

1 BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

2 ORDINANCE NO. _____

3 AN ORDINANCE ADDING DIVISION 3 TO CHAPTER 9 ESTABLISHING FINES AND
4 PENALTIES FOR THE ILLEGAL DISPOSAL OF GARBAGE AND/OR REFUSE AND
5 CREATING AN ILLEGAL DUMPING PREVENTION PROGRAM

6 WHEREAS, illegal dumping of garbage and/or refuse on private and public lands is a matter of
7 statewide concern which creates a substantial risk to public health, safety, and welfare through the
8 resulting blight, the presence of vermin and strong odors, and the potential for injurious materials to
9 leach into the soil and waterways; and

10 WHEREAS, those same risks to public health, safety, and welfare are created when persons
11 accumulate garbage and/or refuse on their real property; and

12 WHEREAS, the Board of Supervisors desires to deter such illegal activity by imposing fines
13 and penalties for such misconduct and, at the same time, creating an Illegal Dumping Prevention
14 Program, funded by the fines and penalties so collected, which Program may use those funds solely to
15 prevent and/or deter illegal dumping and/or the accumulation of garbage and/or refuse.

16 NOW THEREFORE, the Board of Supervisors of the County of Lake hereby ordains as
17 follows:

18 **Section One:** Division 3 is hereby added to Chapter 9 of the Lake County Code to read as follows:

19 **"DIVISION 3. Illegal Disposal of Garbage/Refuse - Penalties and Prevention**

20 **Sec. 9-16 - Title and Citation.**

21 This Division shall be known and may be cited as the Illegal Disposal of Garbage/Refuse -
22 Penalties and Prevention Ordinance.

23 **Sec. 9-17 - Findings.**

24 The Board of Supervisors of Lake County finds as follows:

25 The presence of garbage and/or other injurious materials on private and/or public property
26 other than regulated landfills, transfer stations, and recycling centers creates a significant risk to
27 public health and safety. Said garbage and other injurious materials create conditions of blight
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1 in County neighborhoods and communities and result in lasting negative impacts to the value of
2 neighboring properties, the safety of neighbors to be free from the encroachment of vermin and
3 disease due to rotting garbage, and to the safety and quality of life of entire communities, users
4 of public roadways, and to the public generally. Therefore, the accumulation of such garbage
5 is declared to be a public nuisance pursuant to Lake County Code Chapter 13, Section 13-3.1
6 (e) 7 and pursuant to this Division. This Ordinance is intended to be consistent with and a
7 supplement to the existing nuisance provisions relating to garbage provided by Chapter 13 of
8 the Lake County Code. Should this provisions of this Ordinance conflict in any way with
9 Chapter 13, Chapter 13 shall control.

10 Sec. 9-18 - Definitions.

11 As used in this division, the following terms shall have the following meanings:

12 "Abate and/or abatement" means the act of removing, destroying, eliminating, seizing,
13 impounding, or taking any other action to mitigate and/or respond to a public nuisance.

14 "Abatement costs" means any costs or expenses reasonably related to the abatement of
15 conditions which violate this Division and shall include, but not be limited to, costs associated
16 with the removal, storage, transportation, cleaning, clearing, and disposal of accumulated
17 garbage and refuse, and those administrative costs further described in Chapter 13 of the Lake
18 County Code.

19 "Accumulation of garbage and/or refuse" means any measurable amount of accumulated items
20 constituting a condition harmless or injurious to the health, safety, and welfare of neighboring
21 properties, an community area, the public generally, and/or to the environment.

22 "Board" means the Lake County Board of Supervisors.

23 "Blight" means a deteriorating environmental condition or nuisance that can damage and
24 eventually ruin the security, health and economic vitality of a business area, neighborhood, or
25 community if it is ignored and allowed to persist and/or to grow.

26 "Community Cleanup Event" means the collaborative efforts toward collection of garbage
27 and/or refuse from County road-sides and/or communities in the unincorporated areas of the
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County by community stakeholders, and/or volunteers, at no expense to County or to residential customers. Said events may sometimes be organized or otherwise assisted by the County.

"Container" means a bin, can, vessel, or other receptacle used to hold garbage and/or refuse.

"Customers" means the generators (including owners, tenants, occupants and/or persons having the care or control of any premises within the County) of solid waste from whom a licensee has agreed to collect solid waste.

"Director" means the Lake County Public Services Director.

"Disposal" means the delivery of solid waste and/or recyclable materials to a solid waste facility or facilities.

"Enforcement Officer" means any person designated as an enforcement officer in Chapter 13 of the Lake County Code.

"Garbage and/or refuse" means and includes, but is not limited to, any items consisting of trash, litter, waste, junk, debris, discarded items, construction or demolition materials, cans, bottles, bricks, boxes, appliances, vehicle parts, tires, discarded mattresses, equipment, furniture, ordinary household garbage, or other injurious or offensive materials of any kind.

