



City of South San Francisco

P.O. Box 711 (City Hall, 400
Grand Avenue)
South San Francisco, CA

Legislation Details (With Text)

File #:	19-507	Name:	
Type:	Staff Report	Status:	Public Hearing
File created:	6/3/2019	In control:	Special City Council
On agenda:	6/12/2019	Final action:	
Title:	Report regarding an Ordinance repealing and replacing Title 8, Chapter 8.20 of the South San Francisco Municipal Code relating to illegal dumping and littering. (Sarah Henricks, Management Analyst II).		

Sponsors:

Indexes:

Code sections:

Attachments: 1. Attachment 1. Illegal Dumping and Littering Prohibitions in Other Jurisdictions

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Report regarding an Ordinance repealing and replacing Title 8, Chapter 8.20 of the South San Francisco Municipal Code relating to illegal dumping and littering. (Sarah Henricks, Management Analyst II).

RECOMMENDATION

Staff recommends that the City Council introduce an Ordinance repealing and replacing Chapter 8.20 of the South San Francisco Municipal Code to prohibit both illegal dumping and littering on public and private property, and waive further reading.

DISCUSSION

The City of South San Francisco (“City”) currently prohibits littering through Chapter 8.20 of the South San Francisco Municipal Code, which was first adopted in 1962 and last amended in 1975. Chapter 8.20 is known as the City’s “anti-littering ordinance.” However, Chapter 8.20 does not specifically address illegal dumping, nor distinguish it from littering. Additionally, Chapter 8.20 establishes that any violation of the Chapter shall constitute an infraction, punishable by a fine pursuant to California Government Code Section 36900. Government Code Section 36900 identifies the applicable fine schedule for infractions as being \$100 for the first violation, \$200 for the second violation, and \$500 for the third and each subsequent violation within one year of the first violation.

“Litter” is currently defined in the South San Francisco Municipal Code as “garbage, refuse and rubbish, as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.” While the current definition of “litter” is broad enough to include large and/or hazardous items of particular concern, the impacts of littering and dumping are distinguishable and warrant separate fine structures, accordingly. Furthermore, the act of dumping often involves waste matter of a significant size, such as furniture and appliances, and a violation of Chapter 8.20 is currently punishable as an infraction. The corresponding fine schedule for infractions - the maximum of which is only \$500 - has proven to be an ineffective deterrent against the dumping of such items. Conversely, merely amending Chapter 8.20 to

make all current “littering” violations misdemeanors with an increased fine schedule would be over-inclusive as to litter, as a \$1,000 fine for a first violation involving the improper discard of a beverage container or some other small consumer good, in many instances, could be excessive.

Staff recommends repealing and replacing Chapter 8.20 to include a clear distinction between littering and dumping; appropriate fines for littering and dumping, respectively; and additional administrative and civil remedies from which the City may choose. Specifically, the proposed ordinance would provide separate definitions for littering and dumping. In addition, while dumping would be classified as a misdemeanor with fines set to \$1,000 per violation (as violations deemed misdemeanors are not subject to the fine schedule identified in Government Code Section 36900), littering would be an infraction and fines *would* be set pursuant to Section 36900. Furthermore, the proposed amendments would also enable the City to file a civil action against violators, seeking the recovery of costs, civil penalties, equitable relief (e.g. an injunction), damages, and attorneys’ fees. A summary of the significant revisions to Chapter 8.20 are as follows:

- Expanding definitions to be more inclusive of the types of item typically found in the City (8.20.020)
- Distinguishing between illegal dumping and littering (Sections 8.20.030-040);
- Identifying illegal dumping and littering as public nuisances (Section 8.20.050);
- Classifying littering as an infraction, subject to fines on a \$100/\$200/\$500 scale (Section 8.20.060);
- Classifying illegal dumping as a misdemeanor, subject to fines of \$1,000 per violation (Section 8.20.060);
- Providing the City with the option to file a civil action against a dumping violator, by which the City would be entitled to the cost of abatement, cost for loss of use the property, costs of investigation, attorneys’ fees, costs of suit, treble damages, and punitive damages if applicable. (Section 8.20.080)

Other Jurisdictions

Other jurisdictions have adopted similar ordinances prohibiting dumping and littering. The County of San Mateo has adopted an ordinance that includes prohibitions against both dumping and littering (Chapter 3.50 of the San Mateo County Code). San Mateo County classifies illegal dumping as a misdemeanor and littering as an infraction. Anti-dumping ordinances - varying in degree - are quite common and can be found in a number of jurisdictions, such as the City of Oakland (Chapter 8.11 of the Oakland Municipal Code). See Attachment 1 for a comparison of other jurisdictions.

