

**June 26, 2012**

**TWELFTH MEETING**

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on June 26th, 2012, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Debbie Bell called the meeting to order at 9:30 A.M.

Debbie Bell	Commissioner	Present
Michael J. Stiehl	Commissioner	Present
Edward H. Norden	Commissioner	Present
Katie Barr	Clerk and Recorder	Present
Brenda Jackson	County Attorney	Present

Also present: George Sugars, County Manager; and Bill Giordano, Planning and Zoning Director.

The Invocation was given by Pastor Larry Schell of Christian Family Fellowship.

Those present recited the Pledge of Allegiance to the Flag of the United States of America.

**APPROVAL OF AGENDA**

**Commissioner Norden** moved to approve the agenda. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

**CONSENT AGENDA**

**Commissioner Stiehl** moved to approve the consent agenda. Commissioner Norden seconded the motion. Upon vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried. Resolution #24 is attached.

**ADMINISTRATIVE/INFORMATIONAL**

1. Administrative and Elected Officials

**County Clerk Barr** announced the Primary Election is being held today. Ballots must be turned into the Clerk & Records Office by 7:00 p.m. The Administration Building will be open this evening for anyone who wants to hear the election results.

**Commissioner Norden** thanked Sheriff Beicker and Undersheriff Ty Martin for giving the Commissioners a tour of the Fremont County jail last Tuesday. Also portions of Dozier and Central Avenue will be closed until 4:30 today for chip sealing. The road is closed between Utility Drive and Drake Avenue. The Department of Transportation will be working on Frazier Avenue in Florence on Wednesday. Two miles of County Road 28 (Copper Gulch Road) will soon be chip sealed. An additional mile on County Road 1A and one mile on County Road 12A will be chip sealed as well. This summer 1.7 miles of road on County Road 27A will also be chip sealed.

2. Citizens Not Scheduled: None.

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### **OLD BUSINESS**

1. Second Reading and consideration of adoption of a proposed Ordinance Restricting Open Fires and Open Burning in the Unincorporated Areas of Fremont County and Establishing a Permitting requirement for Slash Pile Burning. Representative: Jim Beicker, Fremont County Sheriff

**Commissioner Bell** said this is the second reading for the proposed Ordinance and read the heading of Ordinance No. 2012-1.

**County Attorney Jackson** explained the changes to the proposed Ordinance since the first reading. She said generally an ordinance will take effect 30 days after the second publication and the second publication will occur after the second reading. However language has been added to the proposed ordinance regarding the emergency state of the county and the Executive Order declared by the Governor. This would allow the Board to adopt the Ordinance today and for it to be effective immediately.

**Sheriff Beicker** explained how the use of woodstoves would be affected. Municipalities have been controlling the use of wood burning stoves for a long time for the purpose of air quality. He believes the added language regarding the spark arrestors will be helpful. The Sheriff is recommending a Stage Two Ban be in effect at this time. Commissioner Bell asked if the commercial firework displays in Canon City and Penrose will still be allowed to proceed. Beicker said as of right now the displays are still authorized but may be cancelled at any moment. Commissioner Norden said he has received several calls regarding firework sales and displays. Commissioner Stiehl has gotten calls from agricultural producers regarding agricultural burning that he refers to the Sheriff's department.

**Commissioner Norden** moved to adopt Ordinance No. 2012-1 restricting open fires and open burning in the unincorporated areas of Fremont County and establishing a permitting requirement for slash pile burning and the ban stage to be determined by the Sheriff with the current ban to be a stage two. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried. Ordinance No. 2012-1 is attached.

### **NEW BUSINESS**

1. Resolution Appointing Three Directors for the Fremont County Finance Corporation. Representative: Dana Angel, Finance Director

**Dana Angel** explained the proposed resolution would appoint three members to the Board of Directors for the Finance Corporation. The Finance Corporation was organized in 1985 and has been used for different funding certificates. The appointed directors would be Larry Stringari of Sunflower Bank, Leslie (Buddy) Lambrecht of the RE-1 School District, each serving three year terms. The third director Commissioner Ed Norden would serve until January 8, 2013 as he is running for re-election.

**Commissioner Stiehl** moved to approve resolution #25 appointing Larry Stringari to a three year term, Leslie (Buddy) Lambrecht to a three year term, and Ed Norden to a term that expires January 8, 2013 as directors of the Fremont County Finance Corporation. Commissioner Bell seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Bell, aye; Commissioner Norden, aye. The motion carried. Resolution #25 is attached.

