flag Warning" : a forecast warning issued by the National Weather Service inclusive of the Town to inform area firefighting, land use management agencies, municipalities and the public that conditions are ideal for wildland fire ignition and propagation either currently or within 24 hours.

"Spark Arrester" : a screen covering with holes no greater than 1/2 inch that is placed on top of a source of and completely encapsulates flames, embers or sparks to prevent such flames, embers or sparks from exiting the container at all times when flames, embers or sparks are present.

"Special Town Fire Restrictions": any restrictions imposed in accordance with Section 8.10.030(C) of this Chapter, which may be in addition to or in lieu of any Town Fire Regulations.

"Town Stage 1 Fire Restrictions": the minimum restrictions on burning, fires and outdoor smoking as set forth in this Chapter which are in effect at all times within the Town.

"Town Stage 2 Fire Restrictions" are additional restrictions (to the otherwise permanently applicable Town Stage 1 Fire Regulations) placed on outdoor burning, fires and smoking as and whenever in effect, as provided in this Chapter.

"Town Property": all Town-owned property to include parks, streets, open space and Town facilities and surrounding grounds and includes the water system.

"Unadulterated Wood": wood that is free of pesticides, fungicides, paint, varnish, glue, resin or other impregnated materials that produce noxious fumes or flames in excess of those that would be produced by wood that was not so impregnated.

"Water System" shall have the same meaning as the term "water system" as defined in Section 13.08.04 of this Code and include any hiking trail or road thereto.

Section 8.10.020. Applicability, Violations and Table of Allowable Activity.

- A. It shall be unlawful to engage in any activity within the Town in violation of any Town Fire Regulations.
- B. It shall be unlawful to engage in any activity within the Town in violation of Town Stage 2 Fire Restrictions as may be imposed in accordance with Section 8.10.030(B).
- C. It shall be unlawful to engage at any time in any activity within the Town, including public, private, state and applicable federal lands, inclusive of the Water System, involving outdoor fires, burning or smoking, unless such activity is allowed as set forth in Table 1 of this Section.
- D. It shall be unlawful to engage in any activity within the Town in violation of any Special Town Fire Restrictions as may be imposed in accordance with Section 8.10.030(C).
- E. The restrictions and prohibitions in this Chapter shall not apply to:
 - 1. Any federal, state, or local officer or member of an organized rescue or firefighting force, in the performance of an official duty; or
 - 2. Any Town sponsored event approved by the Board of Trustees and permitted by the Fire Chief at which the Fire Department is providing oversight of the fire or burning; or
 - 3. Indoor fires, burning or indoor smoking (including within an enclosed motor vehicle or building).
- F. The following chart outlines allowable and prohibited activities involving outdoor burning, fires and smoking by level of fire restrictions in effect (other than Special Town Fire Restrictions which are imposed by separate action in accordance with Section 8.10.030(C)):

Table 1

ACTIVITY	TOWN STAGE 1 RESTRICTIONS	TOWN STAGE 2
OPEN BURNING	Not Allowed	Not Allowed
Sale, Possession, Use or Display of Fireworks	Not allowed Commercial fireworks displays are allowed if approved by the Town Board of Trustees and permitted by the Fire Chief.	Not Allowed
Camp Stoves and Camp Lanterns	Allowed (including on wood decks and on Town property) if: 1. Attended until extinguished. 2. Separated from flammables at least 15 feet in all directions	Not allowed.
Open Fire Charcoal Grills for Cooking	Allowed (including on wood decks and on Town property) if: 1. Attended until extinguished. 2. Separated from flammables at least 15 feet in all directions	Not allowed.
Outdoor welding or operation of acetylene or other torch with open flame or tools that emit flame or sparks	Allowed if 1. Attended until extinguished. 2. Extinguishing materials nearby. 3. Separated from flammables at least 15 feet in all directions	Not allowed
Recreational fires in other than outdoor commercial gas-fueled fire pit	Allowed if: 1. Attended until extinguished. 2. Extinguishing materials nearby. 3. Separated from flammables at least 15 feet in all directions. 4. Separated from combustibles at least 6 feet in all directions. 5. Spark arrester in use 6. Only charcoal or unadulterated wood as fuel (temporary use of commercial fire starter logs allowed) 7. Flame height no greater than 2 feet. 8. Maximum size of chamber 3 feet wide by 2 feet high. 9. Not on Town property.	Not allowed.

<p>Recreational fires in outdoor commercial gas-fueled fire pit</p>	<p>Allowed (including on wood decks) if:</p> <ol style="list-style-type: none"> 1. Attended until extinguished. 2. Separated from flammables at least 15 feet in all directions. 3. Flame height no greater than 2 feet. 4. Maximum size of chamber 9 square feet. 5. Only using fuel as intended by manufacturer. 6. Not on Town property. 	<p>Allowed (including on wood decks) if:</p> <ol style="list-style-type: none"> 1. Attended until extinguished 2. Separated from flammables at least 15 feet in all directions. 3. Flame height no greater than 2 feet. 4. Maximum size of chamber 9 square feet. 5. Only using fuel as intended by manufacturer. 6. Not on Town property.
<p>Outdoor Smoking</p>		
<ul style="list-style-type: none"> ■ On residential property 	<p>Allowed if smoking implements are fully extinguished prior to safe disposal.</p>	<p>Not allowed</p>
<ul style="list-style-type: none"> ● On Town property 	<p>Allowed only in designated smoking areas in accordance with state law on location restrictions and if proper receptacles for disposal of smoking implement, whether extinguished or not, are provided and used.</p>	<p>Not allowed.</p>
<ul style="list-style-type: none"> ● On commercial restaurant and other property 	<p>Allowed only in designated smoking areas in accordance with state law on location restrictions and if <i>proper</i> receptacles for disposal of smoking implement, whether extinguished or not, are provided and used.</p>	<p>Not allowed.</p>
<ul style="list-style-type: none"> ■ Outdoor disposal of smoking implement(s) or any portion thereof, whether or not extinguished, onto the ground. 	<p>Not allowed.</p>	<p>Not allowed.</p>
<ul style="list-style-type: none"> ● Outdoor flicking of embers from a lit smoking implement onto the ground. 	<p>Not allowed.</p>	<p>Not allowed.</p>