Education

Offering well-publicized, convenient options for waste disposal may lead to a decrease in illegal dumping. In addition to amending the Illegal Dumping Ordinance to provide more clarification, increased fines for violations and other options for recovering costs associated with illegal dumping, the City may also consider improved education for the community. Including information on the City’s various communication channels regarding how community members can properly dispose of discarded items and waste matter may reduce the number of instances of illegal dumping. For example, South San Francisco Scavengers currently offers residents of single-family homes two free on-call cleanups per calendar year. Through this service, residents can schedule the SSF Scavengers to pick up garbage in bulk or large items such as furniture. Additional programs, such as electronic-waste recycling, are available through the San Mateo County Office of Sustainability. Similarly, the Blue Line Transfer Station serves as a drop-off location for bulk waste at competitive costs and is open Monday through Saturday.

RELATIONSHIP TO STRATEGIC PLAN

Adopting the proposed ordinance supports the City's Strategic Plan to improve Quality of Life by reducing blight around the City.

FISCAL IMPACT

There will be no fiscal impact associated with this item.

CONCLUSION

Introduction of an Ordinance repealing and replacing Chapter 8.20 would enable the City to appropriately distinguish between littering and dumping, as well as impose an increased fine and additional remedies against those violators who engage in illegal dumping.

ATTACHMENTS

Attachment 1. Illegal Dumping and Littering Prohibitions in Other Jurisdictions

Attachment 1. Illegal Dumping and Littering Prohibitions in Other Jurisdictions

Jurisdiction	Classification of Illegal Dumping	Illegal Dumping Fines	Classification of Littering	Littering Fines
San Mateo County	Misdemeanor	\$3,000	Infraction	\$100; \$200; \$500
Oakland	Misdemeanor	Max \$1,000/day	Infraction	\$100; \$250; \$500
Redwood City	Illegal disposal of garbage is classified as a misdemeanor. The City charges the cost of abatement, which may become a lien on the property			
Daly City	Municipal Code does not distinguish between illegal dumping and littering, but littering can be cited as a misdemeanor based on City's discretion. If determined a misdemeanor, violation is subject to a \$1,000 fine. Infractions are subject to \$100; \$200; \$500 fines.			
Pacifica	Garbage removed by City warrants the cost of removal plus 7% interest rate per annum, which shall be billed to property owner. Failure to pay bill within 30 days will result in a lien on the property, which will remain in full force and effect for amount due in principal and interest, plus court costs, if any, until final payment is made. Such costs and expenses shall be subject to a delinquency penalty of 10% in the event charges are not paid in full on or before the date the amount due becomes a lien.			
Brisbane	Municipal Code does not distinguish between littering and illegal dumping. Illegal disposal of garbage is an infraction subject to a \$100; \$200; or \$500 fine.			



Legislation Details (With Text)

File #:	19-509	Name:	
Type:	Staff Report	Status:	Public Hearing
File created:	6/3/2019	In control:	Special City Council
On agenda:	6/12/2019	Final action:	
Title:	Ordinance repealing and replacing Chapter 8.20 of the South San Francisco Municipal Code regarding Illegal Disposal of Discarded Items and Waste Matter and illegal littering.		

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Ordinance repealing and replacing Chapter 8.20 of the South San Francisco Municipal Code regarding Illegal Disposal of Discarded Items and Waste Matter and illegal littering.

