

ORDINANCE NO. 729

AN ORDINANCE PROVIDING FOR A BAN ON THE USE OF FIREWORKS IN AREAS WHICH CONSTITUTE A SEVERE FIRE THREAT; PROVIDING THAT THE ORDINANCE SHALL TAKE EFFECT UPON PUBLICATION, PROVIDING FOR A VIOLATION OF THE ORDINANCE TO BE A MISDEMEANOR PUNISHABLE BY A FINE OF UP TO ONE THOUSAND DOLLARS (\$1,000.00) OR IMPRISONMENT OF UP TO SIX MONTHS OR BY BOTH SUCH FINE AND IMPRISONMENT.

WHEREAS, the Boise Foothills and other areas in Ada County are extremely dry due to conditions currently existing; and

WHEREAS, fires constitute a threat to life and property in Ada County; and

WHEREAS, it is a commonly known fact that the proper and improper use of fireworks under such dry conditions can create the potential for fire; and

WHEREAS, the Board of Ada County Commissioners is granted authority under Idaho Code §§ 39-2602 and 39-2609 to prohibit the use of fireworks in any unincorporated areas, outside fire protection districts formed pursuant to Title 31, Chapter 14, Idaho Code, that constitute a severe fire threat based on the vegetative conditions during the current fire season; and

WHEREAS, the unincorporated areas of Ada County outside fire districts constitute severe fire threat areas based on the vegetative conditions during the fire season and fires in the areas outside fire protection districts can be particularly difficult to control; and

WHEREAS, under Idaho Code § 31-2227, the Ada County Sheriff has the primary responsibility of enforcing all penal statutes of the State of Ada County;

WHEREAS, the Fireworks Act of 1997, Idaho Code §§ 39-2601 *et seq.*, “shall be enforced by the department, cities, counties, fire protection districts or other law enforcement agencies of the state.”

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Ada County, Idaho, the following Ordinance be passed and take effect as follows:

Section 1: **SHORT TITLE AND PURPOSE:** This Ordinance shall be known and cited as the 2009 Ban on Fireworks in Unincorporated Ada County. The purpose of

this Ordinance is to ban the use of fireworks in all unincorporated areas of Ada County outside fire protection districts to lessen the danger of fires in those areas.

Section 1: **DEFINITIONS:** For the purposes of this Ordinance, the following definitions shall apply. Any other words and phrases not defined in this Ordinance shall be given their ordinary, commonly understood and accepted meanings:

CURRENT FIRE SEASON: The period of time between enactment of this Ordinance and October 31, 2009.

FIREWORKS: Any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation. Fireworks include items classified as common or special fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0335 1.3 or UN 03336 1.4G. The term "fireworks" shall not include any automotive safety flares, toy guns, toy cannons, party poppers, or pop-its or other devices which contain twenty-five hundredths (.25) of a grain or less of explosive substance. (See Idaho Code § 39-2602(3).)

UNINCORPORATED AREAS OF ADA COUNTY OUTSIDE FIRE PROTECTION DISTRICTS: Any area located in Ada County which is outside the city limits of any city within Ada County and outside the boundaries of any fire protection district formed pursuant to Title 31, Chapter 14, Idaho Code. This area is depicted on the map attached as Exhibit A as white area with cross-hatching.

Section 3: **FIREWORKS PROHIBITED:** It shall be unlawful and a misdemeanor for any person to use fireworks in unincorporated areas of Ada County outside fire protection districts during the current fire season.

Section 5: **PENALTY:** Violation of this Ordinance shall be punishable by a fine of up to One Thousand Dollars (\$1,000.00), imprisonment in jail of up to six (6) months, or by both such fine and imprisonment.

APPROVED AND ADOPTED this ____ day of ____, 2009.

Board of Ada County Commissioners

By: _____
Fred Tilman, Chairman

By: _____
Sharon M. Ullman, Commissioner

By: _____
Rick Yzaguirre, Commissioner

ATTEST:

J. David Navarro, Ada County Clerk

PUBLISHED: _____