

Microfilm No. **560735**  
27 Day Oct 20 11  
At 10:55 O'Clock AM  
ABBIE MACE  
FREMONT CO RECORDER  
Fee \$ 0 Deputy  
Recorded at Request of  
Fremont County Commissioners

ORDINANCE NO. 2017-02

**OPEN BURNING ORDINANCE**

AN ORDINANCE BY THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, IDAHO, AMENDING AND REPEALING ORDINANCE NO. 2010-02; DEFINING "OPEN BURNING", "UNCONTROLLED", "UNATTENDED", AND "FIRE PIT"; DESIGNATING RESPONSIBILITY, PROVIDING EXEMPTIONS, AUTHORIZING ENFORCEMENT, AND ESTABLISHING PENALTIES; REPEALING ANY CONFLICTING FREMONT COUNTY RESOLUTION AND/OR ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners ("BOCC"), as the governing body in and for Fremont County, Finds and recognizes that from time to time there exists an extreme or serious danger and threat of forest fires, grass fires, and wildfires due to dry weather and vegetation conditions in the County and that fires have routinely or periodically occurred during dry weather conditions in the County causing property damage and risk of loss of life; and,

WHEREAS, the BOCC and other state and federal governmental agencies have previously resolved, ordained, and enacted local disaster emergencies related to fire risk and actual fires, and are likely to resolve, ordain, or enact burning or fire emergencies in the future; and

WHEREAS, the BOCC finds and declares that an emergency often exists in the County concerning the likelihood of forest fires, grass fires, and wildfires resulting from the dry weather and vegetative conditions in the County and the increased recreational use of properties within the County, particularly during the summer and fall season, and the BOCC finds that such conditions are recurring and frequent; and

WHEREAS, the BOCC has authority to pass ordinances for the safety, prosperity, good order, and protection of property therein, of the County and its inhabitants pursuant to Idaho Code § 31-714; and

WHEREAS, it is in the public interest and serves a public purpose that this ordinance be adopted.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, AS FOLLOWS:

**SECTION I: DEFINITIONS**

The term "Open Burning" used in this ordinance shall mean igniting or maintaining a fire outside of an enclosed building, dwelling structure, or completely enclosed heating or cooking appliance, which shall be defined as, but not limited to, any open burning, including but not limited to campfires, warming fires, bonfires, charcoal grill fires, fused explosives, out-of-season ground fireworks (i.e. "firecrackers" or "roman candles", as defined by Idaho Code Chapter 39, Chapter 26 – Fireworks (current or amended); any special or aerial fireworks (i.e. "bottle rockets", as defined by I.C. § 39.2602 (current or amended), firing of model rockets; exposure

to flame of any flammable, inflammable, combustible, or explosive material or container (i.e. propane tanks, batteries, tires, of homemade explosives), wild lands, or trash and debris; or shall not apply to commercial fireworks as permitted by I. C. § 39-2605, in-season fireworks as permitted by I.C. § 39-2606.

The term "Uncontrolled" as used in this ordinance shall mean any open burning that is out of control; any open burning which is not burning within the confines of cleared firebreaks; any open burning that cannot be suppressed or extinguished with the resources or ordinary tools commonly available to the responsible party; or where the uncontrolled state of an open burning may result from any intentional, negligent, or accidental circumstances.

The term "Unattended" as used in this ordinance shall mean any open burning with a lack of supervision, abandonment, or failure to use reasonable and proper fire management precautions; and any failure to completely and fully extinguish all flames, embers, coals, sparks, or hot spots such that they cannot reignite.

The term "Fire Pit" as used in this ordinance shall mean an excavation of approximately sixteen (16) inches in depth in the ground, surrounded with rocks, stones, bricks, or other non-flammable objects, that protrude at least six (6) inches above the undisturbed ground level. Any fire pit must also have a ten (10) foot diameter of cleared space around said fire pit that is free of all combustible materials (typically graveled or bare dirt), along with a shovel, for the purpose of fire suppression or extinguishing said fire.

## **SECTION II: RESPONSIBILITIES, EXEMPTIONS, ENFORCEMENT, PENALTIES, AND PERMITTING PROCESS**

Any expenses incurred by the County, and fire district or other governmental entity, while combatting, suppressing, and/or extinguishing any fire resulting from a violation of this ordinance, shall be assessed to, and borne by any responsible person(s). Nothing in this ordinance shall be construed to limit any expense, penalty, or liability assessed by any other local, state, or federal agency, nor will it prevent any civil or legal remedy.

