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Ordinance No. 4367

An ordinance of the County of San Bernardino, State of California, repealing Chapter 2 of Division 7 of Title 3 and adding Chapter 8 of Division 8 of Title 2 of the San Bernardino County Code, relating to littering and illegal dumping.

The Board of Supervisors of the County of San Bernardino, State of California, ordains as follows:

SECTION 1. Chapter 2 of Division 7 of Title 3 of the San Bernardino County Code is repealed.

SECTION 2. Chapter 8 is added to Division 8 of Title 2 of the San Bernardino County Code, to read:

CHAPTER 8: LITTERING AND ILLEGAL DUMPING

Section

- 28.0801 Purpose.
- 28.0802 Definitions.
- 28.0803 Authority.
- 28.0804 Littering and Illegal Dumping.
- 28.0805 Criminal Penalties.
- 28.0806 Powers of an Illegal Dumping Enforcement Officer or Code Enforcement Officer.
- 28.0807 Civil actions.
- 28.0808 Administrative Citations and Penalties.
- 28.0809 Severability.

28.0801 Purpose.

- (a) The Board of Supervisors has determined that littering and illegal dumping

are serious concerns that endanger the public health and safety within the unincorporated areas of San Bernardino County.

(b) The Board of Supervisors has further determined that persons who commit the act of littering or illegal dumping damage neighborhoods and the environment. The results of littering or illegal dumping can be severe. The blight, decay and unhealthful conditions created by littering and 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. Littering frequently becomes a public nuisance. The Board of Supervisors finds that there is a need to provide additional deterrents to littering and illegal dumping. The Board of Supervisors has further determined that anyone caught committing the act of littering or illegal dumping faces citation and arrest or administrative or civil enforcement actions.

(c) The procedures contained in this chapter for the citation and arrest of, or administrative or civil action against, persons caught committing the act of littering or illegal dumping are expressly intended as a deterrent and remedy to further the abatement of littering and 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 litter and illegal dump sites and diverting limited public agency resources to address the nuisance activities through direct enforcement or other programs designed to prevent littering and illegal dumping.

28.0802 Definitions.

For the purposes of this chapter, the following definitions shall apply unless the

context clearly indicates or requires a different meaning.

“Citation officer” means a representative of any County department authorized by the San Bernardino County Board of Supervisors to enforce the provisions of this chapter under Section 28.0803 by issuing citations, but who is not authorized to arrest violators.

“Commercial quantities” means any amount of waste matter generated in the course of a trade, business, profession, or occupation, or an amount of waste matter equal to or in excess of one cubic yard.

“Cubic yard” means the volume of a cube with all sides being one yard (three feet/36 inches) in length.

“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.

“Illegal dumping enforcement officer” or “code enforcement officer” means a citation officer or code enforcement officer who is also defined and authorized under Penal Code section 830.7(j), to arrest illegal dumpers and litterers to the extent necessary to enforce laws related to illegal waste dumping or littering pursuant to this chapter. An illegal dumping officer or code enforcement officer is a public officer. An illegal dumping officer or code enforcement officer shall be appointed by the Director of the Land Use Services Department.

“Litter” and “littering” means the discarding, dropping, or scattering of small quantities of waste matter ordinarily carried on or about the person or the person’s non-commercial vehicle, including, but not limited to, beverage containers and closures, packaging, wrappers, wastepaper, newspapers, cigarette butts, and magazines, in a place other than a place or container for the proper disposal thereof, and including waste matter that escapes or is allowed to escape from a container, receptacle,

package, or vehicle.

“Nuisance” has the same meaning as set forth in Civil Code section 3479.

“Person” means an individual, trust, firm, partnership, joint stock company, joint venture, or corporation.

“Public agency” means any County department and any federal, state, or local agency.

“Waste matter” means any form of physical matter described by the following:

(1) “Bulking 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.

(3) “Hazardous waste” means any waste as defined in the Health and Safety Code section 25117, or as the statute may be amended or reenacted.

(4) “Liquid waste” means all forms of liquid waste not otherwise defined in or otherwise deemed to fall within the coverage afforded by the Health and Safety Code section 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.

28.0803 Authority.

Pursuant to the authority cited in Chapter 2 of Division 1 of Title 1 of the County Code and other relevant state law, the Board of Supervisors authorizes the following County departments and divisions to enforce the provisions of this chapter: Land Use Services Department, Environmental Health Services Department, County Fire Protection District, County Sheriff’s Department, and Solid Waste Management Division.

28.0804 Littering and Illegal Dumping.

(a) Any person who illegally dumps waste matter, or causes, maintains and/or permits waste matter to be illegally dumped, shall be guilty of an infraction or a misdemeanor and such action shall be punishable as an infraction or a misdemeanor.

