

ORDINANCE NO 21-0001

ILLEGAL DUMPING ORDINANCE

WHEREAS, the illegal dumping of scrap and waste materials; auto bodies, tires and parts; construction debris; yard clippings; and litter on public and private property threatens the health, safety, and welfare of the community; and

WHEREAS, the use of a motor vehicles to engage in illegal dumping upon the public and private property causes a significant solid waste disposal; fire, smoke and pollution hazards; pedestrian trip hazards; rodent harborage and community health problems.

WHEREAS, illegal dumping creates unsafe traffic conditions for motor vehicles, and area foot traffic, including playing children and pedestrians; attracts undesirable and criminal activity in the vicinity of the dumping, resulting in fear and disinvestments among neighborhood residents interrupting the peaceful enjoyment of their property; or otherwise impacts negatively on the health, safety, and welfare of the community; and

WHEREAS, illegal dumping is an act done for profit, which can be reduced by impacting its profitability; and

WHEREAS, municipal enforcement of littering laws need to be enhanced.

NOW, THEREFORE, THE CITY OF HIGHLAND PARK ORDAINS:

SECTION 1. TITLE

This Ordinance shall be known and cited as the City of Highland Park Illegal Dumping Ordinance.

SECTION 2. DEFINITIONS

(a) "Construction/demolition debris" means nonhazardous wastes generated from construction and demolition activities, including, but not limited to, concrete, asphalt, wood, metal and plaster.

(b) "Garbage" means all waste, animal, fish, fowl, or vegetable matter incident to the use and storage of food for human consumption, including spoiled food and dead animals found within the limits, and excluding food containers.

(c) "Hazardous waste" means any material or substance, which, by reason of its composition or characteristics, is:

(1) Hazardous waste as defined in the Solid Waste Disposal Act, 42 USC Section 6901, et seq., as amended, replaced or superseded, and the regulations implementing the same;

(2) Material, the disposal of which is regulated by the Toxic Substance Control Act, 15 USC Section 2601, et seq., as amended, replaced or superseded, and the regulations implementing the same;

(3) Special nuclear or byproducts material within the meaning of the Atomic Energy Act of 1954; or

(4) Hazardous waste, as defined in Act No. 64 of the Public Acts of Michigan, 1979, as amended, and as identified in administrative rules promulgated from time to time pursuant to the provisions of such Act by the director of the department of natural resources.

(d) "Industrial waste" means the liquid, solid, or gaseous waste or form of energy, or combination thereof, resulting from any processing of industry, manufacturing, business, trade or research, including the development, recovery, or processing of natural resources.

(e) "Litter" means all rubbish, refuse, waste material, garbage, paper, glass, cans, bottles, trash, debris, or other foreign substances when the amount is under five-(5) cubic feet.

(f) "Municipal solid waste" means solid waste material from residential structures and classified as domestic solid waste, from commercial establishments and classified as commercial solid waste, and from industrial sites and as industrial solid waste.

(g) "Owner" or "operator" means any person, whether owner, occupant, tenant, lessee, agent or other person, who:

(1) Has legal or equitable title to any facility, private property, or water; or

(2) Has charge, care or control of any facility, private property, or water; or

(3) Is in possession of any facility private property or water or any part thereof; or

(4) Is entitled to control or direct the management of any facility, private property, or water.

(h) "Person" means an individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, sole proprietorship, joint venture, joint stock company, trust estate, political subdivision, state agency, owner, operator or generator, or any other legal entity or its legal representative, agent, or assigns.

(i) "Private property" or "water" means any of the following:

(1) A privately-owned right-of-way of a road or highway, a body of water or watercourse, or the shore or beach of the body of water or watercourse, including the ice above the water;

(2) A privately-owned park, playground, building, structure, parking lot, vacant lot, or conservation or recreation area;

(3) Residential or farm properties or timberlands; or

(4) Motor vehicles or vessels.

(j) "Process" or "processing" means any chemical, industrial, commercial, or manufacturing operation or activity that causes, or has the potential to cause, the emission of airborne particles including, but not limited to, blending, mixing, crushing, screening, breaking, wet or dry cleaning, thermal drying, and chemically treating.

(k) "Residential structures" means the household units of the residents of the City of Highland Park.

(l) "Rubbish" means non putrescible solid waste, excluding ashes, consisting of both combustible and noncombustible wastes, including paper, cardboard, metal containers, yard clippings, wood, glass, bedding, crockery, demolished building materials, and litter of any kind that may be detrimental to the public health and safety.

(m) "Scrap tires" means continuous solid or pneumatic rubber coverings, which were manufactured to encircle a wheel for use in the operation of any motorized vehicle and are no longer being used for their original purpose as defined by Section 16901 of the Michigan Natural Resources and Environmental Protection Act, being MCL 324.16901.

(n) "Solid waste" means any material defined as a solid waste within the meaning of Part 115 of the Michigan Natural Resources and Environmental Protection Act, being MCL 324.11501 et seq., and 42 USC 6901, et seq., and specifically includes the terms "scrap" and "litter" as defined by Part 89 of the Michigan Natural Resources and Environmental Protection Act, being MCL 324.8901 et seq., and the term "medical waste" as defined in this section.

(o) "Transfer point" means the location at or within a facility where material being moved, carried, or conveyed is dropped or deposited.

