

ORDINANCE NO. 7

AN ORDINANCE OF THE CITY OF DOVER, BONNER COUNTY, IDAHO, PROVIDING FOR THE PROHIBITION OF THE COMMERCIAL SALE OF CERTAIN PRODUCTS CONTAINING MORE THAN A TRACE QUANTITY OF PHOSPHORUS; REQUIRING LABELING; EXEMPTING CERTAIN PRODUCTS; PROVIDING A PENALTY AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE.

WHEREAS: IT HAS BEEN DETERMINED BY THE CITY COUNCIL OF THE CITY OF DOVER THAT PHOSPHORUS IS BEING INTRODUCED INTO THE PEND OREILLE RIVER FROM THIS CITY; AND,

WHEREAS: THE CITY COUNCIL HAS CONCLUDED, BASED ON THE EVIDENCE PRESENTED TO AND REVIEWED BY THE COUNCIL, THAT THE INTRODUCTION OF PHOSPHORUS INTO SURFACE WATERS IS DETRIMENTAL TO THE QUALITY OF WATER; AND,

WHEREAS: IDAHO CODE §50-302 PROVIDES, IN PERTINENT PART, THAT "...CITIES SHALL MAKE ALL SUCH ORDINANCES ... RULES, REGULATIONS AND RESOLUTIONS ... TO MAINTAIN THE WELFARE OF THE CORPORATION; AND,

WHEREAS: THE CITY COUNCIL FINDS THAT IT IS IN THE BEST INTERESTS OF THE CITY AND ALL RESIDENTS DOWNSTREAM FROM THE CITY, AND THAT REASONABLE NECESSITY EXISTS, TO BAN, WITHIN THE CITY LIMITS, THE SALE OF HOUSEHOLD CLEANING PRODUCTS CONTAINING MORE THAN A TRACE QUANTITY OF PHOSPHORUS.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DOVER, BONNER COUNTY, IDAHO, AS FOLLOWS:

SECTION 1: PURPOSE: IT IS HEREBY DETERMINED AND DECLARED TO BE NECESSARY AND CONDUCTIVE TO AND FOR THE PROTECTION OF THE HEALTH, SAFETY, AND WELFARE OF THE PUBLIC AND INHABITANTS OF THE CITY TO BAN, WITHIN THE CITY LIMITS, THE COMMERCIAL SALE OF

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HOUSEHOLD CLEANING PRODUCTS CONTAINING MORE THAN A TRACE LEVEL OF PHOSPHORUS.

SECTION 2: DEFINITIONS. FOR THE PURPOSE OF THIS ORDINANCE, THE FOLLOWING MEAN:

CITY: THE CITY OF DOVER, BONNER COUNTY, IDAHO, OR ITS AUTHORIZED OR DESIGNATED AGENT, REPRESENTATIVE, OR DEPUTY THERETO.

HOUSEHOLD CLEANING PRODUCT: ANY DOMESTIC OR COMMERCIAL CLEANING PRODUCT, INCLUDING, BUT NOT LIMITED TO SOAPS, DETERGENTS, LAUNDRY BLEACHES AND LAUNDRY ADDITIVES USED FOR DOMESTIC OR COMMERCIAL CLEANING PURPOSES, INCLUDING, BUT NOT LIMITED TO, THE CLEANING OF FABRICS, DISHES, FOOD UTENSILS AND HOUSEHOLD AND COMMERCIAL PREMISES. HOUSEHOLD CLEANING PRODUCT DOES NOT MEAN FOODS, DRUGS, COSMETICS, OR PERSONAL CARE ITEMS SUCH AS TOOTHPASTE, SHAMPOO OR HAND SOAP.

MAY: IS PERMISSIVE (SEE "SHALL").

PERSON: ANY INDIVIDUAL, FIRM, COMPANY, ASSOCIATION, SOCIETY, CORPORATION OR GROUP.

PHOSPHORUS: ELEMENTAL PHOSPHORUS.

TRACE QUANTITY: AN INCIDENTAL AMOUNT OF PHOSPHORUS WHICH IS NOT PART OF THE HOUSEHOLD CLEANING PRODUCT FORMULATION AND IS PRESENT ONLY AS A CONSEQUENCE OF MANUFACTURING AND DOES NOT EXCEED 0.5% OF THE CONTENT OF THE PRODUCT BY WEIGHT EXPRESSED AS ELEMENTAL PHOSPHORUS.

SHALL: IS MANDATORY (SEE "MAY").

SECTION 3: COMMERCIAL SALE PROHIBITED: NO HOUSEHOLD CLEANING PRODUCT WHICH CONTAINS MORE THAN A TRACE QUANTITY OF PHOSPHORUS SHALL BE SOLD, OFFERED, DISTRIBUTED OR EXPOSED FOR COMMERCIAL SALE WITHIN THE CITY LIMITS.

