

Attachment A

ORDINANCE NO.

ORDINANCE ADDING CHAPTER 7.26 TO
THE SANTA CRUZ COUNTY CODE RELATING
TO ILLEGAL DUMPING

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

The Santa Cruz County Code is hereby amended by adding new Chapter 7.26 to read as follows:

CHAPTER 7.26
ILLEGAL DUMPING

7.26.010. Purpose.

7.26.020. Definitions.

7.26.030. Unlawful and unauthorized dumping.

7.26.040. Dumping at County Waste Facilities.

7.26.050. Enforcement Actions.

7.26.10. Purpose.

- A. The Board of Supervisors has determined that illegal dumping is a serious concern that endangers the public health and safety within the unincorporated areas of Santa Cruz County.
- B. The Board of Supervisors has further determined that persons who commit the act of illegal dumping damage neighborhoods and the environment. The results of illegal dumping can be severe. The blight, decay and unhealthful conditions created by illegal dumping negatively impact the quality of life of County residents and lead to diminished property values. Illegally dumped waste quickly becomes hazardous to the environment. Tires, refrigerators, household hazardous materials, television and auto parts often contain toxins. Mice, rats and mosquitoes make illegally dumped waste their breeding habitat. These vectors can spread diseases such as West Nile virus, malaria, encephalitis and Lyme disease. The Board of Supervisors finds that there is a need to provide for the deterrence of illegal dumping. The Board of Supervisors has further determined that anyone caught committing the act of illegal dumping faces citation and legal penalties.

C. The procedures contained in this Chapter for the citation and penalization of persons caught committing the act of illegal dumping are expressly intended as a deterrent and remedy to further the abatement of illegal dumping; to protect residents and the public at large from harm to their health, safety and welfare; to avoid destruction and injury to lives and property; and to compensate the County for damages incurred as a result of the occurrence of the nuisance activities. Examples of such damages are the costs of cleaning up illegal dump sites and diverting limited public agency resources to address the nuisance activities through direct enforcement or other programs designed to prevent illegal dumping.

7.26.20. Definitions.

For the purposes of this Article, the following words and phrases are defined and shall be construed as hereinafter set out, unless it shall be apparent from the context that they have a different meaning:

- A. "Enforcement Officer " means a representative of any County Department authorized by the Director of Public Works to enforce the provisions of this Chapter by issuing citations, but who is not authorized to arrest violators.
- B. "Illegal Dumping" means the willful throwing, dropping, placing or depositing of any waste matter, bulky item, hazardous waste, solid waste or liquid waste on any public or private property in the unincorporated area of the County that is not approved and appropriately permitted as a disposal site for the disposal of the type of waste matter thrown, dropped, placed or deposited at the site.
- C. "Person" means an individual, association, co-partnership, political subdivision, government agency, municipality, industry, public or private corporation, firm, organization, partnership, joint venture or any other entity whatsoever.
- D. "Premises" includes the property, easements abutting sidewalks, alleyways and the untraveled portion of an abutting public street.
- E. "Permitted solid waste hauler" means any person who engages in the business of collecting and removing garbage and refuse and who has been issued a license or franchise pursuant to Chapter 7.20 of this Code.
- F. "Waste Matter" means any form of physical matter described by the following:
 - 1. "Bulky Item" means any discarded furniture, home or industrial appliance or abandoned vehicle or any part of an abandoned vehicle.
 - 2. "Solid Waste" means all putrescible and non-putrescible solid, semisolid and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, dewatered, treated or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes.

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- 3. "Hazardous Waste" means any waste as defined in Health and Safety Code § 25117, or as the statute may be amended or reenacted.
- 4. "Household Medical Waste" means any home generated waste that was used in the treatment of human beings or animals and is either biohazardous or sharps waste as defined in the Health and Safety Code.
- 5. "Liquid Waste" means all forms of liquid waste not otherwise defined in or otherwise deemed to fall within the coverage afforded by Health and Safety Code § 25117; including but not limited to gray water, black water, water-based or oil-based paints; chemical solutions; non-potable water contaminated with any substance rendering it unusable for irrigation or construction; oils, fuels, hydrocarbon liquids, and other petroleum distillates or by-products.

