

Introduction

The information and model ordinance provided in this document is intended to guide cities and counties in preparing their own litter ordinance, with the understanding that it must be adapted to accommodate their own unique circumstances. There are many ways in which ordinances can be organized, and this model ordinance presents just one example.

An ordinance is a law enacted by a municipal body (such as a city council or county board of supervisors or county board of commissioners). Enforcement action can only be taken if there is a law in place that identifies a certain action or activity as being illegal. A litter ordinance is therefore an important part of a litter abatement program, since one must be in place in order to effectively administer the program and enforce violations. Local law enforcement officers typically have authority to enforce state-level illegal dumping and litter laws as well.

The Illegal Dumping and Litter Ordinance aims primarily to clarify expectations of residential and commercial waste generators, and prevent illegal dumping and littering. In the event that illegal dumping and littering occur, the primary goal is to ensure the resulting debris is voluntarily cleaned as soon as possible. Forced compliance and penalties are a last resort.

In preparing a litter ordinance, it is important to cross-check with existing ordinances and codes — both internal (related existing laws/codes/ordinances within the city or county) and external (related existing laws/codes/ordinances at the state or federal level) — to avoid conflicts and assure compatibility. In particular, fines and quantity thresholds are provided herein as examples, but should be considered carefully for compatibility with state and other existing local laws.

Having a strong ordinance in place is important, but it is also critical that ordinances be enforced, and enforced consistently in all areas for the protection of all citizens. When ordinances are not consistently enforced, they lose impact, and leadership loses credibility.

Model Ordinance

ARTICLE I: GENERAL

SECTION 1 – TITLE {Title of ordinance}

This Ordinance shall be known as the _____ [jurisdiction] Illegal Dumping and Litter Control Ordinance.

SECTION 2 – INTENT {Purpose of Ordinance}

It is the expressed intent of the _____ [governing entity, e.g., Board of Supervisors, County Commission, Town Council, City Council, etc.] and of this Ordinance to promote a clean, healthy, safe, and attractive environment in which to live. Further, it is the intent of the _____ [governing entity] to cause the _____ [jurisdiction] Solid Waste Enforcement Officer [or other appropriate code enforcement officer] to properly notify the property owner(s), or if not the property owner, the person(s) responsible for violating this ordinance. Such notification shall be in writing with a clear explanation of the violation. Such written notification shall also explain options for resolution of the violation and allow adequate time for remediation. The Solid Waste Enforcement Officer [or other appropriate code enforcement officer] shall be made available to work with the individual(s) and use all applicable regulations that may aid in the cleanup of litter and/or the disposal of illegal dumpsites. Upon

request, the _____ [governing entity] may also grant reasonable extensions for the time required for cleanup.

SECTION 3 – APPLICABILITY {Description of geographic and other applicable boundaries of ordinance}

This Ordinance shall apply to and be enforced within the unincorporated [if applicable] boundaries of _____ [jurisdiction].

SECTION 4 – ENFORCEMENT {Authorization to enforce}

A. Law enforcement officers of the _____ [jurisdiction] and the Solid Waste Enforcement Officer [or other code enforcement officer] are hereby empowered to and shall enforce provisions of this ordinance.

B. Any citizen of _____ [jurisdiction] may file a sworn affidavit in Justice [or applicable] Court of _____ [jurisdiction] to be taken against any party in violation of the ordinance.

C. The Solid Waste Enforcement Officer (SWEO) [or other code enforcement officer] or law enforcement officer of the _____ [jurisdiction] may initiate an investigation where the officer has sufficient probable cause to believe this ordinance is being violated.

D. If the Solid Waste Enforcement Officer [or other code enforcement officer] or law enforcement officer discovers an article of garbage bearing a person's, corporation's, company's, firm's, business's or institution's name or address on any public or private property, it shall be presumed that said article of garbage being so discovered is the property of such person whose name appears thereon, and said person placed or caused to be placed such article of garbage; provided, however, that such presumption shall be rebutted by competent evidence. This presumption is based on the intent that all generators of such items are responsible for such items until such time they have been properly disposed of. [Note: in some states, state law stipulates the ability to use such articles as evidence.]

SECTION 5 – DEFINITIONS

The following words, phrases, or terms used in this Ordinance, unless the context indicates otherwise, shall have the following meanings:

A. **Bulky Waste.** Stoves, water heaters, washing machines, furniture, household construction debris, and other waste materials other than dead animals, hazardous waste, and stable matter with weights or volume greater than those allowed for placement in bags.

B. **Commercial Entity.** Shall mean any and all generators of commercial waste, including commercial establishments, contractors, non-profit entities such as churches, public facilities, multi-family dwellings and other businesses.

C. **Commercial Waste.** Shall mean any and all accumulations of non-hazardous refuse, debris, and waste products generated by the operation of industries, stores, building contractors, offices, churches, public facilities, multi-family dwellings and other business establishments that are collected in industry-standard front load or roll-off containers. Included in commercial waste is commercial construction debris.

