

ORDINANCE NO. 085, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
REPEALING AND REENACTING ARTICLE II OF CHAPTER 9 OF THE CITY CODE
REGARDING OPEN FIRE AND BURNING RESTRICTIONS

WHEREAS, Article II of Chapter 9 of the City Code describes limitations on open fires and open burning within the City, including the authority of the City Manager to declare Stage 1 or Stage 2 fire restrictions when weather conditions warrant it (the “Open Burning Code”); and

WHEREAS, on June 7, 2022, the City Council adopted Ordinance No. 060, 2022, adopting the 2021 International Fire Code (IFC) and, as a result, references to the IFC in Open Burning Code require updating; and

WHEREAS, City staff had also, in the past, been asked to clarify the use of pellet grills and pellet smokers in the Open Burning Code; and

WHEREAS, in addition, concerns have been raised about agricultural burning within the City on days when weather conditions create an increased fire danger; and

WHEREAS, staff from the City Attorney’s Office and Poudre Fire Authority (PFA) thoroughly reviewed the Open Burning Code, and recommended the following changes:

- Make defined terms in the Open Burning Code more consistent with the IFC and with definitions used by Larimer County;
- Clarify that open burning permits are not issued by PFA, but by Larimer County with approval by PFA;
- Clarify what activities are and aren’t permitted during Stage 1 and Stage 2 fire restrictions;
- Define how the City Manager gives notice to the public of declared fire restrictions; and
- Add a provision allowing PFA to temporarily suspend the exercise of an issued burn permit within the City due to high fire danger concerns on a particular day; and

WHEREAS, the City Council has determined, and now finds, that the adoption of this Ordinance is necessary for the health, safety and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Article II of Chapter 9 of the Code of the City of Fort Collins is hereby repealed and reenacted to read as follows:

ARTICLE II. OPEN FIRE AND BURNING RESTRICTIONS

Sec. 9-21. Application.

This Article shall apply to all open fires or open burning when the restrictions authorized by this Article are in effect.

Sec. 9-22. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section.

Agricultural burning shall mean burning of cover vegetation for the purpose of preparing the soil for crop production; weed control; maintenance of water conveyance structures related to agricultural operations; and other agricultural cultivation purposes, including, but not limited to burning of fence lines or rows, fields, farmlands, and irrigation ditches.

Air curtain destructor (also known as *air curtain burners* or *air curtain incinerators*) shall mean 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 enclosed fireboxes and controlled air technology such as mass burn, modular and fluidized bed combustors.)

Approved shall mean allowable per the City's adoption of the 2021 International Fire Code and § 20-1 of this Code, or by a burn permit issued as described in this Article.

Fire Code Official shall mean the Chief of the Poudre Fire Authority or their designee.

Fireworks shall mean "fireworks" as defined in Section 202 of the 2021 International Fire Code adopted and amended in this Chapter. Fireworks shall not include:

- (1) Toy caps which do not contain more than twenty-five hundredths of a grain of explosive compound per cap;
- (2) Highway flares, railroad fuses, ship distress signals, smoke candles, and other emergency signal devices;
- (3) Educational rockets and toy propellant device type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two ounces of propellant and when such engines or model cartridges are designed to be ignited by electrical means; or
- (4) Fireworks which are used in testing or research by a licensed explosives laboratory.

Incendiary devices shall mean any object which is combustible, flammable, explodes or is designed to or may cause fire. This includes sky lanterns, exploding ammunition, exploding targets, and tracer ammunition.

Open burning shall mean any outdoor fire that a person starts and uses intentionally for land management, including, but not limited to, the following:

- (1) agricultural burning;
- (2) fires used for grassland, rangeland, wildland or forest management, including vegetative, habitat or fuel management; and
- (3) fires in air curtain destructors, pile burning and the burning of refuse or rubbish.