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2. Request: TUP 12-003 EPIC Rocky Mountain Relay

Request approval of a temporary Use Permit to allow a team relay foot race that will travel along roads in Fremont County, by EPIC Relays. The event will start in Canon City, continue westerly on Fremont County roads, into Chaffee County and Gunnison County, ending in Crested Butte. The relay will run on Friday, July 20<sup>th</sup> from approximately 7:00 A.M. until 6:00 P.M. Representative: Michael Papworth President of EPIC Relays

**Michael Papworth** said this is the same event that was held last year. The event ran smoothly last year. So far they have received approval from the Colorado State Patrol and Colorado Department of Transportation for the event this year. Michael said they do have a general liability insurance certificate for Fremont County. They are requesting a waiver of the cleanup surety bond as they have their own cleanup crew. The starting point will be Centennial Park in Canon City going through Temple Canyon to Cotopaxi. The runners will continue on Ute Trail to Salida. There will be about 800 participants divided into teams of 12 runners.

**Planning and Zoning Director Giordano** said the notification requirements have been met. He stated there were no problems with the event and the cleanup after the event last year. If the TUP is approved today the Board will need to accept the general liability insurance policy from EPIC Relays for the event.

**Commissioner Norden** moved to approve TUP 12-003 EPIC Rocky Mountain Relay with a waiver of the cleanup bond and acceptance of the insurance policy. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

**PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.**

1. Post-Award Hearing for CDBG #04-041G project which supported emergency shelter programs provided by Loaves & Fishes Ministries and Family Crisis Services, Inc., Fremont County. Representative: Judy Lohnes, Upper Arkansas Area Council of Governments (UAACOG).

**Chairman Bell** opened the Public Hearing at 10:08 A.M.

**Judy Lohnes** said this grant was sponsored by Fremont County on behalf of Family Crisis Services and Loaves & Fishes Ministries. The grant was awarded in 2004. The state requires a Post-Award Hearing be held to close out the grant. The grant was for \$33,708 of which \$14,442 went to Loaves & Fishes and \$18,266 went to Family Crisis. The County will receive a \$1,000 administration fee once the grant is closed out. These agencies provided housing for the homeless and victims of domestic violence. About 257 people were served with this grant.

**Public Comments:** None.

**Chairman Bell** closed the Public Hearing at 10:12 A.M. and state that no other action is required by the Board on this item.

3. Special Events Liquor Permit

Fourth of July Event

Florence/Eastern Fremont County Rotary

617 E. Main St. Florence, CO 81226

Event Site: 415 4<sup>th</sup> Avenue Penrose, CO 81240 (Penrose Park)

Special Events Liquor Permit – Malt, Vinous and Spirituous Liquor

Representatives: Drew Lamoreux – Florence/Eastern Fremont County Rotary

And Trina Finto – Penrose Park & Recreation District

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**Drew Lamoreux** said this is a joint effort between the Florence/Eastern Fremont County Rotary and the Penrose Park & Recreation District. The Penrose Park & Recreation District could not hold a liquor license as they are a Government Special District. The Rotary club will provide the liquor sales at the Fourth of July Event at the Penrose Park.

**Trina Finto** said the day will start with a pancake breakfast in the morning followed by games, live music, and a fireworks display. Commissioner Bell asked what kind of alcohol will be served. Trina said only beer will be served. Commissioner Bell asked if any of the servers have been through alcohol training.

**Krystal Hughes** of the Penrose Park & Recreation District said she has taken the alcohol training classes offered by the City of Canon City and the City of Florence. Commissioner Norden asked what type of controls are in place to secure the premises during the event.

**Mark Crespin** of the Penrose Park and Recreation District said a diagram has been provided to the Board. The entire area is enclosed by a six foot chain length fence. Signage will be placed along the entire fence stating no alcohol beyond this point. All gates will be locked except two entrance gates which will have staff monitoring them. Once customers have shown proper identification they will receive a wrist band that will allow them to purchase alcohol. Sheriff's Deputies will be monitoring the event as well as private security. Mark said the primary reason for selling alcohol is to offset some of the other expenses of the event. This is a free community event that has gone on for nine years.

**Commissioner Stiehl** moved to approve the Special Events Liquor Permit for Florence/Eastern Fremont County Rotary for July 4, 2012 at Penrose Park. Commissioner Norden seconded the motion. Upon Vote: Commissioner Stiehl, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

4. Consideration of an appointment of Mike Madone to fill a vacancy on the Fremont County Heritage Commission for the term expiring January 1, 2013.

**Commissioner Bell** said the Board did receive a letter from Mike Madone requesting to be appointed to the vacant seat on the Heritage Commission. Madone would represent Canon City on the Heritage Commission.

**Commissioner Norden** moved to appoint Mike Madone to the vacant seat on the Fremont County Heritage Commission to represent Canon City with the term expiring on January 1, 2013. Commissioner Stiehl seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Stiehl, aye; Commissioner Bell, aye. The motion carried.

