

REVISED LEGISLATIVE DIGEST

(Amended in Board, 7/28/2020)

[Police, Public Works Codes - Administrative Penalties and Fines for Illegal Dumping]

Ordinance amending the Public Works Code to authorize the Public Works Director to impose administrative penalties and fines for illegal dumping, provide for additional enforcement remedies for illegal dumping, expand the definition of illegal dumping to address electronic waste and hazardous waste, and clarify that each act of illegal dumping constitutes a separate violation subject to abatement or enforcement actions; amending the Police Code to provide procedures for assessment and collection of administrative penalties for illegal dumping; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Currently, under Article 26 of the Public Works Code (the "Illegal Dumping Ordinance"), illegal dumping on public properties and rights-of-way is a public nuisance that is subject to abatement actions that are enforced through civil lawsuits filed by the City against persons responsible for illegal dumping.

Amendments to Current Law

As amended by this ordinance, the Illegal Dumping Ordinance would authorize the City to take administrative enforcement actions against persons responsible for illegal dumping in addition to having the option of filing civil lawsuits against such persons. In addition, the ordinance would expand the definition of materials that constitute Illegal Dumping to include "Electronic Waste," "Hazardous Waste," and other waste, debris, or material equal to or greater than five pounds or one cubic foot. Moreover, the ordinance would provide that each act of Illegal Dumping could constitute a separate and distinct violation of the Illegal Dumping Ordinance that would subject the person responsible for each violation to an administrative fine or penalty of no more than \$1,000 per violation, per day.

Background

This ordinance reflects the amendments made at the July 9, 2020 meeting of the Public Safety and Neighborhood Services Committee intended to clarify scope of Public Works Article 26. Article 26 is not intended to limit any government agency's rights to enforce any other provision of the Municipal Code or state law, nor is it intended to restrict, preclude, or limit a separate or concurrent civil enforcement action under the Municipal Code or state law.

In addition, the ordinance reflects the amendments made at the July 28, 2020 meeting of the Board of Supervisors intended to more closely align and conform definitions in Public Works

Code Article 26 with definitions in the Environment Code, to reduce redundancy, and to make conforming changes to definitions in Public Works Code section 1602.

The amendments approved on July 28, 2020 deleted the defined term "Commercial Waste," which is otherwise covered by the other defined terms including the new term "Refuse"; added the defined term "Construction and Demolition Debris" and deleted the defined term "Debris and Waste Construction Material"; and revised the defined term "Prohibited Materials" to include the new defined terms Construction and Demolition Debris, Hazardous Waste, and Refuse.

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