SECTION 4: LABELING REQUIRED: ALL HOUSEHOLD CLEANING PRODUCTS SOLD WITHIN THE CITY LIMITS SHALL HAVE AFFIXED THERETO LABELING WHICH CLEARLY INDICATES THE PERCENT OF PHOSPHORUS CONTAINED IN THE PRODUCT TO THE NEAREST ONE-TENTH OF ONE PERCENT ACCURACY. HOUSEHOLD CLEANING PRODUCTS WHICH CONTAIN ONLY A TRACE QUANTITY OF PHOSPHORUS MAY BE LABELED "CONTAINS NO PHOSPHORUS", "CONTAINS NO PHOSPHATES", OR SIMILAR LABELING WHICH MAKES A CLEAR STATEMENT THAT NO PROHIBITIVE QUANTITY OF PHOSPHORUS IS PRESENT IN THE PRODUCT.

SECTION 5: EXEMPTIONS: THE FOLLOWING PRODUCTS ARE SPECIFICALLY EXEMPT FROM THE PROVISIONS OF THIS ORDINANCE:

- A. EXISTING STOCKS OF HOUSEHOLD CLEANING PRODUCTS; PROVIDED HOWEVER, THAT SUCH STOCKS SHALL BE SO EXEMPT FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDINANCE;
- B. AUTOMATIC DISHWASHER DETERGENT CONTAINING 8.7% OR LESS PHOSPHORUS BY WEIGHT EXPRESSED AS ELEMENTAL PHOSPHORUS; AND,
- C. THOSE PRODUCTS USED FOR CLEANING MEDICAL OR SURGICAL EQUIPMENT OR SUPPLIES IN LICENSED ACUTE CARE OR LONG TERM HEALTH CARE MEDICAL FACILITIES.

SECTION 6: PENALTY: ANY PERSON WHO SHALL VIOLATE ANY OF THE PROVISIONS OF THIS CHAPTER SHALL BE SUBJECT TO PUNISHMENT OF A FINE NOT TO EXCEED THREE HUNDRED DOLLARS (\$300.00) FOR ANY ONE OFFENSE, OR BY IMPRISONMENT IN JAIL FOR A PERIOD OF NOT MORE THAN

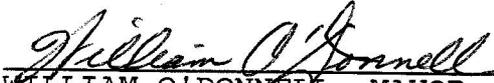
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SIX (6) MONTHS, OR BY BOTH SUCH FINE AND IMPRISONMENT (IDAHO CODE §50-302). EACH DAY UPON WHICH A VIOLATION OCCURS OR CONTINUES SHALL CONSTITUTE A SEPARATE VIOLATION.

SECTION 7: SEVERABILITY CLAUSE: IF ANY SECTION, SUBSECTION, SUBDIVISION, PARAGRAPH, SENTENCE, CLAUSE OR PHRASE OF THIS ORDINANCE OR ANY PART THEREOF IS FOR ANY REASON HELD TO BE UNCONSTITUTIONAL OR INVALID OR INEFFECTIVE BY ANY COURT OF COMPETENT JURISDICTION, SUCH DECISION SHALL NOT AFFECT THE VALIDITY OR EFFECTIVENESS OF THE REMAINING PORTIONS OF THIS ORDINANCE, OR ANY PART THEREOF. THE CITY COUNCIL HEREBY DECLARES THAT IT WOULD HAVE PASSED EACH SECTION, SUBSECTION, SUBDIVISION, PARAGRAPH, SENTENCE, CLAUSE OR PHRASE THEREOF IRRESPECTIVE OF THE FACT THAT ANY ONE OR MORE SECTIONS, SUBSECTIONS, SUBDIVISIONS, PARAGRAPHS, SENTENCES, CLAUSES OR PHRASES BE DECLARED UNCONSTITUTIONAL, INVALID OR INEFFECTIVE.

SECTION 8: THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT UPON ITS PUBLICATION ACCORDING TO LAW IN THE BONNER COUNTY DAILY BEE, A NEWSPAPER OF GENERAL DISTRIBUTION IN THE CITY OF DOVER, IDAHO, AND HEREBY DECLARED TO BE THE OFFICIAL NEWSPAPER FOR THE PUBLICATION OF THIS ORDINANCE.

PASSED AND ADOPTED AS AN ORDINANCE OF THE CITY OF DOVER, IDAHO, AT A Special SESSION OF THE DOVER CITY COUNCIL ON March 28, 1989.


WILLIAM O'DONNELL, MAYOR

ATTEST:


_____, CITY CLERK