

COUNTY COMMISSIONERS OF \_\_\_\_\_ COUNTY

STATE OF IDAHO

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\_\_\_\_\_ COUNTY ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE REGULATING ORCHARD PESTS

Section 1: PURPOSES

The purposes of the ordinance are to enable \_\_\_\_\_ County to more effectively control and prevent the spread of orchard pests, and by these actions protect the viability, productiveness, and competitiveness of the orchard industry in \_\_\_\_\_ County, and to insure the industry's continued contribution to the economy of the County. The authority to control agricultural pests is granted to the Board of Commissioners pursuant to Section 25-2601, Idaho Code.

Section 2: DEFINITIONS

(A) Orchard - An area that has fruit trees, wild or cultivated, and is currently or has been used for commercial purposes.

(B) Private Orchard - Privately owned fruit trees, fruit from which is used solely for the consumption of the owner's family members.

(C) Board - The Orchard Review Board.

(D) Neglected or Abandoned - Any orchard or private orchard where standard orchard or private orchard management practices, as described in state and regional publications, are not being met and one or more pest, pathogen, disease, or condition of economic consequence to the particular crop being grown exist.

Section 3: ORCHARD REVIEW BOARD

(A) Creation. Pursuant to the authority granted under Section 25-2603, Idaho Code, the \_\_\_\_\_ County Board of Commissioners hereby creates an Orchard Review Board to control orchard pests. The Orchard Review Board is vested with the power to control pests as provided in this ordinance, subject to review by the \_\_\_\_\_ County Board of Commissioners.

(B) Composition. The Board shall be composed of five (5) members appointed by the \_\_\_\_\_ County Board of Commissioners. Each Board member shall serve a two (2) year term. Two (2) of the members shall be from the commercial orchard industry, one shall be a private citizen and resident of \_\_\_\_\_ County with no commercial ties to the orchard industry, one member shall be a private orchardist or retired commercial orchardist or have some background or knowledge of orchard management and fruit production, and the fifth member shall be that person employed by the University of Idaho as the \_\_\_\_\_ County Agricultural Extension Agent. The Board members shall serve for a term of two (2) years and shall serve without a salary or other compensation.

(C) Duties. It shall be the duty of the Board to review and act on all complaints involving orchard pests in orchards private or otherwise.

#### Section 4: CONTROL PROCEDURES

(A) Only signed written complaints shall be reviewed and investigated by the Board. Upon receipt of a complaint, the Board shall immediately notify the landowner of the complaint and name a voting member to act as a contact for the landowner. That Board member shall arrange with the landowner a time for the appointed investigatory team to examine the orchard or private orchard in question.

(B) The Board shall appoint three investigators to carry out the field inspection of any orchard or private orchard under review by the Board. The investigatory team shall be composed of that Board member named as the contact person for the landowner, and that person employed by the University of Idaho as the \_\_\_\_\_ County Agricultural Extension Agent to act as an advisor. The other member of the investigatory team shall be determined by the Board.

(C) The Board, in conjunction with that person employed by the University of Idaho as the \_\_\_\_\_ County Agricultural Extension Agent, any other agricultural extension specialist deemed necessary, and a representative of the Idaho State Department of Agriculture, Division of Plant Industries, will establish the inspection procedures to be used by any Board investigatory team. Such procedures shall be reviewed and approved by the \_\_\_\_\_ County Board of Commissioners prior to implementation.

(D) If the investigatory team finds that an orchard or private orchard, in fact, does contain orchard pests, the landowner in question shall be given written notice to control such pests within ten (10) days of receipt of the notice. Such notice shall comply with Section 25-2607, Idaho Code.

(E) If the landowner fails to control the specified pest or pests within ten (10) days, the landowner in question shall be given notice, not less than seven (7) days before the hearing, to appear before the Board to show cause why the Board should not initiate steps to control the pest or pests.

(F) Unless the landowner can show that the agricultural pests do not exist, or that they do exist, but it is not necessary to control them, such landowner shall be requested to enter into a contract with the Board specifying a time in which such pests will be controlled by the landowner, and any other provisions determined by the Board to be necessary for the fulfillment of the purposes of this ordinance.

(G) It shall be the duty of the Board and the landowner to examine all possibilities and mechanisms to resolve the situation, including, but not limited to funding, education, contract spraying, orchard or private orchard destruction and uprooting, and chemical herbicide of tree stumps.

(H) Any landowner subject to an investigation by the Board or under an agreement with the Board may, at any time, request through their Board contact person, a hearing before the Board. Granting of the request for a hearing shall be at the discretion of the Board.

(I) If the landowner does not appear at the hearing, or does appear, but refuses to enter into the contract as requested by the Board, or fails to comply with the terms of the contract, the Board may cause control procedures to be initiated as soon as practicable at the owner's expense. Collection of said expenses shall be made through a private cause of action brought by the members of the Board.

Section 5: RIGHT OF ENTRY

Any agent authorized by the Board to carry out an inspection on its behalf may enter upon any property within the County for the purpose of administering this ordinance and any other power exercisable, including the taking of specimens, general inspection, and the performance of such acts as are necessary for controlling and preventing the spread of orchard pests and diseases. Such entry may be without consent, and no action for trespass or damages shall lie so long as such entry and any activities connected therewith are undertaken and prosecuted with reasonable care.

Should any such authorized agent of the board be denied access to such property where such access was sought to carry out the provisions of this ordinance, the Board shall apply to any court of competent jurisdiction seeking an order directing the landowner to allow the Board or its authorized agent to enter the land to exercise any power under this ordinance. If such an order is made necessary by the landowner, such landowner shall be liable for attorney fees and legal costs associated with obtaining such order.

This ordinance supersedes all previous ordinances and resolutions dealing with abandoned orchards in \_\_\_\_\_ County.

PASSED AND DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_ COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

ATTEST:

\_\_\_\_\_  
Clerk

CERTIFICATION

I hereby certify that the attached Notice of Ordinance Adoption contains a true and complete summary of Ordinance No. \_\_\_\_\_ of \_\_\_\_\_ County, Idaho, and that the attached summary provides adequate notice to the public of the contents of such Ordinance.

\_\_\_\_\_  
Clerk of the County