

ORDINANCE NO. 04756

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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**ORDINANCE ADDING CHAPTER 3.50 ILLEGAL DUMPING AND LITTERING, TO
TITLE 3 OF THE SAN MATEO COUNTY ORDINANCE CODE**

SECTION 1. FINDINGS. The Board of Supervisors of the County of San Mateo hereby finds and declares as follows:

WHEREAS, certain unincorporated areas within the County suffer from illegally dumped waste on both public and private property; and

WHEREAS, illegal dumping frequently causes significant blight and can pose health concerns which are inconsistent with the County's vision for healthy, livable, and environmentally-conscious communities;

WHEREAS, a failure to address illegal dumping often leads to more illegal dumping and other crimes, negatively impacts neighborhoods, reduces property values, and presents significant health and safety issues for residents;

WHEREAS, the remedies and penalties for illegal dumping are currently inadequate to discourage acts of illegal dumping; and

WHEREAS, in order to discourage illegal dumping, administrative and civil penalties should be streamlined and enhanced.

NOW, THEREFORE, the Board of Supervisors hereby **ORDAINS** as follows:

SECTION 2. Chapter 3.50, consisting of Sections 3.50.010 through 3.50.130 is hereby added to Title 3 of the San Mateo County Ordinance Code to read, in its entirety, as follows:

CHAPTER 3.50 – ILLEGAL DUMPING AND LITTERING.

3.50.010 –Purposes.

The purpose and intent of this Chapter is to protect public and private property from illegal dumping by streamlining and enhancing the tools and remedies available to address and discourage such acts.

3.50.020 – Definitions.

The following terms are defined for use in this Chapter.

- A. “Appliance” means a large electronic or gas appliance such as a stove, refrigerator, microwave, water heater, or furnace.
- B. “Commercial Quantity” 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.
- C. “Costs” means and includes, without limitation, court costs, attorneys’ fees, costs of removal and disposal of Illegally Dumped Waste Matter, costs of investigating the incident and enforcing this Chapter 3.50 with respect to an incident of Illegal Dumping or Littering, and costs of identifying the person(s) who cause or commit Illegal Dumping or Littering.
- D. “Electronic Waste” means computers, computer monitors, tablets, televisions, audio equipment, video equipment, small appliances such as coffee makers, microwaves, vacuum cleaners and any other electronic equipment that is required to be specially disposed of pursuant to California state law.

- E. "Harmful Waste Matter" means a hazardous substance as defined in Section 374.8 of the California Penal Code and in Chapter 4.92 of this Code.
- F. "Household Furniture" means large furniture, such as a table, armoire, dresser, or similar sized furniture.
- G. "Illegal Dumping" means the willful, intentional, or negligent depositing, dropping, dumping, placing, or throwing of any Waste Matter onto public or private property that is not expressly designated for the purpose of disposal of Waste Matter. Illegal Dumping does not include Littering as defined below.
- H. "Littering" means the willful, intentional, or negligent discarding onto public or private property of small quantities of Waste Matter related to consumer goods and that are reasonably understood to be ordinarily carried on or about the body of a living person, including, without limitation, beverage containers, packaging, wrappers, wastepaper, receipts, cardboard, newspaper, magazines, cigarette butts, used gum, or similar Waste Matter that escapes or is allowed to escape from a container, receptacle, or package.
- I. "Universal Waste" means lamps, batteries, mercury-containing devices, and lighting ballasts.
- J. "Upholstered Furniture" means furniture that is covered by soft, padded textile, leather, vinyl, or similar covering, such as couches, sofas, and armchairs.
- K. "Waste Matter" means any form of tangible matter including, without limitation, any of the following:
 - 1. All forms of garbage, refuse, trash, junk, debris, recyclable materials, and solid waste.