D. **Container.** The receptacles used by residents and businesses for the storage of solid waste and recyclables.

E. Dead Animals. Animals or portions thereof equal to or greater than 15 pounds in weight that have expired from any cause, except those slaughtered or killed for human use or consumption.

F. Garbage. Every accumulation of waste (animal, vegetable and/or other matter) that results from the handling, packing, preparation, processing, consumption, dealing in, canning, storage, transportation, decay, or decomposition of meats, fish, fowl, birds, fruits, grains, or other animal or vegetable matter (including but not by way of limitation, used tin cans and other food containers; including all putrescible waste matter which is likely to attract flies or rodents) except (in all cases) any matter included in the definition of Bulky Waste, Dead Animals, Hazardous Waste, or Rubbish.

G. Hazardous Waste. Waste in any amount, which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriated State agency by or pursuant to Federal or State law, or waste, in any amount, which is regulated under Federal or State law. For purposes of this ordinance, the term Hazardous Waste shall also include motor oil, gasoline, paint, and appliances containing Freon.

H. Illegal / Unlawful / Unauthorized Dumping. Any collection of solid waste exceeding fifteen (15) pounds in weight or twenty-seven (27) cubic feet in volume which is either dumped or caused to be dumped or placed on any property either public or private, whether or not regularly used, which tends to create a hazard to the public health, safety and welfare, or declared a public nuisance, per se, shall be considered as forming an illegal dump within the meaning of _____ [relevant state code] et. seq., but not the careless, scattered littering of smaller individual items. An illegal dump shall also mean any solid waste disposal site that does not meet the regulatory provisions of _____ [relevant state code].

I. Litter. All garbage and rubbish, loosely strewn, uncollected, unpackaged, and uncontained which includes but is not limited to paper, bottles, cans, glass, crockery, plastic, rubber, waste building materials, disposable packages, cigarette butts and other tobacco products, gum and containers.

J. Miscellaneous Non-Vegetative Yard Waste. Outdoor furniture, wire, plastics, bicycles, toys, grills, or any other outdoor item that is not classified as rubbish or yard waste. . (See Yard Waste.)

K. Person. Any person, owner, lessee, firm, business, partnership, sole proprietorship, association, corporation, company or organization of any kind.

L. Private Property. Any dwelling, house, building or other structure designed or used for private, commercial, or residential purposes, including any yard, grounds, acreage, vacant lots, walk, driveway, porch, steps, parking areas, vestibule, or mailbox belonging to such dwelling, house, building or other structure.

M. Public Road. Any road or roadway that is maintained by a City, County, State or Federal government using public funds.

N. Public Property. Any and all streets, public rights of way, easements, medians, sidewalks, boulevards, highways, streets, alleys, or other public parks, squares, spaces, grounds, buildings, and infrastructure.

O. Resident. A person residing on the property, whether that person owns or leases the residence.

P. Rubbish. Nonputrescible solid wastes (excluding ashes) consisting of both combustible and noncombustible wastes. Combustible rubbish includes paper, rags, cartons, wood, furniture,

rubber, plastics, yard trimmings, leaves and similar material. Noncombustible rubbish includes glass, crockery, metal cans, metal furniture and like material, which will not burn at ordinary incinerator temperatures (not less than 1600 degrees F.).

Q. Solid Waste. All items contained in the definition of garbage, bulky waste, dead animals, stable matter, miscellaneous yard waste, rubbish, household construction debris, commercial construction debris, or commercial waste. (See Commercial Waste)

R. Solid Waste Enforcement Officer (SWEO) [or other name for enforcement officer, may be code enforcement officer]. A person appointed by the _____ [governing entity] to manage the _____ [jurisdiction] Solid Waste Department, to enforce state laws related to solid waste, and to enforce the provisions of this ordinance.

S. Solid Waste Hearing Officer (SWHO) [or other responsible entity in jurisdiction]. A person appointed by the _____ [authorizing entity] to hear appeals from those who receive the Written Notice of Corrective Action.

T. Temporary Signs. Signs that are not meant to be a permanent or long-term part of a business, facility or structure, but instead promote the sale or improvement of a property, or are temporary political/election signs or signs to advertise events such as yard sales, tag sales, parties and other events.

U. Unserviceable or Derelict Vehicle -- Disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors, trailers, as used in this section, means motor vehicles, recreational vehicles, truck bodies, tractors, farm machinery or trailers in such a state of physical or mechanical ruin as to be incapable of propulsion, being operated upon public streets or highways or which is otherwise not in safe or legal condition for operation on public streets or highways due to missing or inoperative parts, flat or removed tires, expired or missing license plates or other defects.

V. Yard Waste. The leaves, grass cuttings, weeds, garden waste, tree limbs, and other vegetative wastes generated at residential, commercial, institutional, governmental, or industrial properties.

