

Chapter 28 – Offenses and Miscellaneous Provisions

Article I – In General

Article II – Litter Prevention

Section 28-1. – Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Court” means the Lincoln Parish Litter Court and/or any Justice of the Peace court in the parish and/or any Division of the 3rd Judicial District Court for the Parish of Lincoln.

“Dispose” shall mean to throw, discard, place, deposit, discharge, burn, dump, drop, eject, or allow the escape of a substance.

“Litter” shall mean all waste material except as provided and defined in R.S. 30:2173 (2), including but not limited to disposable packages, containers, sand, gravel, rubbish, cans, bottles, refuse, garbage, trash, debris, dead animals, furniture or appliances, automotive parts including but not limited to tires and engines, trailers, boats and boating accessories, tools and equipment, and building materials or discarded materials of any kind and description. Litter shall not include agricultural products that are being transported from the harvest or collection site to a processing or market site if reasonable measures are taken to prevent the agricultural product from leaving the transporting vehicles. Litter shall also not include recyclable cardboard being transported in compressed bundles to processing facilities. Agricultural products, as used in this definition, means all crops, livestock, poultry and forestry; and all aquacultural, floricultural, horticultural, silvicultural, and viticulture products.

“Local Governing Authority” shall mean the Lincoln Parish Police Jury.

“Parish” shall mean the jurisdictional area where the offense occurred.

“Public or private property” shall mean the right-of-way of any road or highway, levee, any body of water or watercourse or the shores or beaches

thereof, any park, playground, building refuge or conservational or recreational area, and residential or farm properties, timberlands or forests.

“Right-of-way” shall mean all of the property within the right-of-way of a public road or highway, including not only the road surface but also the shoulders, embankments, ditches and any other ground included within the limits of the actual right-of-way of such road.

Section 28-2. Purpose and Scope.

It is the purpose of this article and it is hereby declared to be the policy of the local governing authority to implement a comprehensive plan to regulate litter and to eliminate litter as much as possible in a manner that will:

- (1) Protect the public health, safety and welfare;**
- (2) Prevent land, water and air pollution;**
- (3) Prevent the spread of disease and the creation of nuisances;**
- (4) Conserve natural resources;**
- (5) Enhance the beauty and quality of the environment.**

Section 28-3. Simple Littering prohibited; penalties, special court costs.

- (a) Simple Littering. No person shall dispose of, or create a condition that the person knew or should have known was likely to result in the disposal of litter upon any public place in this parish, upon private property in this parish not owned by him, upon property located in a rural area in this parish not owned by him, or in the waters of this parish, whether from a vehicle or otherwise, including but not limited to any public highway, public right-of-way, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley.**
- (b) No person shall operate a motor vehicle on any highway or a boat on any waters of this parish in such a manner that the contents can blow or fall out of such vehicle or boat.**
- (c) If the litter herein as defined is disposed of from a motor vehicle, boat or conveyance, except a bus or large passenger vehicle or a school bus, all as**

defined by La. R.S. 32:11, there shall be an inference that the driver of the conveyance disposed of the litter. If such litter was possessed by a specific person immediately before the act of disposing, there shall be an inference that the possessor committed the act of disposing.

- (d) When litter disposed in violation of this section is discovered to contain any article or articles, including, but not limited to letters, bills, publications, or other writings that display the name of a person or in any other manner indicate that the article belongs or belonged to such person, there shall be an inference that such person has violated this section.
- (e) Whoever violates the provisions of this section shall be cited by means of a citation, summons, or other means provided by law and shall be subject to the following fines, fees and costs:
 - (1) For a first violation the offender shall be assessed a \$75.00 fine and shall perform 8 hours of community service in a litter abatement work program as approved by the court.
 - (2) For a second or subsequent violation, the offender shall be assessed a \$500.00 fine and shall perform 16 hours of community service in a litter abatement work program as approved by the court.
- (f) Special Court Costs. Any person found in violation of this section may be fined \$100.00 in lieu of other costs of court, which shall be disbursed as follows:
 - a. \$25.00 shall be paid to the judicial expense fund for the Third Judicial District Court or to the justice of the peace court as the case may be;
 - b. 25.00 shall be paid to the office of the District Attorney or to the Constable acting as the prosecutor, as the case may be;
 - c. \$25.00 shall be paid to the clerk of the justice of the peace;
 - d. \$25.00 shall be paid to the law enforcement agency that issued the citation.
- (g) Notwithstanding any provision to the contrary, this section shall not apply to any activity by persons owning or operating duly licensed commercial vehicles engaged in the collection and/or transportation of solid waste, construction or demolition debris or wood waste, as such terms are defined by the Department of Environmental Quality, occurring in the course of servicing scheduled pickup routes pursuant to commercial or

