

**Operating Procedure #3  
City-County Board of Health  
Lincoln County, MT  
October 2017**

**Purpose:** The purpose of this document is to outline the procedures for handling requests for variances to Lincoln County's Health and Environment Regulations.

The following Procedures apply to the City-County Board of Health (Board) and any committees thereof.

**General Requirements:**

- A person who owns or is in control of a property subject to Health and Environment Regulations may apply to the Board for a variance.
- The Board may grant or renew a variance if it finds:
  1. A variance from a requirement of these regulations does not conflict with state or federal law;
  2. The variance does not create a danger to public health or safety; and
  3. Compliance with the regulation from which a variance is sought would produce hardship without equal or greater benefit to the public.
- The Board may place conditions on a variance and the person subject to the variance shall adhere to those conditions. Failure to adhere to the conditions is cause for revocation of the variance and other appropriate legal action. Conditions may include, but are not limited to the following; duration the variance is valid, regular review of the variance or inspections to ensure the conditions are being met, other limits on the variance, etc.
- Variances are non-transferable and remain valid only for the applicant to whom they are granted.

**Application:**

- An application for a variance may be in the form of a letter and must contain the following information:
  1. Applicant's name, address and contact information;
  2. Specific regulation and provision from which a variance is requested;
  3. Legal description or address of property where variance would apply;
  4. Detailed and accurate description of the circumstances under consideration, including an explanation of why compliance is not justified and description of alternatives considered;
  5. Any other relevant information that the department or Board may require.
- The application will be submitted to the Lincoln County Health Department (Department).

**Decision:**

- **The Department may grant a temporary variance for up to ninety (90) days.**
- The Department will forward the application to the Board with their advisory opinion.
- The application will be considered at the Board's next regularly scheduled meeting, provided that the application is received at least fourteen (14) days prior to the scheduled meeting date. At this meeting, the applicant may appear in person or be represented by another person.
- The Board will make a final decision within thirty (30) days following the hearing, unless it notifies the applicant that more time is needed.
- The final decision must be in writing, include all conditions that apply to the variance, and be signed by the chair of the Board.

**HEALTH AND ENVIRONMENT REGULATIONS**  
**Chapter 4: Lincoln County Solid Waste Regulation**  
11 October 2017 (Revised 8 November 2017)

**SUBCHAPTER 1: GENERAL PROVISIONS**

**4.1.101 INTENT:** The purpose of this rule is to establish standards for proper storage, handling and disposal of solid waste to protect public health, safety and the environment.

**4.1.102 AUTHORITY:** Authority for regulations promulgated in this rule is provided for in MCA 50-2-116.

**4.1.103 DEFINITIONS:** The following definitions shall apply in the interpretation and enforcement of this rule:

- (1) "Board" - the City-County Health Board of Lincoln County, Montana
- (2) "Health Officer" - Lincoln County Health Officer or their designated representative
- (3) "Clean Fill" – Uncontaminated soil, dirt, rock, sand, gravel and portland cement concrete free of reinforcing steel
- (4) "Construction and Demolition Waste" – Any waste building materials and rubble that result from the construction, remodeling, repair or demolition of structures or roads, including debris and remnants of structure after fire or collapse
- (5) "Department" – Lincoln County Health Department
- (6) "Greenbox Site" – A remote dumpster location maintained by Lincoln County for residential refuse collection
- (7) "Group I Waste" – Hazardous waste as defined by 40 CFR 261
- (8) "Litter" – Any quantity of paper, cardboard, metal, plastic, glass, or other miscellaneous solid waste which is not disposed of in a garbage container
- (9) "Person" – Any individual, firm, partnership, company, association, corporation, city, town, local governmental entity, or any other state, federal, or private entity, whether organized for profit or not
- (10) "Public Nuisance" a condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of persons, or which unlawfully obstructs the free passage or use in the customary manner, of any navigable waters, or any public park, square, street or highway. "Solid Waste" – All putrescible and nonputrescible wastes, including but not limited to garbage, refuse, rubbish, ashes, sludge from sewage treatment plants, construction and demolition wastes, dead animals, discarded appliances and woodwaste.
- (11) "Commercial Waste" – Refuse that is created at a commercial establishment or business, including but not limited to stores, offices, restaurants, hotels and trailer courts.
- (12) "Residential Waste" – Refuse that is created at a single family dwelling.

**SUBCHAPTER 2: COMPLIANCE REQUIREMENTS**

**4.2.101 STORAGE, COLLECTION, AND DISPOSAL**

- (1) Any person owning, controlling, or in possession of any dwelling or place of business from which solid waste is generated shall maintain at all times in a place easily accessible, and where it will not be offensive or a public nuisance, one or more metal or plastic containers with overlapping tight-fitting covers in which all refuse accumulated on the premises shall be placed.
- (2) The capacity of the containers shall be adequate to hold all refuse generated between collections.
- (3) It is the duty of the owner, agent, occupant, or lessee of a property to keep premises free of litter and other solid waste.

