

PROPOSED FREMONT COUNTY ORDINANCE

AUGUST XX, 2023

ORDINANCE NO. 2023-XX

BEAR-RESISTANT CONTAINER ORDINANCE

AN ORDINANCE BY THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, IDAHO, DESIGNATING RESPONSIBILITY, 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 there is substantial evidence that most wildlife conflicts within the Island Park area are the direct result of wildlife access to trash, bird feeders and other human-provided attractants within residential, commercial areas and dispersed camps; and

WHEREAS, existing county ordinances do not directly address the issues necessary to minimize wildlife conflicts within the Island Park area, 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: PURPOSE

Human-bear conflicts are often the product of human carelessness and can be reduced by changing human behavior, such as securing garbage and taking down bird feeders when bears are active. Proper food storage (specifically in the form of bear resistant food containers) is a proven tool for reducing human-bear conflict.

Many communities throughout North America have developed waste management strategies that reduce the availability of human garbage and attractants to bears and other wildlife and as a result, reduce the frequency of human-bear conflicts. Fremont County desires to prevent and mitigate conflicts between humans and bears by establishing garbage and bear-attractant standards. These requirements are limited to the Island Park area where human-bear conflicts have occurred.

SECTION 2: DEFINITIONS

Attractant – Any substance which could reasonably be expected to attract wildlife or does attract wildlife, including, but not limited to, food products, pet food, bird feed, other feed, grain or salt, household chemicals, personal hygiene products and fertilizers.

Bear-Resistant Building or Enclosure – Bear-resistant buildings or enclosures are hereby defined as:

- a. A structure consisting of four (4) hard sides. These four sides may be constructed of hard wood, metal siding or chain-link fencing no less than 6-feet in height or functional maintained electric fencing; and
- b. Containing a roof or cover or sides crowned with electrified fencing or barbed-wired fencing angled outwards from the top of the four (4) hard sides; and
- c. Containing functional, maintained self-latching doors/gates or else doors and gates with locks.
- d. Examples of bear-resistant enclosures include, but are not limited to, garages, metal sheds, houses, and electrified fencing or any other building designed and constructed to prevent access by bears.

Bear-Resistant Container or Dumpster – Containers or dumpsters and considered to be “bear-resistant” if they are said to meet the “minimum structural design standards” published by the Interagency Grizzly Bear Committee (IGBC) in 1989 and any revisions to these standards thereafter. Certification is granted to containers and dumpsters that have successfully passed evaluation using

protocols stipulated in the most recent IGBC *Bear-Resistant Products Testing Program Testing Protocol* (2023) and all revisions thereafter. The lid must have a latching mechanism or other device of sufficient design and strength to prevent access of the contents by bears.

Fremont County Bear Conflict Zone – This zone, commonly referred to as Fremont County Voter Precinct 1 as defined on August XX, 2023, (see map of Fremont County Precinct 1 on date ordinance approved), is identified as the Island Park area located north of the Ashton Hill to the Idaho border to the north, Clark County to the west and Yellowstone National Park to the east. It includes all residential, commercial, and public property including curbs, roads, streets, rights of ways, highways, and other locations where garbage is stored or placed for pick up in this Fremont County Bear Conflict Zone. The area excludes the City of Island Park, and state and federal property located in the Island Park area.

Garbage – Any human-generated waste that could reasonably attract wildlife which includes, but shall not be limited to: food, food packaging, toothpaste, deodorant, cosmetics, spices, seasoning, compost and grease. Other household waste that cannot reasonably be considered “garbage” or an “attractant” including, but not limited to: non-edible yard maintenance waste, household items, recyclables cleaned of food particles, and cardboard, shall not require the use of wildlife resistant or wildlife proof containers when not comingled with refuse or any other attractant.

Hunting and trapping under state law – This ordinance does not apply to the use of bait or other attractant during the hunting or trapping of wildlife in compliance with state law.

SECTION 3: BEAR CONFLICT PREVENTION STANDARDS

Fremont County Bear Conflict Zone – This Island Park area zone must comply with the following standards.

A. Garbage

- a. It is unlawful to accumulate or store garbage or attractants within the Bear Conflict Zone in any manner that allows bears access.
 - b. All commercial property shall be required to use certified bear-resistant garbage containers/dumpsters that have passed the *Bear-Resistant Products Testing Program Testing Protocol (2023)* or a bear-resistant building or enclosure in which garbage containers are to be always stored inside this enclosure.
 - c. All commercial property doing business as a food/drink preparation and service facility shall be required to store grease bins, and stored foods inside a bear-resistant building or enclosure.
 - d. All residential property shall be required to use IGBC certified bear-resistant garbage containers or a bear-resistant building or enclosure.
 - e. An alternative to the above, residents may place non-bear resistant garbage containers containing bear attractants out for garbage pickup after 8 a.m. on the morning of pickup. After waste pickup, the non-bear resistant garbage container must be returned to an enclosed building or bear resistant enclosure by 6 p.m. on the day of waste pickup.
- B. Bird Feeders** – In the Island Park area, birdfeeders shall be hung at least ten (10) feet from the ground, deck, railing or surface and four (4) feet from any structure, tree or limb and have a catch pan attached directly underneath the feeder that is 2” larger in diameter than the widest diameter of the feeder itself.

SECTION 4: ENFORCEMENT

- A. **Administrator:** The Fremont County Sheriff’s office, or any peace officer is responsible for the enforcement of this ordinance. State and federal agency officials can help monitor and document any reported violations.
- B. When a violation of this ordinance is discovered in Fremont County
 1. A written warning of the existence of the violation shall be served upon the owner, occupant or person in charge of the premises or property, if known. The written warning may be personally served

or sent by mail. If the written warning cannot be served personally or by mail, the notice shall be affixed to the building, garbage container or other highly visible location on the premises or property so conspicuous that any person occupying, possessing, or using the premises or property would be reasonably expected to see it.

2. The written notice referred to above shall advise that the violation must be corrected within 7 calendar days, or a second infraction notice may be initiated.

SECTION 5: PENALTIES

- A. **Penalty** – Any person found in violation of this provision shall be guilty of an infraction and shall be punished as provided in Idaho Code 18-113A as it may from time to time be amended.
- B. **Second violation** – A second separate offence, either the continued violation that is not corrected within 7 calendar days or a new offense within a year of the first offense will be charged with Idaho infraction Idaho Code 18-7031 for placing debris on public or private property. The Idaho fixed penalty of \$150.00 plus court costs for a total of \$206.50 (2022 rate or if amended, the current rate) will be assessed.
- C. **Interference Prohibited** – It shall be unlawful, and shall be a misdemeanor, to interfere with the Sheriff, any peace officer, or any local, State or Federal officer in the performance of duties connected with enforcement of this ordinance. Such interference shall include, but not be limited to, removal of notices posted on the property pursuant to this ordinance or impediment or harassment of the authorized person in the performance of their duties under this ordinance.
- D. **Violation: Penalty** – A third violation of this section within a 12-month period shall be punishable as a misdemeanor as provided in Idaho Code Section 18-113 as it may from time to time be amended. Punishment for misdemeanor in 2023. (1) Offenses declared to be a misdemeanor, are punishable by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding one thousand dollars (\$1,000), or by both.

CONFLICTING ORDINANCES OR RESOLUTIONS

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

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 XX day of XXXXXX, 2023 by:

Scott Kamachi, chairman, Board of County Commission

Blair Dance, Board of County Commission

Rick Hill, Board of County Commission

Witnessed by

Abbie Mace, Fremont County Clerk