2. Dirt, rock, soil, gravel, sand, compost of any form, wood chips or mulch, tree debris, grass clippings, or other aggregate material dumped or deposited as refuse.
3. Abandoned or discarded furniture and children's toys and accessories.
4. Construction materials, machinery, structures, or containers.
5. All forms of liquid waste not otherwise defined or deemed to fall within the purview of Section 25117 of the California Health and Safety Code, including, without limitation, paints, chemical solutions, and contaminated water.
6. Any form of biological waste not otherwise designated by law as hazardous waste.

3.50.030 – Illegal Dumping and Littering Unlawful.

- A. It is unlawful and a violation of this Code and this Chapter for any person to Illegally Dump Waste Matter, or to cause Waste Matter to be disposed of in a manner not otherwise authorized by this Code or State or Federal law.
- B. It is unlawful and a violation of this Code and this Chapter for any person owning or otherwise in possession or control of any real property within the County to permit or allow Waste Matter from such property to be Illegally Dumped.
- C. It is unlawful and a violation of this Code and this Chapter for any person to Litter or to cause Littering.
- D. A violation of this Chapter shall be subject to enforcement through criminal prosecution, civil action, administrative citation, and civil penalties, as provided herein.

3.50.040 – Illegal Dumping and Littering Are Public Nuisances.

The Board of Supervisors hereby declares and finds that Illegal Dumping and Littering are each public nuisances subject to abatement, remedies, and penalties according to the provisions and procedures contained in this Code and this Chapter.

3.50.050 – Criminal Penalties Available for Illegal Dumping.

- A. Illegal Dumping is a misdemeanor. Illegal Dumping is a misdemeanor violation of this Code and this Chapter, in addition to any California Penal Code violations and any administrative or civil penalties that may apply to such Illegal Dumping.
- B. Littering is an infraction. Littering is an infraction violation of this Code and this Chapter, in addition to any California Penal Code violations and any administrative or civil penalties that may apply to such Littering.

3.50.060 – Administrative Remedies for Illegal Dumping.

- A. Administrative Citations. Except in cases of Major Violations, as defined below in this Section 3.50.060, Illegal Dumping and Littering are subject to the administrative remedies set forth in Chapter 1.40 of this Code.
- B. Major Violations.
 - 1. The following are considered Major Violations: (1) where the Illegal Dumping involves a Commercial Quantity, Harmful Waste Matter, a mattress, tires, Household Furniture, Upholstered Furniture, an Appliance, Universal Waste, or Electronic Waste; or (2) where a person receives more than three administrative citations within a one-year period, the next instance of Illegal Dumping by that person will be deemed a Major Violation.

2. A person who commits a Major Violation shall be cited and given notice to remove the Illegally Dumped Waste Material from the public or private property. If the person found to commit a Major Violation fails to remove the Illegally Dumped Waste Material from the public or private property within 24 hours after receiving notice as specified below in Section 3.50.060(B)(3), the person shall be subject to an administrative penalty of \$3,000.00.
 3. Notice of a Major Violation shall contain the following information:
 - (a) the date of the Major Violation and any previous administrative citations for Illegal Dumping or Littering issued within the preceding one-year period to the person receiving the notice of Major Violation;
 - (b) a description of the Illegally Dumped Waste Material constituting the Major Violation;
 - (c) the address or a definite description of where the Major Violation occurred; and
 - (d) evidence identifying the person receiving the notice as the person responsible for the Major Violation. Notice of the Major Violation shall be provided by personal delivery to the person being notified.
 4. Any person receiving notice of a Major Violation may request an appeal hearing pursuant to the process provided in Chapter 1.40 of this Code.
- C. Separate Violations. The following are considered separate instances of Illegal Dumping or Littering, each of which is subject to the above remedies:
1. Each individual mattress, Appliance, item of Electronic Waste, item of Household Furniture, item of Upholstered Furniture, item of Universal Waste, or item of Harmful Waste Matter Illegally Dumped is a separate Major Violation. For example, Illegally Dumping both a mattress and an Appliance would constitute two (2) separate Major Violations, each of which is subject to the above \$3,000.00 administrative penalty.