Open fire shall mean any outdoor fire started by a person for purposes other than land management, including, but not limited to, the following:

- (1) campfires, warming fires, and cooking fires;
- (2) solid fuel grills, food smokers, stoves, fireplaces, chimineas, fire pits or ovens;
- (3) welding, or operating acetylene or other torches with open flames;
- (4) smoking, and the open discarding of smoking materials;
- (5) the lighting of any fused explosives and fireworks of any kind or brand;
- (6) operating any internal combustion engine (e.g., chainsaw) without a spark arresting device properly installed, maintained, and in effective working order;
- (7) use of incendiary devices or other explosives and the burning of explosive waste; and
- (8) operating any pest control equipment that relies upon the ignition of flammable gases or liquids.

Fires in fireplaces and stoves that are contained inside buildings are not *open fires*.

Public fireworks display shall mean any display of fireworks conducted by a qualified pyrotechnic operator in compliance with the International Fire Code, as amended, and conducted only after the approval by the Fire Code Official and in compliance with any conditions imposed by the Fire Code Official.

Solid fuel shall mean charcoal, wood, wood chips, wood pellets, paper and any other similar non-liquid or non-gas fuels.

Wood pellets shall mean compressed wood or sawdust pellets specifically manufactured to be used as fuel.

Sec. 9-23. Prohibited open fires and open burning.

The following types of open fires and open burning are prohibited in the City at all times:

- (1) Burning of refuse or rubbish except as permitted under Section 20-42(i).
- (2) Use of fireworks, except as allowed under Section 9-2.65.
- (3) Open burning as defined in Section 9-22, except with a permit issued by Larimer County and approved by the Fire Code Official or issued by the Fire Code Official.
- (4) Any open fire or open burning not conducted in compliance with all applicable requirements of the 2021 International Fire Code and § 20-1 of this Code.

Sec. 9-24. Declaration of Stage 1 fire restrictions.

(a) Stage 1 fire restrictions are the lowest level of fires restrictions within the City. The City Manager may declare Stage 1 Fire Restrictions in the City, after consultation with the Fire Code Official, if they determine that the totality of circumstances, including, but not limited to, current weather conditions, long- and short-term weather forecasts, lack of precipitation, fire restrictions in neighboring communities, regional fires and/or fires in close proximity to the City, live and dead fuel moisture levels, energy release components, atmospheric conditions, degraded air quality, and limited availability of suppression resources, have created a potential threat of fire or public safety hazards within the City.

(b) The Stage 1 restrictions imposed by this Article shall take effect immediately upon the issuance of an administrative order executed by the City Manager, and shall remain in effect until rescinded by a similar order. The City Manager shall notify the City Council within twenty-four (24) hours after the issuance of such administrative order. The authority granted under this Article is ongoing, and administrative orders may be issued from time to time as conditions warrant.

Sec. 9-25. Stage 1 fire restrictions/prohibited and permitted acts.

When Stage 1 fire restrictions are in place it shall be unlawful for any person to start, build, maintain, attend, or use an open fire or conduct open burning on public, private, state or federal lands within the City, except for the following activities:

- (1) fires within liquid- or gas-fueled appliances, including portable fireplaces, fire pits, grills, smokers, camp stoves, portable heaters, and tiki torches; and fires in permanently constructed, liquid-fueled or gas-fueled stationary masonry or metal fireplaces specifically designed for the purpose of combustion;

- (2) fires using clean, dry untreated wood, wood pellets, or charcoal within portable, solid-fuel burning fireplaces, fire pits, chimineas or other containers that are approved for such use and used for non-commercial or recreational purposes; and solid fuel grills or food smokers (commercial or non-commercial);
- (3) smoking within an enclosed vehicle or building, a developed recreation site where smoking is permitted, or in an area at least three (3) feet in diameter cleared of all flammable materials;
- (4) fire department training fires;
- (5) open fires or open burning by any federal, state or local officer or member of an organized fire protection district or department in the performance of official fire suppression functions;
- (6) welding or other torches with an open flame, so long as conducted in an area at least ten (10) feet in diameter cleared of all flammable materials, and while in possession of a chemical pressurized fire extinguisher; and
- (7) fires specifically authorized by a permit issued by Larimer County and approved by the Fire Code Official, or issued by the Fire Code Official, including permitted agricultural burning and professional fireworks displays.

Sec. 9-26. Declaration of Stage 2 fire restrictions.