**Chairman Bell** adjourned the meeting at 10:23 A.M.

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Commissioner Norden moved the adoption of the following Resolution:

**RESOLUTION NO. 24**  
**Series of 2012**

RESOLUTION FOR SPECIAL REVIEW USE PERMIT  
DEPARTMENT OF PLANNING AND ZONING FILE  
#SRU 12-001 EDEN WEST RANCH (MAJOR MODIFICATION)

BE IT RESOLVED by the Fremont County Board of County Commissioners (hereafter "Board"):

THAT WHEREAS, RP on TC, LLC, (hereafter "applicant") has made application for issuance of a Special Review Use Permit pursuant to 8.14 of the Zoning Resolution of Fremont for the purpose of modifying the existing Special Review Use Permit to provide lodging for guests, in the lodge, three vacation homes, and to provide a facility for weddings and special events on a year around basis (allowed as a Special Review Use Permit under Recreational Facility, Rural); if the special events exceed the maximum number of forty (40) persons, an administratively issued Temporary Use Permit will be required; the property also will contain a commercial kitchen and dining hall that will be used to serve as the center for the special events; a liquor license is proposed for the purpose of serving persons attending the special events; which application has been designated as file #SRU 12-001 Eden West Ranch (Major Modification);

AND WHEREAS, pursuant to the Fremont County Zoning Resolution previously adopted; the Planning Commission of Fremont County reviewed the application at its May 1, 2012 regular meeting and recommended the **APPROVAL** of such application; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location, telephone number of the Fremont County Department of Planning and Zoning (hereafter "Department"), and a site plan and vicinity map were mailed fourteen (14) days prior to the public hearing, by certified mail, return receipt to the Department, to all property owners within five-hundred (500) feet of the boundaries of the subject parcel, all property owners adjacent to the total property owned by RP on TC, LLC, and to appropriate reviewing agencies; and

WHEREAS, a notice containing the specific request, proposed use, date, time, location, and telephone number of the Department where additional information may be obtained, was posted on the property fourteen (14) days prior to the public hearing; and

WHEREAS, a notice of the public hearing was published by the Department, in a newspaper of general circulation in Fremont County, fourteen (14) days prior to the public hearing, and which contained the specific request, time and place of the public hearing, and an explanation of the proposed use and its location; and

WHEREAS, the Board held a public hearing concerning said application on June 12, 2012, at which time comments and evidence were considered, including all materials contained as part of the application and which were in the Department's file concerning the application; and

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WHEREAS, it appears that issuance of a Special Review Use Permit is appropriate;

NOW, THEREFORE, BE IT RESOLVED by the Board that:

1. The Board makes the following findings with respect to the application for issuance of a Special Review Use Permit to Applicant as follows:
  - a. The procedural requirements of Section 8.2 of the Fremont County Zoning Resolution have been met.
  - b. The location of the proposed use is compatible and harmonious with the surrounding neighborhood.
  - c. The proposed use will not have detrimental effects on property values.
  - d. The proposed site and use will not impair public health, welfare, prosperity and safety by creating undesirable sanitary conditions, overburdening of utilities or adverse environmental influences.
  - e. The site will be served by streets and roads of sufficient capacity to carry the traffic generated by the proposed use, and the proposed use will not result in undue traffic congestion or traffic hazards.
  - f. The site is sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this resolution.
  - g. The proposed use, if it complies with all conditions on which approval is made contingent, will not adversely affect other property in the vicinity or the general health, safety and welfare of the inhabitants of the County, and will not cause significant air, water, noise or other pollution.
2. A Special Review Use Permit shall be issued contingent on the acceptance and observance by the Applicant of the following specified conditions:
  - A. Special Review Use Permit shall be issued for the life of use.
  - B. The Department shall review the permit annually to determine compliance with the conditions of the permit and forward it to the Board for their review as required by regulations. It shall be the responsibility of the permit holder to provide the Department with copies of other permits, licenses, or other documentation showing compliance with the requirements of any other governmental agency (*to include items such as changes to the documents, updates, renewals, revisions, annual reports*). Further it shall be the responsibility of the permit holder to provide the Department with copies of any documents that would affect the use of the subject property, such as but not limited to updated or renewed leases for use of or access to the subject property. Copies of these documents shall be submitted to the Department prior to the anniversary date of the approval of the use permit each year. If the Department has to notify the permit holder

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that the anniversary date has passed and / or request said documentation, then a penalty fee shall be charged to the permit holder. If the required documentation and penalty fee are not submitted to the Department within twenty (20) days following notification to the permit holder, then violation procedures may be commenced, which could result in termination, revocation, rescission or suspension of the use permit.

