

Ordinance #2017-

POWER COUNTY PUBLIC HEALTH AND SAFETY AMENDMENT ORDINANCE

Be it ordained by the Board of County Commissioners of Power County, Idaho:

The following modification to Power County Public Health and Safety, Title 4 of the Power County Municipal Code (Ord. 1998-03) to add an additional Ch. 5, Miscellaneous, was considered and adopted by the Power County, Idaho, Board of Commissioners on the ____ day of _____, 2017.

Upon motion of Commissioner _____ and seconded by Commissioner _____, the Board modifies the code as follows:

WHEREAS, on December 28, 1998, the Board of Power County Commissioners ratified and adopted Power County Municipal Code, including subsection Title 4, Public Health and Safety (Ord. 1998-03);

WHEREAS, Power County Municipal Code (Ord. 1998-03) subsection Title 4, Public Health and Safety has additional matters to be addressed;

NOW, THEREFORE, IT IS RESOLVED that the Board of Power County Commissioners does hereby ratify Power County Ordinance #2017-__, amending Power County Municipal Code (Ord. 1998-03) to add an additional chapter to Title 4, Public Health and Safety, namely Chapter 5 as written in exhibit A attached here with.

APPROVED AND ADOPTED this _____ day of November, 2017.

RON FUNK, Chairman

DELANE ANDERSON, Commissioner

BILL LASLEY, Commissioner

Attested this _____ day of July, 2017

SHAREE SPRAGUE, Clerk

EXHIBIT A

TITLE 4, PUBLIC HEALTH AND SAFETY

CHAPTER 5: MISCELLANEOUS

- 4-5-1 Authority and Purpose
- 4-5-2 Definitions
- 4-5-3 Unlawful Disposal
- 4-5-4 Storage of Hazardous Materials
- 4-5-5 Junkyards
- 4-5-6 Storage of Inoperative or Unlicensed Vehicles
- 4-5-7 Auto Body and Repair Services
- 4-5-8 Enforcement, Penalties and Abatement

4-5-1 MISCELLANEOUS:

The purpose of the requirements for miscellaneous chapter will apply to residential, rural residential and recreational zoned areas of Power County and will be as follows:

- To promote and protect the health, comfort and general welfare of the public.
- To provide protection against the negative impact of unlawful disposal, storage of hazardous materials and junkyards on the public health and safety.
- To minimize damaging effects to the environment, increase property values and the quality of life in Power County.

4-5-2 DEFINITIONS:

Board - Shall mean the Board of Power County Commissioners.

Composting - The biological decomposition of organic waste under controlled conditions turned to the soils at agronomic rates as defined by Idaho Code 39-7403.

County – Shall mean Power County.

Hazardous Materials - Any item or agent (biological, chemical, radiological, and/or physical), which has the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors.

Inoperative vehicle – Does not work as intended.

Junk yard – A place that buys or stores machines and other things that are old, not useful, or broken, and sells them or their parts to other people.

Person - Any person, firm, partnership, association, institution or corporation, and in plural as well as singular.

Premises - Any dwelling, flats, rooming houses, apartment houses, hospital, schools, hotels, restaurants, boarding houses, places of business, manufacturing or business establishments or any other building or structure.

Residence - The place of dwelling of one head of family and his or her dependent.

Sanitary Landfills and Disposal Sites - See "Landfill" Power County Solid Waste Ordinance 1990-05, 11-13-1990.

Solid Waste - Shall mean any and all trash or litter to include, but not be limited to, debris associated with the construction or demolition of buildings; inoperative vehicle bodies, chassis, or parts thereof; cardboard; wood scrap; shingles; concrete; and waste materials of an inert nature such as ashes, plastic, metals, cinders, tires, appliances, or tree parts; and those items, including liquids which be their nature are noxious, odor or are subject to the development of bacteria, virus or other hazards to health including waste accumulations of animal or vegetable matter including animal parts or carcasses, and including waste that attends the preparation, use, serving, cooking, dealing in, or storing of meats, fish, fowl, fruits, and vegetables. The term "solid waste" does not include sewage, human body waste or hazardous wastes as determined by the United States Environmental Protection Agency; machinery, implements and vehicles used for farming on a farm as defined by Idaho Code 63-604; or agricultural waste limited to manures and crop residues.

4-5-3 UNLAWFUL DISPOSAL:

- A. No person shall throw, deposit or permit to accumulate any solid waste in any building or on any premises, improved or vacant, or any lot or area either public or private, within unincorporated Power County, except at a Power County or State affiliated Landfill or Transfer Site.
- B. Which supplies food or habitation for rodents.
- C. Which is a source of noxious or offensive odors or conditions inimical to public interest or health.
- D. Which renders vehicles or pedestrians unsafe.
- E. Which poses a threat of pollution to ground or surface water.
- F. No person shall permit or allow accumulation of solid waste in or about any yard, lot, place or premises, or upon any adjacent street, alley or sidewalk, owned or occupied by such person.

