

ORDINANCE NO. 0-15475
(New Series)

(O-81-194)

MAR 31 1981

AN ORDINANCE AMENDING CHAPTER IV, ARTICLE 4,
OF THE SAN DIEGO MUNICIPAL CODE BY ADDING
SECTIONS 44.0115, 44.0116, 44.0117, 44.0118,
44.0119, 44.0120, 44.0121, 44.0122, 44.0123
AND 44.0124 RELATING TO WASTE MATERIAL,
RUBBISH, AND LITTER CONTROL

BE IT ORDAINED, by the Council of the City of San Diego,
as follows:

Section 1. That Chapter IV, Article 4, of the San Diego
Municipal Code be and the same is hereby amended by adding
the following sections:

Sec. 44.0115 PURPOSE AND INTENT

The Council of the City of San Diego finds and declares
that:

A. The City has a history and reputation for well-kept
properties, and that the property values and the general
welfare of this community are founded, in part, upon the
appearance and maintenance of properties.

B. There now appears a need for further emphasis
on the maintenance of public and private property in a
clean, litter free condition because numerous locations
throughout the City have been found to have been the site
of littering and illegal dumping.

C. That the existence of such conditions is injurious and inimical to the public health, safety and welfare of the residents of this City and contributes substantially and increasingly to the problems of the necessity for expenditures for protection against hazards and diminution of property values, prevention of crime and the preservation of the public health, safety and welfare and the maintenance of police, fire and accident protection and that such problems are becoming increasingly direct and substantial in significance and effect and that the uses and abuses of property as described herein reasonably relate to the proper exercise of the police power in the protection of health, safety and welfare of the public.

D. That unless corrective measures are taken to alleviate such existing conditions and particularly to avoid future problems in this regard, the public health, safety and general welfare and specifically the property values and social and economic standards of this community will be depreciated; that the elimination of such conditions will enhance the appearance and value of such properties rather than be a burden on the owners thereof and that elimination of such conditions will also appreciate the values and appearance of neighboring properties and benefit the use and enjoyment of properties in the general area and will improve the general welfare and image of the City.

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Sec. 44.0116 DEFINITIONS

Whenever the following words and phrases are used in this article, they shall have the meanings herein ascribed:

A. City is the City of San Diego as defined in Section 11.15 of this Code.

B. Litter means the discarding, dropping or scattering of small quantities of waste matter carried on or about the body including, but not limited to, beverage containers and closures, packaging wrappers, wastepaper, newspapers, and magazines, in a place other than a place or container for the proper disposal thereof, and including waste matter which escapes or is allowed to escape from a container, receptacle, or package.

C. Person has the same meaning as contained in Section 66.0102 of this Code.

D. Premises means any real property, or improvements thereon, as the case may be.

E. Property has the same meaning as premises.

F. Public property is any property interest owned by, or otherwise granted to, the City.

G. Refuse has the same meaning as "City refuse" as defined in Section 66.0123 of this Code.

H. Rubbish means non-putrescible solid wastes such as, but not limited to, ashes, paper, cardboard, tin cans, clippings, trimmings, wood, glass, bedding, crockery, plastics, rubber by-products, litter, machinery, vehicle parts, junk and other discarded items.

I. Solid waste means refuse, rubbish, yard and garden trimmings, brush, weeds, broken concrete or asphalt, piles of rock, dirt and other noncombustible materials, and earth fill material not otherwise authorized by permit or ordinance for land development.

J. Waste matter has the same meaning as solid waste as defined herein.

K. Vectors mean rodents, flies and mosquitoes capable of transmitting disease to humans.

Sec. 44.0117 ILLEGAL DUMPING PROHIBITED

A. It shall be unlawful to dump or cause to be dumped any waste matter in or upon any public or private highway or road, including any portion of the right-of-way thereof, or in or upon any private property into or upon which the public is admitted by easement or license, or upon any private property without the consent of the owner, or in or upon any public park or other public property designated or set aside for such purpose by the governing board or body having charge thereof. It shall be unlawful to place, deposit, or dump, or cause to be placed, deposited or dumped, any rocks or dirt in or upon any private highway or road, including any portion of the right-of-way thereof, or any private property, without the consent of the owner, or in or upon any public park or other public property, without the consent of the state or local agency having jurisdiction over such highway, road, or property. Any

person violating the provisions of this section shall be guilty of an infraction. Each day that waste placed, deposited, or dumped in violation of this section remains shall be a separate violation.