- C. The Applicant shall conform to all plans, drawings and representations submitted with or contained within the application except as may be inconsistent with the other provisions of the permit.
- D. The Applicant shall comply with all laws and regulations of the County of Fremont, its agencies or departments, the State of Colorado, its agencies or departments and the United States of America, its agencies or departments, as now in force and effect or as the same may be hereafter amended.
- E. Applicants shall obtain, prior to operation, and keep in effect, throughout operation, all other permits, licenses or the like, including renewals, required by any other governmental agency and as otherwise may be required by Fremont County and shall provide copies of such to the Department. Revocation, suspension or expiration of any such other permits shall revoke, suspend or terminate the permit authorized hereunder, as the case may be.
- F. If a Special Review Use is abandoned, discontinued or terminated for a period of six (6) months, the approval thereof shall be deemed withdrawn, and the use may not be resumed without approval of a new application. Provided, however, if the holder of the permit intends to or does temporarily cease the special review use for six (6) months or more without intending to abandon, discontinue or terminate the use, the holder shall file a notice thereof with the Department prior to the expiration of the six-month period stating the reasons thereof and the plan for the resumption of the use. The requirement of a notice of temporary cessation shall not apply to applicants who have included in their permit applications a statement that the use would continue for less than six (6) months in each year and such fact is noted on the permit. In no case, however, shall temporary cessation of use be continued for more than two (2) years without approval by the Board.
- G. If a Special Review Use Permit is to be transferred it shall comply with all applicable Federal, State and County regulations regarding such transfer.
- H. Days and hours of operation shall not be limited.
- I. The maximum number of persons, whether children or staff, is limited to forty (40) persons.
  - 1. Issuance of a Temporary Use Permit, which will be issued administratively, is required for each proposed event for which the number of persons will exceed forty (40).
- J. The applicant shall provide to the Department documentation from the Fremont County Weed Coordinator that the applicant has in place an acceptable weed control plan,

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further the applicant shall implement and maintain the plan, yearly, **if required**.

- K. The County shall retain the right to modify any condition of the permit, if the actual use demonstrates that a condition of the permit is inadequate to serve the intended purpose of the condition. Such modification shall not be imposed without notice and a public hearing being provided to the Applicant at which time applicant and members of the public may appear and provide input concerning the proposed modifications to the conditions of the permit.
- L. Only the named party (RP on TC, LLC) on the permit shall be allowed to operate this Special Review Use Permit. Board approval shall be required prior to allowing any other person or entity to operate at the site under the conditions of this permit. All persons, entities or others requesting Board approval to operate under this Special Review Use Permit must agree to abide by all terms and conditions of this Permit and shall be required to be named on this Permit as additional parties who are bound by the terms and conditions of this Special Review Use Permit.
- M. A Special Review Use Permit shall not be modified in any way without Department approval for Minor Modifications or approval of Major Modifications by the Board in accordance with Section 8.14 of the Fremont County Zoning Resolution (*complete reapplication*).

Commissioner Stiehl seconded the adoption of the foregoing Resolution and upon a vote of the Board as follows:

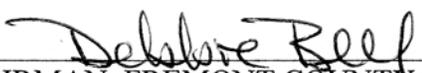
Commissioner Stiehl:  Aye / Nay / Abstain / Absent

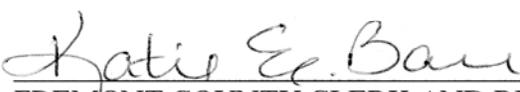
Commissioner Norden:  Aye / Nay / Abstain / Absent

Commissioner Bell:  Aye / Nay / Abstain / Absent

The Resolution was declared to be duly adopted.

DATE: June 26, 2012

  
 \_\_\_\_\_  
 CHAIRMAN, FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST:   
 \_\_\_\_\_  
 FREMONT COUNTY CLERK AND RECORDER

June 26, 2012

RESOLUTION NO. 25, SERIES OF 2012

RESOLUTION APPOINTING THREE DIRECTORS FOR THE  
FREMONT COUNTY FINANCE CORPORATION

WHEREAS, in September of 1985, the Fremont County Finance Corporation ("Finance Corp.") was incorporated in accordance with the provisions of the Colorado Non-Profit Corporation Act for the general purpose of assisting or facilitating the acquisition and financing of real or personal property for use by Fremont County and to assist in or facilitate functions and services of the County; and

WHEREAS, the Articles of Incorporation for the Finance Corp provide that there shall be three Directors appointed by the Board of County Commissioners, one of whom shall be a member of the Board of County Commissioners for Fremont County and two of whom shall be appointed by the Board of County Commissioners to serve at the pleasure of the Board for terms of three years; and