Solid Waste Management BMPs that Help Minimize Illegal Dumping and Litter

Implementing certain solid waste BMPs can help reduce illegal dumping and litter. These include:

- All residents have solid waste management services, either by mandatory service/mandatory pay, or through proving they have service with a hauler they hire.
- A convenient means of managing bulk waste is available and well-advertised to the community.
- Residents are made aware of how to manage items like electronics, HHW and used waste tires. Ideally these programs are low-cost or no-cost to the resident and are convenient.
- The jurisdiction has some leverage over commercial haulers through a licensing or permitting program.
- The jurisdiction's solid waste ordinance requires behaviors that help avoid litter - e.g., all containers must be covered, limited out-of-cart setouts, limited timeframe containers can be out before and after collection; scavenging illegal.
- The solid waste ordinance specifies minimum collection frequency and requirements for cleaning and maintaining containers.
- The jurisdiction provides education about and enforces litter and solid waste ordinances.

ARTICLE II:

CONTAINERIZATION, CONTROL AND TRANSPORT OF SOLID WASTE {Description of solid waste storage and transport requirements for all property types to avoid litter, responsible parties}

SECTION 1 – CONTAINERIZATION OF LITTER AND SOLID WASTES IN RECEPTACLES FOR GARBAGE COLLECTION {Description of storage requirements, responsibilities of owner, lessee of property}

A. It is unlawful for any person to deposit any materials in receptacles placed for public use as a depository for litter, recyclables, or solid wastes other than that specifically designated for that container.

B. All persons that place their solid waste in containers for collection are responsible for unsightly garbage in and about the property owned, operated or controlled by said persons. Spillage and overflow of wastes around containers shall be promptly cleaned and properly disposed of within a 24 hours.

C. It shall be the responsibility of each person to keep his or her own property clean and free of garbage and any resulting litter. Any non-contained and uncontrolled accumulation of garbage on any public or private property is a violation of this ordinance.

D. Persons owning or occupying property shall keep right-of-way areas in front of their premises (and behind, if alleys are present) free of solid waste of all types.

E. It shall be the responsibility of the resident or the owner or manager of a commercial or multi-family residential establishment to utilize a storage system that will include containers of adequate size and strength and in sufficient numbers up to the limit permissible to contain all solid waste that the residence or other establishment generates in the period of time between collections. The owner or, if leased, the lessee of the storage containers shall be jointly and severally responsible for compliance with this requirement.

F. Any solid waste resulting from construction, repair, or alteration of any building in the _____ [jurisdiction] shall be contained and removed in a timely manner by the generator and/or its contractor. All trees, tree limbs, and brush cut by a contractor or any person performing such task or any other yard wastes collected from the property shall either be managed on-site in accordance with state law or should be removed and properly disposed. These materials shall be placed in containers such that they will not be scattered by the elements.

G. Residents and commercial entities shall set out solid waste and recyclable materials only in approved containers, as described in _____ [jurisdiction solid waste management ordinance].

H. Waste spilled due to improper bagging or because the bag was not protected from animals shall be cleaned up by the resident or commercial entity within 24 hours.

I. Residents and commercial entities shall set out solid waste and recyclables such that they cannot become scattered by the elements. All garbage and other small, loose items for disposal shall be bagged before being placed in the approved container. Recyclables shall be placed in a lidded cart or set out such that heavier items are on top to avoid materials becoming scattered by the elements.

J. Placing solid waste in someone else's container, public or private, constitutes theft of service, and is a violation of this Ordinance.

SECTION 2 – SOLID WASTE TRANSPORTATION {Describes how solid waste is to be transported to avoid litter, roles and responsibilities of haulers, individuals who transport waste.}

A. Any solid waste materials being transported by vehicle shall be secured in such a manner to prevent the materials from blowing, spilling, or falling from the vehicle.

B. Any driver or person in direct control of any vehicle from which any materials or objects have fallen, blown, leaked, shifted or otherwise escaped shall immediately cause said materials or objects to be cleaned up at their own expense or be cited and fined in accordance with this ordinance and the laws of the State of _____ [state in which jurisdiction is located].

SECTION 3 – PENALTIES {Describes penalties associated with violations of this Ordinance.}

Waste spilled because of improper bagging or because the bag was not protected from animals must be cleaned up and re-bagged by the owner within 24 hours. Any person who fails to properly bag garbage, secure loads properly for transport, or to clean up spilled garbage is in violation of this ordinance and is guilty of a misdemeanor and subject to a fine of \$25.00 for first occurrence, \$50.00 for second occurrence and upon the third and subsequent occurrences, \$100 plus a minimum of five (5) hours of community service work to be devoted to matters pertaining to beautification programs within the _____ [jurisdiction]. A commercial hauler can risk loss of its solid waste hauling permit for multiple infractions or failure to pay penalties, see _____ [jurisdiction commercial hauler ordinance].