B. No portion of this section shall be construed to restrict a private owner in the use of his own private property unless the placing, depositing, or dumping of such waste matter on such property creates a public health and safety hazard, a public nuisance, or a fire hazard, in which case the provisions of this section shall apply.

C. Every person convicted of a violation of this section shall be punished by a mandatory fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) upon a first conviction, by a mandatory fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) upon a second conviction, and by a mandatory fine of not less than one hundred fifty dollars (\$150) nor more than five hundred dollars (\$500) upon a third or subsequent conviction.

The Court may require, in addition to any fine imposed upon a conviction, that, as a condition of probation and in addition to any other condition of probation, a person convicted under this section remove, or pay the cost of removing, any waste matter which the convicted person dumped or caused to be dumped upon public or private property.

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Except when the court requires the convicted person to remove waste matter which he or she is responsible for dumping as a condition of probation, the court may, in addition to the fine imposed upon a second or subsequent 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 waste matter at a time and place within the jurisdiction of the court for not less than four hours upon a second conviction and for not less than eight hours upon a third or subsequent conviction.

Sec. 44.0118 LITTERING PROHIBITED

A. It shall be unlawful to litter or cause to be littered in or upon any public or private property. Any person violating the provisions of this section shall be guilty of an infraction.

B. No portion of this section shall be construed to restrict a private owner in the use of his or her own property, unless the littering of waste matter on such property creates a public health and safety hazard, a public nuisance, or a fire hazard, in which case the provisions of this section shall apply.

C. Every person, firm, or corporation convicted of a violation of this section shall be punished by a mandatory fine of ten dollars (\$10) upon a first conviction, by a

mandatory fine of not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) upon a second conviction, and by a mandatory fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) upon a third or subsequent conviction.

The court may, in addition to the fine imposed upon a second or subsequent 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 at a time and place within the jurisdiction of the court for not less than four hours upon a second conviction and for not less than eight hours upon a third or subsequent conviction.

Sec. 44.0119 PROPERTY OWNER RESPONSIBILITY

It shall be the property owner's responsibility to maintain his premises free from waste material. The property owner shall be responsible to erect fencing, barriers, berms or other suitable means of discouraging access to the premises for the purpose of littering or illegal dumping.

Sec. 44.0120 REFUSE CONTAINER MAINTENANCE

It shall be unlawful to maintain open refuse containers or containers which are inadequate for the volume of refuse generated at the premises which the containers serve and which do not conform to the requirements of Section 66.0122 of this Code. It shall be the responsibility of the property owner, tenant or person in responsible charge of

the premises to assure that containers are adequate, covered, and that the area surrounding the containers is kept clear to discourage vectors.

Sec. 44.0121 TRANSPORTING UNCOVERED WASTE PROHIBITED

It shall be unlawful to drive or move any vehicle loaded with refuse or anything being transported to a dump site for disposal, on any City street or highway unless the vehicle is totally covered in a manner which will prevent the load or any part of the load from spilling, falling or blowing upon the street or highway. This section does not apply to a rubbish vehicle in process of acquiring its load. Neither does this section apply to any vehicle engaged in transporting wet waste fruit or vegetable matter, or waste products from a food processing establishment, nor to any highway maintenance vehicle operated by, or operated under contract with, any local authority or the state, and engaged in transporting snow, mud, earthen slide material, rock, portland cement, or asphaltic concrete paving and structural materials, to a dump site for disposal.

