

**TOWN OF NEW CASTLE, COLORADO
ORDINANCE NO. 2018-4**

**AN EMERGENCY ORDINANCE OF THE NEW CASTLE TOWN
COUNCIL AMENDING CHAPTER 9.72 OF THE NEW CASTLE
MUNICIPAL CODE.**

WHEREAS, lower than normal snowpack during the 2017-2018 winter season and recent hot and dry weather have created high fire danger at elevations below about 8,000 feet; and

WHEREAS, as of May 31, 2018, Garfield County imposed Stage 1 fire restrictions for all state and private lands within the county; and

WHEREAS, as of June 8, 2018, Stage 1 fire restrictions are also being imposed on federal Bureau of Land Management lands within Garfield County; and

WHEREAS, extremely dry weather conditions significantly magnify the fire danger posed to persons and property by open-burning fires and the use, sale, and possession of fireworks; and

WHEREAS, the Town of New Castle ("Town") has previously imposed a ban on open-burning fires and the use, sale, and possession of fireworks within the Town during the period beginning April 1st and ending November 1st of each year; and

WHEREAS, the Stage 1 fire restrictions imposed in other jurisdictions surrounding the Town restrict conduct other than that currently regulated by the Town because such conduct also significantly magnifies the fire danger posed to persons and property under extremely dry weather conditions; and

WHEREAS, the Town seeks to provide for the immediate and permanent public peace, health, safety, and welfare of its citizens by amending the Town of New Castle Municipal Code ("Code") to include additional fire-related restrictions which will also align the Town with surrounding jurisdictions; and

WHEREAS, Article IV, Section 4.7 of the Town Charter authorizes the Town Council to pass an emergency ordinance to become effective immediately if necessary; and

WHEREAS, given the higher-than-normal potential for fires under the current weather conditions and the fact that several fires are already burning in neighboring counties, the Town Council finds that such an ordinance is necessary in order to reduce the potential for fires in and near the Town and to protect the health, safety, and welfare of Town citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEW CASTLE, COLORADO:

1. Recitals. The Town Council incorporates the foregoing recitals as findings by the Town Council.

2. Findings of Necessity. Pursuant to Section 4.7 of the Town Charter, Town Council hereby finds that this Ordinance should be effective immediately upon passage for the following reasons:

- a. The lower than normal snowpack during the 2017-2018 winter season and recent hot and dry weather have created high fire danger within the Town and surrounding areas;
- b. Under the current weather conditions, the activities the Town seeks to regulate through this Ordinance could cause a fire at any moment; and
- c. Waiting for the Code changes to take effect until after second reading and 14-day publication of this Ordinance could be detrimental to the preservation of public peace, health, safety and welfare.

3. Amendment. The Town Council hereby amends Chapter 9.72 of the Code as follows, with added language in **bold** and underlined and removed language ~~stricken~~. Any language in Chapter 9.72 not specifically amended in this Ordinance shall remain unchanged and in full force and effect.

9.72.010 Purpose.

This Ordinance seeks to preserve the quality of life, health, safety, and welfare of the New Castle community by prohibiting certain types of open-burning fires, ~~and the use, sale, and possession of all fireworks,~~ **and other conduct involving fire and combustible materials.** ~~Open-burning fires and the use, sale, and possession of fireworks~~ **Such activities** create a serious hazard to the citizens and property of the Town and the surrounding areas by their propensity to cause wildfires. Prohibiting such activities will reduce the risk of wildfires and help ensure the public peace, health, and safety of the citizens.

9.72.030 Definitions.

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4. "Open-burning fires" does not include:

- (a) smoking when in an enclosed vehicle or building or while stopped in an area at least ~~three~~ **ten** feet in diameter that is barren or cleared of all flammable material; and
- (b) stoves, broilers, or bar-b-ques using charcoal, propane or gas as a fuel.

9.72.040 Open-Burning Fires and the Sale, Use and Possession of Fireworks Prohibited.

As defined ~~Subject to the definitions~~ in Section 9.72.030 of this Chapter, the following open burning fires and the sale, use, and possession of fireworks within the corporate limits of the Town are prohibited within the corporate limits of the Town between and including the dates of April 1 through November 1 of each year, unless such ~~open burning fire or sale, use, or possession of fireworks is~~ activities are authorized by exemption permit issued pursuant to Section 9.72.050 of this Chapter:

- A. Open-burning fires and fires of any type, including charcoal grills, outside of developed areas;
- B. The sale, use, and possession of fireworks;
- C. The operation of any combustion engine, including chainsaws, or spark-producing tools without an approved spark arrester properly installed, a properly-functioning chemical pressurized fire extinguisher, and a round point shovel readily available for use;
- D. Welding or operating acetylene or other torch devices with an open flame except in cleared areas of at least 20' diameter and with a properly-functioning chemical pressurized fire extinguisher readily available for use;
- E. Use of any explosive devices including, but not limited to, blasting caps, exploding targets, model rockets, fireworks, flare guns, and any device which is explosive in nature and may cause ignition of surrounding materials; and
- F. Throwing, tossing, or dropping from a moving or standing vehicle any lighted smoking material, lighted match, lighted material of any nature, or device of any nature which is prone to set fire to material on the ground

9.72.050 Exemption Permit.

Upon written application to the Town Administrator, the Town Administrator is authorized to issue a permit for exemption from the prohibitions of this Chapter for special events if the Town Administrator determines in his reasonable discretion that issuance of an exemption permit is in the best interests of the Town. The Town Administrator may impose such terms or conditions on the exemption permit as he deems necessary or appropriate to protect the health, safety, and welfare of the Town. Any exemption permit issued pursuant to this Section shall be subject to the applicable rules and regulations of the ~~Burning Mountain Fire Protection District~~ Colorado River Fire Rescue Authority. An application fee may be charged for an exemption permit as provided by Town ordinance.

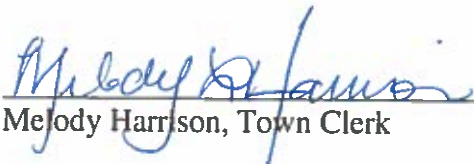
4. Severability. Each section of this Ordinance is an independent section, and a holding of any section or part thereof to be unconstitutional, void, or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof, and the remainder of this Ordinance shall continue in full force and effect.

ADOPTED this 19th day of June, 2018, to be effective immediately and to be published in full as soon as reasonably possible in accordance with the Charter and Municipal Code of the Town of New Castle.

TOWN COUNCIL OF THE TOWN OF
NEW CASTLE, COLORADO

By: 
Grady Hazellon, Mayor Pro Tem

ATTEST:


Melody Harrison, Town Clerk

