



MESA COUNTY
AIR POLLUTION CONTROL
RESOLUTION on OPEN BURNING
Resolution No. MCM 2002-066

TABLE OF CONTENTS

<u>Article</u>	<u>Page</u>
<i>Authority</i>	2
<i>Section 1. Purpose</i>	2
<i>Section 2. Mesa County Open Burn Resolution</i>	2
<i>Section 3. Definitions</i>	5
<i>Section 4. Enforcement</i>	7
<i>Section 5. Penalties</i>	7
<i>Section 6. Colorado Air Pollution Prevention and Control Act</i>	7
<i>Addendum-A "Map of Control Area"</i>	10
<i>Addendum-B "Boundary Description of Control Area"</i>	11

Revised: January 30, 2002
Effective: May 11, 2002

AUTHORITY:

BOOK 3055 PAGE 591

This Resolution is hereby authorized under provisions of the Colorado Air Pollution Prevention and Control Act, CRS 1992, Section 25-7-128. Local Government - authority - penalty as amended and the laws pertaining to County Health Departments in CRS § 25-1-501 et. seq., as amended. As per the provisions of this section, this Resolution has been neither submitted or approved as a revision to the state implementation plan and as such, shall not be enforceable by the Air Pollution Control Division of the Colorado Department of Public Health and Environment.

SECTION 1. PURPOSE:

This Resolution is enacted to protect, preserve and promote the health, safety and welfare of the citizens of Mesa County, and to facilitate the enjoyment and use of the scenic, natural and air quality resources of the County through the reduction, prevention and control of air pollution due to open burning activity. It is hereby recognized and declared that the open burning of residential household trash is an unnecessary, noxious practice and a public nuisance. It is therefore the intent of this Resolution to establish and provide for the enforcement of a local open burning control program to limit and abate air pollution from the open burning of prohibited materials, but authorize open burning of such allowed materials as herein defined, wherein hazards associated with air pollution emissions are negligible. In addition, it is the intent of this Resolution to preserve, to the extent possible, open burning activities associated with traditional agricultural practices.

SECTION 2. MESA COUNTY OPEN BURNING RESOLUTION:

(1) Designated Open Burning Control Area -

The area of Mesa County encompassed within the boundaries of the "Grand Valley Air Shed" is hereby designated as the "Open Burning Control Area" for the purpose of the application of this Resolution. All open burning activity conducted within this area shall conform to the requirements set forth in the following sections of this Resolution. Any open burning activity in the designated open burning control area which does not conform to the requirements of this Resolution is hereby prohibited unless specifically permitted under the authority of Regulation No.1.II.C. of the Colorado Air Quality Control Commission's Regulations. All open burning activity outside this area shall remain subject to the requirements of Regulation No.1.II.C.(1-3) of the Colorado Air Quality Control Commission's Regulations.

(2) Prohibited Materials -

Except as otherwise provided in paragraphs (3) and (4) of this Section 2., open burning is prohibited for materials including, but not limited to: residential household trash, leaf or grass clipping piles, wood residue, commercial and industrial waste, building construction and demolition waste, rubber, plastics, tires, waste petroleum and asphaltic compounds, asbestos containing material, insulation, or similar dense or toxic smoke producing substances.

(3) General Practices Allowed -

Any person may engage in the open burning of dry weeds, garden waste, and tree, brush or shrub trimmings less than one inch (1") in diameter, subject to the conditions as set forth herein and applicable local fire protection agency codes and requirements.

(4) Exemptions -

Except as defined under subpart (c) in paragraph (6) of this Section 2., and as may be found under local fire district jurisdictions, the following open burning activities are exempt from the conditions of this Resolution:

Agricultural open burning, safety flares, official emergency or fire training exercises, the non-commercial preparation of food for human consumption and bonfires for the purpose of recreational enjoyment or religious ceremony.

(5) Open Burning Permit Requirements -

(a) General Requirements:

All open burning activity inside the designated control area which does not conform to local fire district jurisdiction shall be subject to review by the Mesa County Health Department and a permit issued if not otherwise exempt or prohibited. All permit conditions generally included in the permit shall be applicable to the person(s) responsible for engaging in open burning activity and may be used for enforcement purposes.