"Multi-family Dwelling" means that type of dwelling and real property use as defined by the Lake County Zoning Ordinance.

"Non-flammable inert materials" means materials which are not readily susceptible to catching fire which contain no decomposable wastes and no soluble pollutants, including but not limited to rock, earth, con chunks.

"Real Property" means any improved or unimproved struction rubble, and concrete real property in the unincorporated area of the County.

Sec. 9.19 - Accumulation of Garbage is Not Permitted.

No person or entity shall permit the accumulation of garbage or other refuse or other injurious materials upon real property under their ownership and/or control in the unincorporated area of Lake County unless legally licensed/permitted to do so.

1 Sec. 9.20 - Required Removal of Garbage and/or Refuse.

2 a. The owner or tenant of any premises, business establishment or industry shall be responsible
3 for the satisfactory removal of all garbage and/or refuse accumulated on such premises. To
4 prevent propagation, harborage or attraction of flies, rodents or other vectors and the creation
5 of a nuisance, garbage and/or refuse, excepting nonflammable inert material, shall not be
6 allowed to remain on the premises for more than seven (7) days.

7 b. All garbage and/or refuse shall be drained, wrapped, and stored in durable, rust-resistant,
8 nonabsorbent, watertight containers not to exceed 30 gallons capacity and which have
9 tight-fitting covers. Plastic garbage bags are not to be used for outside storage of garbage at
10 any time.

11 c. No garbage and/or refuse, with the sole exception of non-flammable inert materials, may be
12 stored for any period of time, on a trailer. Said garbage and/or refuse may be placed on a
13 trailer solely and only for the purpose of transporting said materials for purposes of disposal in a
14 legally authorized manner.

15 d. Nonflammable inert materials stored on a premises shall not be allowed to become either a
16 harborage for rodents, insects or other vectors, nor a public nuisance. Such inert nonflammable
17 materials which are not properly stored shall not be allowed to remain on a premises for more
18 than thirty (30) days.

19 e. The owner of any multifamily dwelling shall either contract with a franchise hauler legally
20 authorized to remove and/dispose of garbage and/or refuse or shall undertake as its own
21 responsibility, the disposal of garbage and/or refuse for such a dwelling. ?All receptacles used
22 for the storage of garbage, rubbish and waste matter accumulated on properties used for
23 multifamily dwellings shall be emptied and the contents thereof removed and disposed of when:

- 24 1. The contents are even with the top of the receptacle;
25 2. At least once a week; and
26 3. The owner of any such multifamily dwelling shall not permit such contents to overflow above
27 the top of the receptacle prior to removal and disposal.
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1 Sec. 9-21 - Illegal Dumping.

2 a. It shall be illegal for any person to deposit or dispose of garbage and/or refuse on the open
3 grounds of any public property or private property of any other person or to fail to comply with
4 an abatement order for the removal or proper storage of said materials. Each day garbage
5 and/or refuse remains in violation of this section shall constitute a separate offense.

6 b. It shall be illegal for any person to bring household garbage and/or refuse into any public
7 property for the purpose of disposal thereof in the public trash receptacles.

8 c. It shall be illegal for any person to:

9 1. Fail to arrange for the lawful disposal of garbage and/or refuse generated on property which
10 that person owns, occupies or is the person responsible for day-to-day operations thereof who
11 either fails to maintain a continuous subscription for regular refuse removal by a
12 legally-authorized franchise hauler when said property is occupied, or to dispose of the refuse
13 personally;

14 2. Cause, maintain or permit garbage and/or refuse to be deposited within the County in any
15 manner that violates the provisions of this Division;

16 3. Cause or permit the deposit of garbage and/or refuse on the right-of-way of any public
17 highway, street, easement or thoroughfare, or upon any camping place or public grounds, or on
18 any premises, or in any container, without the permission of the owner thereof, or into any
19 stream or dry watercourse, within the County of Lake, State of California, and outside of the
20 incorporated cities; or

21 4. Cause, maintain or permit the accumulation of garbage and/or refuse which creates an
22 unsanitary condition.

23 d. In a criminal proceeding alleging a violation of subsection a, b, or c of this section, upon a
24 prima facie showing by the prosecution that a person's items, garbage and/or refuse or property
25 have been found in any location where it is unlawful to dispose of garbage and/or refuse, under
26 circumstances which would lead a reasonable trier of fact to conclude that the items had
27 previously been discarded in that location, shall constitute a permissible inference that the
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1 person is guilty of a violation of Section 9-21 of this Division. The mental state required for
2 conviction of a violation of Section 9-21 of this Division is strict liability, without regard to any
3 element of mens rea, fault, negligence or other wrongdoing.

4 e. In the event of a conviction of a violation of Section 9-21 of this Division and under
5 appropriate circumstances, the court shall order the defendant to pay restitution to any public
6 entity and/or private party which and/or whom has incurred out-of-pocket expenses as a result
7 of cleaning up an unlawful dump site, as a rehabilitative measure, in addition to any penalty
8 imposed.

