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Butte County Ordinance 2002-1

AN ORDINANCE OF BUTTE COUNTY, IDAHO, TO PROHIBIT OPEN BURNING DURING CERTAIN SEASONS WITHOUT A PERMIT, TO PROVIDE FOR EXCEPTIONS, SETTING PENALTIES FOR OPEN BURNING, DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED by the Board of County Commissioners of Butte County, Idaho:

I. General Provisions:

1. Declaration of Policy and Purposes:
The Butte County Commissioners recognize that Butte County lies in a desert area. The area is prone to light precipitation at times, especially during summer months. Because of the limited rainfall and other factors, range fires pose a constant threat. Often range fires are the result of open burning. It is the purpose of this ordinance to institute within the County of Butte, State of Idaho, a policy to restrict open burning during vulnerable times in order to protect public health, environmental quality, public safety and welfare. Furthermore, the Commissioners recognize that the year 2002 has been successive dry year and that an emergency exists for this ordinance.

2. Definitions:

A. Open Fire. Open fire includes all fires in which the flame is open and not contained within a fireplace, barbeque pit, burn barrel, machine or other apparatus.

II. Establishment of Open Fire Ban

1. The Butte County Commissioners may establish a period, not to exceed eight months, during which time all open fires are prohibited on any private land within Butte County. During the fire ban period no open fire shall be kindled, started, or maintained.

The resolution as passed by the Butte County Commissioners to establish a open fire prohibition shall be published in the Arco Advertiser for a period of at least two (2) weeks. A copy of the resolution shall be posted in the post office in Arco, Moore, and Howe and each county building in the County.

The resolution shall state the period of the ban on open burning. It shall also state whether a permit for open burning is available. It shall contain the following statement:

The Butte County Commissioners declare pursuant to Butte County Ordinance number _____, that all open fires not exempted by ordinance or law, shall be prohibited on any private land in Butte County. No open fire shall be kindled, started, or maintained during the prohibition period from _____ to _____. Violators may be guilty of an infraction. [Optional, according to the resolution] A permit to burn an open fire may be obtained through the County Clerk's office.

2. The open fire ban shall become effective upon the first publication of the resolution in the Arco Advertiser and shall continue until the end of the prohibition period, or until the ban is lifted by resolution, whichever occurs first.

III. Permits

A permit may be obtained by submitting an application on a form approved by the County Commissioners to the County Clerk. The permit shall require the following information to be provided:

1. The time and place of the proposed burn. An alternate time may be allowed if weather conditions are inappropriate for the original proposed time.
2. The purpose of the proposed burn.
3. A list of all adjacent property owners within 300 feet of the proposed burn, including governmental entities.
4. A certification that all adjacent land owners within 300 feet of the burn area have been notified of the proposed burn. Notification does not need to be in writing.
5. A certification that the Butte County Sheriff has been notified of the proposed burn.
6. If the area to be burned lies within a fire district, a certification that one of the commissioners of the fire district have been notified of the proposed burn.

The permit shall not be issued for 24 hours (not including holidays and weekends) from the time of the application. If no objection is received concerning the proposed burn during that time, the Clerk shall issue a permit. A copy of the permit shall be sent to the Butte County Sheriff's office and, if the property lies within a fire district, to the fire district.

If an objection is received from an adjacent land owner, the sheriff, or the fire district, the Clerk shall not issue a permit, but shall schedule the matter for a hearing at the next available commissioner meeting. Written notice shall be given of the hearing to the objector and the applicant. At that hearing, the Commissioners shall review the issuance of the permit. The Commissioners may deny a permit based upon whether the proposed burn will be or is likely to be detrimental to property other than that owned by the applicant, or it will be detrimental to the health, safety or environment of others.

V. Penalty

Violation of the terms of this ordinance shall be an infraction punishable by a fine of $50.00.

In addition, if damages are caused from an open fire restricted by this ordinance and without a permit, the persons or entities responsible for kindling, starting or maintaining the fire shall reimburse any fire district or fire protection entity for the costs incurred in fighting, containing or extinguishing the fire.

XII. EFFECTIVE DATE. This Ordinance shall be in full force and effect on and after its passage, approval and publication according to law.

PASSED AND APPROVED by the Board of Commissioners of Butte County, Idaho this 10th day of June, 2002, an Emergency existing therefor, three readings have been waived.

SIGNED by the Chairman of the Board of Commissioners of Butte County, Idaho this 10th day of June, 2002.

BUTTE COUNTY IDAHO
Board of County Commissioners

By: /S
SETH E. BEAL, Chairman

ATTEST:

M. Todd Perkes
Butte County Clerk

AFFIDAVIT OF PUBLICATION

I, Colleen Babcock
of the Arco Advertiser, a weekly newspaper of general circulation, published weekly at Arco, Idaho, since March, 1909, do solemnly swear that a copy of this notice, per clipping attached, was published weekly in the regular and entire issue of said newspaper, and not in any supplement thereof,

for 1 ~~consecutive~~ week, commencing with the issue dated June 13, 2002

~~and ending with the issue dated~~

Colleen Babcock

STATE OF IDAHO)
COUNTY OF BUTTE)

On this 13th day of June
in the year of 2002, before me, a Notary Public, personally appeared

Colleen Babcock

known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Notary Public for Idaho

Residing at Arco

My commission expires 2004

THOMAS D. CAMMACK NOTARY PUBLIC STATE OF IDAHO

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The resolution shall state the period of the ban on open burning. It shall also state whether a permit for open burning is available. It shall contain the following statement:

The Butte County Commissioners declare pursuant to Butte County Ordinance number 2002-1, that all open fires not exempted by ordinance or law, shall be prohibited on any private land in Butte County. No open fire shall be kindled, started, or maintained during the prohibition period from June 24, 2002 to October 31, 2002. Violators may be guilty of an infraction. [Optional, according to the resolution] A permit to burn an open fire may be obtained through the County Clerk's office.

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Seth E. Beal, Chairman
M. Todd Perkes, Butte County Clerk

Published June 13, 2002