WHEREAS, the terms of office for the current three directors, James R. Schauer, Bob Crider, and Kathleen Barnes, have all expired, leaving three vacancies for director positions of the Finance Corp.; and

WHEREAS, the Board of Commissioners has made inquiry and has determined that Larry Stringari and Leslie F. ("Buddy") Lambrecht are willing to serve as Directors, together with Edward H. Norden, County Commissioner.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF FREMONT, that effective June 26, 2012, Larry Stringari and Leslie F. ("Buddy") Lambrecht are hereby appointed for three year terms to serve as Directors for the Fremont County Finance Corporation. Edward H. Norden, County Commissioner for Fremont County is appointed as the third Director for the Fremont County Finance Corporation for a term ending January 8, 2013.

Commissioner Stiehl moved the adoption of the foregoing Resolution with a second by Commissioner Bell.

Debbie Bell	<u>AYE</u>	NAY	ABSTAIN	ABSENT
Edward H. Norden	<u>AYE</u>	NAY	ABSTAIN	ABSENT
Michael J. Stiehl	<u>AYE</u>	NAY	ABSTAIN	ABSENT

The Resolution was declared to be duly adopted.

Date: 6/26/12

Attest: Kathie E. Bau  
Clerk

Debbie Bell  
Chairman

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**ORDINANCE NO. 2012- 1**

**AN ORDINANCE RESTRICTING OPEN FIRES  
AND OPEN BURNING IN THE UNINCORPORATED  
AREAS OF FREMONT COUNTY AND**

**ESTABLISHING A PERMITTING REQUIREMENT  
FOR SLASH PILE BURNING**

**THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF FREMONT, COLORADO**

WHEREAS, §30-15-401(1)(n.5), C.R.S., authorizes the Board of County Commissioners ("Board") to adopt an ordinance banning open fires to a degree and in a manner that the Board deems necessary to reduce the danger of wild fires within those portions of the unincorporated areas of the county where the danger of forest or grass fires is found to be high; and

WHEREAS, the Fremont County Sheriff ("Sheriff") is authorized under the provisions of §§30-10-512 and 30-10-513, C.R.S., to act as fire warden of the county in case of prairie or forest fires, and to assume charge or assist other governmental entities in controlling or extinguishing forest or prairies fires; and

WHEREAS, the Sheriff has requested in the past and periodically will continue to request that the Board adopt restrictions on open fires and open burning in the unincorporated areas of Fremont County, and

WHEREAS, open fires and open burning can be a prime cause of forest and prairie fires in Fremont County; and

WHEREAS, when prevailing dry weather and fuel conditions periodically create a threat of fire in the forests and prairies of Fremont County, and the Board of Commissioners needs the ability to declare and lift fire restrictions within the unincorporated areas of the county based on existent circumstances at the time; and

WHEREAS, fire hazard conditions may be significantly different in various areas of the County and imposition of a fire restrictions on a county-wide basis may not always be appropriate; and

WHEREAS, the Board finds that competent evidence has been presented to the Board indicating the danger of forest and prairie fires in Fremont County can become high without anticipated relief in sight, and therefore, it is necessary for the immediate preservation of the public health, safety and welfare of the citizens of Fremont County to provide the Board of Commissioners with authority to impose a restriction on all open fires and open burning within the unincorporated areas of Fremont County.

RECEPTION#: 897724,  
07/03/2012 at 04:08:38 PM, 1 OF 8,

KATIE E. BARR, CLERK AND RECORDER  
FREMONT COUNTY, CO

June 26, 2012

BE IT ORDAINED, BY THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, as follows:

Section 1. Title. This Ordinance shall be known and referred to as the "Fremont County Open Fire and Open Burning Restriction Ordinance" and may be cited as the Fremont County "Fire Restrictions Ordinance" and referenced as such.

Section 2. Purpose. The purpose of this Ordinance is to preserve and protect the public health, safety and welfare of the citizens of Fremont County, Colorado, by restricting open fires and open burning in the unincorporated areas of Fremont County in order to prevent forest and prairie fires when a high danger of such fires exists as a result of atmospheric and other conditions, including lack of moisture and other local conditions in Fremont county.