INTENTIONALLY LEFT BLANK

4-5-4 STORAGE OF HAZARDOUS MATERIALS:

- A. All uses associated with the bulk storage of over three thousand (3000) gallons of oil, gasoline (other than in gasoline stations), liquid fertilizer, chemicals, or similar materials shall require approval of the appropriate regulatory agency so that the County will have assurance that fire, explosion, or air, water or soil contamination hazards are not present that would be detrimental to the public health, safety, and general welfare. The County shall require the construction of dikes around said tanks, suitably sealed, to hold a leakage capacity equal to one hundred fifteen (115) percent of tank capacity. No nuclear materials or fuels shall be stored or used in the County with the Department of Energy and EPA approval, and a special use permit granted after the applicant proves beyond a reasonable doubt that such storage or use will never be hazardous to the health and safety of present and future residents of Power County.

4-5-5 JUNK YARD:

- A. A Special Use Permit is required to be submitted for approval by The Planning and Zoning Board with all special conditions completed within the constraints of the Special Use Permit for any junk yard, auto body and repair, second hand store, antique store, recycling center, etc.
- B. A site plan showing the location of all buildings and the location of storage areas designed or used for automobiles and other vehicles, parts, lubricants, fuel, and other storage.
- C. Vehicles or other materials listed in the definition of junkyard may not be stored or parked outside the fence or within 40 feet of any road right-of-way.
- D. All lubricant and fuel oil substances which are to be stored on the site shall be stored with all necessary precautions taken to prevent their leakage and/or surface or subsurface drainage into streams or other bodies of water.
- E. All hazardous materials shall be stored in a safe manner and, where required, shall not be permitted until after the issuance of a permit for such storage.
- F. The owners of land that is lawfully used as a junkyard, either as a permitted use or as a legal nonconforming use shall have erected fencing to constrict or limit the view by the general public. The fencing shall comply with the screening requirements listed in 4-5-5-F.1
 - 1. Screening: All materials shall be screened by a solid 8 to 12 foot fence or earthen berm. No material enclosed by the fence shall be permitted to exceed the height of the fence. Trees or shrubs may be used in place of, or in conjunction with, the fencing and berms, provided said trees or shrubs are of a type that is capable of forming a dense, hedge-like screen. Said plant materials may only be used if they are approved by the Building Administrator. The approved trees or shrubs shall be large enough to attain a height of at least 8 feet within three years after they are planted. Said trees or shrubs shall be spaced closely together enough to achieve branch-to-branch coverage within five years. Said plant materials shall be watered and maintained in a healthy growing condition and shall be replaced with living plant materials of similar size and type if they die.

4-5-5 STORAGE OF INOPERATIVE OR UNLICENSED VEHICLES IN RR AND REC ZONES:

- A. All inoperative or unlicensed vehicles that are kept outdoors shall be placed to the rear of the front wall of the principal building on a parcel of land. Said vehicles shall be concealed from view by neighboring property owners, to the greatest feasible extent. Said concealment shall be in the form of fencing or screening that is approved by the Building Administrator.

4-5-6 AUTO BODY AND REPAIR SERVICES:

- A. Inoperative vehicles, or vehicles in various stages of repair, and vehicle parts shall be stored or parked in an area screened from view by the public and adjacent uses, by a wall or solid fence. All repairs shall be accomplished inside the structure. Said structure shall meet requirements of current Power County Building Code. Fence screening shall meet the requirements listed in 4-5-5-F.1 of this ordinance.

4-5-9 ENFORCEMENT, PENALTIES, AND ABATEMENT:

Penalties: A violation of the provisions of this Ordinance shall be considered an infraction except in those circumstances where this Ordinance specifically designates a violation to be a misdemeanor.

- a. An initial violation of this Ordinance constituting an infraction shall be punishable by a fixed and set fine of seventy-five dollars (\$75.00) when the violator has not previously been convicted of a violation of this Ordinance.
- b. A second or subsequent violation of this Ordinance constituting an infraction shall be punishable by a fixed and set fine of one hundred dollars (\$100.00) when the violator has been previously convicted of an infraction violation of this Ordinance.
- c. Any person, firm, or corporation who fails to comply with, or violates any of the provisions of this Ordinance and upon conviction of an infraction two times within the previous twenty four (24) months, each subsequent violation or failure to comply thereafter will be charged with a misdemeanor violation, and upon conviction thereof shall be subject to a fine of up to one thousand dollars (\$1000.00), and imprisonment in the county jail for a period of not more than six (6) months, or both. In addition to the criminal penalties for violation of this Ordinance, civil damages in the amount of three (3) times the actual damage, may be imposed upon any person, firm or corporation who dumps or discards Solid Waste at any location that violate the provision of this chapter.
- d. Each day on which a violation occurs may constitute a separate offense.
- e. The fine amounts set forth above for infraction or misdemeanor offenses shall be separate and apart from any court costs assessed pursuant to Idaho Code Section 31- 3201A or any other provision of law.

EFFECTIVE DATE

This Ordinance shall be in full force and effect upon its passage, approval and publication.

Adopted this _____ day of _____, _____, Resolution
Number _____.

BOARD OF POWER COUNTY COMMISSIONERS

Ron Funk, Chair

Bill Lasley, Member

Delane Anderson, Member

ATTESTE: BY POWER COUNTY CLERK
Sharee Sprague