7.26.030. Unlawful and unauthorized dumping.

A. Any person who:

- 1. Fails to arrange for the lawful disposal of solid waste generated on property which that person owns, occupies or is the person responsible for day-to-day operations thereof, for example, an owner of residential rental property, who fails to comply with Santa Cruz County Code section 7.21, Recycling and Solid Waste Universal Service, including failing to maintain a continuous subscription for regular refuse removal by a licensed refuse hauler when said property is occupied and/or using unlicensed refuse haulers to dispose of solid waste; or
- 2. Causes, maintains or permits the illegal dumping of solid waste within the County in any manner that violates the provisions of this Chapter; or
- 3. Causes or permits the illegal dumping of solid waste on the right-of-way of any public highway, street, easement or thoroughfare, or upon any camping place or public grounds, or on any premises, or in any container, without the permission of the owner thereof, or into any stream or dry watercourse, within the County of Santa Cruz, State of California, and outside of the incorporated cities; or
- 4. Causes, maintains or permits the accumulation of solid waste which creates an unsanitary condition or permits or encourages the accumulation or breeding of vectors, or causes, maintains or permits solid waste to be placed in a container other than provided in this Chapter is guilty of a misdemeanor and may be punished as provided in Section 1.12.030 of this Code. Such person is also subject to the administrative citation procedures set forth in Chapter 1.13, Administrative Citations, the abatement procedures set forth in Chapter 1.14 of this Code, as well as any other remedy provided by law. The Director of the Department of Public Works, or his/ her designee, is responsible for the enforcement of this Chapter and shall act as the "Enforcement Officer" for purposes of Chapter 1.13 for the enforcement of this Chapter.

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- B. Any condition which is a direct -result of any of the acts/omissions set forth in Subsection (A) of this Section is hereby deemed to be a public nuisance subject to the abatement procedures set forth in this Chapter, as well as any other remedy provided by law.
- C. In a criminal proceeding alleging a violation of Subsection (A) of this Section, upon a prima facie showing by the prosecution that a person's items, solid waste or property have been found in any location where it is unlawful to dispose of solid waste, under circumstances which would lead a reasonable trier of fact to conclude that the items had previously been discarded in that location, or that surveillance data collected under any lawful surveillance program undertaken by the County would lead a reasonable trier of fact to conclude that the person has caused the dumping of solid waste in violation of this Chapter, shall constitute a permissible inference that the person is guilty of a violation of Subsection (A) of this Section.
- D. For purposes of conducting any administrative hearing under this Article, the presence of at least two (2) pieces of addressed mail or other identifying information in the dumped material shall be deemed to create a rebuttable presumption that the person so identified is responsible for the dumped material and is subject to the penalties and remedies provided for in this chapter.
- E. In the event of a conviction of a violation of Subsection (A) of this Section and under appropriate circumstances, the court shall order the defendant to pay restitution to any public entity and/or private party which and/or whom has incurred out-of-pocket expenses as a result of cleaning up the premises used as an unlawful dump site, as a rehabilitative measure, in addition to any penalty imposed.

7.26.040. Dumping at County Waste Facilities.

- A. It is unlawful for any person to place, deposit or dump or cause to be placed, deposited or dumped any material at any waste facility:
 - 1. Without first paying the fees prescribed by the Board of Supervisors; or
 - 2. In violation of the rules and regulations prescribed by the Board of Supervisors for the operation of the waste facility. A copy of the fee schedule and the rules and regulations governing the waste facility shall be on file at the Department of Public Works and the Clerk of the Board and shall be open to inspection by the public.

7.26.050. Enforcement Actions.

- A. Whenever he or she becomes aware that any act or omission constituting a violation of this Chapter has occurred, the Enforcement Officer may:
 - 1. Issue an Administrative Citation pursuant to Chapter 1.13 of this Code, finding that a person or persons is/are responsible for a violation of this Chapter; and/or

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- 2. Order the abatement, as a public nuisance, of any condition which is a direct result of a violation of this Chapter, or, if, in the opinion of the Enforcement Officer, the nuisance constitutes an immediate threat to public health or safety, summarily abate the nuisance, pursuant to Chapter 1.14 of this Code; and/or
 - 3. Request that the District Attorney or County Counsel immediately seek relief as may be necessary or appropriate from a court of competent jurisdiction. Said court, upon finding_ that there is, or that the conditions complained of may present an endangerment to the public health, welfare, the environment or natural resources arising out of or resulting from such nuisance, in whole or in part, shall grant relief to abate the nuisance as is consistent with the relevant requirements of this Chapter and the public interest to secure adequate protection of the public health, welfare, the environment or natural resources.
- B. At his/ her discretion, the Enforcement Officer may both issue administrative/abatement order(s) and request that the district attorney or County Counsel seek such relief as may be necessary or appropriate from a court of competent jurisdiction pursuant to this Section 7.25.050.
- C. This Chapter is not intended to be utilized as the exclusive enforcement mechanism for the unlawful dumping of refuse. This Chapter is intended to be remedial in nature and to supplement and to be utilized in addition to other regulatory and enforcement codes, criminal and other statutes and ordinances heretofore or hereafter enacted by the County, the State or any other legal entity or agency having jurisdiction.

SECTION II

The provisions of this Chapter are hereby declared to be severable and if any sentence, clause, section or part hereof is held to be unlawful or unconstitutional, it is the intent of the Board of Supervisors that such portion of such Chapter be severable from the remainder, and that the remainder be given full force and effect.

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SECTION III

This ordinance shall take effect on the 31st day after the date of final passage.

PASSED AND ADOPTED this ____ day of _____, 2016, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

Attest: _____
Clerk of the Board

Chairperson of the
Board of Supervisors

Approved as to form:


Assistant County Counsel

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