Section 3. Application.

a. This Ordinance shall apply throughout the unincorporated areas of Fremont County including public, private and state lands and to any incorporated town or city that elects by ordinance or resolution, or otherwise consents in writing, to have the provisions herein apply. This Ordinance shall not apply to federal public lands or lands within the jurisdictional boundaries of a fire special district, unless the county is specifically empowered by law to exercise such authority or unless the county and the fire district in question agree through an intergovernmental agreement to allow this Ordinance to apply.

b. The Board of County Commissioners may designate, by resolution, areas in the unincorporated territory of the county within which this Ordinance shall apply, and exclude other portions of the county from compliance with this Ordinance. Before such Resolution may be approved, the Board shall set forth a rational basis for the limited applicability and shall hold a public hearing prior to approval of such resolution. Any interested person may appear at the public hearing and shall have the opportunity to be heard.

Section 4. Definitions.

a. "Open Fire" shall be defined by Stage I, Stage II, and Stage III restrictions as set forth in this Ordinance and shall also include outdoor burning conducted without a burning permit (if required), or in violation of a burning permit.

b. "Agriculture" means the science and art of production of plants and animals useful to man, including, to a variable extent, the preparation of these products for man's use and their disposal by marketing or otherwise, and includes horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, and any and all forms of farm products and farm production.

c. "Undeveloped area" means an outdoor area that is not hard-surfaced, barren, or otherwise cleared of all flammable or ignitable vegetation and material.

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Section 5. Fire Restrictions. Restrictions imposed on open burning or open fires are as follows:

**A. STAGE ONE PROHIBITED ACTIVITIES**

1. All agricultural burning including but not limited to weeds, brush, or grass;
2. Building, maintaining, attending or using a fire, campfire, coal or wood burning stove, fireplace, any type of charcoal or wood fueled cooking, or open fire of any type in an undeveloped area. Use of a coal or wood-burning stove or fireplace in a private residence in an undeveloped area is allowed only if the flue pipe, chimney, or other exhaust structure is equipped with a properly installed NFPA-approved spark arrestor such as a chimney cap.  
Notes:
  - a. Campfires contained in constructed, permanent fire pits or fire grates within a **developed** recreation area are allowed;
  - b. Grills using propane and other bottled fuels are allowed only in areas free of flammable vegetation and other flammable materials, and must be used in a manner which present no fire danger to the surrounding area;
  - c. No fire or grill shall be left unattended, and shall have an adequate water supply and/or fire extinguisher on site.
3. All burning of trash, refuse or other debris.
4. Smoking; except within an enclosed vehicle, building, or outdoor smoking area that is hard-surfaced, barren, or otherwise cleared of all flammable vegetation and material. Discarding of cigarette butts in a receptacle not designed for disposal of cigarette butts, or at any location, or from any vehicle is expressly prohibited.
5. Using any explosives materials, to include: fireworks, solid fuel rockets, blasting caps or any incendiary device which may result in the ignition of flammable material;
6. Outdoor welding, grinding or use of any type of torch in any area which presents the possibility of igniting vegetation or other combustible material, and there must be an adequate water supply and/or fire extinguisher on site;
7. Operating any outdoor equipment or machinery in an undeveloped area with an internal combustion engine without a spark arresting device properly installed, maintained and in effective working order meeting either:
  - a. U.S. Dept. of Agriculture, Forest Service Standard 5100-1a; or
  - b. Appropriate Society of Automotive Engineers (SAE) recommended practice J335(b) and J350(a);

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8. Sale, use and possession of fireworks, including permissible fireworks as defined in §12-28-101, C.R.S., however in no instance shall the sale, use and possession be prohibited for more than one year from the date of imposition of the fire restrictions until the suspension of the same.

## **B. STAGE TWO PROHIBITED ACTIVITIES**

1. All Restrictions contained in Stage One, listed herein, and including the following additional restrictions:

- a. Building, maintaining, attending or using a fire, campfire, coal or wood burning stove, any type of charcoal or wood fueled cooking, or open fire of any type at any location.

Notes:

1. Grills using propane and other bottled fuels are allowed only in areas free of flammable vegetation and other flammable materials, and must be used in a manner which present no fire danger to the surrounding area;
  2. No grill shall be left unattended, and shall have an adequate water supply and/or fire extinguisher on site.
  3. Use of a coal or wood-burning stove or fireplace in a private residence is allowed only if the flue pipe, chimney, or other exhaust structure is equipped with a properly installed NFPA-approved spark arrestor such as a chimney cap.
- b. Off road use or parking of a motorized vehicle in an area which presents the possibility of sparks or exhaust heat igniting surrounding flammable vegetation.

## **C. STAGE THREE AREA CLOSURE**

Emergency fire closures (closing an area to entry or use) have an extreme impact on the public and fire agencies, and are discouraged except under the most severe conditions. Closures are not justified by fire danger alone, but should be driven by the potential for risk to life and safety due to extreme fire behavior, high potential for human-caused fires, severe shortages of resources, and numerous large fires within the state.