ARTICLE III:

PREVENTION OF LITTERING {Description of the crime of littering, activities prohibited, penalties, and includes salvage operations}

SECTION 1 – LITTERING PROHIBITED {Describes the unlawfulness of all acts of littering in the jurisdiction}

A. It is unlawful for any person to throw, discard, or deposit litter, as defined herein, in any manner or amount in or upon any private or public property, highway, street, right-of-way, body of water, or park in the _____ [jurisdiction], except in public receptacles, in authorized private receptacles, or in accordance with regulations and requirements set forth by the _____ [jurisdiction] and its agent for collection.

B. It is unlawful for any person to sweep into or deposit in any gutter, street or other public place within the _____ [jurisdiction] the accumulation of litter or yard waste from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalks, entrance walks, parking lots and parking areas in front of or upon their premises free of litter.

C. It is unlawful for any person, while a driver or passenger in a vehicle, to throw or deposit litter upon any street or other public place within the _____ [jurisdiction] or upon private property.

D. It is unlawful for any person to throw or deposit litter in any public place within the _____ [jurisdiction] except to make deposits in public receptacles specifically provided for solid waste, recycling, and cigarette butts. Where public receptacles are not provided, all such litter shall be

carried away from the public place by the person responsible for its presence and properly disposed of elsewhere as provided herein.

E. It is unlawful for any person to throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a public place or elsewhere within the _____ [jurisdiction].

F. It is unlawful for any person to throw or deposit any commercial or noncommercial handbill in or upon any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

G. It is unlawful for any person to throw or deposit any commercial or noncommercial handbill or telephone books in or upon any private premises which are temporarily or continuously uninhabited or vacant.

H. It is the duty of the owner, lessee, tenant, occupant, or person in charge, to keep and cause to be kept the sidewalk and gutter areas (twenty four inches from curb into street) free from obstruction or nuisances of every kind, and to keep sidewalks, gutter areas, archways, backyards, courts and alleys free from litter and other offensive materials.

I. Temporary signs which advertise the sale, rental, lease or improvement of the property on which it is located provided such signs do not exceed six square feet in any residential zone, 20 square feet in commercial zones, and 30 square feet in industrial zones. Signs advertising pending improvements shall not be in place more than 60 days prior to commencement of such improvements. Temporary signs shall be removed within ten days after completion of the activity advertised. Such signs shall not be lighted nor internally illuminated. Election signs shall be considered temporary signs and shall comply with the above requirements.

SECTION 2 – PENALTIES FOR LITTERING {Description of penalties associated with littering violations}

Any person found to be in violation of any provisions of this ordinance where the amount of litter and/or solid waste does not exceed fifteen (15) pounds in weight or twenty-seven (27) cubic feet in volume and where the activity generating the litter or solid waste is not for commercial purposes is guilty of littering and subject to the terms and conditions set forth in _____ [appropriate state code] and shall be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Fifty Dollars (\$250.00). In addition to, or in lieu of, the fine imposed hereunder, the person so convicted may be ordered to pick up litter for not less than five (5), nor more than 50 (50), hours. [See text box about penalties for more considerations].

ARTICLE IV:

PREVENTION OF ILLEGAL DUMPING {Description of illegal dumping violations, penalties, and ability to require clean up}

SECTION 1 – ILLEGAL DUMPING PROHIBITED {Description of illegal dumping violations}

A. It shall be unlawful for any person to cause, create, or allow an illegal dump on any private or public property. Illegal dumps shall be eliminated by removal and proper, legal management of the dumped material. Solid waste from the illegal dump site will be disposed in an approved and permitted landfill and/or recycling facility.

B. Not more than one unregistered and uninspected vehicle shall be stored or parked outdoors in any residential zone. Storage or abandonment of unserviceable or derelict vehicles is prohibited in any residential zone.

C. It shall be unlawful to abandon a watercraft or outboard motor on the public land or waters of this state or the _____ [jurisdiction] or on private property without permission of the property owner. This section does not apply to persons who abandon a watercraft in an emergency for the safety of the person onboard; however, after the emergency is over, the owner and operator of the abandoned watercraft shall make a bona fide attempt to recover the watercraft.

SECTION 2 – PENALTIES {Description of penalties associated with illegal dumping violations}

A. Illegal Dumping (Misdemeanor). Any person found to be in violation of any provisions of this ordinance where the amount of litter and/or solid waste exceeds fifteen (15) pounds or twenty-seven (27) cubic feet in volume, but does not exceed five hundred (500) pounds in weight or one hundred (100) cubic feet in volume and where the activity generating the litter or solid waste is not for commercial purposes is guilty of a misdemeanor and subject to the terms and conditions set forth in _____ [appropriate state code] and shall be subject to a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand (\$1,000.00), or imprisonment for a term of not more than one (1) year, or both. In addition to, or in lieu of, the fine imposed hereunder, the person so convicted may be ordered to pick up litter for not less than five (5), nor more than 100 (100), hours. [See text box on penalties for more considerations.]

