

## **ORDINANCE NO. 697**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMMERCE ADDING CHAPTER 6.21, "ILLEGAL DUMPING" TO TITLE 6, "HEALTH AND SANITATION" OF THE COMMERCE MUNICIPAL CODE ESTABLISHING PROHIBITIONS AGAINST ILLEGAL DUMPING**

WHEREAS, the City of Commerce ("City") is a general law city, incorporated under the laws of the State of California;

WHEREAS, pursuant to its "police powers" under Article XI, Section 7 of the California Constitution, the City may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws;

WHEREAS, illegal dumping is a serious concern that endangers the public health and safety within the City;

WHEREAS, illegal dumping is a community eyesore, decreases neighborhood property values, negatively impacts and pollutes surface, ground and storm water, poses safety hazards to the public, provides a breeding ground for disease carrying rodents, insects and other vermin, and in general, lowers the quality of life for City residents;

WHEREAS, the blight, decay and unhealthy conditions created by illegal dumping negatively impacts the quality of life of our City residents, leads to diminished property values and attracts more illegal dumping;

WHEREAS, illegally dumped waste may quickly become hazardous to the environment. Tires, refrigerators, household hazardous materials, televisions and auto parts often contain toxins;

WHEREAS, rodents, insects, and other vermin make illegally dumped waste their breeding habitats, and said vectors can spread disease such as West Nile virus, malaria, etc.;

WHEREAS, currently Section 9.04.070, "Illegal Dumping", of Chapter 9.04, "General Offenses," of Title 9, Peace, Safety and Morals, of the Commerce Municipal Code is the only provision that addresses illegal dumping;

WHEREAS, the purpose and intent of this Ordinance is to address illegal dumping as a public nuisance in a more comprehensive manner, and to protect public and private property from illegal dumping by streamlining and enhancing the tools and remedies available to address and discourage such acts;

WHEREAS, the City Council of the City of Commerce desires to enact this Ordinance in order to prohibit illegal dumping citywide, on public and private properties, and to explicitly make all persons allowing, causing or permitting said illegal activity to be jointly and severally liable for any offense; and

WHEREAS, the City wishes to deter and abate illegal dumping; to protect residents and the public at large from harm to their health, safety and welfare; to avoid destruction and injury to the lives and property of residents; and to compensate the City for damages incurred as a result of the occurrence of the nuisance of illegal dumping activities.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COMMERCE DOES ORDAIN AS FOLLOWS:

**SECTION 1.** The City Council for the City of Commerce finds and declares that the foregoing recitals are true and correct, and incorporates said recitals fully into this Ordinance as substantive findings.

**SECTION 2.** Chapter 6.21, "Illegal Dumping," is hereby added to Title 6, "Health and Sanitation," of the Commerce Municipal Code to read as follows:

## Chapter 6.21

### ILLEGAL DUMPING

#### 6.21.010 – Purpose.

The purpose and intent of this Section 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.

#### 6.21.020 - Definitions.

For the purpose of this Section, the following terms, phrases, words, and their derivation shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory:

(a) “Bulky item” shall mean any discarded furniture, carpets, mattresses; household or industrial appliances, including refrigerators, ranges, washers, dryers, water heaters, and other similar items; abandoned vehicle or part of any abandoned vehicle; or any object that exceeds the maximum size and/or weight proscribed by the City’s franchise waste hauler for placement into a household or commercial waste or recyclable container.

(b) “City” is the City of Commerce.

(c) “Code” is the Commerce Municipal Code, and all ordinances, laws, rules and regulations adopted and incorporated therein.

(d) “Hazardous material or waste” shall mean any material or combination of materials which, because of its quantity, concentration or physical, chemical or infectious characteristics, may either, (1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported or disposed of otherwise managed. “Hazardous material” or “hazardous waste” shall include hazardous waste as defined by Section 25117 of the California Health and Safety Code.

(e) “Solid waste” shall mean all putrescible and nonputrescible solid, semisolid, and liquid waste matter, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes and debris, bulky items, abandoned vehicles and parts thereof, discarded household and industrial appliances and equipment, manure, human waste, animal solid and semisolid wastes, and other discarded solid and semisolid wastes, or as otherwise defined by Section 40191 of the California Public Resources Code.

(f) “Waste matter” shall mean a lighted or nonlighted cigarette, cigar, match, or any flaming or glowing material, or any garbage, trash, refuse, paper, container, packaging or construction material, carcass of a dead animal, human waste and/or urine, any nauseous or offensive matter of any kind, or any object likely to injure any person or create a traffic hazard or as otherwise defined by Section 374 (b) of the California Penal Code.

#### 6.21.030 - Illegal Dumping.

(a) It is unlawful and a public nuisance for any person to cause, permit, allow, or suffer the placing, throwing, dropping, depositing, sweeping, dumping, or leaving of any organic or inorganic rubbish, refuse, debris, garbage, bulky item, waste matter, hazardous waste, solid waste, or similar waste, on or about any public street, highway, sidewalk, alley, right-of-way, parkway, park, in or upon any flood water channel, in or upon any place in the City where the natural flow of storm water might carry the same to any such flood water channel or structure, other public property (including any grounds belonging to a Federal, State, County or other governmental or quasi-governmental

entity or agency within the City's jurisdiction, unless expressly preempted by State or Federal Legislation), or on private property, except when placed in appropriate containers designated by the City for such purposes.