Sec. 44.0122 NOTICE OF VIOLATION

The Litter Program Coordinator or his authorized representatives are authorized and empowered to notify the owner, or his authorized agent, or lawful occupant, of any vacant or occupied property within the City to take such remedial action as is required to conform to

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this Chapter. Such notices may be given by personal delivery thereof to the person to be notified or by deposit in the U. S. Mail, in a sealed envelope, postage prepaid, addressed to such person to be notified at their last known business or residence address, as recorded on the current assessor's roll or the previous year's tax bill, or to any other address which is reasonably calculated to produce actual notice to the owner.

Sec. 44.0123 PENALTIES

Except as otherwise provided herein, violators of this Chapter shall be subject to punishment by a mandatory fine of ten dollars (\$10) upon a first conviction, by a mandatory fine of not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) upon a second conviction, and by a mandatory fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) upon a third or subsequent conviction.

Sec. 44.0124 ENFORCEMENT

The Sanitation Enforcement Supervisor, Supervising Sanitation Inspector, and Sanitation Inspectors are hereby authorized and empowered to enforce the provisions of Chapter IV, Article 4, Division I of the San Diego Municipal Code and Section 374 of the California Penal Code. The Disposal Fee Collectors are hereby authorized and empowered to enforce Section 44.0121 of this Chapter and

Section 23115 of the California Vehicle Code.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By *Susan M. Heath*
Susan M. Heath, Deputy

SMH:ps:210
2/25/81
Or.Dept. Gen.Serv.

Passed and adopted by the Council of The City of San Diego on MAR 31 1981,
 by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fred Schnaubelt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lucy Killea	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON
 Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
 City Clerk of The City of San Diego, California.

(Seal)

By Maxwell L. Postecow, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on MAR 16 1981, and on MAR 31 1981.

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR
 City Clerk of The City of San Diego, California.

(Seal)

By Maxwell L. Postecow, Deputy.

Office of the City Clerk, San Diego, California	
Ordinance Number <u>0-15475</u>	Adopted <u>MAR 31 1981</u>

RECEIVED
CITY CLERK'S OFFICE

CERTIFICATE OF PUBLICATION 1981 APR 24 PM 3:58

SAN DIEGO, CALIF. nja

San Diego, City of
202 C St., 12th Floor
San Diego, CA 92101
ATTN: M.L. Pontecorvo

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER IV, ARTICLE 4, OF
THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTIONS
44.0115, 44.0116, 44.0117, 44.0118, 44.0119, ETC.

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44.0115, 44.0116, 44.0117, 44.0118, 44.0119, 44.0120, 44.0121,
44.0122, 44.0123 AND 44.0124 RELATING TO WASTE
MATERIAL, RUBBISH, AND LITTER CONTROL.
The Municipal Code is amended, to prohibit littering, main-
taining inadequate refuse containers, transporting uncovered
waste and unauthorized dumping and to establish fines to be im-
posed on those convicted of such violations.
Sanitation inspectors are authorized to enforce these pro-
hibitions.
A complete copy of the Ordinance is available for inspection
in the Office of the City Clerk of the City of San Diego, 12th Floor,
City Administration Building, 202 "C" Street, San Diego, CA
92101.
Introduced on March 16, 1981.
Passed and adopted by the Council of The City of San Diego
on March 31, 1981.
AUTHENTICATED BY:
PETE WILSON,
Mayor of The City of San Diego, California.
CHARLES G. ABDELNOUR,
City Clerk of The City of San Diego, California.
(REAL)
By MAYDELL L. PONTECORVO, Deputy.
Published April 13, 1981. 00-4146

I, Camille Simpson, am a citizen
of the United States and a resident of the County aforesaid; I am over the
age of eighteen years, and not a party to or interested in the above- entitled
matter. I am the principal clerk of the San Diego Daily Transcript, a
newspaper of general circulation, printed and published daily, except
Saturdays and Sundays, in the City of San Diego, County of San Diego, and
which newspaper has been adjudged a newspaper of general circulation by
the Superior Court of the County of San Diego, State of California, under
the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NO. 0-15475 (New Series)

is a true and correct copy of which the annexed is a printed copy and was
published in said newspaper on the following date(s), to wit:

April 13, 1981

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 13th day of Apr, 1981.

(Signature)

2 1/2" x 2 x 7.33 = \$36.65