

## PUBLIC NOTICE

Lincoln County's existing ordinances are to be recodified in accordance with MCA 7-5-107. The Second reading of County Ordinances 2024-01 through 2024-06 is scheduled for Wednesday, April 3, 2024, at 09:30 am in the Commissioners Chamber of the Lincoln County Courthouse, 512 California Ave., Libby, MT. Complete drafts of each ordinance are available at the Lincoln County Clerk and Recorder's office and will be posted on the Clerk and Recorder page of the county website. <https://lincolncountymt.us/clerk-and-recorder-home/> For inquiries, please contact Clerk and Recorder, Corrina Brown at (406) 283-2306 or email [lcclerk@libby.org](mailto:lcclerk@libby.org).



# LINCOLN COUNTY MONTANA

## ORDINANCE 2024-01

### AN ORDINANCE RECODIFYING LINCOLN COUNTY ORDINANCES AND PRESCRIBING THE FORMAT FOR ALL ORDINANCES ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS

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

1. The Board of County Commissioners authorized the preparation of a recodification of the existing Lincoln County ordinances pursuant to section 7-5-107, MCA.
2. The Board desires that all ordinances hereafter adopted will be codified in a uniform register and made available to the public.
3. All ordinances formerly adopted by the Board and kept on file with the Clerk and Recorder's Office have been compiled and reviewed.
4. The Board desires that all presently operable ordinances be re-drafted in a uniform format, in accordance with the policies adopted by the Board through Resolution 2024-01.

#### THE BOARD ORDAINS:

##### 1. CODIFICATION OF ORDINANCES

- (1) The Lincoln County Clerk and Recorder will publish all ordinances adopted by this Board in a Register of Ordinances.
- (2) A copy of the Register of Ordinances will be permanently kept on file in the Clerk and Recorder's Office and published on the official County website.
- (3) The previous code of ordinances originally adopted by Ordinance No. 93-1 on February 10th, 1993 and Ordinance 2018-01 adopted on May 16th, 2018 are superseded by the Register of Ordinances created by this ordinance.
- (4) At intervals of five (5) years hereafter, the Clerk and Recorder will compile and present all then current ordinances in an updated Register to the Board of County Commissioners for approval and recodification, pursuant to section 7-5-107, MCA.



# LINCOLN COUNTY MONTANA

## 2. **FORMAT OF ORDINANCES**

The body of all ordinances should be divided into numbered sections and subsections as needed. The numbering of sections and subsections must be drafted in a uniform format, for consistency in enforcement and prosecution. The following format must be used:

### 1. **SECTION HEADING**

Text of section

(1) Text of subsection

(a) Text

(i) Text

### **THE BOARD FURTHER ORDAINS:**

1. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance or resolution, this ordinance will prevail.
2. 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.
3. Upon first reading and adoption, this ordinance will be posted and made available to the public in accordance with section 7-5-103, MCA.
4. This ordinance will be effective 30 days after its second and final adoption, in accordance with section 7-5-105, MCA.
5. Upon its second and final adoption, 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**



LINCOLN COUNTY MONTANA

Approved as to Form:

*[Handwritten Signature]*

Marcia Boris, County Attorney

First reading date: March 20, 2024 Approved  Disapproved  Amended

Second reading date: \_\_\_\_\_ Approved  Disapproved  Amended

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

LINCOLN COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Josh Letcher, Chair

\_\_\_\_\_  
Jim Hammons, Member

\_\_\_\_\_  
Brent Teske, Member

ATTEST:

\_\_\_\_\_  
Corrina Brown, Clerk of the Board





# LINCOLN COUNTY MONTANA

## ORDINANCE 2024-02

### 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 and Ordinance 2018-02 adopted on May 16, 2018.
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 2024-01.

#### 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



## LINCOLN COUNTY MONTANA

- (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.
- (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.



# LINCOLN COUNTY MONTANA

- (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.