(p) "Vehicle" means every motor vehicle which is required to be registered under the Michigan Vehicle Code, being MCL 257.1 et seq.

(q) "Violation" means any act that is prohibited or made or declared to be blight violation by any section of this chapter, and any omission or failure to act where the act is required by any section of this chapter.

SECTION 3. PROHIBITED ACTS

(a) The illegal dumping of scrap and waste materials; auto bodies, tires and parts; construction/demolition debris; yard clippings and litter on public or private property, facilitated through the use of a motor vehicle, is therefore declared to be a public nuisance, which justifies taking firm action to abate the public nuisance, including the seizure, impoundment and forfeiture of motor vehicles used to facilitate this nuisance activity.

(b) A person shall not knowingly, without the consent of the public authority having supervision of public property or the owner of private property, dump, deposit, place, throw, leave, cause or permit the dumping, depositing, placing, processing, throwing, or leaving of, scrap and waste materials; auto bodies, tires and parts; construction/demolition debris; solid, hazardous, municipal or industrial waste, yard clippings and litter on public or private property other than property designated and set aside for such purposes or transfer point.

(c) A person or his or her agent or employee, who owns, leases, operates, or maintains a motor vehicle shall not use that motor vehicle, nor permit it to be used, for such illegal dumping upon public or private property.

SECTION 4. ENFORCEMENT AND ABATEMENT

- (a) A person who violates this ordinance is guilty of creating a public nuisance.
- (b) The motor vehicle and its contents, including a tractor, trailer or any other equipment used to facilitate the illegal dumping, are also declared a public nuisance.
- (c) Where there is probable cause to believe that a motor vehicle has been or is being used in violation of this ordinance, a peace officer shall seize and impound said motor vehicle and the contents contained therein. The peace officer shall notify the owner of the seizure.
- (d) Within thirty (30) days of receiving notice of such seizure, the owner of a motor vehicle seized and impounded under this ordinance shall either submit a request to the City Attorney for release of the vehicle or such terms that may be set by the City. Thereafter, if not resolved, the owner shall post a bond of no less than \$800 or 10% of the value of the vehicle seized. The City Attorney shall have the authority to waive the bond upon proof of hardship. Once the bond has been posted or waived, the City Attorney shall file an action in the court having subject matter jurisdiction.
- (e) Owner of a motor vehicle includes a person in whose name the motor vehicle is titled and/or registered and/or any lien holder whose lien has been filed in the office of the Secretary of State prior to the commencement of the nuisance abatement action, as well as a person who is deemed by law to be a constructive owner.
- (f) Proof of knowledge of the existence of the public nuisance on the part of the owner, or his or her agent or employee, or any of them, is not required.
- (g) A public nuisance shall be sanctioned, enjoined and abated as set forth in this ordinance and by any Third Circuit Court ruling.

SECTION 5. PENALTIES AND SANCTIONS

- (a) The provisions of this ordinance are to be considered an additional sanction to any other violation of the law and are not intended to comprise a substitute for or limitation upon those additional sources of authority.
- (b) A person who violates this ordinance where the amount of the litter is less than 1 cubic foot in volume is responsible for a municipal civil infraction and is subject to a civil fine of not more than \$800.
- (c) A person who violates this ordinance where the amount of the litter is one (1) cubic foot or more but less than three (3) cubic feet in volume is responsible for a municipal civil infraction and is subject to a civil fine of not more than \$1,500.
- (d) A person who violates this ordinance where the amount of the litter is three (3) cubic feet or more in volume is responsible for a municipal civil infraction and is subject to a civil fine of not more than \$2,000. A person found to have violated this subsection in a subsequent proceeding is subject to a civil fine of not more than \$5,000.

(e) In addition to any other penalty or sanction provided in this ordinance, the court may require the defendant to pay either or both of the following:

(f) The cost of removing all litter which is the subject of the violation and the costs of damages to any land, water, wildlife, vegetation, or other natural resource or to any facility damaged by the violation of this ordinance. Money collected under this subdivision shall be distributed to the governmental entity bringing the enforcement action.

(g) The reasonable costs associated with the seizure and impoundment of any vehicle used to further a violation of this ordinance. Money collected under this subdivision shall be distributed to the governmental entity that seized and impounded the vehicle involved in the violation of this ordinance.

(h) In addition to any other penalty or sanction provided for in this ordinance, the court shall impose, under the supervision of the governmental entity bringing the enforcement action, community service in the form of litter gathering labor, including, but not limited to, litter connected with the particular violation.

SECTION 6. APPLICABILITY

This ordinance shall apply to the City of Highland Park. All portions of former ordinances in conflict herewith are hereby repealed or superseded.

SECTION 7. SEVERABILITY

In the event that any sections, provisions, phrases or words of this ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforcement of the remaining sections, provisions, phrases or words of this ordinance.

SECTION 8. EFFECTIVE DATE

This ordinance shall take effect fifteen (15) days after the date of enactment, in accordance with the provisions of Section 6-2(B) of the City Charter.

PASSED AND ADOPTED THIS: 19th **DAY OF** January, **20** 21.

YEAS: 4 Clyburn, Patrick, Bates , Armstrong

NAYS: 1 Jackson

ABSENT: 0

ATTEST:

Cidia Wicker-Brown

Deputy City Clerk, ~~CITY CLERK~~