- (4) No person shall store or allow to be stored any solid waste on public or private land within the county where said storage will create a public nuisance, or be to any degree offensive or if the Health Officer determines it may constitute a public health, environmental health or safety hazard.
- (5) Disposal at Lincoln County Green box sites is restricted to residential waste only. Disposal of large, bulky items, appliances, furniture, tires, wood waste, construction and demolition debris, animals, and all commercial waste is not allowed at county green box sites and must be transported to a licensed sanitary landfill for disposal.
- (6) All friable and un-friable asbestos containing materials including all vermiculite, being transported to or disposed of in the Lincoln County Solid Waste system shall be packaged in such a way as to prevent contamination of the surrounding environment, protect landfill workers, and protect the public health. Disposal must be coordinated with the landfill manager or gate attendant prior to transporting the material.
- (7) Salvaging or scavenging at any county maintained disposal site is prohibited per ARM 17.50.1116.

**4.2.102 TRANSPORTATION:**

- (1) Solid waste must be covered, containerized, or secured to the vehicle during transportation.
- (2) Solid waste shall be loaded and transported in such a manner that none of it shall fall, drop or spill upon the roadway or ground.

**4.2.103 BURNING SOLID WASTE:** No person shall burn any solid waste on public or private land within the county, unless the burning is permitted in accordance with the Lincoln County Control of Air Pollution regulations.

**4.2.104 BURYING SOLID WASTE:** No person shall bury any solid waste on public or private land within the county, unless:

- (1) the solid waste qualifies as clean fill and permission has been granted by the property owner or owners; or
- (2) the solid waste is organic agricultural or silvicultural waste which originated on the property where it is to be buried and the Health Officer determines that the practice will not be offensive or endanger public or environmental health; or
- (3) the site is licensed as a landfill by Montana DEQ.

**4.2.105 ILLEGAL DUMPING:**

- (1) No person shall dump, store, place or leave or cause to be dumped, placed or left any solid waste upon any public or private property within the county, unless the solid waste is clean fill and permission has been granted by the property owner or owners.
- (2) No person shall dump, place or leave or cause to be dumped, placed or left any solid waste in residential or commercial containers maintained for the use of other residences or establishments.
- (3) No person shall dump, place or leave any solid waste outside of a dumpster or on the ground at a Lincoln County Greenbox Site.

**4.2.106 HAZARDOUS WASTE:** No person shall transport, store, or dispose of any Group I waste except as provided for in ARM 17.53.111.

**SUBCHAPTER 3: ENFORCEABILITY AND PENALTIES**

**4.3.101 ENFORCEABILITY:** The provisions of this regulation are enforceable by the Lincoln County Sheriff's Office, the Health Officer, ~~or~~ the Department, or any other law enforcement personnel with jurisdiction.

**4.3.102 POWERS AND DUTIES OF THE DEPARTMENT:**

- (1) The Health Officer is hereby authorized to make such inspections as are necessary to determine satisfactory compliance with this regulation.
- (2) The owner or occupant of a property shall give the Health Officer free access to the property at reasonable times for the purpose of making such inspections as are necessary to determine compliance with the requirements of this regulation.
- (3) The Health Officer will determine whether or not this regulation applies after an inspection of the property or area.
- (4) The Health Officer will serve a written Notice of Violation and/or Notice to Appear and Complaint on the person who owns, leases or occupies the property on which a violation of this regulation exists. The notice(s) may be served in person or by certified mail with return receipt.
- (5) The Health Officer can set a deadline for compliance and approve/disapprove a proposed compliance plan.
- (6) If the violation has not been corrected by the deadline, the Health Officer, or their contractor or designee, may enter onto the property for the specific purpose of abating or mitigating the violation.

**4.3.103 PENALTIES:**

- (1) Violation of any part of this regulation shall constitute a misdemeanor punishable by imprisonment in the Lincoln County Jail not exceeding ninety (90) days or by a fine not to exceed \$200.00, or both. Each day of violation will constitute a separate offense.
- (2) Actions to recover the expenses incurred under 4.3.102(6) shall be brought in the name of the county as provided by MCA 50-2-123.

**SUBCHAPTER 4: SEVERABILITY AND CONFLICT OF ORDINANCE**

**4.4.101 CONFLICT:** In any case where a provision of this regulation is found to be in conflict with a provision of any other regulation of Lincoln County, the provision which establishes the higher standard for the protection of public health and safety shall prevail.

**4.4.102 SEVERABILITY:** If any provision of this regulation is declared invalid by any court or tribunal, the remaining provisions of this regulation shall not be affected thereby.

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Board Chair  
City-County Board of Health for Lincoln County, MT

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Date