WHEREAS, the City of South San Francisco (“City”) suffers from illegally dumped waste on public and private property throughout the City; and

WHEREAS, illegal dumping is a significant blight on the City and an environmental crime that negatively impacts the livability of neighborhoods, discourages economic development, and reduces property values; and

WHEREAS, illegal dumping is a significant health and safety problem; and

WHEREAS, Chapter 8.16 of the South San Francisco Municipal Code sets forth the City’s regulations regarding the proper method of disposal of waste by City residents and businesses; and

WHEREAS, despite the City’s adoption of Chapter 8.16, illegal dumping and littering continues to increase throughout the City; and

WHEREAS, while South San Francisco Municipal Code Chapter 8.20 prohibits littering in the City, it does not distinguish between littering and dumping; and

WHEREAS, in order to discourage illegal dumping, the City Council believes the City needs to specifically and clearly prohibit such dumping, and in addition enhance administrative and civil penalties; and

WHEREAS, the City needs to improve its ability to recover its costs and private parties’ costs to remove illegally dumped waste.

NOW THEREFORE, the City Council of the City of South San Francisco does ORDAIN as follows:

SECTION 1. The City Council of South San Francisco finds that all Recitals are true and correct and are

incorporated herein by this reference.

SECTION 2. Chapter 8.20 (South San Francisco anti-litter ordinance) of Title 8 (Health and Welfare) of the City of South San Francisco Municipal Code, as presently written, is hereby repealed in its entirety.

SECTION 3. The new Chapter 8.20 (Illegal Disposal of Discarded Items and Waste Matter and Illegal Littering) of Title 8 (Health and Welfare) of the City of South San Francisco Municipal Code is adopted, to read as follows:

8.20.010 Short title.

The Ordinance codified in this chapter shall be known and may be cited as the “South San Francisco Illegal Disposal of Discarded Items and Waste Matter and Illegal Littering Ordinance.”

8.20.020 Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When 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. “Aircraft” means any contrivance now known or hereafter invented, used or designed for navigation or for flight in the air. “Aircraft” includes helicopters, drones and lighter-than-air dirigibles and balloons.
- B. “Authorized Receptacle” means a solid waste storage and collection receptacle as defined and required by Section 8.16.030 of the South San Francisco Municipal Code.
- C. “City” means the city of South San Francisco.
- D. “Collector” means the entity that is the franchisee for solid waste collection in the City of South San Francisco.
- E. “Costs” means and includes, but is not limited to, staff costs, court costs, attorneys’ fees, costs of removal and disposal of illegally dumped Waste Matter (including the equivalent cost of disposal if the City is not charged), costs of investigating the incident, and law enforcement costs, including, but not limited to time and expenses of police, code enforcement, public works, city attorney, and/or other city departments, incurred by the city in identifying and apprehending persons who cause or commit illegal dumping in violation of this chapter.
- F. “Discarded Items” refers to any large, unwanted items that are cast aside, disposed of, thrown out or illegally dumped in a manner that is not allowed by state or local law. Discarded Items include but are not limited to the following items:
 - 1. Appliances, which means any large electric or gas appliance such as a stove, refrigerator, dishwasher, microwave, laundry machine, barbeque grill, water heater, or furnace.

2. Automotive or Watercraft Parts, which means any components, constituents, elements, or artifacts that are one of the individual parts of which an automotive vehicle or watercraft is composed. For the purposes of this Chapter, automotive vehicles are any self-propelled vehicle that does not operate on rails and is used for transportation of people or cargo. Automotive vehicles include but are not limited to cars, buses, motorcycles, off-road vehicles, trucks and heavy equipment. Watercraft are any boat, ship or vessel that travels on water.
 3. Household Furniture, which includes any sized furniture such as chairs, desks, dressers, tables, bed frames, benches, buffets, armoires, and more; and upholstered furniture which includes furniture covered by soft, padded textile, leather, vinyl or similar covering, such as armchairs and sofas.
 4. Mattresses, which mean any sized resilient material or combination of materials that is used alone or in combination with other products, and is intended for or promoted for sleeping upon by individuals. This includes, crib- or infant-, child-, and adult-sized mattresses.
- G. “Illegal Dumping” means the willful, intentional, or negligent depositing, disposal, dropping, dumping, placing, or throwing of any Discarded Items or Waste Matter onto public or private property that is not expressly designated for the purpose of disposal of Waste Matter. The disposal of Discarded Items and/or Waste Matter on private or public property without the express permission of the property owner shall also constitute “Illegal Dumping.” “Illegal Dumping” also includes any Discarded Items or Waste Matter not disposed of pursuant to South San Francisco Municipal Code Chapters 8.16 and 8.28, or any successive legislation. “Illegal Dumping” does not include “Litter” as specifically defined in this Chapter.
- H. “Handbill,” which means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, flyer, poster or any other printed or otherwise reproduced original or copies of any matter of literature of a commercial or noncommercial nature.
- I. “Litter,” which means small quantities of Waste Matter related to consumer goods and that are reasonably understood to be ordinarily carried on or about the body of a living person, including, but not limited to, beverage containers and closures, packaging, wrappers, wastepaper, newspaper, handbills, magazines, or other similar Waste Matter that escapes or is allowed to escape from a container, receptacle, or package; or the disposal of said items.
- J. “Newspaper,” which means any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, means and includes any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.
- K. “Park” means a park, reservation, playground, beach, recreation center or any other public area in the city, owned or used by the city and devoted to active or passive recreation.
- L. “Person” means any person, firm, partnership, association, corporation, limited liability company, company or organization of any kind.
- M. “Private Premises” means any dwelling, house, building or other structure designated or used either

wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

- N. “Public Place” means any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.
- O. “Real Property Owner” means any person with a fee interest in a parcel of real property and any person who manages real property for commercial or residential rental.
- P. “Trailer” means a “trailer” as defined in California Vehicle Code Section 630.
- Q. “Vehicle” means a vehicle as defined in California Vehicle Code Section 670, and a motor vehicle as defined in California Vehicle Code Section 415.
- R. “Vehicle Owner” means an “owner” as defined in California Vehicle Code Section 460, but excludes a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state or is another person who is not the registered owner and holds a security interest in the vehicle.
- S. “Violator” means any person who negligently, willfully, or intentionally causes or permits Discarded Items or Waste Matter to be illegally dumped or improperly disposed of, including, but not limited to, any person who gives or entrusts Waste Matter to another who illegally disposes of such Waste Matter, and any vehicle owner whose vehicle is used to illegally dispose of Discarded Items or Waste Matter, but who does not properly dispose of such Waste Matter.
- T. “Waste Matter” means any form of tangible matter that is customarily generated in the course of a trade, business, profession, or occupation, and is in an aggregate amount equal to or greater than one cubic yard. Waste Matter includes, but is not limited to, any combination of the following that is in excess of one cubic yard:
1. Construction and demolition debris, which includes any and all materials resulting from the alteration, construction, destructions, rehabilitation or repair of any manmade physical structure including houses, buildings, industrial or commercial facilities, and roadways. These materials may include structural and functional materials comprising the structure and surrounding site improvements, such as brick, concrete, stone, glass, wall coverings, drywall, framing and finishing lumber, roofing materials, plumbing fixtures, hearing equipment, electrical wiring and components, insulations, carpeting, asphaltic substances, metals, railroad ties, or utility poles, among others.
 2. All forms of garbage, refuse, rubbish, recyclable materials, debris, trash, and solid waste.
 3. Dirt, soil, rock, decomposed rock, gravel, sand, or other aggregate material dumped or deposited as refuse.
 4. Electronic Waste, which means computers, computer monitors, televisions, audio equipment and any other electronic equipment that is required to be specially disposed of pursuant to state or city law, including, but not limited to a “covered electronic device” as defined in Section 42463 of the California Public Resources Code.

5. Yard waste consisting of vegetative or organic material produced from the care and maintenance of landscaped areas, gardens and lawns. Yard waste includes but is not limited to leaves, grass clippings, weeds, dead flowers and plants, brush, tree trunks, pruned branches and stems, dirt, roots, wood shavings, rocks and trees.
6. All forms of liquid waste not otherwise defined in or deemed to fall within the purview of Section 25117 of the California Health and Safety Code, including but not limited to, water-based or oil-based paints, chemical solutions, water contaminated with any substance rendering it unusable for irrigation or construction, oils, fuels, and other petroleum distillates or byproducts.
7. Any form of biological waste not otherwise designated by law as hazardous waste, including, but not limited to, body parts, carcasses, and any associated container, enclosure, or wrapping material used to dispose these matters.
8. A physical substance used as an ingredient in any process, now known or hereafter developed or devised, to manufacture a controlled substance specified in Section 11054, 11055, 11056, 11057, or 11058 of the California Health and Safety Code, or that is a byproduct or result of the manufacturing process of the controlled substance.