local government contracts or in route to an authorized pickup station, transfer station or disposal facility. To qualify for the exemption provided for in this subsection, the commercial vehicle shall be covered at all times, except during loading and unloading, in a manner that prevents waste from falling or blowing from the vehicle during transportation.

Section 28-4. Intentional Littering Prohibited; Criminal Penalties; Civil Penalties

- (a) No person shall intentionally dispose or permit the disposal of litter upon any public place in the parish, upon private property in the parish not owned by him, upon property located in rural areas in this parish not owned by him, or in or on the waters of this parish, whether from a vehicle or otherwise, including but not limited to any public highway, public right-of-way, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley, except when such property is designated by the local governing authority or any of its agencies or political subdivisions, for the disposal of such litter and such person is authorized to use such property for such purpose. The intentional disposal of litter stated above shall include, but not be limited to, the disposal of cigarettes, cigarette butts, cigars, cigarillos, or cigar or cigarillo tips.
- (b) If the litter disposed of is from a motor vehicle, boat or conveyance, except a bus or large passenger vehicle or a school bus, all as defined by La. R.S. 32:11, there shall be an inference that the driver of the conveyance disposed of the litter unless the driver can prove that another person disposed of the litter in accordance with the following:
- (1) Except as provided in subsection (b)(2) of this section, where the identity of the driver of the motor vehicle is not known, there shall be a legal presumption that the owner of the motor vehicle was the driver of the motor vehicle and the owner shall be solely liable for litter fines, fees and costs for the disposal of litter from the motor vehicle, unless the owner can prove that the motor vehicle was operated by another person at the time of the violation or that another person disposed of the litter.

- (2) An owner of a motor vehicle who is engaged in the business of renting or leasing motor vehicles under written rental or leasing agreements (lessor) shall not be liable for litter fines, fees or costs pursuant to subsection (b)(1) of this section, if, within 30 days after receiving the citation, the owner provides, in affidavit form, the true name, address, and driver's license number with the state of issuance of the lessee at the time of the offense described in the citation, or provides a true copy of the lease or rental agreement to the law enforcement agency issuing the citation.**
- (3) If the lessor complies with the above provision of subsection (b)(2) of this section, the lessee shall be cited for the litter violation.**
- (4) A lessor who fails to comply with the provisions of subsection (b)(2) of this section shall be treated as any other owner and shall be solely liable for litter fines, fees and costs for the disposal of litter from the motor vehicle.**
- (5) If an owner of a motor vehicle receives a citation during the period where the motor vehicle was reported to law enforcement a having been stolen, such citations shall be dismissed by the prosecutor.**
- (6) An owner or driver who pays litter fines, fees or costs pursuant to subsection (d) of this section shall have the right to recover same from the person who committed the act of littering by filing a civil suit outside the regulations contained in this division.**
- (c) When litter disposed in violation of this section is discovered to contain any article or articles, including, but not limited to letters, bills, publications, or other writings that display the name of a person or in any other manner indicate that the article belongs or belonged to such person, there shall be a presumption that such person has violated this section.**
- (d) Whoever violates the provisions of this subsection shall be cited by means of a citation, summons, or other means provided by law and shall be subject to the following fines, fees and costs:**

 - (1) For a first violation the offender shall be assessed a \$250.00 fine and shall perform 8 hours of community service in a litter abatement work program as approved by the court.**

- (2) For a second violation, the offender shall be assessed a \$500.00 fine and shall perform 16 hours of community service in a litter abatement work program as approved by the court.**
- (3) For a third or subsequent violation, the offender shall be assessed a \$1,250.00 fine, and perform 50 hours of community service in a litter abatement work program as approved by the court, or all or any combination of the above penalties provided by this subparagraph.**

(e) A person may be found liable and fined under this section, although the commission of the offense did not occur in the presence of a law enforcement officer if the evidence presented to the court exercising jurisdiction establishes that the defendant has committed the offense.