B. Illegal Dumping (Felony). Any person found to be in violation of this ordinance where the amount of litter or solid waste exceeds five hundred (500) pounds in weight or one hundred (100) cubic feet in volume, or in any amount or volume of solid waste where the activity generating the litter or solid waste was for commercial purposes, or in any amount of volume of hazardous waste, is guilty of a felony and subject to the terms and conditions set forth in _____ [appropriate state code] and shall be subject to a fine of not less than Seven Hundred and Fifty (\$750.00) nor more than Fifty Thousand Dollars (\$50,000.00), or to imprisonment for a term of not more than five (5) years, or both. For purposes of the fine, each day shall constitute a separate violation. [See text box about penalties for more considerations.]

C. A person violating the provisions of Section IV) 1) C. of this Ordinance is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars (\$1,000.00) nor more than five thousand dollars (\$5,000.00) or imprisoned up to thirty (30) days, or both. In addition, the owner must remove the abandoned watercraft within fourteen (14) days of conviction. The _____ [jurisdiction court] is vested with jurisdiction for cases arising under this section.

D. An abandoned watercraft shall be removed at the risk and the expense of the owner.

SECTION 3 – ILLEGAL DUMP CLEANUP {Describes responsibility for cleanup of illegal dump sites}

A. The property owner shall be responsible to clean up the illegal dump.

B. Upon a written request by the property owner certifying that they are financially or otherwise incapable of cleaning up the site, as per _____ [appropriate state code], and upon approval by the _____ [governing entity], the _____ [jurisdiction]

may clean up the illegal dumpsite. However, before such work may begin, a consent form for removal from private property must be fully executed. (See Appendix A).

ARTICLE V:

ENFORCEMENT {Description of enforcement tools available to enforcement officers}

SECTION 1 – ENFORCEMENT PROCEDURE FOR SOLID WASTE ENFORCEMENT OFFICER {Description of procedure}

A. Upon receiving a complaint (See Appendix B) alleging unlawful litter or an illegal dump, the Solid Waste Enforcement Officer (SWEO) [or other appropriate code enforcement officer] discusses the issue with the resident, property owner, or the person believed responsible to try and resolve the issue. For leased property, the SWEO [or other appropriate code enforcement officer] will attempt to contact the tenant first and the owner only after attempts to work with the tenant does not result in compliance to this ordinance.

B. If, after investigating an alleged illegal dump site or litter problem, the SWEO [or other appropriate code enforcement officer] believes further action should be taken and, if the issue cannot be resolved, the SWEO shall issue a Written Notice of Corrective Action (See Appendix C). The Written Notice of Corrective Action may be issued to suspected violators of this ordinance in lieu of citation or arrest.

1. Notices shall be mailed by Certified Mail, return receipt requested, to the suspected violator's last known place of residence and shall be deemed personal service upon the person for the purpose of this ordinance.

2. Notices shall include the date issued, a description of the alleged offense committed, an explanation of the corrective measures to be taken, and the date and time by which such corrections shall be made.

3. The issuing authority of notifications shall retain all such notices issued and make them available for public inspection during normal office hours.

C. If the person notified of a suspected violation does not contest the Written Notice of Corrective Action, and completes the corrective measures within the time specified, the Solid Waste Enforcement Officer [or other officer, such as code enforcement officer] will issue a Certificate of Compliance certifying that the suspected violation no longer exists (See Appendix D).

SECTION 2 - APPEAL PROCEDURE {Description of actions that occur if the accused violator appeals}

Penalties:

The extent and type of penalties must consider limits allowed under existing law. Most illegal dumping and litter penalties aim to remedy the situation quickly, and deter future illegal dumping and litter. Penalties for littering/illegal dumping might include:

- Impose a higher fee or other penalty for a second and/or subsequent offense;
- Impose a higher fee/penalty for the littering of a lit cigarette, cigar, or other items that could cause a fire;
- Impose a higher fee/penalty for the illegal dumping or littering of waste considered to be more dangerous or potentially dangerous, such as hazardous waste and electronic waste;
- Community service hours that help remediate a similar type of violation within the same community; and
- Payment of a ticket (fines) for civil/lower crimes that do not require the offender to go to court -- although usually a lower fine, this also helps reduce the use of court resources and the need/cost to build an adequately strong case to convict the violator.

A. If the person notified of an alleged violation wishes to contest the Written Notice of Corrective Action, they must submit in writing, within 10 days of receipt by registered mail of the Written Notice of Corrective Action, a request for a hearing to the _____ [jurisdiction] Solid Waste Hearing Officer [or appropriate hearing officer].

1. The Solid Waste Hearing Officer [or appropriate hearing officer] shall schedule a meeting date within 15 days from receipt of a request for a hearing.