# LINCOLN COUNTY MONTANA

## 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:**

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**



LINCOLN COUNTY MONTANA

Approved as to Form:

*Marcia Boris*

Marcia Boris, County Attorney

First reading date: March 20, 2024 Approved  Disapproved  Amended

Second reading date: \_\_\_\_\_ Approved  Disapproved  Amended

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

LINCOLN COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Josh Letcher, Chair

\_\_\_\_\_  
Jim Hammons, Member

\_\_\_\_\_  
Brent Teske, Member

ATTEST:

\_\_\_\_\_  
Corrina Brown, Clerk of the Board





# LINCOLN COUNTY MONTANA

## ORDINANCE 2024-03

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

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

1. Sections 7-23-2108 through 7-23-2110, MCA, authorize counties to adopt an ordinance for the control of dogs within the county.
2. The Board of County Commissioners adopted a new ordinance to control domestic animals within Lincoln County and a procedure for its enforcement on April 11, 2012.
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 2024-01.

### **THE BOARD ORDAINS:**

#### **1. TITLE**

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

#### **2. DEFINITIONS**

As used in this ordinance, the following definitions apply:

- (1) "Animal" means any domesticated animal or livestock.
- (2) "At Large" means off the premises of its owner and not under the immediate control of its owner or authorized agent by the owner, either by leash, voice, or signal control; or by complete confinement within or upon a vehicle. Dogs controlling or protecting livestock or engaged in other agriculture related activities, dogs engaged in hunting related activities, and police service dogs are excluded from this definition. Behaviors included within the definition of "at large" include, but are not limited to, any of the following:
  - (a) Chasing vehicles or bicycles in public streets, ways, parks, or easements;
  - (b) Rummaging through or scattering garbage or rubbish;
  - (c) Interfering with vehicular or pedestrian traffic.



# LINCOLN COUNTY MONTANA

- (3) "Bite" means a laceration, bruise, or puncture inflicted by the teeth of a dog.
- (4) "Officer" means any duly appointed law enforcement officer having jurisdiction within Lincoln County or other duly appointed and qualified Animal Control Officer designated by the Board of County Commissioners to enforce the provisions of this ordinance.
- (5) "Owner" means any person who owns, harbors, or keeps a dog
- (6) "Vaccination" means the inoculation of a dog or cat with anti-rabies vaccine, administered by a licensed veterinarian.
- (7) "Vicious Dog" means a dog which harasses, chases, bites, or attempts to bite any human being without provocation or which harasses, bites, or attempts to bite any other animal without provocation. A police service dog that bites or chases any person while engaged in the lawful performance of its duties is not considered a vicious dog under this ordinance.

### **3. DOG LICENSING, LICENSE TAGS, AND EXEMPTIONS**

- (1) It is unlawful for any person to keep, harbor, or maintain in Lincoln County any dog over six (6) months of age unless the dog is duly registered and licensed in accordance with Lincoln County Health Department's written policies and regulations, or is exempted under such policies.
- (2) Failure to license a dog in violation of this ordinance constitutes a misdemeanor punishable by imprisonment in the Lincoln County Jail not to exceed one (1) week, a fine not to exceed \$25.00, or both.

### **4. DOGS AT LARGE**

- (1) It is unlawful for the owner or person having charge, care, custody, or control of any dog to allow that dog to be at large.
- (2) Any dog found at large may be impounded by the Officer. Impoundment may result in the dog being made available for adoption, humanely euthanized, or otherwise destroyed as necessary, in accordance with Lincoln County Health Department's written policies and regulations.

### **5. VICIOUS DOGS**

- (1) It is unlawful for any person to keep, harbor, or maintain any vicious dog in Lincoln County unless the dog is:
  - (a) Securely and adequately confined upon the property of the owner or other person having charge, care, or control of the dog so as not to injure any person or property or be a hazard to public safety.
  - (b) Under proper restraint and leashed on a line not to exceed six (6) feet in



# LINCOLN COUNTY MONTANA

length, properly muzzled, and under the immediate control of a person of suitable age and discretion to control or restrain the dog, while off the premises of the owner.