(f) For the purposes of this section, each occurrence shall constitute a separate violation.

(g) In addition to penalties otherwise provided a person held liable under this section shall:

(h) Repair or restore property damaged by or pay damages for any damages arising out of the violation of this section.

(i) Pay all reasonable investigative expenses and costs to the investigative agency or agencies.

(j) Pay all other reasonably related costs and expenses of any nature whatsoever incurred by the local governing authority, including but not limited to, administrative expenses, attorney fees, and all costs.

(k) Special Court Costs. Any person found in violation of this section may be fined \$100.00 in lieu of other costs of court, which shall be disbursed as follows:

- a. \$25.00 shall be paid to the judicial expense fund for the Third Judicial District Court or to the justice of the peace court as the case may be;**
- b. \$25.00 shall be paid to the office of the District Attorney or to the Constable acting as the prosecutor, as the case may be;**
- c. \$25.00 shall be paid to the clerk of the justice of the peace;**

d. \$25.00 shall be paid to the law enforcement agency that issued the citation.

(l) Notwithstanding any provision to the contrary, this section shall not apply to any activity by persons owning or operating duly licensed commercial vehicles engaged in the collection and/or transportation of solid waste, construction or demolition debris or wood waste, as such terms are defined by the Department of Environmental Quality, occurring in the course of servicing scheduled pickup routes pursuant to commercial or local government contracts or in route to an authorized pickup station, transfer station or disposal facility. To qualify for the exemption provided for in this subsection, the commercial vehicle shall be covered at all times, except during loading and unloading, in a manner that prevents waste from falling or blowing from the vehicle during transportation.

Section 28-4. Gross littering prohibited; criminal penalties; civil penalties

- (a) No person shall intentionally dispose or permit the disposal of any household or office furniture or appliances, automotive parts, including, but not limited to , tires and engines, trailers, boats and boating accessories, tools and equipment, building materials and bags or boxes of household or office garbage or refuse upon any public place in the parish, upon private property in the parish not owned by him, upon property located in rural areas in this parish not owned by him, or in or on the waters of the parish, whether from a vehicle or otherwise, including but not limited to any public highway, public right-of-way, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley, except when such property is designated by the local governing authority or any of its agencies or political subdivisions, for the disposal of such litter and such person is authorized to use such property for such purpose.
- (b) If the litter listed in subsection (a) is disposed of is from a motor vehicle, boat or conveyance, except a bus or large passenger vehicle or a school bus, all as defined by La. R.S. 32:11, there shall be an inference that the driver of the conveyance disposed of the litter. If

such litter was possessed by a specific person immediately before the act of disposing, there shall be an inference that the possessor committed the act of disposing. If there is photographic evidence of the license plate of a vehicle from which litter is disposed, there shall be an inference that the registered owner of the vehicle has violated this section.

(c) When litter disposed in violation of this section is discovered to contain any article or articles, including, but not limited to letters, bills, publications, or other writings that display the name of a person or in any other manner indicate that the article belongs or belonged to such person, there shall be an inference that such person has violated this section.

(d) Whoever violates the provisions of this section shall be cited by means of a citation, summons, or other means provided by law and shall be subject to the following fines, fees and costs:

(1) For a first violation the offender shall be assessed a \$500.00 fine and shall perform 8 hours of community service in a litter abatement work program as approved by the court, and may be imprisoned for not more than thirty (30) days. In addition to all other penalties under this paragraph, when the offence of gross littering involves the disposal of tires, the offender shall be fined \$1,800.00 and shall be responsible for the cost of removal, transportation, and processing of the tires.