(a) Stage 2 fire restrictions are the highest level of fire restrictions within the City. The City Manager may declare Stage 2 fire restrictions in the City, after consultation with the Fire Code Official, if they determine that the totality of circumstances, including, but not limited to, current weather conditions, long- and short-term weather forecasts, lack of precipitation, fire restrictions in neighboring communities, regional fires and/or fires in close proximity to the City, live and dead fuel moisture levels, energy release components, atmospheric conditions, degraded air quality, and limited availability of suppression resources have created an imminent threat of fire or public safety hazards within the City.

(b) The Stage 2 restrictions imposed by this Article shall take effect immediately upon the issuance of an administrative order executed by the City Manager, and shall remain in effect until rescinded by a similar order. The City Manager shall notify the City Council within twenty-four (24) hours after the issuance of such administrative order. The authority granted under this Article is ongoing, and administrative orders may be issued from time to time as conditions warrant.

Sec. 9-27. Stage 2 fire restrictions/prohibited and permitted acts.

When Stage 2 fire restrictions are in place it shall be unlawful for any person to start, build, maintain, attend or use any open fire or conduct open burning of any kind on public, private, state or federal lands within the City, with or without a permit, including fires in outdoor, solid-fuel

burning fireplaces, fire pits, chimineas or other solid-fuel burning containers (approved or unapproved), except for the following activities:

- (1) fires within liquid- or gas-fueled appliances, including portable fireplaces or fire pits, grills, smokers, camp stoves, portable heaters, and tiki torches; and fires in permanently constructed, liquid-fueled or gas-fueled stationary masonry or metal fireplaces specifically designed for the purpose of combustion;
- (2) fires in wood pellet-fueled grills or smokers at private one- and two-family residences;
- (3) smoking within an enclosed vehicle, trailer or building;
- (4) welding or operating an acetylene torch within an enclosed building;
- (5) fire department training fires;
- (6) open fires or open burning by any federal, state or local officer or member of an organized fire protection district or department in the performance of official fire suppression functions; and
- (7) solid-, gas- or liquid-fueled commercial cooking or smoking appliances when used for commercial food preparation after review and approval of the Fire Code Official.

Sec. 9-28. Notice of fire restrictions.

The City Manager shall promptly issue notice to the public of an administrative order declaring Stage 1 or Stage 2 fire restrictions by the best means available including press release, notification to public safety agencies, or such other means as the City Manager determines is appropriate under the circumstances.

Sec. 9-29. Temporary suspension of permitted open burns.

(a) The Fire Code Official has authority to issue burn permits for certain activities as described in Poudre Fire Authority policies, including, but not limited to, fireworks, flame effects and use of explosives. The Fire Code Official also has the authority to approve, deny or condition burn permits issued by Larimer County for activities within the City of Fort Collins. The Fire Code official may temporarily suspend the exercise of an issued burn permit within the City of Fort Collins, including agricultural burning, due to high fire danger concerns on a particular day in the absence of, or in addition to, the issuance of Stage 1 or Stage 2 fire restrictions.

(b) Conditions that may trigger a suspension of open burning permits for a given day in the absence of a Stage 1 or Stage 2 fire restrictions declaration include either one or both of the following:

- (1) Predicted winds in excess of 10 mph;

(2) High fire danger as defined by Poudre Fire Authority policies and procedures.

(c) Burn permittees are required to contact Fort Collins 911 dispatchers the morning of a planned burn. Based on forecast conditions for one or more days, the Fire Code Official may notify Fort Collins 911 dispatchers to instruct any open burn permittees that they may not burn within Fort Collins City limits due to high fire danger concerns on that day.

(d) It shall be unlawful for any person with an open burning permit issued or approved by the Fire Code Official to start, build, maintain, attend or use an open fire or conduct open burning in the City, including public, private, state and federal lands, during a suspension of open burning permits.

Introduced, considered favorably on first reading, and ordered published this 6th day of June, 2023, and to be presented for final passage on the 20th day of June, 2023.

Mayor

ATTEST:

Chief Deputy City Clerk

Passed and adopted on final reading this 20th day of June, 2023.

Mayor

ATTEST:

Chief Deputy City Clerk