



LINCOLN COUNTY MONTANA

Ordinance 2018-02

AN ORDINANCE TO CONTROL LITTER WITHIN LINCOLN COUNTY AND ESTABLISH PROCEDURES FOR ITS ENFORCEMENT

THE BOARD OF COUNTY COMMISSIONERS FOR LINCOLN COUNTY, MONTANA FINDS:

1. Section 7-5-2109, MCA, authorizes counties to adopt an ordinance for the control of litter within the county.
2. The Board of County Commissioners adopted an ordinance to control litter within Lincoln County and a procedure for its enforcement on February 12, 2014.
3. The Board requested that all presently operable ordinances be re-drafted in uniform format, in accordance with the policies adopted by the Board through Resolution 2018-01.

THE BOARD ORDAINS:

1. TITLE

This ordinance may be cited as the "Lincoln County Litter Ordinance."

2. DEFINITIONS

As used in this ordinance, the following definitions apply:

- (1) "Agency" means the Lincoln County Health Department, the Lincoln County Sheriff's Office, and all other duly appointed Lincoln County law enforcement officers having jurisdiction.
- (2) "Garbage disposal site" means any landfill, transfer station, recycling facility, or remote dumpster location designated and maintained for refuse collection by Lincoln County or a private waste management or recycling company.
- (3) (a) "Junk vehicle" means a motor vehicle, including recreational vehicles such as dirt bikes, ATVs, or snowmobiles, or their disconnected components:
 - (i) that is discarded, ruined, wrecked, or dismantled
 - (ii) that is not lawfully and validly licensed; and
 - (iii) that remains inoperative or incapable of being driven.(b) If a vehicle is permanently registered but otherwise meets the criteria for a junk vehicle under (3)(a), the vehicle is a junk vehicle.



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- (4) “Litter” means any quantity of uncontained or openly stored materials which may be classed as trash, debris, rubbish, refuse, garbage or junk, including but not limited to:
- (a) any worn out or discarded article or material that is ready for destruction or has been collected or stored for recycling or salvage;
 - (b) old or scrap metals, wire, rope, rags, batteries, paper, tires, cardboard, plastic, cans, wood, concrete, glass, crockery, or rubber;
 - (c) dead domestic animals;
 - (d) animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food that is not incorporated into a properly maintained compost system;
 - (e) discarded, broken, or unusable furniture, fencing, or building materials;
 - (f) discarded, broken, or non-functioning appliances, campers, mobile homes, boats, junk vehicles, machinery, fixtures, or any component parts thereof, that are serving no apparent purpose, or will not be made to function within a reasonable time;
 - (g) As used in this ordinance, “litter” may not be defined as or construed to apply to:
 - (i) Normal facilities and appurtenances of farming, ranching, logging, mining, agricultural operations, or other natural resource based industries during their normal operation;
 - (ii) Lead, steel, copper, or brass deposits directly resulting from shooting activities at a shooting range;
 - (iii) Construction or demolition projects during the active period of the project or a reasonable time thereafter;
 - (iv) Materials used in the normal course of servicing, manufacturing, or processing other materials or products, so long as the materials are neatly stacked or piled.
- (5) “Openly stored” means kept or accumulated in a way that is readily visible from any public place, regardless of whether the litter is confined within or outside of a fence or other natural or man-made enclosure, or covered in whole or in part.
- (6) “Public place” means any area, whether privately or publicly owned, to which the public have access by right or by invitation, expressed or implied; this definition includes any public roads or rights of way.
- (7) “Public road” means any highway, street, road, or alley that is a publicly maintained way open to the public for vehicular travel.



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- (8) “Uncontained” means not properly confined to a garbage can or dumpster and not covered with a properly fitting lid; this definition includes any garbage kept in a plastic bag that is otherwise openly stored.
- (9) “Uncovered or unsecured load” means a load that is not protected from the wind or is loaded in a manner that litter may fall or spill on the ground.

3. LITTERING PROHIBITIONS

- (1) It is unlawful for an owner, lessee, or occupant of private property to allow litter to accumulate on his or her property.
- (2) It is unlawful for any person to deposit or scatter litter in a public place outside a designated garbage can, dumpster, or garbage disposal site.
- (3) It is unlawful for any person to transport garbage or refuse on a public road as an uncovered or unsecured load.

4. ENFORCEMENT

- (1) All duly appointed officers of the Agency are authorized to enforce the provisions of this ordinance.
- (2) The Agency has the following authorities and responsibilities:
 - (a) The authority to inspect from a public location when a potential violation or complaint has been reported;
 - (b) The authority to determine whether this ordinance applies after inspecting the property or area;
 - (c) The authority to set a deadline for compliance and to approve or disapprove a proposed compliance plan;
 - (d) The authority to serve a written Notice to Appear and Complaint on the person who violates any section of this ordinance, and the responsibility to file the Notice and Complaint in Justice Court;
 - (e) The responsibility to provide the County Attorney with sufficient documentation to enable him or her to prosecute the violation as a misdemeanor.

5. PENALTIES

Any violation of the provisions of this ordinance shall constitute a misdemeanor punishable, upon conviction, 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.

THE BOARD FURTHER ORDAINS:



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1. This ordinance applies to the whole of Lincoln County with the exception of properties located within incorporated municipalities that have ordinance making powers.
2. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance or resolution, this ordinance will prevail.
3. The various sections and clauses of this ordinance are severable. If any part, sentence, clause, or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance will not be affected.
4. Upon first reading and adoption, this ordinance will be posted and made available to the public in accordance with section 7-5-103, MCA.
5. This ordinance will be effective 30 days after its second and final adoption, in accordance with section 7-5-105, MCA.
6. Upon second and final adoption of this ordinance, this ordinance will be signed by the Board and published by the Clerk in the Register of Ordinances to be kept on file in the Clerk and Recorder's Office, as well as published on the official County website, in accordance with sections 7-5-103 and 7-5-107, MCA.

END OF ORDINANCE

Approved as to Form:

MARCIA BORIS, County Attorney

First reading date 4-25-18 Approved () Disapproved () Amended (✓)

Second reading date 5-16-18 Approved (✓) Disapproved () Amended ()

Adopted this 16th day of May, 2018.





LINCOLN COUNTY
MONTANA

LINCOLN COUNTY BOARD OF COMMISSIONERS


MIKE COLE, Chair


JERRY BENNETT, Member


MARK PECK, Member

ATTEST:


ROBIN BENSON, Clerk of the Board