

BANNOCK COUNTY SOLID WASTE ORDINANCE
ORDINANCE NO. 1995-5
AS AMENDED BY AMENDMENT NO. 1, ORDINANCE NO. 2010-2

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF SOLID WASTE DISPOSAL GUIDELINES AND REGULATIONS IN THE UNINCORPORATED AREAS OF BANNOCK COUNTY; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE MAINTENANCE OF SANITARY CONDITIONS; PROVIDING FOR STORAGE AND TRANSPORTATION OF SOLID WASTE; PROVIDING FOR ENFORCEMENT AND ABATEMENT; PROVIDING FOR AMENDMENTS; AND PROVIDING FOR A REPEAL OF PREVIOUS SOLID WASTE ORDINANCE AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BANNOCK COUNTY, IDAHO:

SECTION 100 - BASIC PROVISIONS

100.1 Authority

Pursuant to the authority under Article 12, Section 2, of the Idaho Constitution, and laws enacted by the legislature, providing that any county may make and enforce, within its limits, all such sanitary regulations as are not in conflict with its charter or with the general laws.

101.2 Title

This ordinance shall be known and cited as the Bannock County Solid Waste Ordinance, or the "Solid Waste Ordinance of Bannock County".

102.1 Purpose

- A. To establish sanitary standards for the unincorporated areas in Bannock County.
- B. To promote and protect the health, safety, comfort, and general welfare of the public, including the protection of ground and surface water.
- C. To protect and enhance the value of real property and buildings in Bannock County.

103 Applicability

These regulations shall apply to all lands within the unincorporated territory of Bannock County, and it shall be unlawful hereafter to keep, collect, haul,

transport or dispose of solid waste except as herein provided.

104 **Severability**

Should any section, subsection, paragraph, sentence or clause hereof, or any particular application thereof, is for any reason, held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of these regulations, it being hereby expressly declared that this ordinance and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, adopted, approved and ratified irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

105 **Repeal of Conflicting Ordinance**

105.1 This Ordinance hereby repeals and replaces Bannock County Ordinance No. 1981-2, recording instrument numbers 673724 and 677392.

105.2 Where this Ordinance conflicts with, or is inconsistent with, the provisions of other County Ordinance, or State or Federal law, the most restrictive Ordinance will apply.

SECTION 200 - DEFINITIONS

Board - Shall mean the Board of Bannock County Commissioners.

Composting - The biological decomposition of organic waste under controlled conditions.

Collector - Any person holding a contract with Bannock County authorized and designated by Bannock County to collect, handle, transport and dispose of solid waste.

Contract - An exclusive contract or privilege granted by Bannock County to collect, handle, dispose, recycle or recover solid waste.

Disposal Sites - See Landfills

Landfills and Disposal Sites - Shall mean such areas operated by the County which shall be the only area on public or private property within Bannock County, where solid waste may be disposed. At the time this ordinance was recorded, those sites include the Fort Hall Mine Road Landfill and the McCammon Transfer Site.

Owner or Occupant - Every person in possession, charge or in control of any dwelling, flat, rooming house, apartment house, hospital, school, hotel, restaurant, boarding house, place of business, manufacturing, or business

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establishment where solid waste is created or accumulated.

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".

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, odoriferous 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 returned to the soils at agronomic rates as defined by Idaho Code 39-7403.

Street, Road or Alley - A right-of-way which provides vehicular and pedestrian access to adjacent properties, used by the public or public travel. It shall include the terms street, highway, thoroughfare, parkway, throughway,, road, avenue, boulevard, land place, and other such terms.

SECTION 300 - MAINTENANCE OF SANITARY CONDITIONS

- 301 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 Bannock County, except at the Bannock County Landfill located on Fort Hall Mine Road, and the McCammon Transfer Site, so that it is or is likely:

- a) To attract flies or fly breeding;
 - b) To afford food or harborage for rodents;
 - c) To be a source of noxious or offensive odors or conditions inimical to public interest or health;
 - d) To render vehicle or pedestrian unsafe;
 - e) To pose a threat of pollution to ground or surface water.
- 302 It shall be unlawful for any person to permit or to allow to accumulate in or about any yard, lot, place or premises, or upon any adjacent street, alley or sidewalk, owned or occupied by such person, solid waste as defined herein.
- 303 It shall be unlawful for any person upon vacating dwellings, storerooms, or any other building to fail to remove all solid waste from such buildings and premises and also the grounds appurtenant thereto; or to fail to place the same in a sanitary condition within twenty-four (24) hours after said premises shall be vacated.
- 304 Compost piles may be maintained for fertilization purposes, and matter used for fertilization purposes only may be transported, kept and used, provided the same shall not constitute a nuisance, public or private, as defined by Idaho Code.
- 304.1 Compost piles using materials from other sites must have approval of Southeast Idaho District Health Department and the Director of the Bannock County Landfill. Commercial composting operations are subject to additional County Zoning and District Health Department regulations, including but not limited to Conditional Use Permits where zoning allows.

SECTION 400 - STORAGE AND TRANSPORTATION OF SOLID WASTE

- 401 It shall be the duty of every owner and occupant of any place where solid waste is created or accumulated, to at all times keep or cause to be kept sanitary containers and, except as otherwise provided, to deposit or cause to be deposited all solid waste therein. The aforesaid containers shall be maintained in a secure condition so as to avoid offensive odors, health hazards and the scattering or spilling of solid waste.
- 402 It shall be unlawful for any person transporting solid waste over public streets, roads, alleys, or right-of -ways to do so without providing a cover and/or securing to the vehicle all solid waste being transported. Covering loads of solid waste shall be for the purpose of preventing the scattering, blowing, or loss of said solid waste so transported.

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- 403 It shall be unlawful for any person to dispose of solid waste anywhere in Bannock County except at the Bannock County Landfill or McCammon transfer site as directed by Landfill personnel.
- 404 It shall be unlawful for any person to throw, discard, or deposit any solid waste in or upon any road, right-of-way, street, alley, sidewalk, or vacant ground, or in or upon any canal, irrigation ditch, drainage ditch, or other water course.

SECTION 500 - ENFORCEMENT, PENALTIES, AND ABATEMENT

502 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 (\$75.00) dollars 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 (\$100.00) hundred dollars 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 (\$1000.00) dollars, and imprisonment in the county jail for a period of not more than six (6) months, or both.

(d) Each day on which a violation occurs may constitute a separate offense.

(e) The fine amounts set forth above for infraction offenses shall be separate and apart from any court costs assessed pursuant to Idaho Code Section 31-3201A (c) or any other provision of law. The fine amount set forth for a misdemeanor offense shall be separate and apart from any court costs assessed pursuant to Idaho Code Section 31-3201A(b) or any other provision of law.

(f) 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 Waste Disposal Site, outside of regular business hours, which damages shall be used to clean up the waste and restore the land to its previous condition. Any such civil action shall be brought in Bannock County in the name of Bannock County and the remainder of any damages collected after the costs of restoration shall be used for maintenance and operation of the Bannock County Solid Waste Disposal System and enforcement of this Ordinance.

503 Civil Enforcement

Appropriate actions and proceedings may be taken at law or in equity to prevent any violation of this Ordinance, to prevent unlawful disposal and/or transportation of Solid Waste, to recover damages, to restrain, correct, or abate a violation; and these remedies may be in addition to any other penalties described in this Ordinance.

504 Abatement

The County may abate the violation and bill the landowner for the amount of costs incurred after determination, by a court or by the plaintiff's payment of an infraction penalty that a violation has occurred. If unpaid at the end of 180 days, the charges will accrue as taxes upon the property involved.

504.1 In addition to the foregoing remedies and penalties, other appropriate action may be taken pursuant to Idaho Code, Section 31-4406 or any other remedy at law or in equity to restrain, correct, or abate a violation of this Ordinance.

SECTION 600 - AMENDMENTS

601 The Board may, upon its own motion or upon recommendation, make amendments to this ordinance.

SECTION 700 - EFFECTIVE DATE

This ordinance shall be in full force and effect upon publication following passage and approval.

Adopted and approved the 8th day of November, 1995. (Amendment No. 1 adopted on the 4th day of November, 2010, Resolution No. 2010-82.)

This Ordinance shall be in full force and effect upon its publication according to law.