

TITLE 75: HEALTH AND ENVIRONMENT REGULATIONS

CHAPTER 2: AN ORDINANCE TO CONTROL LITTER WITHIN LINCOLN COUNTY; AND ESTABLISHING PROCEDURES FOR ITS ENFORCEMENT

(Adopted 12 February 2014)

SUBCHAPTER 1: GENERAL PROVISIONS

75.2.101 INTENT:

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

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

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

75.2.102 DEFINITIONS:

1. "Agency" means the Lincoln County Sheriff's Office or the Lincoln County Environmental Health Department.
2. "Litter" means 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, cast off or discarded article or material which is ready for destruction or has been collected or stored as recyclable or salvage, for conversion to some other use or for reduction into components;
 - b. old or scrap brass, rope, rags, batteries, paper, tires, cardboard, newspapers, plastic, tin cans, wood, concrete, glass, crockery, rubber, aluminum, iron, wire, steel and other old or scrap ferrous or non-ferrous materials;
 - 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 pile/system;
 - e. discarded, broken or unusable furniture, fencing or building materials;
 - f. junk vehicles as defined at MCA § 75-10-501(4)
 - g. Discarded, broken or non-functioning appliances, campers, mobile homes, machinery, fixtures or any component parts thereof, that are serving no apparent purpose, or will not be made to function within a reasonable time.

- h. As used in this definition, litter shall not be construed or defined to apply to:
 - i. Normal farming, ranching, logging, mining, agricultural operations or other natural resource based industries or to their associated facilities, and any appurtenances thereof during the course of their normal operation.
 - ii. Lead, 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. Persons servicing, manufacturing, or processing materials, goods, or products, so long as the materials used in the normal operation of the business are neatly stacked or piled.
- i. “Openly stored” means litter which is kept, accumulated, or otherwise held such that it is readily visible by the public from any public location, and 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 by any tarp material.
- j. “Uncontained” means not properly confined to a garbage can or dumpster and not covered with a properly fitting lid.
- k. “Uncovered/unsecured load” means garbage or refuse transported on roads of the county which is not protected from the wind and/or loaded in such a manner that none of it shall fall, drop or spill upon the ground.
- l. “Public road” means any highway, street, road or alley that is a publicly maintained way which is open to the use of the public for purposes of vehicular traffic.
- m. “Private road” or “driveway” means a way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.
- n. “Person” means an individual, firm, partnership, company, association, corporation, city or town, or any other entity, whether organized for profit or not.
- o. “Violation” means littering by any person on any public road, public road right of way, greenbox site, public land, or private land as viewed from a public road, within the County. Each day the violation exists may be a separately punishable offense.

SUBCHAPTER 2: COMPLIANCE REQUIREMENTS

75.2.201 DUTIES OF PRIVATE PROPERTY OWNERS:

1. It shall be unlawful for an owner, lessee or occupant of private property to allow litter that is visible from a public location to accumulate on his or her property. It shall also be unlawful for any person to scatter litter on public property, including public roads, public road right of ways, and greenbox sites, or to transport garbage or refuse as an uncovered/unsecured load.

SUBCHAPTER 3: ENFORCABILITY & PENALTIES

75.2.301 POWERS AND DUTIES OF THE AGENCY:

1. The Agency has the following powers and authority:
 - a. The power to inspect from a public location when a potential violation or complaint has been reported.
 - b. The power to determine whether or not this ordinance applies after an inspection of the property or area.
 - c. The power to set a deadline for compliance and to approve/disapprove a proposed compliance plan.
 - d. 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.
 - e. The duty to provide the County Attorney with sufficient documentation to enable him or her to prosecute the violation as a misdemeanor.

75.2.302 PENALTIES:

1. 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 may be a separately punishable offense.

SUBCHAPTER 4: SCOPE & EFFECTIVE DATE

75.2.401 JURISDICTIONAL AREA:

1. This ordinance applies to the whole of Lincoln County with the exception of properties located within incorporated municipalities that have ordinance making powers.

75.2.402 EFFECTIVE DATE:

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

SUBCHAPTER 5: CONFLICT OF ORDINANCE

75.2.501 SEVERABILITY:

1. 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.