

SW

Ordinance No.: 420

A TEMPORARY ORDINANCE BANNING OPEN FIRES WITHIN MADISON COUNTY, IDAHO, PROVIDING OR A VIOLATION OF THE ORDINANCE TO BE A MISDEMEANOR PUNISHABLE BY A FINE OF UP TO THREE HUNDRED DOLLARS (\$300.00) OR IMPRISONMENT OF UP TO SIX MONTHS OR BY BOTH SUCH FINE AND IMPRISONMENT; PROVIDING FOR CIVIL LIABILITY FOR COST OF CONTAINMENT AND DAMAGES CAUSED BY VIOLATION.

WHEREAS, the Board values the lives and safety of Madison County (“County”) residents and takes such matters affecting the same very serious;

WHEREAS, the Board hereby declares that conditions and circumstances within the County now or in the future will necessitate the imposition of an open fire ban to protect the health, safety and welfare of the public;

WHEREAS, there exists an extreme or serious danger and threat of forest fires, grassfires and wildfires due to dry weather and vegetation conditions in the County and that fires have periodically occurred during dry weather conditions in the County causing property damage and risk of loss of life;

WHEREAS, the dry summer and various fires have already started as of July 2018;

WHEREAS, ingress, egress, and emergency vehicle access on public lands and private property is anticipated to be extremely limited, and that available access would be further hampered by extensive crowds;

WHEREAS, pursuant to Idaho Code 31-828, boards of county commissioners have the power and authority “[t]o do and perform all other acts and things required by law not in this title enumerated, or which may be necessary to the full discharge of the duties of the chief executive authority of the county government.”

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS IN AND FOR MADISON COUNTY, IDAHO AS FOLLOWS:

1. **BE IT ORDAINED**, that conditions and circumstances within the County necessitate the imposition of a temporary open fire ban to protect the health, safety and welfare of the public.

2. **BE IT FURTHER ORDAINED**, that from August 2, 2018, until September 30, 2018, or such earlier date as set forth by the Board, and the Board hereby declares a ban on open fires of any kind on all property located in unincorporated areas of the County. That this Ordinance will expire upon its own terms at midnight, on September 30, 2018, unless extended further by the Madison County Commissioners.

3. **BE IT FURTHER ORDAINED**, that his burn ban will apply to the following: any and all outdoor fires, including but not limited to, campfires, warming fires, all explosives, firing

of model rockets, discharge of tracer bullets, discharge of fireworks, exploding targets, welding or operating an acetylene or other torch with open flame (other than in an area cleared of all flammable materials and with adequate firefighting equipment immediately available and on hand), the burning of trash and debris and open burning which is offensive or objectionable because of smoke or odor emissions or when atmospheric conditions or local circumstances make such fires hazardous.

4. **BE IT FURTHER ORDAINED**, that burn ban will not apply to: (i) properly permitted commercial fireworks within city limits; (ii) wood burning stoves and fireplaces located within and enclosed building(s); (iii) roadside emergency flares used for vehicle safety in a safe and prudent manner with regard to wildfire threat; (iv) recreational fires, as defined in the International Fire Code, shall be permitted so long as they are no closer than 25 feet from any structure and the fuel to be burned is no more than three (3) feet in diameter and no higher than two (2) feet in height and contained within a steel or concrete fire ring, barbecue grills located on personal residences when used in a safe and prudent manner with regard to wildfire threat; and, (v) the prescribed burning of fence rows, irrigation ditches, fields, and farmland when done in a safe and prudent manner with adequate firefighting equipment immediately available and on hand, with the greatest regard and consideration to the wildfire risks.

5. **BE IT FURTHER ORDAINED**, that the Madison County Sheriff's Office and the Sheriff's officers, deputies, designees and agents are authorized by the Board to enforce the prohibition on open fires implemented by such resolution(s) adopted as provided in this Ordinance. The Sheriff shall be responsible for the administration of this Ordinance and the implementation and administration of the open burning permit system. All inquiries regarding the current status of open fire restrictions and bans in the County should be directed to the Sheriff's Office.

6. **BE IT FURTHER ORDAINED**, that violations of this Ordinance shall be a misdemeanor and may be prosecuted and upon conviction or confession of guilt thereof shall be punished by a fine of not more than three hundred and 00/100 Dollars (\$300.00) for each violation of this Ordinance. The minimum fine shall be One Hundred and 00/100 Dollars (\$100.00). It is the intent of this Ordinance that the fine for repeated or multiple violations of an open fire ban implemented as provided herein, or of the burn permit system, by any one person, shall be significantly increased.

7. **BE IT FURTHER ORDAINED**, that the Madison County Sheriff Office shall have the authority to take a violator or violators into custody for violations of this Ordinance. Criminal prosecution may be brought against a violator under state statutes or under the penalty assessment procedure provided herein.

8. **BE IT FURTHER ORDAINED**, that each violation of this Ordinance shall be deemed separate and distinct from any other violation of this Ordinance or of any federal, state, or local law, rule, order or regulation, and each day during which violation of this Ordinance continues shall be deemed a separate offense.

9. **BE IT FURTHER ORDAINED**, that in the event the State of Idaho (the "State"), the Bureau of Land Management ("BLM") or the United States Forest Service ("Forest Service") have issued burning regulations pertaining to public lands within their respective jurisdictions in

the County, in conflict with this Ordinance, strictest of such rules, regulations of the State, BLM or the Forest Service shall control.

10. **BE IT FURTHER ORDAINED**, that any person who willfully or negligently is responsible for the starting or permitting an open fire violation of this Ordinance shall be liable for the costs incurred by federal, state or local agencies or their authorized representatives in controlling or extinguishing the same, as well as damages to life and property arising from such a violation of this Ordinance. The amount of such costs shall be recovered by a civil action prosecuted in the name of the County at its discretion, those persons damaged or the agency seeking reimbursement. Civil liability provided herein shall be exclusive of, and in addition to, any criminal penalties provided herein.

11. **BE IT FURTHER ORDAINED**, that if any section, paragraph, sentence or provision hereof or the application thereof to any particular circumstances shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable to all circumstances to which it may validly apply.

12. **BE IT FURTHER ORDAINED**, that this ordinance shall take effect and be in force from and after its passage and approval, and shall repeal any other resolution(s) or ordinance(s) in conflict herewith.

PASSED AND ADOPTED BY THE BOARD OF MADISON COUNTY COMMISSIONERS dated this 2nd day of August, 2018.

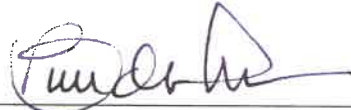
BOARD OF COUNTY COMMISSIONERS
MADISON COUNTY, IDAHO



JON O. WEBER, Chairman



TODD SMITH, Commissioner



BRENT MENDENHALL, Commissioner

ATTEST:



KIM H. MUIR, CLERK