Any tangible matter that is customarily generated in the course of a trade, business, profession, or occupation, and is in an aggregate amount less than one cubic yard shall be considered Litter.

8.20.030 Illegal Dumping Unlawful. <https://qcode.us/codes/southsanfrancisco/view.php?topic=8-8_20-8_20_030&frames=on>

- A. It is unlawful and a violation of this code and this chapter for any person to illegally dump Discarded Items or Waste Matter, or cause Discarded Items or Waste Matter not to be disposed of as otherwise provided by this code or state or federal law.
- B. It is unlawful to hire any person or organization to dispose of Discarded Items or Waste Matter in the City in a manner prohibited by Chapter 8.16.
- C. It is unlawful and a violation of this code for any person owning or otherwise in possession or control of any real property within the City to permit or allow Discarded Items or Waste Matter from such property to be illegally dumped. It shall be the sole responsibility of the property owner or person otherwise in possession or control of any real property within the city to remedy any disposal violations. Any violation of the provisions of this chapter shall constitute an infraction or misdemeanor dependent on the conditions of the violation as set forth in this Chapter.
- D. A violation of this chapter shall be subject to enforcement through civil action and administrative action, encompassing all remedies referenced in this chapter and available under state and federal law.

8.20.040 Illegal Disposal of Litter Unlawful.

- A. It is unlawful and a violation of this code and this chapter for any person to dispose of litter as otherwise provided by this code or state or federal law.
- B. The owner or person in control of any private property shall at all times maintain the premises free of

litter; provided, however, that this section shall not prohibit the storage of litter in Authorized Receptacles for collection.

C. No person shall:

1. throw or deposit litter in or upon any street, sidewalk or other public place within the city except in public receptacles, in Authorized Receptacles for collection or in official city dumps;
2. sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property or places of business shall keep the sidewalk in front of their premises free of litter;
3. throw or deposit litter upon any street or other public place within the city, or upon private property, while a driver or passenger in a vehicle;
4. drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load, contents, litter or Waste Matter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter, Waste Matter or foreign matter of any kind;
5. throw out, drop or deposit litter in any park within the city, except in public receptacles and in such a manner that the Waste Matter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such Waste Matter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein;
6. throw out, drop or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere within the city;
7. throw out, drop or deposit within the city any litter or any other object from an aircraft;
8. throw out, drop or deposit litter on any occupied private property within the city, whether owned by such person or not, except that the owner or person in control of private property may maintain Authorized Receptacles for collection in such a manner that Waste Matter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property;
9. throw out, drop or deposit litter on any open or vacant private property within the city whether owned by such person or not;
10. throw out, drop or deposit any litter in or upon any private premises which are temporarily or continuously uninhabited or vacant;
11. throw out, drop or deposit any litter in or upon any vehicle;
 - i. However, it is not unlawful in a 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.
12. throw out, drop, deposit or distribute any litter upon any private premises, if requested by anyone thereon not to do so, or if there is placed on the premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing," "No Peddlers or Agents," "No Advertisement" or any similar notice indicating in any manner that the occupants of the premises do not desire to be molested or have their right of privacy disturbed or to have any such Waste Matter left upon such premises; or
13. throw, deposit or distribute any litter in or upon private premises which are inhabited;
 - i. However, it is not illegal to hand or transmit a handbill directly to the owner, occupant or other person then present in or upon such private premises; however, in the case of

inhabited private premises, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited premises, so long as the handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places and except that mailboxes may not be so used when prohibited by federal postal law or regulations.

The provisions of this subsection shall not apply to the distribution of mail by the United States, not to newspapers (as defined herein) except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

- D. Persons placing litter in public receptacles or in Authorized Receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

8.20.050 Illegal Dumping and Littering as Public Nuisances.

Illegal dumping of Discarded Items and Waste Matter and littering constitute public nuisances subject to abatement, remedies, and penalties according to the provisions and procedures contained in this code and this chapter. Violations of this Chapter are subject to investigation by designated City officials and violators may incur administrative citations or other fees and fines as described in this Chapter.

