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 Chapter 2 of Division 7 of Title 3 of the San Bernardino County Code is repealed.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

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

3 (b) The Board of Supervisors has further determined that persons who
4 commit the act of littering or illegal dumping damage neighborhoods and the
5 environment. The results of littering or illegal dumping can be severe. The blight,
6 decay and unhealthful conditions created by littering and illegal dumping negatively
7 impact the quality of life of County residents and lead to diminished property values.
8 Illegally dumped waste quickly becomes hazardous to the environment. Tires,
9 refrigerators, household hazardous materials, television and auto parts often contain
10 toxins. Mice, rats and mosquitoes make illegally dumped waste their breeding habitat.
11 These vectors can spread diseases such as West Nile virus, malaria, encephalitis and
12 Lyme disease. Littering frequently becomes a public nuisance. The Board of
13 Supervisors finds that there is a need to provide additional deterrents to littering and
14 illegal dumping. The Board of Supervisors has further determined that anyone caught
15 committing the act of littering or illegal dumping faces citation and arrest or
16 administrative or civil enforcement actions.

17 (c) The procedures contained in this chapter for the citation and arrest of, or
18 administrative or civil action against, persons caught committing the act of littering or
19 illegal dumping are expressly intended as a deterrent and remedy to further the
20 abatement of littering and illegal dumping; to protect residents and the public at large
21 from harm to their health, safety and welfare; to avoid destruction and injury to lives and
22 property; and to compensate the County for damages incurred as a result of the
23 occurrence of the nuisance activities. Examples of such damages are the costs of
24 cleaning up litter and illegal dump sites and diverting limited public agency resources to
25 address the nuisance activities through direct enforcement or other programs designed
26 to prevent littering and illegal dumping.

27 **28.0802 Definitions.**

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

1 context clearly indicates or requires a different meaning.

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

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

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

11 "Illegal dumping" means the willful throwing, dropping, placing or depositing of
12 any waste matter, bulky item, hazardous waste, solid waste or liquid waste on any
13 public or private property in the unincorporated area of the County that is not approved
14 and appropriately permitted as a disposal site for the disposal of the type of waste
15 matter thrown, dropped, placed or deposited at the site.

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

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

1 package, or vehicle.

2 "Nuisance" has the same meaning as set forth in Civil Code section 3479.

3 "Person" means an individual, trust, firm, partnership, joint stock company, joint
4 venture, or corporation.

5 "Public agency" means any County department and any federal, state, or local
6 agency.

7 "Waste matter" means any form of physical matter described by the following:

8 (1) "Bulking item" means any discarded furniture, home or industrial
9 appliance or abandoned vehicle or any part of an abandoned vehicle.

10 (2) "Solid waste" means all putrescible and non-putrescible solid,
11 semisolid and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes,
12 industrial wastes, demolition and construction wastes, dewatered, treated or chemically
13 fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid
14 and semisolid wastes, and other discarded solid and semisolid wastes.

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

17 (4) "Liquid waste" means all forms of liquid waste not otherwise defined
18 in or otherwise deemed to fall within the coverage afforded by the Health and Safety
19 Code section 25117; including but not limited to gray water, black water, water-based or
20 oil-based paints; chemical solutions; non-potable water contaminated with any
21 substance rendering it unusable for irrigation or construction; oils, fuels, hydrocarbon
22 liquids, and other petroleum distillates or by-products.

23 **28.0803 Authority.**

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

1 **28.0804 Littering and Illegal Dumping.**

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

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

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

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

14 **28.0805 Criminal Penalties.**

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

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

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

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

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

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

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

15 **28.0806 Powers of an Illegal Dumping Enforcement Officer or Code**
16 **Enforcement Officer.**

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

21 **28.0807 Civil Actions.**

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

25 **28.0808 Administrative Citations and Penalties.**

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

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

3 **28.0809 Severability.**

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

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

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11 _____
12 CURT HAGMAN, Chairman
13 Board of Supervisors

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

16 LYNNA MONELL, Clerk of the
17 Board of Supervisors
18 
19 _____

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:

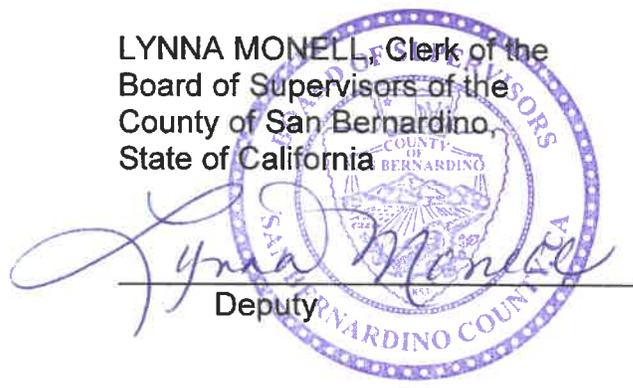
10 AYES: SUPERVISORS: Janice Rutherford, Dawn Rowe, Curt Hagman
11 Josie Gonzales

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.

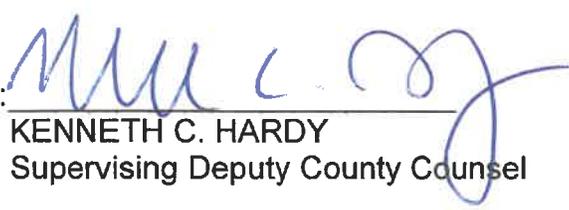
16 LYNNA MONELL, Clerk of the
17 Board of Supervisors of the
18 County of San Bernardino,
19 State of California



20 Deputy

21 Approved as to Form:

22 MICHELLE D. BLAKEMORE
23 County Counsel

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

27 Date: 8/2/19

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