2. The Solid Waste Hearing Officer [or appropriate hearing officer] after considering all evidence shall make a ruling that dismisses the alleged violation or affirms the issuance of the Written Notice of Corrective Action. Note: The cost of the hearing shall be a charge to _____ [jurisdiction] upon dismissal of the alleged violation, or a charge to the person(s) that requested the hearing upon a ruling that requires remediation. The Solid Waste Hearing Officer [or appropriate hearing officer] may grant an extension of time for remediation upon considering justifying circumstances.

SECTION 3 – FAILURE TO COMPLY {Description of actions that ensue upon failure to comply}

Any person who has been served a written notice of corrective action in accordance with the provisions of this ordinance, and who shall neglect, refuse or fail to fully comply with the corrective notices so ordered, and/or within the time frame so ordered therein, shall be in violation of this ordinance. The Solid Waste Enforcement Officer [or appropriate hearing officer] shall file an affidavit with the appropriate court of jurisdiction for prosecution.

ARTICLE VI:

THREATS TO PUBLIC HEALTH AND SAFETY {Procedure for Citizens Concerned with Illegal Dumping Presenting Public Health and Safety Issues}

SECTION 1 – COMPLAINT BY PETITION

A. Any resident of _____ [jurisdiction] may present a written petition (See Appendix E) to the _____ [governing entity] to order the cleanup of private property that presents a threat to the health and safety of _____ [jurisdiction] residents. The petition must contain the signatures of a majority of those tenants, households, and/or owners of parcels within 750 feet of the alleged violating property.

B. Upon receipt of a petition, the _____ [governing entity] will order a hearing and give notice of the complaint and hearing to the involved tenant and/or property owner in accordance with _____ [appropriate state code].

SECTION 2 – INDIVIDUAL COMPLAINTS

Individuals may initiate an investigation by filing a written complaint (See Appendix B) with the Solid Waste Enforcement Officer [or other appropriate code enforcement officer] alleging that the conditions of a parcel of land constitutes a menace to the health, safety, and welfare of the adjacent community.

A. Upon receipt of the complaint, the Solid Waste Enforcement officer [or other appropriate code enforcement officer] will investigate the matter and confer with the members of the _____ [governing entity]. If the Solid Waste Enforcement Officer [or other appropriate code enforcement officer] determines that there is substantial evidence to believe that the condition of such property does pose a menace to the health, safety, and welfare of the local

community, he will recommend that the _____ [governing entity] convene a hearing in accordance with _____ [appropriate state code].

B. All documents maintained by the _____ [jurisdiction] under this ordinance, including petitions and individual complaints, are public records subject to disclosure under the Public Records Act. However, in the event a complainant or complainants request(s) that the complaint or petition and/or their identity not be disclosed by the _____ [jurisdiction] in accordance with _____ [appropriate state code], the _____ [governing entity] will immediately determine whether to maintain confidentiality based on the factors delineated in [appropriate state code].

SECTION 3 – EXAMPLES

Examples of littering and illegal dumping conditions on private property that may be considered illegal and declared a menace to the public health and safety of the community:

A. Properties that contain items that hold water and make a good mosquito-breeding habitat. Example: open barrels, tires, etc.

B. Buckets, drums, containers, or other items that hold oil or other liquids that may spill, drip, or leak and, if rained upon, may spill over and contaminate the soil.

C. Material that is fly producing, rat harboring, and/or is odorous.

D. Loose material of significant volume that may be blown onto _____ [jurisdiction] road right-of-way or neighboring property.

E. Objects that create a condition that may be expected to attract children and constitute a danger to their safety.

F. Hazardous, toxic, or radioactive waste as defined by the _____ [state environmental management agency] or the federal Environmental Protection Agency, including appliances that contain Freon, e.g., refrigerators and air conditioners.

G. Discarded dead animals weighing 15 pounds or more that may be infectious or odorous.

H. Burning of garbage as per _____ [appropriate state code].

I. Illegal discharge to state waters. It shall be unlawful for any person to throw, discard or deposit garbage, rubbish, yard waste or other solid wastes into any river, creek, stream, water drainage way, or in any other manner that would result in the wash out of wastes into state waters.

SECTION 4 – FAILURE TO COMPLY {Description of Actions that occur if issue is not resolved within 30 days}

A. If a Written Notice of Corrective Action is issued and the condition described is not resolved within 30 days, the property owner will be ordered to appear before the _____ [governing entity] for a show cause hearing.

B. If the _____ [governing entity] finds that the condition on the property constitutes a menace to the health and safety of the community, the Board can order the property owner to clean up his property.

C. Upon the failure or refusal of any person so notified to properly dispose of garbage, rubbish and/or yard waste from their property within 30 days after issuance of proper corrective notice,

the _____ [governing entity] may effect the removal of said garbage, rubbish, and/or yard waste and charge the owner of such property for the actual cost of removal pursuant to _____ [appropriate state code] and such assessment may be a lien against the property.