Examples include:

1. Potential loss of life due to explosive fire conditions;
2. Potential for extreme or blowup fire behavior;
3. Stage I or Stage II restrictions are ineffective in reducing the number of human-caused fires;
4. Resources across the geographic area are at a critical shortage level;
5. Proximity to substantial population centers;

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6. The extent of wildland urban interface.

An area of public lands under Stage Three open fire/burning restriction shall be closed to all entry except for individuals carrying a written permit, Federal, State and Local officers or members of organized search and rescue or firefighting forces performing official duties and resident landowners and lessees.

**D. EXCEPTIONS TO STAGE ONE, TWO AND THREE RESTRICTIONS:**

Section 6. Exceptions. The following shall be excepted from the provisions of Section 5 of this Ordinance:

- a. Agricultural burning by an agricultural producer on property owned by the agricultural producer;
- b. Sale, use and possession of permissible fireworks as defined in §12-28-101(3) and (8), C.R.S. between May 31 and July 5 of any year, unless the Board of County Commissioners makes a written express finding that all, or a portion, of Fremont County is in a state of high fire danger, based on competent evidence, which includes the use of the national fire danger rating system and any other similar indices or information;
- c. Fireworks displays properly permitted pursuant to §12-28-103, C.R.S.;
- d. Burning of explosive wastes by the manufacturer of explosives in areas zoned for industrial use, when the burning is supervised by a fire department or fire protection district.
- e. Open fires or open burning by any federal, state or local officer, or member of an organized fire protection district or department in the performance of official fire suppression, prevention, training function or other duties.

Section 7. Permit Required for Burning of Slash Piles.

- a. For purposes of this Section 7 of this Ordinance:
  - (1) "Open burning" means fire that a person starts and that is intentionally used for forest management.
  - (2) "Slash" means woody material less than six inches in diameter consisting of limbs, branches, and stems that are free of dirt. "Slash" does not include tree stumps, roots, or any other material.
- b. Any person who desires to use an open burning method to dispose of slash piles shall be required to obtain a permit from the Fremont County Sheriff prior to use of any open burning method for such disposal. Any open burning of slash piles shall strictly comply with all conditions of the Sheriff as indicated in the permit.

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- c. The Sheriff shall be authorized to charge a fee for issuance of a slash pile open burning permit in an amount reasonably calculated to offset actual costs of the permitting and monitoring process, not to exceed \$125.00.
- d. No permit shall be required for broadcast and pile burns conducted within federal and state guidelines that have a written and approved prescribed fire plan;
- e. No permit shall be required for agricultural burns that do not meet the combined definition of “open burning” of “slash.”
- f. Any person who obtains a permit for open burning of slash piles shall be required to notify any individual with respiratory conditions who has requested such notification, as well as all contiguous landowners of the date, time, and location of slash pile burns. The Sheriff shall adopt and maintain a policy to advise permit applicants regarding the method for notification, type of notice and timing of providing notice. The Sheriff shall maintain a registry of names, addresses and contact information of all individuals with respiratory conditions who have requested advance notification of slash pile burns. Notification shall be made as far in advance of the burn date as possible.
- g. The Sheriff, in issuance of permits, shall give due consideration to safe burning conditions at the burn location, and shall impose appropriate permit limitations concerning the number of slash piles that may be burned at one time per person who is monitoring the burn, the size of slash piles, temperature, humidity, snow cover, wind conditions, overhead and other types of electric and other utility facilities, including distances from such facilities, fuel type and moisture content, slope, and setbacks from real estate improvements.

Section 8. Unlawful Acts. It shall be unlawful for any person to build, maintain, attend or use an open fire or conduct an open burning activity in the unincorporated areas of Fremont County including public, private, state and federal lands, when the same is prohibited by Ordinance and/or Resolution of the Board of Commissioners for Fremont County

Section 9. Enforcement. This Ordinance shall be enforced by the Fremont County Sheriff, Undersheriff, and deputies.

Section 10. Suspension and Imposition of Ordinance.

a. The Board, by resolution, may temporarily suspend, in whole or in part, reinstate, and impose fire restrictions pursuant to this Ordinance from time to time depending on the severity of the fire danger in Fremont County. Any declaration of restrictions on open burning made pursuant to this Ordinance shall specify the Stage level restriction, the parameters and duration of the restrictions as deemed necessary and appropriate, and shall be promptly published through a general press release to local television, radios and print media, as well as posting on the Fremont County internet website. Likewise, when conditions indicate a reduction or increase

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in restrictions, or the suspension or release of restrictions, the same notification to the public shall occur.

b. The authority for determining the effective Stage of the Fire Restrictions Ordinance, shall be and hereby is delegated to the Fremont County Sheriff who shall determine the appropriate Stage to apply during any and all times in which the fire restrictions are in effect

Section 11. Penalty for Violations.