- (2) If a vicious dog is not being effectively controlled as provided for in this ordinance, the Officer may restrain, control, humanely euthanize, impound, or quarantine the dog.
- (3) If any dog bites any person in the county, the following procedure must be followed:
  - (a) The person bitten, or that person's parent or guardian, must immediately report the dog bite to Lincoln County Health Department.
  - (b) The owner of the vicious dog may be required to surrender the dog to the Officer or the Lincoln County Health Department for quarantine within twenty-four (24) hours after service of the order. The order may be served by the Officer. If the owner cannot be found at his place of residence, the order may be served by leaving it with a person of suitable age and discretion at, or by placing it in a prominent place at the front door of, the residence.
  - (c) It is unlawful for any person to refuse or neglect to surrender any vicious dog within twenty-four (24) hours after service of the order as herein provided, and the Officer will seize and impound the dog at the owner's expense. If the owner is unknown and the dog is running at large, the Officer may seize and impound the dog without notice.
  - (d) All dogs impounded under this section will be quarantined in accordance with Lincoln County Health Department's written policies and regulations.
  - (e) It is unlawful for any person to remove any dog that is quarantined under this section from the place of quarantine without written permission of the Lincoln County Health Department.

## **6. BARKING OR HOWLING DOGS**

- (1) It is unlawful for any person to own, keep, harbor, or maintain any dog, which unreasonably annoys or disturbs the peace and quiet of any person by undue barking or howling.
- (2) This Section does not apply to a dog owned, kept, or harbored at the Lincoln County Animal Shelter or as part of the business of a licensed veterinarian, animal boarding facility, or agricultural or livestock operation.

## **7. ENFORCEMENT**

- (1) All duly appointed Lincoln County law enforcement and Animal Control Officers are authorized to enforce the provisions of this ordinance.
- (2) The Officer has the following authorities and responsibilities, in addition to responsibilities otherwise outlined in this ordinance:



## LINCOLN COUNTY MONTANA

- (a) The authority to investigate a complaint or potential violation of this ordinance;
  - (b) The authority to restrain, control, impound, quarantine, humanely euthanize, or otherwise destroy any dog as permitted by this ordinance.
  - (c) 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;
  - (d) The responsibility to provide the County Attorney with sufficient documentation to enable him or her to prosecute the violation as a misdemeanor. Evidence of a violation of any section of this ordinance may include, but is not limited to, the following:
    - (i) Written affirmation or statement from a witness
    - (ii) Video or audio recording, photographs, or written documentation
    - (iii) Documentation by the Officer.
- (3) It is unlawful for any person to knowingly and intentionally interfere with any Officer in the lawful discharge of the duties prescribed by this ordinance.

### **8. PENALTIES**

- (1) Violation of any part of this ordinance will constitute a misdemeanor punishable by imprisonment in the Lincoln County Jail not exceeding six (6) months or by a fine not to exceed \$500.00, or both, unless a specific penalty for the violation is defined in this ordinance.
- (2) The penalty for a violation of Section 5 of this ordinance, "Vicious Dog", may include humane euthanasia of the dog.

### **THE BOARD FURTHER ORDAINS:**

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.





# LINCOLN COUNTY MONTANA

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: March 20, 2024    Approved     Disapproved     Amended

Second reading date: \_\_\_\_\_    Approved     Disapproved     Amended

Adopted this        day of                    , 2024.

## LINCOLN COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Josh Letcher, Chair

\_\_\_\_\_  
Jim Hammons, Member

\_\_\_\_\_  
Brent Teske, Member

ATTEST:

\_\_\_\_\_  
Corrina Brown, Clerk of the Board







# LINCOLN COUNTY MONTANA

## ORDINANCE 2024-04

### AN ORDINANCE ESTABLISHING RULES OF CONDUCT IN PARKS AND OTHER RECREATIONAL LANDS OWNED OR ADMINISTERED BY LINCOLN COUNTY AND ESTABLISHING PROCEDURES FOR ITS ENFORCEMENT

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

1. Section 7-16-2322(1), MCA, authorizes the Board of County Commissioners to adopt an ordinance providing for the enforcement of rules regarding all County owned and administered parks and recreational areas. The purpose of these rules is to assure public enjoyment of county parks and recreation areas, to protect birds and animals inhabiting or frequenting these lands, and to protect and promote the improvement of land and facilities under the care and control of the Board.
2. The Board of County Commissioners adopted an ordinance outlining the regulations in force in all county owned and managed parks or recreational facilities within Lincoln County and a procedure for its enforcement on January 15, 2003 and Ordinance 2018-04 adopted May 16, 2018.
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 Parks Ordinance."