(b) Any person who illegally dumps commercial quantities of waste matter, or causes, maintains and/or permits the illegal dumping of commercial quantities of waste matter, shall be guilty of a misdemeanor.

(c) Any person who litters, or causes, maintains, and/or permits littering in or upon public or private property shall be guilty an infraction or a misdemeanor and such action shall be punishable as an infraction or a misdemeanor.

(d) Any of the acts prohibited by this section shall also be deemed to be a public nuisance subject to the enforcement and abatement procedures set forth in Chapter 3 of Division 3 of Title 3 of this Code.

28.0805 Criminal Penalties.

(a) Any person convicted of an infraction for littering or illegal dumping in violation of this chapter shall be punished by a fine of \$100.00 upon a first conviction, a fine of \$200.00 for a second conviction, and a fine of \$500.00 upon a third or subsequent conviction.

(b) Any person convicted of a misdemeanor for littering or illegal dumping in violation of this chapter shall be punished by a fine of up to \$1,000.00 upon a first conviction, by a mandatory fine of not less than \$250 and up to \$1,500.00 for a second conviction, and by a mandatory fine of not less than \$500 and up to \$3,000.00 upon a third or subsequent conviction, or by imprisonment in the County jail for not more than six months and by a fine.

(c) Any person convicted of a misdemeanor for illegal dumping of commercial quantities of waste matter in relation to this chapter shall be punished by a mandatory fine of not less than \$500.00 and not to exceed \$3,000.00 upon a first conviction, by a mandatory fine of not less than \$500.00 and not to exceed \$6,000.00 upon a second

conviction, and a mandatory fine of not less than \$500.00 and not to exceed \$10,000.00 or imprisonment in the County jail for a period of not more than six months or by both fine and imprisonment upon a third or subsequent conviction.

(d) Each and every day that the litter or waste matter illegally dumped in violation of this chapter remains in place and unabated (that is, not properly removed and the area properly cleaned up) is a separate and distinct violation of this chapter.

(e) In addition to any fine imposed upon a conviction of an infraction or misdemeanor under this chapter, the court shall require that the person convicted under this chapter pay the reasonable cost of removing any litter or waste matter that the convicted person dumped, and/or caused to be dumped and/or maintained.

(f) The court may, in addition to the fine imposed upon a conviction, require as a condition of probation, in addition to any other condition of probation, that any person convicted of a violation of this section pick up litter or waste matter at a time and place within the jurisdiction of the court for not less than eight hours.

28.0806 Powers of an Illegal Dumping Enforcement Officer or Code Enforcement Officer.

An illegal dumping enforcement officer or code enforcement officer may exercise the powers of arrest granted to him or her, provided that all of the necessary provisions of Penal Code section 830.7(j) have been met vesting them with the authority to arrest litterers or illegal dumpers.

28.0807 Civil Actions.

All violations of this chapter may be subject to enforcement through the initiation of a civil action in accordance with this section and in the same manner and under the same authority as provided at Section 11.0207 of the County Code.

28.0808 Administrative Citations and Penalties.

As an alternative to the criminal or civil enforcement of this chapter, all violations of this chapter may be subject to enforcement through the use of administrative citations in accordance with Government Code section 53069.4 and this section, and in the same

manner and under the same authority as provided in Section 11.0208 of the County Code. The remedies are cumulative and discretionary, not exclusive.

28.0809 Severability.

If any provision of this chapter is found to be invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

SECTION 3. This ordinance shall take effect thirty (30) days from the date of adoption.

CURT HAGMAN, Chairman
Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD

LYNNA MONELL, Clerk of the
Board of Supervisors

1 STATE OF CALIFORNIA)
2) ss.
3 COUNTY OF SAN BERNARDINO)

4 I, LYNNA MONELL, Clerk of the Board of Supervisors of the County of San
5 Bernardino, State of California, hereby certify that at a regular meeting of the Board of
6 Supervisors of said County and State, held on the 20th day of August, 2019, at which
7 meeting were present Supervisors: Janice Rutherford, Dawn Rowe, Curt Hagman, Josie
8 Gonzales, and the Clerk, the foregoing ordinance was passed and adopted by the
9 following vote, to wit:

10 AYES: SUPERVISORS: Janice Rutherford, Dawn Rowe, Curt Hagman
11 Josie Gonzales

12 NOES: SUPERVISORS: None

13 ABSENT: SUPERVISORS: Robert A. Lovingood

14 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official
15 seal of the Board of Supervisors this 20th day of August, 2019.

16 LYNNA MONELL, Clerk of the
17 Board of Supervisors of the
18 County of San Bernardino,
19 State of California

20 _____
21 Deputy

22 Approved as to Form:

23 MICHELLE D. BLAKEMORE
24 County Counsel

25 By: _____
26 KENNETH C. HARDY
27 Supervising Deputy County Counsel

28 Date: _____