8.20.060 Administrative Penalties for Violations. <https://qcode.us/codes/southsanfrancisco/view.php?topic=8-8_20-8_20_050&frames=on>

- A. Littering is an Infraction. Disposal of litter on any public or private property of another is an infraction violation of this code and this chapter, punishable by a fine as provided in Section 36900 of the California Government Code, per violation, which shall be in addition to any administrative or civil penalties.

Illegal Dumping is a Misdemeanor. Illegal dumping on any public or private property is a misdemeanor violation of this code and this chapter, punishable by a fine of \$1,000 per violation, which shall be in addition to any administrative or civil penalties. Each individual act of Illegal Dumping is a separate violation and is subject to enforcement. For example, each individual act of Illegal Dumping, whether Waste Matter or a discarded item (e.g.; mattress, piece of upholstered furniture, furniture, appliance, or electronic waste, etc.) that meets the definition of a Discarded Item under this Chapter is a separate and distinct violation under this Chapter.

- B. Failure to remove Discarded Items or Waste Matter constitute a separate violation. In the event the City gives notice to a Violator to remove Waste Matter or Discarded Items from City or private property (with the property owner's prior approval), the Violator must remove the Illegal Dumped items within 24 hours of receiving notice. If a Violator is noticed to remove illegally dumped material and fails to remove the same within 24 hours after notice by the city or the property owner, such failure to timely remove the illegally dumped material constitutes a separate violation.
- C. In addition to assessing administrative or civil penalties, a violator may also be assessed costs relating to the illegal dumping. Each person who participates in an act of illegal dumping is jointly and severally liable with all other persons who participated in that act of illegal dumping for the costs of that act of

illegal dumping.

8.20.070 Power of Arrest and Citation. <https://qcode.us/codes/southsanfrancisco/view.php?topic=8-8_20-8_20_060&frames=on>

Pursuant to South San Francisco Municipal Code Section 2.50.020, the city manager shall have the power to designate, by written order, that particular officers or employees shall have the authority to arrest or cite persons in violation of this chapter.

8.20.080 Civil Actions Against Violators. <https://qcode.us/codes/southsanfrancisco/view.php?topic=8-8_20-8_20_070&frames=on>

- A. The city or any person or entity, public or private, on whose property Discarded Items or Waste Matter has been illegally dumped, may bring a civil action against a violator. In addition, a duly established business improvement district, merchants' association, or business, community, or neighborhood association or organization that cleans up illegal disposal of Discarded Items or Waste Matter on behalf of its members may bring an action against a violator to recover its costs of removal. Any person or entity, public or private, who wishes to bring civil action against a violator to recover costs of removal, must pursue that legal action after paying to the City any fines, fees, and administrative citations incurred as a result of the violation.
- B. Costs and Damages Recoverable. The following damages may be assessed against a dumping violator:
1. The cost of abatement;
 2. Any cost for loss of use of the property on which the illegal disposal has been placed;
 3. Costs of investigation, including the cost of any code enforcement or police resources used to investigate each incident;
 4. Attorneys' fees and costs involved in the investigation; and
 5. Any other damages or fees permissible under state or federal law.
- C. Joint and Several Liability. Each person who participates in an act of illegal disposal of Discarded Items or Waste Matter is jointly and severally liable with any other person who participates for all costs, damages, penalties, and attorneys' fees related to that act of illegal disposal.

8.20.090 Authority of City Attorney to Bring Actions.

<https://qcode.us/codes/southsanfrancisco/view.php?topic=8-8_20-8_20_080&frames=on>

- A. The city attorney may bring an action to recover costs incurred by the city through the following methods:
1. Civil Action. The city attorney may bring and maintain a civil action in the name of the city to obtain a money judgment against the defendant for any amount not ordered or collected by a court, including, but not limited to, all costs and attorneys' fees, in addition to civil penalties, incurred in connection with the civil prosecution of any claim for damages or reimbursement.
- B. The city attorney also may seek to recover the city's costs incurred relative to the illegal Dumping, or such other costs as the city may have. The city attorney may do so in any of the following ways:
1. Bring an action on the city's behalf to recover such costs;

2. Join an action brought by a private party to recover damages and costs relating to illegal disposal;
3. Authorize a private party or other public entity on whose property the illegal disposal occurred to bring the action on the city's behalf;
4. In the event the city attorney brings an action to cover the city's costs of illegal disposal, at the city attorney's sole election, and with the permission of the private party or other public entity on whose property the illegal disposal occurred, the city attorney may pursue the private party or other public entity's claims against the violator for damages and costs.