##### 2. DEFINITIONS

As used in this ordinance, the following definitions apply:

- (1) "Camp" means to set up or to remain in or at a campsite.
- (2) "Campsite" means any place where bedding, sleeping bag, or other material used for bedding purposes, or any stove or fire is placed, established, or maintained as a place to dwell or sleep, regardless of whether the place incorporates the use of any tent, lean-to, shack, or any other structure or vehicle.
- (3) "Board" means the Board of County Commissioners.



# LINCOLN COUNTY MONTANA

## 3. PARK RULES

The following rules apply to all designated parks or public recreation areas owned or administered by Lincoln County.

- (1) No person may discharge any fireworks, firearm, air or gas weapon (including paintball guns), or arrow from a bow on or over either land or water unless specifically authorized by the Board.
- (2) No person may permit a domesticated animal to run at large. Pets must be restrained or kept on a leash at all times except within designated dog park areas.
- (3) No motor vehicle may be driven off authorized roads, except into designated parking areas.
- (4) No motor vehicle may be driven at a speed greater than the posted speed limit.
- (5) No person may park any vehicle, trailer, camper, or boat except in designated parking areas.
- (6) No person may camp overnight without prior permission from the Board.
- (7) No person may build or maintain a fire unless in a designated fire pit.
- (8) No person may destroy, deface, injure, remove, or otherwise damage any natural or improved property or willfully or negligently cut, destroy, or mutilate any tree, shrub, or plant.
- (9) No person may disturb or remove the topsoil cover.
- (10) No unauthorized person may enter upon any portion of any area that is posted as restricted to public passage.
- (11) No person may dump fish or animals or parts thereof, human excrement, refuse, rubbish, or wash water (except in receptacles provided for this purpose), nor pollute or litter in any manner.
- (12) No commercial or political signs may be posted without prior permission from the Board.
- (13) No person or group may use these lands for any commercial purpose without prior permission from the Board and meeting any necessary insurance or liability requirements.
- (14) No group of more than fifty (50) people may use a County administered recreation area except with prior permission from the Board.
- (15) No person may operate motorized over-the-snow equipment in any area unless specifically designated for that type of use.
- (16) The hours of public use for all county parks and recreation facilities are from 6:00 a.m. to 11:00 p.m. Public use is prohibited from 11:00 p.m. to 6:00 a.m. unless otherwise specified or permitted by the Board.



# LINCOLN COUNTY MONTANA

## 4. PERMISSIONS

Permission required under this ordinance may be obtained by contacting the County Commissioner of the District in which the specific park or recreational area is located.

## 5. ENFORCEMENT

- (1) All duly appointed Lincoln County law enforcement officers are authorized to enforce the provisions of this ordinance.
- (2) Law enforcement officers have the following authorities and responsibilities:
  - (a) The authority to investigate a complaint or potential violation of this ordinance;
  - (b) The authority to expel or remove any person who violates any section of this ordinance or other state law from the area.
  - (c) 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;
  - (d) The responsibility to provide the County Attorney with sufficient documentation to enable him or her to prosecute the violation as a misdemeanor.

## 6. PENALTIES

Except as otherwise provided by state law regarding conduct regulated under this ordinance, any violation of this ordinance constitutes 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.

## THE BOARD FURTHER ORDAINS:

1. This ordinance applies to all designated parks and public recreation areas owned or administered by Lincoln County within Lincoln County.
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.



# LINCOLN COUNTY MONTANA

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: March 20, 2024    Approved  Disapproved [ ]    Amended [ ]

Second reading date: \_\_\_\_\_    Approved [ ] Disapproved [ ]    Amended [ ]

Adopted this    day of    , 2024.

