

**AN ORDINANCE TO CONTROL LITTER WITHIN CASCADE COUNTY;
AND ESTABLISHING PROCEDURES FOR ITS ENFORCEMENT**

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

WHEREAS, the Cascade County Commissioners have previously established such an ordinance in 2006 as Cascade County Ordinance No. 06-03, Recorded at R0138900 and amended it twice in 2008 under Cascade County Ordinance No. 06-03A, Recorded at R0176093 and Cascade County Ordinance No. 06-03B, Recorded at R0184235; and

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

WHEREAS, the Cascade County Commissioners desire to amend the existing ordinance to modify the definition of and clarify the prohibited nature of littering; and to clarify the role of the Agency in responding to reports of violations of this Ordinance;

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

Definitions

1. (a) "Agency" means the Cascade County Sheriff's Office or the Cascade County Community Decay Program Director.
- (b) "Litter" means any quantity of uncontained or openly stored solid waste which may be classed as trash, debris, rubbish, refuse, garbage or junk, including but not limited to:
 - i. 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;
 - ii. old or scrap brass, rope, rags, batteries, paper, tires, cardboard, newspapers, plastic, concrete, glass, rubber, aluminum, iron, wire, steel and other old or scrap ferrous or non-ferrous material;
 - iii. discarded or broken furniture, fencing or building materials;
 - iv. junk vehicles as defined at MCA § 75-10-501(4), appliances, implements, machinery, fixtures or any component parts thereof.
- (d) "Uncontained" means not properly confined to a garbage can or dumpster and not covered with a properly fitting lid.
- (e) "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 plastic tarp material.

(f) “Person” means an individual, firm, partnership, company, association, corporation, city or town, or any other entity, whether organized for profit or not.

(g) “Violation” means littering by any person on any county road or other land, public or private, within the County. Each day the violation exists is a separately punishable offense.

Duties of private property owners

It shall be unlawful for an owner, lessee or occupant of private property to allow litter on his or her property. It shall also be unlawful for any person to scatter litter on public property, including county roads.

Powers and Duties of the Agency

2. The Agency has the following powers and authority:
 - (a) The power to inspect 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 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.
 - (d) The duty to provide the County Attorney with sufficient documentation to enable him or her to prosecute the violation as a misdemeanor.

Penalty

3. Any violation of the provisions of this ordinance shall constitute a misdemeanor punishable 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.

Jurisdictional Area

4. This ordinance applies to the whole of Cascade County with the exception of incorporated municipalities that have ordinance making powers.

Effective Date

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

Severability

6. 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.

PASSED on first reading this _____ day of _____ 2010, by the Board of County Commissioners, Cascade County, State of Montana.

Joe Briggs, Commissioner

Peggy Beltrone, Commissioner

Bill Salina, Commissioner

Attest

Rina Fontana Moore,
Cascade County Clerk and Recorder

PASSED on second and final reading this ___ day of _____ 2010, by the Board of County Commissioners, Cascade County, State of Montana.

Joe Briggs, Commissioner

Peggy Beltrone, Commissioner

Bill Salina, Commissioner

Attest

Rina Fontana Moore,
Cascade County Clerk and Recorder