This ordinance shall not apply to other permitted agricultural purposes, burns permitted or licensed by other local, state, or federal governmental agencies of competent jurisdiction, and when engaged in by any employee, contractor, or agent of any local, state, or federal governmental agency in the course of performance of their official duties or employment. Nothing in this ordinance or any permit lawfully obtained shall exempt any person from acting in compliance with and any other local, state, or federal law, regulation, or ordinance.

The provisions of this ordinance may be enforced by the Sheriff's Office of Fremont County, as well as other peace officers whose jurisdiction lies within Fremont County, Idaho. In addition, the Sheriff's Office, and/or other peace officer as stated above, is authorized to extinguish, or cause to be extinguished, any fire in violation of this ordinance. Nothing in this ordinance limits or prevents restitution, or any civil or legal action to recover the costs of extinguishing said fire.

The penalty for a violation of this ordinance shall be classified as a misdemeanor, with a fine of not more than one thousand dollars (\$1,000), or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment.

For more information on the permit process, citizens are encouraged to contact the Fremont County Fire Marshal.

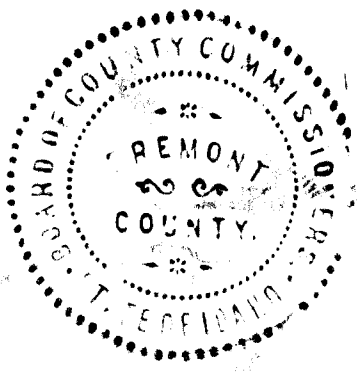
**III. CONFLICTING ORDINANCES OR RESOLUTIONS**

This ordinance supersedes any and all conflicting resolutions and/or ordinances of Fremont County.

**IV. EFFECTIVE DATE**

This ordinance shall become effective upon its adoption by the BOCC, and the date of publication, as required by law.

DULY PASSED this 11<sup>th</sup> day of October, 2016 by:

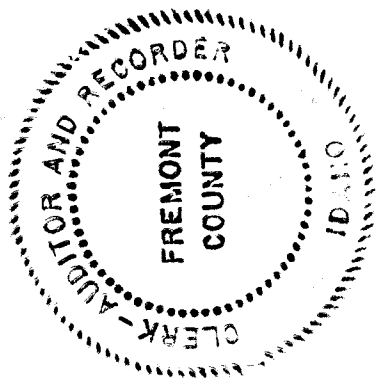


*Jordan Stoddard*  
\_\_\_\_\_  
JORDON STODDARD, CHAIRMAN,  
BOARD OF COUNTY COMMISSIONER

*Leroy Miller*  
\_\_\_\_\_  
LEROY MILLER, COMMISSIONER,  
BOARD OF COUNTY COMMISSIONER

\_\_\_\_\_  
BILL BAXTER, COMMISSIONER  
BOARD OF COUNTY COMMISSIONER

ATTEST:  
*Abbie Mace*  
\_\_\_\_\_  
ABBIE MACE, COUNTY CLERK



## SUMMARY OF FREMONT COUNTY ORDINANCE NO. 2017-02

Fremont County Ordinance No. 2017-02 which was adopted by the Board of County Commissioners of Fremont County, Idaho on the 11<sup>th</sup> day of October, 2016, may be summarized for publication as follows:

AN ORDINANCE FOR FREMONT COUNTY, IDAHO, AMENDING AND REPEALING ORDINANCE 2010-02; DEFINING TERMS; DESIGNATING RESPONSIBILITY, PROVIDING EXEMPTIONS, AUTHORIZING ENFORCEMENT, AND ESTABLISHING PENALTIES; REPEALING ANY CONFLICTING FREMONT COUNTY RESOLUTIONS AND/OR ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

A copy of the fully text of this ordinance may be obtained or reviewed at the office of the Fremont County Clerk, which is located at 151 West 1<sup>st</sup> North, Room 12, St. Anthony, Idaho 83445, during regular business hours.

CLERK'S STATEMENT

I, ABBIE MACE, the County Clerk of Fremont County, Idaho, hereby state that I have read the foregoing Summary of Fremont County Ordinance No. 2017-02 which summary is true and complete and provides adequate notice to the public.

Dated this 11<sup>th</sup> day of October, 2016.

  
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ABBIE MACE, COUNTY CLERK