(b) Local Fire Protection Agency Requirements:

All open burning activity must conform to the conditions of locally applicable fire prevention codes and requirements. Inside the Grand Junction Municipal and Rural

Fire Protection Districts, the Fruita-Lower Valley Fire Protection District, the Clifton Fire Protection District, and the Palisade Municipal and Rural Fire Protection Districts, issuance of a written permit authorizing open burning activity is required prior to the open burning of allowed materials. Inside all other local fire protection agency jurisdictions, permission, where required, must be obtained from the proper authority prior to open burning of allowed materials.

(6) Open Burning Periods, Times, No-Burn Days and Emergency Fire Bans -

- (a) During each year, open burning activities shall be limited to the following seasonal periods:

Spring Season.....March 1 through May 31

Fall Season.....September 1 through October 31

- (b) All open burning activity during such authorized seasonal periods must be confined to daily periods from two hours after sunrise until two hours before sunset, except as specified below. With exception to paragraph (4) Exemptions, of this Section 2., under no other circumstances shall open burning be allowed to continue during the night.
- (c) Notwithstanding any other provision contained herein, the Mesa County Health Department is hereby authorized to declare no-burn advisories for any daytime period, during which time no open burning activity will be allowed. No-burn advisories will be declared based upon the experienced or anticipated presence of unsuitable atmospheric, meteorological, visibility or climatic conditions during which time open burning activity is determined to be a potentially significant contributor to air pollution in the area. During such an advisory, all open burning activities, including those generally listed under paragraph (4) Exemptions, of this Section 2., shall be subject to the enforcement and penalty provisions specified in Section 4. *Enforcement*, and Section 5. *Penalties*.
- (d) In the event of high fire danger resulting from severe climatic conditions, an emergency ban on open burning may be declared by the Mesa County Sheriff's Department. During such a ban, unincorporated areas within the county will be placed under the control of the Mesa County Sheriff's Department and shall be subject to enforcement provisions as provided under Mesa County Ordinance No.7, "*Appointing the Sheriff of Mesa County as the Designated Person to Declare a Fire Ban Within the Unincorporated Areas of the County of Mesa, State of Colorado.*"

(7) Fees -

Each agency responsible for issuing to an individual or party a permit to open burn may adopt, and from time to time revise, a fee schedule for the services authorized or required by this Resolution. Such services include reviewing and acting upon an application for a permit, work related to open burning education, and responding to and engaging in enforcement actions resulting from open burning activities.

(8) Recommendations -

Although specifically exempt from being required to obtain an open burning permit, it is recommended that training fires, recreational fires and other exempted sources notify the Mesa County Health Department prior to engaging in such activities. Open burning for exempted sources is discouraged during the winter months of November through February.

SECTION 3. DEFINITIONS:

The words and phrases defined in this section shall have the following meanings for the purpose of this Resolution:

Agricultural Open Burning -

Any open burning activity conducted in the course of agricultural or commercial crop production, or cultivation, involving the open burning of cover vegetation for the purpose of preparing the soil, controlling weeds and maintaining irrigation and drainage ditches, water courses and fence lines. The burning of tree trimmings from orchards is considered to be agricultural open burning.

Allowed Materials -

Dry weeds, garden waste, and tree, shrub or brush trimmings less than one inch (1") in diameter which constitute annual vegetative growth common to residential or commercial property.

Authorized Personnel -

All designated personnel of the Mesa County Health Department, duly sworn peace officers and fire protection agency personnel, within the jurisdiction of their county, district, or municipality.

Designated Open Burning Area -

BOOK3055 PAGE595

The area of Mesa County included within the boundaries of the "Mesa County Open Burning Control Area Map" which is herein designated as Addendum A, and as described in the boundary description, herein designated as Addendum B.

Grand Valley Air Shed -

The area in Mesa County contiguous with the Grand Valley which lays at or below the height of 6,000 feet elevation.

Open Burning -

The burning of any material or substance in the ambient air or in a receptacle, other than a properly designed and approved device which has been approved by the Mesa County Building Department and permitted by the Colorado Air Pollution Control Division.

Permit Conditions -

A listing of conditions applicable to good fire safety and air pollution control practices generally included in the open burning permit.

Recreational Bonfires -

Fires kindled with and utilizing only clean dry wood, for the sole purpose of human recreational enjoyment.

Residential Household Trash -

Any flammable waste material, trash, garbage, rubbish, wastepaper, cardboard, wood, fabric, or other material not specifically listed under Allowed Materials.