### LINCOLN COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Josh Letcher, Chair

\_\_\_\_\_  
Jim Hammons, Member

\_\_\_\_\_  
Brent Teske, Member

ATTEST:

\_\_\_\_\_  
Corrina Brown, Clerk of the Board



# LINCOLN COUNTY MONTANA

## ORDINANCE 2024-05

### AN ORDINANCE TO CONTROL COMMUNITY DECAY WITHIN LINCOLN COUNTY AND ESTABLISH PROCEDURES FOR ITS ENFORCEMENT

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

1. Sections 7-5-2110 and 7-5-2111, MCA, authorizes counties to adopt an ordinance to control community decay.
2. The Board of County Commissioners has determined that there is a need for an ordinance to control community decay in Lincoln County and wishes to enact such an ordinance.
3. This ordinance is necessary to control and prohibit conditions that contribute to community decay on or adjacent to all public roadways within Lincoln County, including conditions that negatively affect public health, safety, and enjoyment.

### **THE BOARD ORDAINS:**

#### **1. TITLE**

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

#### **2. DEFINITIONS**

As used in this ordinance, the following definitions apply:

- (1) "Abatement" means physical removal of all community decay constituting a violation of this ordinance.
- (2) "Adjacent" means beside, next to, contiguous, or nearby. Properties adjacent to any public roadway include properties contiguous with those abutting a public roadway and properties within public view, as defined within this ordinance.
- (3) "Community decay" means anything that is injurious to health, indecent, offensive to the senses, or an obstructive of the free use of property, so as to interfere with the comfortable enjoyment of life or property that affects, at the same time, an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.



# LINCOLN COUNTY MONTANA

Community decay" may not be construed to apply to normal farming, ranching, or other agricultural operations or to a farm, ranch, or other agricultural facility, and any appurtenances thereof, during its normal operation. "Community decay" may include, but is not limited to any discarded substance, item, or material, such as cardboard, paper, pallets, tires, iron, or metal; demolition waste; construction or building material, such as bricks, concrete, or wood; junk vehicles; ruined or unusable boats, trailers, campers, or mobile homes; vehicle or machine parts; dead animals or animal parts; appliances; furniture; branches, logs, yard trimmings, or garden waste; and any other similar materials, items, waste, parts, or substances.

- (4) "Department" means the Lincoln County Health Department.
- (5) (a) "Junk vehicle" means a motorized vehicle or it's component parts, including recreational vehicles such as dirt bikes, ATVs, or snowmobiles:
  - (i) that is discarded, ruined, wrecked, or dismantled;
  - (ii) that, except as provided in subsection (4)(b), 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 subsection (4)(a), the vehicle is a junk vehicle.
- (6) "Officer" means any duly appointed law enforcement officer having jurisdiction within Lincoln County or an employee or duly appointed agent of the Lincoln County Health Department.
- (7) "Owner" means the person presently living on the property, including persons occupying or in control of that property, as well as any person holding legal possession or title to the property.
- (8) "Person" means an individual, firm, partnership, company, association, corporation, city, town, or any other entity whether organized for profit or not.
- (9) "Public roadway" means any highway, road, alley, lane, parking area, or other public or private place adapted and fitted for public travel that is in common use by the public.
- (10) "Public view" means any area visible from any point up to six feet above the surface of the center of any public roadway.
- (11) "Shielding" means fencing, or other natural or manmade barriers used to conceal junk vehicles from public view, whether permanent or temporary.





# LINCOLN COUNTY MONTANA

### 3. COMMUNITY DECAY PROHIBITION

It is unlawful for any person to maintain conditions that contribute to community decay on property owned, occupied, or controlled by him or her on or adjacent to any public roadway within the county.

