

**AN ORDINANCE TO CONTROL LITTER
WITHIN PONDERA COUNTY
AND ESTABLISHING PROCEDURES FOR ITS ENFORCEMENT**

WHEREAS, MCA Section 7-5-2109, authorizes counties to adopt an ordinance for the control of litter within the county; and

WHEREAS, the Pondera County Commissioners have determined there is a continuing need to control litter in Pondera County; and

WHEREAS, the Pondera County Commissioners desire to define the prohibited nature of littering; and to define the role of the County Sanitarian, the Pondera County Sheriff's Office or other designated agency in serving notices to appear on those who violate this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF PONDERA COUNTY, STATE OF MONTANA:

Definitions

1. (a) **"Agency"** means the Pondera County Sanitarian, the Pondera County Sheriff's Office or other designated agent
- (b) **"Litter"** means any quantity of uncontained or openly stored:
SOLID WASTE as defined by MCA 75-10-203(11) means all putrescible and nonputrescible wastes, including, but not limited to, garbage, rubbish, refuse, ashes, sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; construction and demolition wastes, dead animals, including offal; discarded home and industrial appliances; and wood products or wood byproducts and inert materials.

And/Or

- JUNK VEHICLES AND COMPONENT PARTS** as defined at MCA 75-10-501
- (2) "Component part" means any identifiable part of a discarded, ruined, wrecked or dismantled motor vehicle, including but not limited to fenders, doors, hoods, engine blocks, motor parts, transmissions, frames, axles, wheels, tires, and passenger compartment fixtures. and
 - (4)(a) "Junk vehicle" means a motor vehicle, including component parts:
 - (i) that is discarded, ruined, wrecked or dismantled;
 - (ii) that, except as provided in subsection (4)(b), is not lawfully and validly licensed; and
 - (iii) that remains inoperative or incapable of being driven.
 - (4)(b) If a vehicle is permanently registered under 61-3-562 and meets the criteria for a junk vehicle under subsection (4)(a), the vehicle is a junk vehicle.
- (c) **"Uncontained"** means not properly confined to a garbage can or dumpster and not covered with a properly fitting lid.
 - (d) **"Openly stored"** means litter which is kept, accumulated, or otherwise held such that it is readily visible by the public from any public location.
 - (e) **"Person"** means an individual, firm, partnership, company, association, corporation, city or town, or any other entity, whether organized for profit or not.

- (f) **“Public View”** means any point 6 feet above the surface of the center of a public road from which litter can be seen.
- (g) **“Violation”** means littering by any person on any county road or other land, public or private, within the County. Each day the violation exists is a separately punishable offense.

2. **Duties of Private Property Owners, Lessee, Occupants**

It shall be unlawful for an owner, lessee or occupant of private property to allow litter on his or her property in public view. It shall also be unlawful for any person to scatter litter on public property, including public roads.

Powers and Duties of the Agency

3. The Agency has the following powers and authority:

- (a) The power to inspect when there has been a signed complaint by more than one person that litter is present in an area.
- (b) The power to determine whether or not this ordinance applies after an inspection of the property or area.
- (c) The duty to serve a written Notice to Appear and Complaint on the person who owns, leases or occupies the property on which litter is present or who scatters litter on public property, and the duty to file the Notice and Complaint in Justice Court.
- (d) The duty to provide the County Attorney with sufficient documentation to enable him or her to prosecute the violation as a misdemeanor.

4. **Penalty**

- (a) Any violation of the provisions of this ordinance shall constitute a misdemeanor punishable by a fine not to exceed \$200.00 per violation. Violation of this ordinance may not be punishable by imprisonment. Each day the violation exists is a separately punishable offense.
- (b) For the purpose of enforcing this ordinance, the county governing body may provide that, after giving due notice, in writing, of violation and upon the failure of the property owner to comply with the ordinance, officers, employees, and designated agents of the county may enter upon the property for the specific purpose of abating the violation of the ordinance and may assess the property owner for the actual costs for the abatement. Nonpayment of such an assessment becomes a lien upon the property and is enforceable in the same manner as the nonpayment of property taxes is enforced.

Jurisdictional Area

- 5. This ordinance applies solely to the unincorporated, platted town areas of Pondera County, having more than 200 platted lots, specifically the communities of Brady and Dupuyer.

Effective Date

- 6. This ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the Pondera County Commission.

Severability

- 7. If any provision of this ordinance is declared invalid by any court or tribunal, the remaining provisions of this ordinance shall not be affected thereby.

PASSED on first reading this 22nd day of July, 2015, by the Board of Commissioners, County of Pondera, State of Montana.

/s/ Sandra J. Broesder
Sandra J. Broesder, Chair

/s/ Janice Hoppes
Janice Hoppes, Member

/s/ Thomas A. Kuka
Thomas A. Kuka, Member

Attest:

/s/ Kody L. Farkell
Kody L. Farkell
Pondera County Clerk and Recorder

Second and Final Reading: August 5, 2015 at 10:00 a.m., Commissioners' Office