Section 8.10.030. Implementation of Fire Restrictions and Notice.

- A.** Town Stage 1 Fire Restrictions. The Town shall at all times be under Town Stage 1 Fire Regulations on all public and private property and on Town owned property to include the Water System.
- B.** Town Stage 2 Fire Restrictions. Whenever El Paso County, Colorado, imposes and advertises El Paso County Stage 2 Fire Restrictions within the unincorporated areas of El Paso County in accordance with El Paso County Ordinance 15-001, as may be amended, such action shall also mean that Town Stage 2 Fire Restrictions shall be automatically imposed within the boundaries of the Town of Palmer Lake on all public and private property and on Town property. The Town shall post notice of such Town Stage 2 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 within one business day of the date on which the Town Stage 2 Fire Restrictions are automatically effective. Upon a cessation of El Paso County Stage 2 Fire Restrictions within the unincorporated areas of El Paso County, such Town Stage 2 Fire Restrictions shall also automatically cease to be applicable within the Town, without limiting the ability of the Town to impose additional or different Special Town Fire Restrictions in accordance with Subsection (C). Upon a cessation of El Paso County Stage 2 Fire Restrictions, and resulting cessation of Town Stage 2 Fire Restrictions, the Town shall alter or remove the provided notices, as relevant. The failure of the Town to post or remove the notices as set forth in this subsection shall not be a defense to a charge of violating this chapter.
- C.** Special Town Fire Restrictions. In addition to the Stage 1 Fire Restrictions and Stage 2 Fire Restrictions as identified in subsections (A) and (B) above, in the event that the Mayor or the Town Board of the Town of Palmer Lake determines, in consultation with the Fire Chief, that an emergency exists and the fire danger in the Town or on Town property, to include the Water System, is above normal, then the Mayor or his designee or the Town Board, in consultation with the Fire Chief, may declare that a fire danger exists and impose appropriate Special Town Fire Restrictions by written declaration. Such Special Town Fire Restrictions may be in addition to or in lieu of and may or may not be the same as either the Town Stage 1 Fire Restrictions or Town Stage 2 Fire Restrictions. Upon issuance of such emergency declaration and imposition of Special Town Fire Restrictions, the Town shall post notice of such Town Imposed 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. Special Town Fire Restrictions imposed hereunder shall remain in effect for the entirety of the time that such restrictions are posted in accordance with this Section. Upon a change in or the cessation of Special Town Fire Restrictions, the Town shall alter or remove the provided notices, as relevant. The failure of the Town to post or remove the notices as set forth in this subsection shall be an affirmative defense to a charge of violating this chapter involving a violation of Special Town Fire Restrictions.
- D.** Red Flag Warnings. Whenever a Red Flag Warning is issued which includes the Town of Palmer Lake, such action shall also mean that Town Stage 2 Fire Restrictions shall be automatically imposed within the boundaries of the Town of Palmer Lake on all public and private property and on Town property.

In addition to the legally required notice as set forth in subsections B and C of this Section, the Town may pursue, as a courtesy only, additional notice of the applicable fire restrictions to the public through a general press release to newspapers, radio and television channels operating

or distributed within the Town. In addition, the Town may pursue, as a courtesy only, a posting of notice of Town Stage 1 Fire Regulations or any Town Stage 2 Fire Restrictions or Special Town Fire Restrictions at designated sites.

8.10.040 Penalty for Violations.

Any person found guilty of violating any provision of this Chapter, with each violation constituting a separate and distinct offense, shall be punished as follows:

- A. For any violation involving fireworks, open burning or an open fire, to include without limitation prohibited or unlawful recreational fires, a minimum fine amount of \$1000.00.
- B. For any violation involving prohibited smoking during Town Stage 2 Fire Restrictions, a minimum fine amount of \$500.00.
- C. For any violation other than a violation set forth in subsection A or B above, a maximum fine of \$2,650.00.

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. Effective Date and Publication. This ordinance shall become effective thirty days after its publication 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.

Section 4. Repeal. Existing resolutions or parts of resolutions covering the same matters embraced in this Resolution are hereby repealed and all resolutions or parts of resolutions inconsistent with the provisions of this Resolution are hereby repealed.

INTRODUCED, PASSED, AND ADOPTED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF PALMER LAKE ON THIS 28TH DAY OF JANUARY, 2021.

ATTEST:

TOWN OF PALMER LAKE, COLORADO



Dawn A Collins
Town Administrator/Clerk

BY: 

William Bass
Mayor