### 4. ABATEMENT

- (1) When the Department receives notice that a condition of community decay exists, an Officer may inspect the property alleged to be in violation of this ordinance to determine whether there is a violation of this ordinance.
- (2) If the Officer determines that there is a violation of this ordinance, the Department will notify the owner of the property in writing of the violation and order its abatement within thirty (30) days. The notice of violation and abatement order may be sent by certified mail or personal service as prescribed by Rule 4 of the Montana Rules of Civil Procedure. The notice and order will include the following:
  - (a) a specific description of the violation;
  - (b) a statement specifying that the owner has thirty (30) days from receipt of the notice to bring the property into compliance with this ordinance by means of removal or shielding of the conditions; and
  - (c) an advisement that if the violation is not abated, the County may undertake abatement and assess the costs of that abatement to the owner.
  - (d) an advisement that violation of this ordinance may subject the owner to a fine of up to \$500 or 6-months imprisonment or both, pursuant to MCA § 7-5-109, and that each day of violation, after notice of violation has been given, constitutes a separate offense.
- (3) Compliance with this ordinance and any abatement order issued pursuant to this ordinance requires the outright removal of all conditions comprising community decay as defined under this ordinance. Failure to comply with an abatement order is a violation of this ordinance.
- (4) In the alternative, the owner may, within fourteen (14) days of the date of the issuance of the order, submit a plan of abatement to the Department. Any proposed plan must include:
  - (a) the type of abatement or shielding to be undertaken;
  - (b) the date for commencement of action; and
  - (c) the date for completion of the abatement.
- (5) The Department, in its sole discretion, may accept a proposed plan and defer further





## LINCOLN COUNTY MONTANA

proceedings under this ordinance pending the date of completion of the abatement, negotiate modifications to that plan, or reject that plan. The Department must communicate its acceptance or rejection of the proposed plan to the owner within fourteen (14) days of receiving the proposed plan. If the Department rejects the proposed plan, the owner has thirty (30) days from the receipt of the Department's final decision to comply with the abatement order.

- (6) If the owner fails to comply with an abatement order or an abatement plan approved by the Department under subsection (4) of this section, Officers may enter the owner's property with the specific purpose of abating or shielding the violation, in a manner deemed appropriate by the Department.
- (7) The County may assess the owner for the actual costs of the abatement by the Department.
- (8) If the assessment is not paid, it will be taken as a lien on the property and enforced as is nonpayment of property taxes.

### 5. APPEALS

- (1) An owner may appeal a final decision of the Department in writing to the Board of Commissioners of Lincoln County within fourteen (14) days of the final decision
- (2) Within fourteen (14) days of receiving a timely notice of appeal, the Board must schedule a hearing to determine whether a violation exists. The Board may postpone that hearing at the request of a party or for good cause.
- (3) Once an appeal for a hearing has been made, the Department's decision is stayed pending the hearing and decision by the Board.
- (4) Within fourteen (14) days after the hearing, the Board must either affirm, modify, or withdraw and dismiss the Department's order. The Board's final decision must be provided to the Department and the owner in writing.

### 6. SHIELDING

The maintenance of junk vehicles on private property that would be considered community decay under this ordinance may be lawful if such materials are shielded from public view in accordance with the following standards.

- (1) Any shielding must conform to all local zoning, planning, building and protective covenant provisions and shall be of sufficient height that none of the violation on the premises is visible to public view.
- (2) When fences are used for shielding, the boards may be spaced and/or slanted to



## LINCOLN COUNTY MONTANA

reduce wind load, the space between boards when viewed from a broadside view shall not be more than one and one-half (1 ½) inches and the interval between spaces shall not be less than seven and one-half (7 ½) inches. Rough dimensional lumber or better is acceptable. Chain link fencing with standard fiberglass or other inserts are acceptable, provided the gap between adjacent slats does not exceed one and one-half (1 ½) inches. The fencing is to be maintained by the property owner or occupant in a neat and workmanlike manner and shall be replaced when necessary.

- (3) Shielding with shrubs and trees must provide a degree of shielding similar to that produced by fencing at all times of the year. Dirt berms are acceptable for shielding purposes, provided the berm slopes are graded smooth and either seeded with an adequate grass seed formula or otherwise covered by an approved landscaping material.
- (4) Other types of fencing of equivalent permanence, attractiveness, and shielding qualities, including corrugated metal, are also acceptable.
- (5) No more than one of the approved shielding materials and color may be used on any one side of a shielding fence.