ARTICLE VII:

OTHER PROVISIONS

SECTION 1 – CONFLICT

.It is not intended that this Ordinance repeal, abrogate, annul, impair, or interfere with any existing provisions of any other ordinances or laws. However, if the requirements of any other lawfully adopted rules, regulations, or ordinances of the _____ [jurisdiction] conflict with this Ordinance, the more restrictive or that imposing the higher standards will govern.

SECTION 2 – SEVERABILITY

Severability is intended throughout and within the provisions of this Illegal Dumping and Litter Control Ordinance. If any provision, including any exception, part, phrase or term or the application thereof to any person or circumstance is held invalid by a Court of appropriate jurisdiction, the application to other persons or circumstances shall not be affected thereby, and the validity of the Illegal Dumping and Litter Control Ordinance in any and all other respects shall not be affected thereby. The _____ [governing entity] of the _____ [jurisdiction] do not intend a result that is absurd, impossible to execute, or unreasonable. It is intended that this Illegal Dumping and Litter Ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional as constitutionally permitted construction is intended and shall be given.

SECTION 3 – ORDINANCE CUMULATIVE

This Ordinance shall be cumulative and in addition to any other laws in force.

SECTION 4 – NON-EXCLUSIVE REMEDY

The standards and procedures set forth in this ordinance are non-exclusive and therefore citizens and the _____ [jurisdiction] may simultaneously proceed under one or more Article(s) as to any single condition as deemed appropriate.

SECTION 5 – EFFECTIVE DATE

The _____ [governing entity] of the _____ [jurisdiction] does hereby find that it is necessary for the immediate and temporary preservation of the public cleanliness, health and safety that this Illegal Dumping and Litter Control Ordinance be made effective immediately. Accordingly, this Illegal Dumping and Litter Control Ordinance shall be in full force and effect from and after the _____ day of _____ [month, year], of its enactment, and the Clerk is directed to publish notice accordingly.

SO ORDERED AND ADOPTED by the _____ [governing entity] of _____ [jurisdiction] of _____ [state], on this the _____ [day] of _____ [month, year].

_____ [Jurisdiction], _____ [state]

CONSENT FORM:

CLEAN UP OPTIONS for ILLEGAL DUMP SITE

INSTRUCTIONS: Please fill in property information below, and then check Option 1 or Option

2. Deliver this completed form to the _____ [jurisdiction] Solid Waste Enforcement Officer [or appropriate code enforcement officer] at the _____ [jurisdiction's appropriate business address.

_____ **Option 1:**

I (We) certify that the illegal dumpsite shall be cleaned up and disposed of legally (subject to inspection) within thirty (30) days after receipt of the certified mail notice from _____ [jurisdiction].

_____ **Option 2:**

I (We) certify that I (we) are financially or otherwise incapable of cleaning up the site (explain below), as per _____ [appropriate state code], and agree to allow _____ [jurisdiction] personnel and equipment access to my (our) property. By marking this option and signing below I (we) agree that _____ [jurisdiction] shall not be liable for any personal property damages including, but not limited to, trees, shrubs, fences, roads, grounds, utilities or any other damage caused by the removal or burying of the debris.

For Option 2, please provide below an explanation why the property owner is financially or otherwise incapable of cleaning up the illegal dump:

Owner's Name (print)

Co-Owner's Name (print)

Owner's Signature

Co-Owner's Name (print)

Date

Date

Owner's Street Address or P.O. Box

Co-Owner's Street Address or P.O. Box

Owner's City, State, Zip Code

Co-Owner's City, State, ZIP Code

Owner's Telephone Number

Co-Owner's Telephone Number

_____ [jurisdiction], _____ [state]
WRITTEN COMPLAINT FORM
REQUESTING INVESTIGATION OF ILLEGAL LITTERING OR DUMPING

PURPOSE:

The purpose of this form is to assist citizens of _____ [jurisdiction] to submit written complaints to the _____ [jurisdiction] Solid Waste Enforcement Officer [or other appropriate code enforcement officer]. **Use of this form is optional and written notice does not have to be given on this form.** If preferred, a complaint can be made by phone by calling the Solid Waste Enforcement Officer at _____ [phone number] or by email at _____ [appropriate email address]. Please include all of the information below in your communications.

INSTRUCTIONS:

1. Fill in date, property address, and complainant information below.
2. Provide a brief description of the problem. (Include photographs if possible.)
3. Deliver this complaint form to the _____ [jurisdiction] Solid Waste Enforcement Officer [or other appropriate code enforcement officer]
_____ [appropriate jurisdiction address]

Date: _____

I am requesting an investigation by the _____ [jurisdiction] Solid Waste Enforcement Officer [or other appropriate code enforcement officer] the property at (address)
_____.