9 Sec. 9-22 - Burning of Garbage and/or Refuse.

10 It shall be illegal for any person to burn garbage in Lake County unless the consent of the
11 County Health Officer and the Air Quality Management District is first obtained and such
12 burning is done in an approved manner and location.

13 Sec. 9-23 - Enforcement; Fines and Penalties.

14 Any person violating any of the provisions of subsections a, b. or c of Section 9-21 herein shall
15 be deemed guilty of a misdemeanor and subject to the penalties provided for in Chapter 13 of
16 the Lake County Code. Each day a violation is committed or continues shall constitute a
17 separate offense.

18 Sec. 9-24 - Notice of Violation and Administrative Penalty.

19 a. In addition to any other remedy authorized by this code or applicable law, any violation of
20 the provisions of this Division will be subject to an administrative penalty, enforcement, and
21 collection proceedings, as set forth in this chapter and authorized by California Government
22 Code Section 53069.4. Each day of a continuing violation constitutes a separate violation.

23 b. Except as otherwise provided in subsection d of this section, the Enforcement Official may
24 impose an administrative penalty for each violation in an amount not to exceed one hundred
25 dollars (\$100.00) for the first violation, two hundred dollars (\$200.00) for the second violation
26 of the same provision of this chapter within one (1) year after the first violation, and five
27 hundred dollars (\$500.00) for each additional violation of the same provision of this chapter
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1 within one (1) year after the first violation.

2 c. Whenever the Enforcement Official determines that a violation of any provision of this article
3 has occurred, the Enforcement Official is authorized to issue a notice of violation. Said Notice
4 of Violation shall be issued pursuant to those procedures and hearing rights described in
5 Chapter 13 of the Lake County Code.

6 Sec. 9-26 - Creation of a County Program to Prevent Illegal Dumping.

7 a. There is hereby created by this Ordinance a County Program to Prevent Illegal Dumping
8 through the provision of lighting, surveillance cameras, educational materials, signage, continued
9 abatement efforts, and the encouragement of community collaboration to prevent and respond
10 to the threat to public health, safety, and welfare resulting from said illegal dumping.

11 b. Special Fund. All funds to be used in support of this program is through the collection of
12 fines and penalties associated with the enforcement of this Ordinance. Any such fine penalty
13 collected under this Ordinance shall be deposited in a separate revenue fund entitled "Illegal
14 Dumping Prevention Fund."

15 c. Recommendations to the Board. The Director shall make no less than annual
16 recommendations to the Board of Supervisors during an open, public meeting of that Board
17 regarding the proposed use of the monies collected from fines and penalties resulting from the
18 enforcement of this Ordinance.

19 Sec. 9-27 - Intent to Initiate Procedures Creating Mandatory Garbage Collection.

20 It is the intent of this Board to begin the initiation of mandatory garbage collection throughout
21 the unincorporated areas of the County of Lake by presenting said mandatory collection to the
22 voters pursuant to the requirements of applicable law. Said initiation shall begin according to a
23 plan devised by the County Public Services Department and approved by this Board, which
24 plan shall be presented to voters of prescribed areas of the County for consideration.

25 Sec. 9-28 - Community Cleanup Events.

26 The County of Lake shall initiate efforts to collaborate with communities and neighborhoods in
27 the unincorporated areas of the County to establish community cleanup programs with the goal
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1 of allowing said neighborhoods and communities the opportunity to avoid financial and criminal
2 penalties resulting from illegal dumping and/or the failure to properly dispose of garbage and/or
3 refuse. Subject to approval by the Board of Supervisors, monies collected in the Illegal
4 Dumping Prevent Fund may be used by the County in collaboration with community cleanup
5 events."

6 **Section Two:** CEQA Review.

7 This Board finds that the monetary amounts imposed by this ordinance are fines/penalties and
8 are therefore exempt from the provisions of the California Environmental Quality Act ("CEQA").

9 **Section Three:** All ordinances or parts of ordinances in conflict herewith are hereby
10 repealed to the extent of such conflict and no further.

11 **Section Four:** This ordinance shall take effect on the ____ day of ____, 2018 and before the
12 expiration of fifteen days after its passage, it shall be published at least once in a newspaper of general
13 circulation printed and published in the County of Lake.

14 The Foregoing Ordinance was introduced before the Board of Supervisors on the ____
15 day of ____, 2018, and passed by the following vote on the ____ day of ____,
16 2018.

17 AYES:

18 NOES:

19 ABSENT OR NOT VOTING:

20 COUNTY OF LAKE

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23 _____
24 Chair, Board of Supervisors
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1 ATTEST: CAROL J. HUCHINGSON
2 Clerk of the Board of Supervisors
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5 By: _____
6 Deputy
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9 APPROVED AS TO FORM:
10 ANITA L. GRANT
11 County Counsel
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13 By: _____
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