A. Any person who violates this Ordinance from the effective date to and including the day prior to suspension or rescission of this Ordinance, commits a Class 2 Petty Offense under C.R.S. §30-15-402(1) and, upon conviction or confession of guilt thereof, shall be punished by a fine of not more than one-thousand dollars (\$1,000.00) for each separate offense plus a surcharge of ten dollars (\$10.00), under C.R.S. §30-15-402(2). Fines are to be set by the County Court, unless the violator wished to confess guilt and pursuant to the penalty assessment procedure within twenty (20) days of issuance of the ticket, pay the fine indicated plus the ten dollar (\$10.00) surcharge.

B. Each violation of this Ordinance shall be deemed separate and distinct from any other violation of this Ordinance or of any other federal, state, or local law rule, order or regulation.

C. Criminal prosecution may be brought against a violator in accordance with C.R.S. §§30-15-402 and 30-15-410, and under the penalty assessment procedure provided in C.R.S. §16-2-201. The Sheriff's Office is authorized to devise a ticketing system in conformance with C.R.S. §16-2-201.

D. The penalty assessment procedure provided in C.R.S. §16-2-201 may be followed by any arresting law enforcement officer for any such violation. The graduated fine schedule for such penalty assessment procedure shall be:

1. Two Hundred and Fifty Dollars (\$250.00) for the first offense;
2. Five Hundred Dollars (\$500.00) for the second offense within sixty (60) days of the first offense;
3. Seven Hundred and Fifty Dollars (\$750.00) for the third offense within sixty (60) days of the first offense;
4. One Thousand Dollars (\$1,000.00) for each additional offense within sixty (60) days of the first offense.
5. In addition to the penalty prescribed in this Ordinance, persons convicted of a violation of this Ordinance are subject to a surcharge of ten dollars (\$10.00).

Section 12. Disposition of Fines and Forfeitures. All fines and forfeitures for the violation of this Ordinance shall be paid to the Treasurer of Fremont County.

Section 13. Additional Remedies. The remedies provided in this Ordinance shall be cumulative and in addition to any other federal, state or local remedy, criminal or civil, which

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may be available. Nothing contained herein shall be construed to preclude prosecution under §18-13-109, C.R.S., or any other applicable statute, ordinance, rule, order or regulation.

Section 14. Severability. If any section, subsection, clause, sentence or phrase of this Ordinance is adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair or invalidate any other provisions of this Ordinance which can be given effect without such invalid provision.

Section 15. Emergency. The Board hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation and protection of the health, safety and welfare of citizens of Fremont County, Colorado, in that a state-wide open burning ban was declared by the Governor by Executive Order dated June 14, 2012, which sets forth the severity of fire danger in Colorado. The Board finds that the weather conditions have created a high fire danger in Fremont County, which creates a threat to life, health and property.

Section 16. Repealer. Upon the effective date of this Ordinance, all prior Fire Ban or Fire Restrictions Ordinances, including but not limited to Ordinance Number 1, Series of 2006, and Ordinance Number 1, Series of 2007, adopted by the Fremont County Board of Commissioners shall be deemed repealed and shall be of no further validity or effect.

Section 17. Effective Date. The Board of County Commissioners hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety. This Ordinance shall be effective immediately and shall remain in effect until such time as this Ordinance is amended, temporarily suspended or repealed. The Board, by resolution, may reinstate, impose and temporarily suspend, in whole or in part, this Ordinance from time to time depending on the severity of the fire danger in Fremont County.

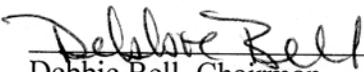
INTRODUCED AT FIRST READING ON THE 12<sup>th</sup> DAY OF JUNE, 2012

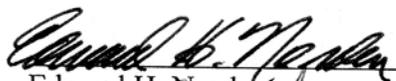
Date of Publication: June 1, 2012 *Cañon City Daily Record*

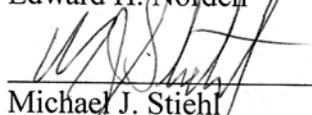
**Date of Final Approval and Adoption: June 26, 2012.**

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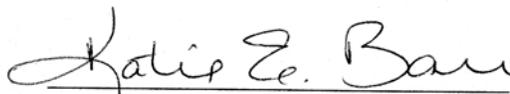
**THE BOARD OF COMMISSIONERS OF THE COUNTY OF FREMONT, COLORADO**

  
Debbie Bell, Chairman

  
Edward H. Norden

  
Michael J. Stiehl

ATTEST:

  
Clerk of the Board