(b) No person shall hire or cause another person to dispose of any organic or inorganic rubbish, refuse, debris, garbage, bulky item, waste matter, hazardous waste, solid waste, or similar waste, by illegal dumping on public or private property, or to otherwise dispose of said materials in violation of the Code, or other local, state or federal law. Any person who hires or causes another person to dispose of solid waste, hazardous waste or waste matter by illegal dumping is and will be jointly and severally liable with all other persons who participated in the act of illegal dumping.

(c) Any person whose identifying information is found in illegally dumped solid waste or hazardous materials, or who is otherwise responsible for illegal dumping of solid waste, hazardous waste, or waste matter on any public or private property within the City is subject to enforcement as provided in this Section.

(d) Each individual act of illegal dumping at the same site or location shall be deemed a separate violation, even if each occurs on the same general time and day.

(e) Any person who disposes of solid waste, hazardous waste, or waste matter through illegal dumping shall be responsible for causing the clean-up and the proper and lawful disposal of the illegally dumped materials, and/or for the costs of cleaning up and properly and lawfully disposing of the illegal dumped solid waste, hazardous waste, or waste matter, incurred by a private property owner, the City, or any other governmental agency. The person causing or allowing the illegal dumping shall reimburse the City any costs incurred by the City for enforcing the provisions of this Section. Failure to pay said enforcement costs to the City shall authorize the City to collect said costs by any and all available legal remedies available to the City.

(f) A violation of this Section shall be subject to enforcement through criminal prosecution, civil action, administrative action, and/or civil penalties, as provided herein and by applicable law.

#### 6.21.040 - Maintenance.

(a) The owner, occupant, and person in control of any real property within the City shall keep and maintain the public street, sidewalk, alley, parkway, and other public right-of-way immediately adjacent to said real property in a neat, clean, and orderly condition free from organic or inorganic rubbish, refuse, debris, garbage, bulky item, waste matter, hazardous waste, solid waste, or similar waste matter and as otherwise required by the Code. It is unlawful and hereby declared a public nuisance for any person owning, occupying or having charge or control of any real property to fail to keep and maintain the public street, sidewalk, alley, and other public right-of-way immediately adjacent to said real property in the manner required by this Section.

(b) If the owner, occupant, and person in control of any real property within the City documents that his or her real property, and/or the public property immediately adjacent thereto, has been a site for repeated illegal dumping not caused, allowed or permitted by him or her, or any other occupant(s) of the subject real property, he or she may report same to the City. In the event any abatement, prevention and/or enforcement programs are implemented by the City pursuant to section 6.21.050, the owner, occupant or person in control of any real property that is subject to repeated illegal dumping shall cooperate with the City to prevent the site from continuing to be a chronic illegal dumping site.

#### 6.21.050 - Rules, Policies, and Regulations.

The City Administrator, or his or her designee, is authorized to enact and promulgate rules, policies and/or regulations to facilitate and encourage the enforcement of, and adherence to, the provisions of this Section, including, but not limited to, implementing programs to effectuate prevention, abatement, or correction of the underlying illegal dumping; to develop a community labor or service program to be

offered to violators of this Section in lieu of payment of fines or costs to the City; and/or any policy consistent with the purpose of this Section.

6.21.060 - Violations.

(a) The City Council of the City of Commerce hereby declares and finds that illegal dumping is a public nuisance subject to enforcement, abatement, remedies, and penalties as provided in this Section, Code and any applicable local, state and federal laws, ordinances, rules and regulations.

(b) Any person, firm or corporation causing, allowing, permitting, or maintaining any condition, use or activity in violation of any provision of this Section shall be guilty of a misdemeanor, pursuant to Section 1.12.010 of Chapter 1.12 of this Code.

(c) A responsible party may also be subject to administrative citations and fines should an administrative citation program be in effect, and or adopted, by this Code.

(d) In addition to other penalties provided by law, any condition caused or permitted to exist in violation of this Section is deemed a public nuisance and the City may proceed with summary abatement and recover the expenses of abatement for that nuisance, pursuant to Chapter 9.32 of this Code, or applicable local or state laws.

SECTION 3. This action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) as the action will not result in direct or reasonable foreseeable indirect physical change in the environment and Section 15060(c)(3) as the action is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly because this Resolution does not involve any commitment to a specific project which may result in potentially significant physical impact on the environment.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or portions might subsequently be declared invalid or unconstitutional.

SECTION 5. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published or posted as required by law, which shall take full force and effect thirty (30) days from its adoption.

**PASSED, APPROVED AND ADOPTED this 20<sup>th</sup> day of March, 2018**

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Oralia Rebollo  
Mayor

ATTEST:

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Lena Shumway  
City Clerk