Problem Description:

Complainant Information:

Name (printed)

Street Address

City, State, Zip Code

Signature

_____ [jurisdiction], _____ [state]
Solid Waste Department
WRITTEN NOTICE OF CORRECTIVE ACTION

To: _____
 Property Owner Date of issue

 Street Address City, State, Zip Code

Dear Property Owner:

_____ [jurisdiction] has received a complaint about a possible violation of the _____ [jurisdiction] Illegal Dumping and Litter Control Ordinance (_____ [jurisdiction] Ordinance) on your property. An investigation has confirmed the condition or conditions checked below exist on your property within the political boundaries of _____ [jurisdiction].

- Your property contains an illegal dump with the amount of solid waste on your property exceeding fifteen (15) pounds in weight or twenty-seven (27) cubic feet in volume, the maximum amount allowed per _____ [appropriate state code] (See _____ [jurisdiction] Ordinance Article II, Section 1.)
- Your property contains an illegal dump with the amount of solid waste on your property exceeding five hundred (500) pounds in weight or one hundred (100) cubic feet in volume, the maximum amount allowed per _____ [appropriate state code] (See _____ [jurisdiction] Ordinance Article II, Section 1.)
- Your property contains excessive uncontained litter. (See _____ [jurisdiction] Article II, Section 2.)
- You are operating a salvage business on your property without a valid _____ [type of permit] permit from _____ [appropriate state permitting agency]. (See _____ [jurisdiction] Ordinance Article II, Section 3.)

If you believe that you are not in violation of the _____ [jurisdiction] Illegal Dumping and Litter Control Ordinance, you may appeal this Written Notice of Corrective action by contacting the Solid Waste Enforcement Office [or other appropriate enforcement office] in writing within 10 days and request a hearing with the Solid Waste Hearing Officer [or other appropriate hearing officer].

As the property owner, you must take all corrective actions checked below:

- Clean up your property within 30 days of the "Date of Issue" above to bring it into compliance with the _____ [jurisdiction] Ordinance. Deadline for completion: _____.
- Obtain a _____ [appropriate type of permit] permit from _____ [state permitting agency] to operate a salvage yard within 30 days of the "Date of Issue" above to bring it into compliance with the _____ [jurisdiction] Ordinance. Deadline for completion: _____.

After you have completed the corrective actions checked above, you must notify the _____ [jurisdiction] Solid Waste Enforcement Officer (SWEO) [or other appropriate code enforcement officer]. If you are no longer in violation, the SWEO [or other appropriate officer] will issue a Certificate of Compliance to provide documentation that you have corrected the problem. If you are financially or otherwise unable to clean up your property and you can certify that person(s) unknown to you created the dump, _____ [appropriate state code] allows you to request assistance from the _____ [governing entity in the jurisdiction] This option requires that you submit an application form (Clean Up Options for Illegal Dump Site), that funding is available, and that your request is approved by the _____ [governing entity in the jurisdiction]. If you do not complete the corrective actions checked above, the _____ [jurisdiction] SWEO [or other appropriate officer] will file an affidavit with a court of competent jurisdiction for your case.

Signed,

 Jurisdiction SWEO [or other authorized officer] Telephone Number

_____ [jurisdiction], _____ [state]
Solid Waste Department
CERTIFICATE OF COMPLIANCE

To: _____
Property Owner

Date of Issue

Street Address

City, State, Zip Code

Dear Property Owner:
Regarding the Written Notice of Corrective Action you received on (date) _____ ,
you have now satisfactorily completed the corrective actions requested.

Signed,

[jurisdiction] Solid Waste
Enforcement Officer [or other appropriate
code enforcement officer]

Telephone Number

**PETITION TO THE _____ [Jurisdiction Governing Entity]
REQUESTING PROPERTY CLEAN UP**

INSTRUCTIONS:

1. Fill in date.
2. Fill in property address.
3. Provide a brief description of the problem. (Include photographs if possible.)
4. Collect signatures of at least 50% of the adjacent property owners (those who own property within 750 feet of the property alleged to have a violation).
5. Deliver this petition to the _____
[appropriate contact in jurisdiction, and address]

Date: _____

We, the undersigned residents of _____ [jurisdiction] are petitioning the -
_____ [governing entity] to order the cleanup of the property at (address)

Address of Property

Problem Description:

Signatures (Continue on additional page if needed):

_____ Name	_____ Address

Resources

Carson, Cecile Vice President of Litter and Affiliate Relations, Keep America Beautiful, Denton, Texas.

City of Birchwood, WI Code of Ordinances

City of Charleston, SC Code of Ordinances

Lafayette County, Mississippi Unauthorized Dumping and Litter Control Ordinance, July 23, 2007 (primary resource)

Morales, Tom, Program Manager, Keep America Beautiful, Stamford, Connecticut.

NJclean.org Sample litter ordinance for New Jersey

<http://www.njclean.org/2014-best-practices/enforcement/LITTERING%20ORDINANCE.pdf>

Rhode Island General Laws, Litter Control and Recycling Section 37-15

Town of Narragansett, RI Code of Ordinances