2. Each cubic yard of Waste Matter Illegally Dumped is a separate Major Violation. For example, Illegally Dumping two (2) cubic yards of Waste Matter would constitute two (2) separate Major Violations, each of which is subject to the above \$3,000.00 administrative penalty.
3. A Commercial Quantity of Waste Matter Illegally Dumped which also contains Harmful Waste Matter, a mattress, an Appliance, Upholstered Furniture, Household Furniture, or Electronic Waste may be cited both as a Commercial Quantity and separately as Harmful Waste Matter, a mattress, an Appliance, Universal Waste, Upholstered Furniture, Household Furniture, or Electronic Waste, and each constitutes a separate Major Violation. For example, Illegally Dumping an Appliance which measures more than a cubic yard would constitute two (2) separate Major Violations, each of which is subject to the above \$3,000.00 administrative penalty.
4. Each individual act of Illegal Dumping or Littering at the same location is a separate violation.
5. Each day an act of Illegal Dumping or Littering continues unabated is a separate violation.

3.050.070 – Recovery of Penalties

The County may collect any past due administrative penalty by use of any and all available legal means, including, without limitation, as personal obligation or as a lien or special assessment recorded against any real property owned by the person(s) found to have committed an act of Illegal Dumping or Littering.

3.50.080 – Civil Remedies for Illegal Dumping and Littering.

County Counsel may bring a civil action against any person found to have committed an act of Illegal Dumping or Littering. In the civil

action, County Counsel may pursue all available remedies authorized by law and may seek to recover all Costs related to the Illegal Dumping or Littering.

3.50.090 – Joint and Several Liability.

Each person who participates in an act of Illegal Dumping is jointly and severally liable with any other person who participates for all citations, Major Violations, fines, penalties, damages, and Costs related to that act of Illegal Dumping.

3.50.100 – Liability of Owner or Operator of Motor Vehicle Used in Illegal Dumping.

To the extent permitted by law, an owner or operator of a motor vehicle is liable and responsible for all citations, Major Violations, fines, penalties, damages, and Costs related to an act of Illegal Dumping when the owner's vehicle is used in connection with any act of Illegal Dumping with the express or implied permission of the owner or operator.

3.50.110 – Responsibility of Lessor for Property of Lessee Illegally Dumped Following Vacation of Unit.

A real property owner who rents commercial or residential property is responsible for the property of a tenant which was removed from the tenant's unit and Illegally Dumped. If the tenant's property is removed from the tenant's unit by the real property owner, anyone acting on behalf of the property owner, or an eviction or other process, the property owner must ensure the tenant's property is either retained for the tenant or properly disposed of in accordance with law. If the tenant's property is Illegally Dumped in front of the tenant's former unit, adjacent properties, or the public right-away, the real property owner must ensure the tenant's property is properly disposed of in accordance with the law. If the tenant's

property is Illegally Dumped at a different location, the real property owner must provide the tenant's forwarding information if it is within the real property owner's knowledge.

3.50.120 – Development of Community Service Program In Lieu of Fine.

The County Manager is authorized to develop an Illegal Dumping and Litter Community Service Program to be offered for violators of this Chapter in lieu of payment of any citations, fines, penalties, and/or Costs.

3.50.130 – Remedies Cumulative

The remedies provided for the enforcement of this Chapter are in addition to and do not supersede or limit any and all other remedies provided by law. The remedies provided in this Chapter are cumulative and not exclusive.

SECTION 3. SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, the validity of the remaining portions of the Ordinance shall not be affected.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective 30 days from the date of its passage.

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Regularly passed and adopted this 10th day of May 2016

AYES and in favor of said ordinance:

Supervisors: _____ *DAVE PINE*

_____ *CAROLE GROOM*

_____ *DON HORSLEY*

_____ *WARREN SLOCUM*

_____ *ADRIENNE J. TISSIER*

NOES and against said ordinance:

Supervisors: _____ *NONE*

Absent Supervisors: _____ *NONE*



*President, Board of Supervisors
County of San Mateo
State of California*

Certificate of Delivery

I certify that a copy of the original ordinance filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.



Deputy Clerk of the Board of Supervisors