

**BEFORE THE BOARD OF COMMISSIONERS**

**FOR LINCOLN COUNTY, OREGON**

**ORDINANCE # 333**

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**Relating to the littering and dumping of sewage, waste and solid waste; creating new provisions; repealing LCC 2.215, 2.220, 2.1160 and 2.1180; and declaring an emergency.**

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The Lincoln County Board of Commissioners ordains as follows:

**SECTION 1.**

Sections 2 through 4 of this Ordinance are added to and made a part of Lincoln County Code Chapter 2, as indicated.

**SECTION 2.**

**2.1500 Definitions**

As used in LCC 2.1500 through 2.1510:

(1) "Person" has the meaning given that term in LCC 2.1005.

(2) "Public transportation facility" has the meaning given that term in ORS 164.365.

(3) "Public way" includes, but is not limited to, roads, streets, alleys, lanes, trails, beaches, parks and all recreational facilities operated by the state, a county or a local municipality for use by the general public.

(4) "Sewage" has the meaning given that term in LCC 2.110.

(5) "Solid waste" has the meaning given that term in LCC 2.1005.

(6) "Waste" has the meaning given that term in LCC 2.1005.

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1                   **SECTION 3.**

2                   **2.1505 Littering and Dumping of Sewage, Waste and Solid Waste Prohibited**

3                   No person shall:

4                   (1) Discard any glass, cans or other trash, rubbish, debris or litter on land within  
5                   100 yards of any of the waters of the state, as defined in ORS 468.700, other than in  
6                   receptacles provided for the purpose of holding such trash, rubbish, debris or litter;

7                   (2) Discard any glass, cans or other similar refuse in any waters of the state, as  
8                   defined in ORS 468.700;

9                   (3) Discard any dead animal carcass or part thereof, excrement, putrid, nauseous,  
10                  noisome, decaying, deleterious or offensive substance into or in any other manner befool,  
11                  pollute or impair the quality of any spring, river, brook, creek, branch, well, irrigation  
12                  drainage ditch, irrigation ditch, cistern or pond of water;

13                  (4) Place or cause to be placed any polluting substance listed in subsection (3) of  
14                  this section into any road, street, alley, lane, railroad right-of-way, lot, field, meadow or  
15                  common;

16                  (5) Being an owner of property described in subsection (4) of this section,  
17                  knowingly permit any polluting substance listed in subsection (3) of this section to remain  
18                  on the property to the injury of the health or to the annoyance of any citizen of the State  
19                  of this state;

20                  (6) Create an objectionable stench or degrade the beauty or appearance of property  
21                  or detract from the natural cleanliness or safety of property by intentionally:

22                  (a) Discarding or depositing any rubbish, trash, garbage, debris or other refuse  
23                  upon the land of another without permission of the owner, or upon any public way or in  
24                  or upon any public transportation facility;

25                  (b) Draining, or causing or permitting to be drained, sewage or the drainage from  
26                  a cesspool, septic tank, recreational or camping vehicle waste holding tank or other

1 contaminated source, upon the land of another without permission of the owner, or upon  
2 any public way; or

3 (c) Permitting any rubbish, trash, garbage, debris or other refuse to be thrown from  
4 a vehicle which the person is operating; except that this paragraph shall not apply to a  
5 person operating a vehicle transporting passengers for hire subject to regulation by the  
6 Interstate Commerce Commission or the Public Utility Commission of Oregon or a person  
7 operating a school bus described under ORS 801.460; or

8 (7) Store, collect, maintain, or display waste, solid waste or sewage in a manner  
9 that is offensive or hazardous to the health and safety of the public or which creates  
10 offensive odors or a condition of unsightliness.

11 **SECTION 4.**

12 **2.1510 Exceptions to the Prohibitions of LCC 2.1505**

13 (1) Nothing in subsections (1) through (5) of LCC 2.1505 prohibits the operation  
14 of a disposal site, as defined in ORS 459.005, for which a permit is required by the  
15 Department of Environmental Quality, for which such a permit has been issued and which  
16 is being operated and maintained in accordance with the terms and conditions of such  
17 permit.

18 (2) Nothing in subsections (3) through (5) of LCC 2.1505 prohibits the storage or  
19 spreading of manure or like substance for agricultural, silvicultural or horticultural  
20 purposes, except that no sewage sludge, septic tank or cesspool pumpings shall be used  
21 for these purposes unless treated and applied in a manner approved by the Department  
22 of Environmental Quality.

23 (3) Nothing in LCC 2.1505 prohibits the collection, maintenance or display of  
24 waste, solid waste or sewage by a person authorized to engage in collection, maintenance  
25 or display of waste, solid waste or sewage pursuant to LCC chapter 2, ORS chapter 459,  
26 and rules of the Department of Environmental Quality.

1 (4) Nothing in LCC 2.1505 prohibits the temporary storage of waste, solid waste  
2 or sewage in receptacles designed for that purpose and in compliance with LCC chapter  
3 2, ORS chapter 459, and rules of the Department of Environmental Quality.

4 **SECTION 5.**

5 Section 6 and 7 of this Ordinance are added to and made a part of Lincoln County  
6 Code Chapter 10, as indicated.

7 **SECTION 6.**

8 **10.500 Presumption of Violation of LCC 2.1505**

9 Notwithstanding LCC 10.335(3) and 10.410(2), pursuant to ORS 459.108, in any  
10 action commenced under LCC chapter 10 that results from any alleged violation of  
11 subsections (1) through (6) of LCC 2.1505 relating to littering and dumping, a name  
12 found on various items in a deposit of rubbish or other solid waste placed on land or in  
13 water in violation of LCC 2.1505 constitutes rebuttable evidence that the person whose  
14 name appears on the items has violated LCC 2.1505. However, the rebuttable  
15 presumption created by this section exists only when a name on items denotes ownership  
16 of the items, such as the name of an addressee on an envelope.

17 **SECTION 7.**

18 **10.505 No Action for Violation of LCC 2.1505 if District Attorney is**  
19 **Prosecuting Criminal Action for Same Conduct**

20 Notwithstanding LCC 10.210, 10.300 and 10.400, pursuant to ORS 459.108, no  
21 action against any person to enforce a violation of LCC 2.1505 shall be commenced or  
22 maintained pursuant to this chapter if the Lincoln County District Attorney's Office has  
23 commenced or maintained a criminal action against the person under ORS 164.775,  
24 164.785 or 164.805 for the same conduct that forms the basis for the violation of LCC  
25 2.1505.

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1                    **SECTION 8.**

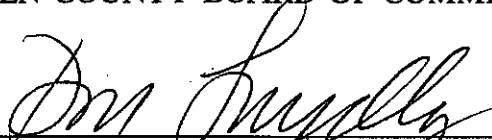
2                    LCC 2.215, 2.220, 2.1160 and 2.1180 are repealed.

3                    **SECTION 9.**

4                    This Ordinance being necessary for the immediate preservation of the public  
5 peace, health and safety, an emergency is declared to exist and this Ordinance shall take  
6 effect upon its passage.

7                    DATED this 27th day of April, 1994.

8                    LINCOLN COUNTY BOARD OF COMMISSIONERS


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11                    \_\_\_\_\_  
12                    DON LINDLY, Chair

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14                    \_\_\_\_\_  
15                    JEAN COWAN, Commissioner

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18                    NANCY E. LEONARD, Commissioner

19  
20                    ATTESTED TO:

20                    APPROVED AS TO FORM:

21                      
22                    \_\_\_\_\_  
23                    SUSAN KAYS, Recorder

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22                    \_\_\_\_\_  
23                    WAYNE BELMONT, County Counsel

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