(2) For a second violation, the offender shall be assessed a \$1,000.00 fine and shall perform 24 hours of community service in a litter abatement work program as approved by the court, and may be imprisoned for not more than thirty (30) days. In addition to all other penalties under this paragraph, when the offence of gross littering involves the disposal of tires, the offender shall be fined \$1,800.00 and shall be responsible for the cost of removal, transportation, and processing of the tires.

(3) For a third or subsequent violation, the offender shall be assessed a \$1,500.00 fine, have his motor vehicle license suspended for one year, be imprisoned for not more than thirty (30) days and perform 75 hours

of community service in a litter abatement work program as approved by the court, or all or any combination of the above penalties provided by this subsection. In addition to all other penalties under this paragraph, when the offence of gross littering involves the disposal of tires, the offender shall be fined \$1,800.00 and shall be responsible for the cost of removal, transportation, and processing of the tires.

(e) A person may be found liable and fined under this section, although the commission of the offense did not occur in the presence of a law enforcement officer if the evidence presented to the court exercising jurisdiction establishes that the defendant has committed the offense.

(f) For the purposes of this section, each occurrence shall constitute a separate violation.

(g) In addition to penalties otherwise provided a person held liable under this section shall:

(1) Repair or restore property damaged by or pay damages for any damages arising out of the violation of this section.

(2) Pay all reasonable investigative expenses and costs to the investigative agency or agencies.

(3) Pay all other reasonably related costs and expenses of any nature whatsoever incurred by the local governing authority, including but not limited to, administrative expenses, attorney fees, and all costs.

(h) Special Court Costs. Any person found in violation of this section may be fined \$100.00 in lieu of other costs of court, which shall be disbursed as follows:

(1) \$25.00 shall be paid to the judicial expense fund for the Third Judicial District Court or to the justice of the peace court as the case may be;

(2) \$25.00 shall be paid to the office of the District Attorney or to the Constable acting as the prosecutor, as the case may be;

(3) \$25.00 shall be paid to the clerk of the justice of the peace;

(4) \$25.00 shall be paid to the law enforcement agency that issued the citation.

Section 28-5. – Commercial littering prohibited; penalties; special court cost

(a) No person shall dispose or permit the disposal of litter from industrial, commercial, mining or agricultural operations in which the person has a financial interest upon any public place in the parish, upon private property in the parish not owned by him, upon property located in rural areas in this parish not owned by him, or in or on the waters of the parish, whether from a vehicle or otherwise, including but not limited to any public highway, public right-of-way, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley, except when such property is designated by the local governing authority or any of its agencies or political subdivisions, for the disposal of such litter and such person is authorized to use such property for such purpose.

(b) No person shall operate any truck or other vehicle in such a manner or condition that litter resulting from industrial, commercial, mining or agricultural operations in which the person is involved can blow or fall out of such vehicle or that mud from its tires can fall upon the roadway.

(c) If the litter herein as defined is disposed of is from a motor vehicle, boat or conveyance, except a bus or large passenger vehicle or a school bus, all as defined by La. R.S. 32:11, there shall be an inference that the driver of the conveyance disposed of the litter. If such litter was possessed by a specific person immediately before the act of disposing, there shall be an inference that the possessor committed the act of disposing.

(d) When litter disposed in violation of this section is discovered to contain any article or articles, including, but not limited to letters, bills, publications, or other writings that display the name of a person or in any other manner indicate that the article belongs or belonged to such person, there shall be an inference that such person has violated this section.

(e) A person shall be jointly and severally liable for the actions of its agents, officers and directors for any violation of this section by any agent, officer or director in the course and scope of his employment or duties.