### 7. ENFORCEMENT

- (1) The Department is primarily responsible for initiating violation notices and abatement proceedings, with cooperation and aid of law enforcement officers as necessary.
- (2) The Department and the County Attorney may exercise complete discretion in enforcing any provisions of this ordinance. The Department or County Attorney may determine that a condition otherwise meeting the criteria of this ordinance is not considered Community Decay because of its existence prior to changed residential conditions in or around its locality if the condition existed longer than the complaining resident has been in possession of the effected property. Nothing within this section is intended to provide a grandfathered status to conditions in existence before this ordinance's adoption.
- (3) All approvals or variances from the requirements of this ordinance must be granted by the Department.
- (4) All Officers as defined in this ordinance are authorized to enforce the provisions of this ordinance.



# LINCOLN COUNTY MONTANA

- (5) The Officer has the following authorities and responsibilities, in addition to responsibilities otherwise outlined in this ordinance:
- (a) The authority to investigate a complaint or potential violation of this ordinance;
  - (b) The authority to serve a written Notice of Violation and Abatement Order;
  - (c) The authority to enter the owner's property to abate or shield community decay in violation of this ordinance upon an owner's noncompliance with an abatement order or proposed 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. Evidence of a violation of any section of this ordinance may include, but is not limited to, the following:
    - (i) Written affirmation or statement from a witness
    - (ii) Video or audio recording, photographs, or written documentation
    - (iii) Documentation by the Officer.
- (6) It is unlawful for any person to interfere with any Officer knowingly and intentionally in the lawful discharge of the duties prescribed by this ordinance.

## 8. LIABILITY

All persons determined to be owners, as defined under Section 2 of this ordinance of a property in violation of this ordinance may be held jointly and severally liable.

## 9. PENALTIES

Any violation of this ordinance constitutes a misdemeanor punishable by imprisonment in the Lincoln County Jail not exceeding six (6) months or by a fine not to exceed \$500.00, or both. Each day of violation, after notice of violation has been given, constitutes a separate offense.



# LINCOLN COUNTY MONTANA

## **THE BOARD FURTHER ORDAINS:**

1. This ordinance applies to the whole of Lincoln County, including all conditions existing at the time of its adoption, 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**





# LINCOLN COUNTY MONTANA

## ORDINANCE 2024-06

### AN ORDINANCE TO DECREASE THE SPEED LIMIT ON A PORTION OF SILVER BUTTE ROAD

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

1. A petition was presented to the Lincoln County board of commissioners on October 23, 2019.
2. The signatures on the petition were verified through the Lincoln County Elections Department.
3. Petitioners are requesting the County Commission to decrease the speed limit from 35 mph to 25 mph on a portion of Silver Butte Road, commencing at Highway 2 the 3-mile marker on Silver Butte Road located in T26N, R29W, Sections 8, 9, 17 and 18, Libby, Lincoln County, as depicted on Exhibit A, attached hereto, and incorporated herein by reference.
4. Section 7-14-2113, MCA, grants the commissioners the authority to establish speed limits on county roads by ordinance.

#### THE BOARD ORDAINS:

##### 1. TITLE

This ordinance may be cited as the "Silver Butte Road Speed Limit Ordinance."

##### 2. ENFORCEMENT

All peace officers having jurisdiction are authorized to enforce the provisions of this ordinance.