Wood Residue -

Bark, sawdust, slabs, chips, shavings, mill trim, and other wood by-products derived from wood processing operations.

SECTION 4. ENFORCEMENT:

Section 2. of this Resolution shall be enforceable by any authorized personnel having jurisdiction within Mesa County. Upon delivery of verbal or written notification by any authorized personnel that a violation has occurred, the violator shall immediately cease and desist from engaging in the open burning activity. Upon failure to comply with said notification or this Resolution, a summons and complaint may be issued and the matter referred to the Mesa County Court or District Court. In addition, a temporary restraining order may be sought as well as a preliminary injunction or other form of relief deemed appropriate by the court. Any person who has cause to believe that a violation of this Resolution has occurred or is aggrieved by a violation of this Resolution may file a legal complaint with the local air pollution control authority.

SECTION 5. PENALTIES:

Any person or corporation who violates or causes a violation of any condition or prohibition contained within this Resolution may be subject to civil penalties as specified in CRS § 25-7-128 and to potential criminal penalties. The maximum civil penalty that may be imposed for each violation is three hundred dollars (\$300.00), CRS § 25-7-128 (8). Each day during which a violation occurs shall be deemed a separate offense. The court may also require the violator to reimburse all reasonable attorney fees, court costs, or the reimbursement of enforcement time spent by authorized personnel. In addition to any civil or criminal penalties that may be imposed by the court, restitution may be ordered by the court to compensate any victim for damage suffered due to the actions of the violator.

SECTION 6. COLORADO AIR POLLUTION PREVENTION AND CONTROL ACT:

The application, operation and enforcement of this Resolution shall be concurrent with the provisions of the Colorado Air Pollution Prevention and Control Act, CRS 1992, Title 25, Article 7 as amended.

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is intentionally blank)

READ, PASSED, ADOPTED, APPROVED, AFTER PUBLIC HEARING, AND ORDERED PUBLISHED THIS 8th DAY OF APRIL, 2002.

THE BOARD OF COUNTY COMMISSIONERS
COUNTY OF MESA, COLORADO



by: Kathryn H. Hall
Kathryn H. Hall, Chairperson

ATTEST:

Monika Todd
Monika Todd
Mesa County Clerk and Recorder

Valerie J. Robison
Valerie J. Robison
Assistant Mesa County Attorney

CERTIFICATE

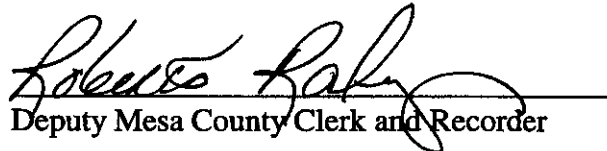
BOOK 3055 PAGE 598

The undersigned hereby certifies as follows:

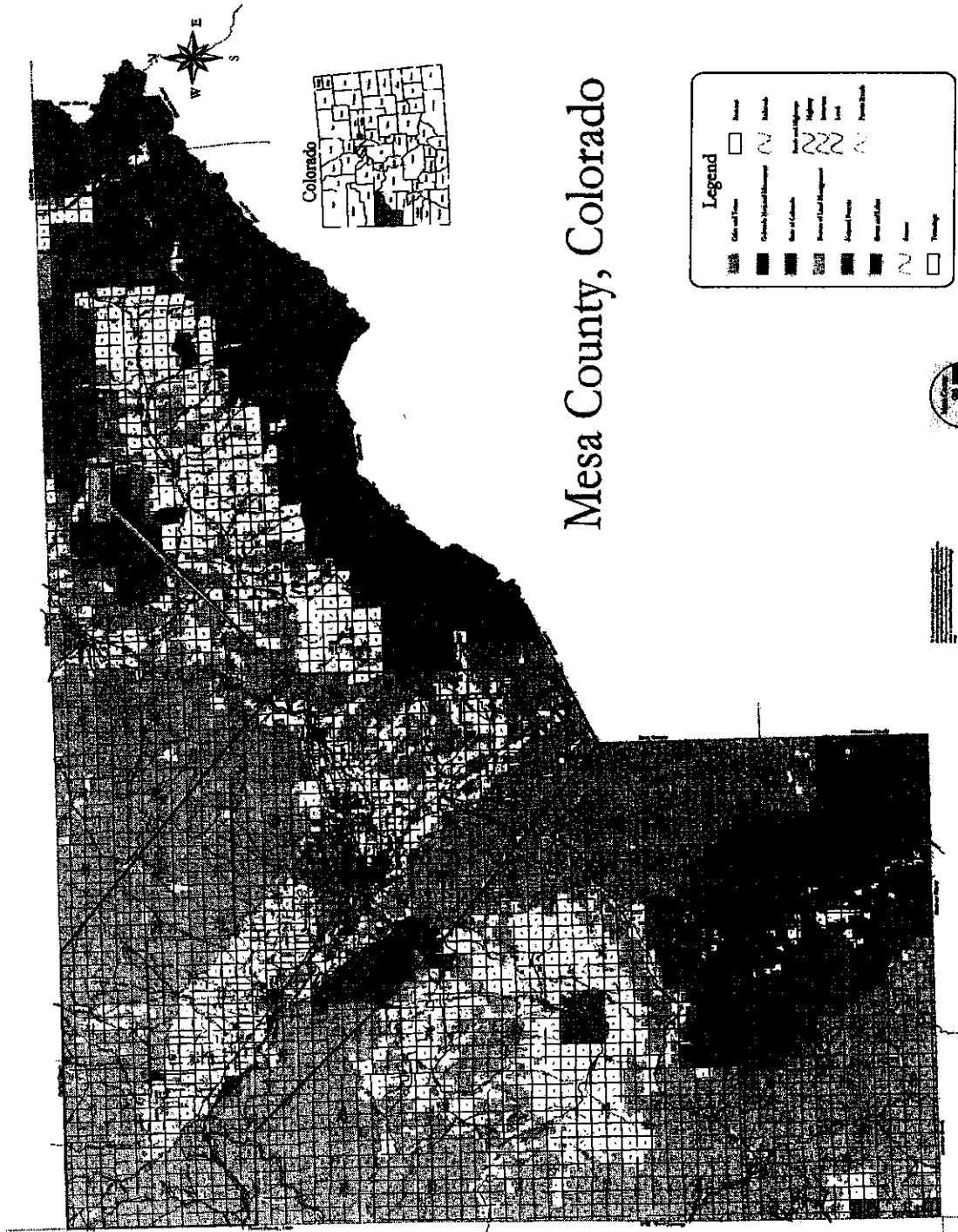
1. I am the deputy County Clerk and Recorder for the County of Mesa, State of Colorado.
2. The foregoing Resolution of the County of Mesa was introduced and read by Title in proposed form at a regular meeting of the Mesa County Board of County Commissioners of the County of Mesa, State of Colorado, on March 11, 2002.
3. The proposed Resolution was published in full in the Daily Sentinel on February 27, 2002, and notification of a public hearing was published April 2, 2002.
4. The proposed Resolution was considered by the Mesa County Board of County Commissioners of the County of Mesa, State of Colorado, at a regular meeting on April 8, 2002, and certain amendments and additions were made to the following Sections and Paragraphs:

NO AMENDMENTS OR ADDITIONS WERE MADE.

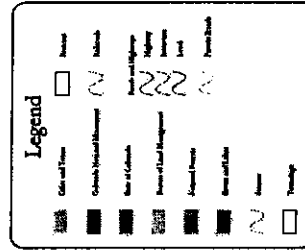
5. The foregoing Resolution of the County of Mesa, which includes the amendments thereto, was duly moved, seconded, and adopted on April 8, 2002, by the Mesa County Board of County Commissioners of the County of Mesa, State of Colorado.
6. The foregoing Resolution of the County of Mesa was published in full in the Daily Sentinel on February 27, 2002, and notification of a public hearing was published April 2, 2002, and the Certification noting that no amendments and additions were made at the public hearing was published on April 11, 2002. This Resolution shall take effect May 11, 2002.


Deputy Mesa County Clerk and Recorder

ADDENDUM - A "MESA COUNTY OPEN BURNING CONTROL AREA MAP"



Mesa County, Colorado



ADDENDUM-B
"MESA COUNTY OPEN BURNING CONTROL AREA"

Boundary Description:

The Mesa County Open Burning Control Area shall affect that area in Mesa County designated as the "Grand Valley Air Shed" under Resolution No. MCM 97-184. The Grand Valley Air Shed extends eastward from the Utah state line to the western flank of the Grand Mesa and southward to the Delta county line bordered by the Bookcliffs to the north and the Uncompahgre Plateau to the south and west.