- (f) Whoever violates the provisions of this section shall be cited by means of a citation, summons, or other means provided by law.**
- (g) Any person found liable under the provisions of this section shall:**
 - (1) Pay a civil penalty of \$250.00 the first time a person is found liable and up to \$1,000.00 for each subsequent offense.**
 - (2) Repair or restore property damaged by or pay damages for any damages arising out of the violation of this section.**
 - (3) Pay all reasonable investigative expenses and costs to the investigative agency or agencies.**
 - (4) Pay for cleanup of the litter unlawfully discarded by the defendant.**
- (h) Special Court Costs. Any person found in violation of this section may be fined \$100.00 in lieu of other costs of court, which shall be disbursed as follows:**
 - (1) \$25.00 shall be paid to the judicial expense fund for the Third Judicial District Court or to the justice of the peace court as the case may be;**
 - (2) \$25.00 shall be paid to the office of the District Attorney or to the Constable acting as the prosecutor, as the case may be;**
 - (3) \$25.00 shall be paid to the clerk of the justice of the peace;**
 - (4) \$25.00 shall be paid to the law enforcement agency that issued the citation.**
- (i) A person may be found liable and fined under this section, although the commission of the offense did not occur in the presence of a law enforcement officer if the evidence presented to the court exercising jurisdiction establishes that the defendant has committed the offense**
- (j) For the purposes of this section, each occurrence shall constitute a separate violation.**

Section 28-6. – Community Service litter abatement work program and indemnification.

(a) A court approved community service litter abatement program may be created by the local governing authority. Such program shall supervise persons ordered by the parish litter court or the state and local courts to perform

community service work collecting or removing litter or the court may utilize an existing community service litter abatement program of another public entity. If such program is not created, a fee schedule shall be established by the court having jurisdiction over the matter.

(b) If a community service program is established, a person who participates in a community service litter abatement work program shall have no cause of action for damages against the entity conducting the program or supervising his participation therein, nor against any employee or agent of such entity, for any injury or loss suffered by him during or arising out of his participation in the program, unless the injury or loss was caused by the intentional or grossly negligent act or omission of the entity or its employee or agent. The entity shall not be liable for any injury caused by the individual participating in the program, unless the gross negligence or intentional act of the entity or its employee or agent was a substantial factor in causing the injury. No provision hereof shall negate the requirement to provide an offender with necessary medical treatment as statutorily required.

Section 28-7. Collection of fines

(a) Litter fines are ordered collected and disbursed by the court. The offender will be provided a mailing address or the physical address of the court. Louisiana law dictates any court must have available to the offender a means to pay their fine with a credit/debit card.

Section 28-8. – Distribution of fines

(a) All fines collected by the parish litter court and/or justice of the peace courts for litter violations pursuant to the parish ordinance herein shall be paid to the parish pursuant to R.S. 30:2532. The parish shall reimburse the justice of the peace court which handles the litter violations for the time spent and expenses incurred pursuant to R.S. 13:2589(B). This reimbursement shall consist of fifty percent (50%) of the fines collected by the parish from the parish litter court and/or justice of the peace courts, after the required disbursements to the constables and/or applicable law enforcement agencies.

Section 28-9. – Jurisdiction and procedure; justice of the peace; constable.

(a) A justice of the peace shall have concurrent jurisdiction over the litter violations occurring in the parish in which the court is situated, which are prohibited by R.S. 30:2531 or any ordinance of a parish governing body providing for litter abatement or control that provides that the trial for the violation of any such ordinance may be in a justice of the peace court.

In addition, a constable may issue summons and serve subpoenas anywhere in the parish in which his court is situated.

(b) Prosecution of litter violations and compensation of a justice of the peace and constable shall be in accordance with R.S. 13:2587.1 and 13:2589.

Section 28-10. – Adopt-a-road Program.

(a) To fulfill the obligations and responsibilities assigned to it under R.S. 30:2521, the parish may develop a program to known a “adopt-a-road” whereby an individual, business or private civic organization may adopt a section of parish roadway for the sole purpose of controlling litter along that section of road. Included in the responsibilities of any business or private civic organization that chooses to participate in the program shall be the following:

- (1) Develop a functional plan to influence and encourage the public to improve the appearance of the road.**
- (2) Conduct a general clean-up of the area at least twice a year.**

Section 28-11. – Reimbursements to justice of the peace courts

All fines collected by the justice of the peace courts for litter violations pursuant to R.S. 25:1101 et seq. shall be paid to the parish pursuant to R.S. 25:1112. The parish shall reimburse the justice of the peace court which handles the litter violations for the time spent and expenses incurred pursuant

to R.S. 13:2589(B). This reimbursement shall consist of fifty (50) percent of the fines collected by the parish from justice of the peace courts.