# LINCOLN COUNTY MONTANA

## **THE BOARD FURTHER ORDAINS:**

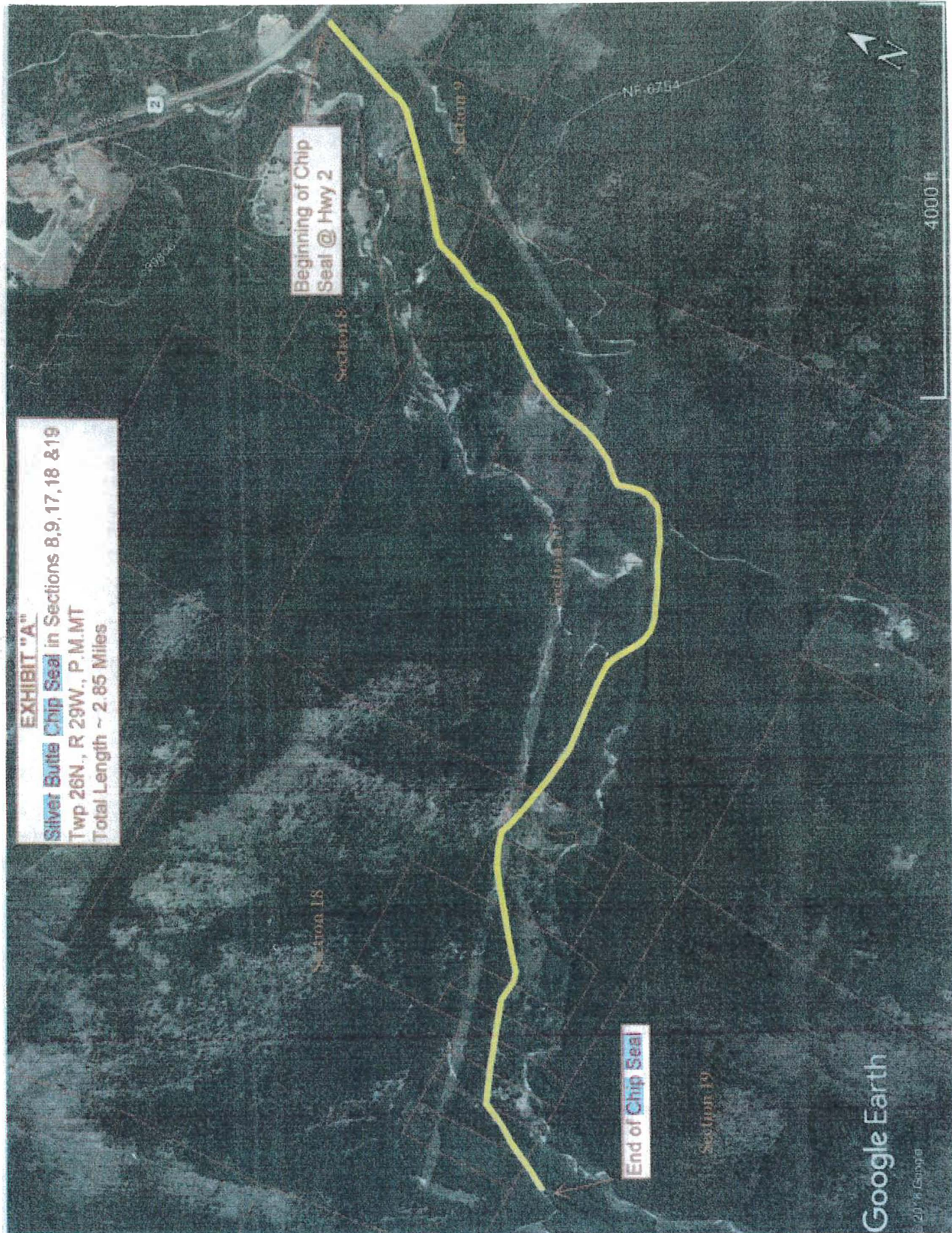
1. That the described portion of Silber Butte Road speed limit be changed from 35 mph to 25 mph.
2. That standard speed limit signage be posted by the Lincoln County Road Department District 1.
3. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance or resolution, this ordinance will prevail.
4. This ordinance and its various sections, clauses, and paragraphs 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.
5. Upon first reading and adoption, this ordinance will be posted and made available to the public in accordance with section 7-5-103, MCA.
6. This ordinance will be effective 30 days after its second and final adoption, in accordance with section 7-5-105, MCA.
7. 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**





# LINCOLN COUNTY MONTANA







LINCOLN COUNTY MONTANA

Approved as to Form:

*[Handwritten signature]*

Marcia Boris, County Attorney

First reading date: March 20, 2024 Approved  Disapproved  Amended

Second reading date: \_\_\_\_\_ Approved  Disapproved  Amended

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

LINCOLN COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_

Josh Letcher, Chair

ATTEST:

\_\_\_\_\_

Corrina Brown, Clerk of the Board