C. The city attorney also may bring actions for injunctive or equitable relief against dumping violators.

D. Civil Penalties. Any violator of this chapter shall be liable for a civil penalty not to exceed one thousand dollars for each day or portion thereof, that the violation continues to exist. In determining the amount of the civil penalty to impose, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the violator, whether corporate or individual, and any corrective action taken by the violator.

'8.20.100 Attorneys Fees for Illegal Dumping or Disposal Actions.

[<https://qcode.us/codes/southsanfrancisco/view.php?topic=8-8_20-8_20_090&frames=on>](https://qcode.us/codes/southsanfrancisco/view.php?topic=8-8_20-8_20_090&frames=on)

In any administrative, civil, or special proceeding to abate illegal dumping or disposal, the city may, at the initiation of the proceeding, seek an award of attorneys' fees. If the city seeks an award of attorneys' fees, the award shall be made to the prevailing party. Provided, however, that no award may be made to a prevailing party that exceeds the amount of reasonable attorneys' fees incurred by the city in the action or proceeding.

8.20.110 Liability of Parent or Guardian of a Minor.

[<https://qcode.us/codes/southsanfrancisco/view.php?topic=8-8_20-8_20_100&frames=on>](https://qcode.us/codes/southsanfrancisco/view.php?topic=8-8_20-8_20_100&frames=on)

Any parent or legal guardian of a minor dumping violator is personally liable for any and all costs incurred by the city or any person or business in connection with the illegal dumping caused by the conduct of said minor, and for all attorneys' fees, court costs, and other costs and any administrative or civil penalties incurred in connection with the civil or administrative prosecution of any claim for damages to the maximum extent permitted by California Civil Code Section 1714.1 or other applicable laws.

8.20.120 Liability of Owner or Operator of Vehicle or Trailer Used in Illegal Dumping.

South San Francisco Municipal Code Chapter 8.16.120 describes the regulations on collecting and transporting solid waste. Pursuant to that Chapter and to the extent permitted by law, an owner or operator of a motor vehicle or trailer is liable and responsible for all costs, penalties and fines relating to illegal dumping or disposal when the owner's vehicle is used with the express or implied permission of the owner or operator, irrespective of whether the owner or operator knew or should have known of the intended use of the vehicle.

8.20.130 Responsibility of Waste Matter Creator or Generator for Illegally Dumped Material.

[<https://qcode.us/codes/southsanfrancisco/view.php?topic=8-8_20-8_20_120&frames=on>](https://qcode.us/codes/southsanfrancisco/view.php?topic=8-8_20-8_20_120&frames=on)

All persons creating or generating Discarded Items or Waste Matter are responsible for seeing that it is disposed of in the manner provided by law. Persons disposing of Discarded Items or Waste Matter must ensure

that it is not illegally dumped. This responsibility includes not giving Discarded Items or Waste Matter to a person for disposal who is not authorized to legally dispose of Discarded Items or Waste Matter. A person whose Discarded Items or Waste Matter are illegally disposed of is jointly responsible for the illegal disposal along with the party who actually illegally disposed.

8.20.140 Responsibility of Lessor for Property of Lessee Illegally Dumped Following Vacation of Unit. <https://qcode.us/codes/southsanfrancisco/view.php?topic=8-8_20-8_20_130&frames=on>

A real property owner who rents commercial or residential property is responsible for the property of a tenant that was removed from the tenant's unit and illegally disposed of after the tenant vacates, whether voluntarily or involuntarily pursuant to this section. If the tenant's property is removed from the tenant's unit by the real property owner or an eviction or other process, the real property owner must see that the property is either retained for the tenant or properly disposed of in accordance with the law. To this end, the real property owner must cooperate with the tenant in working with the collector to dispose of the tenant's property, which can be done at the tenant's expense for any of the collector's fees or costs. If the tenant's property is illegally disposed of by the tenant on public or private property in front of the tenant's former unit or the adjacent properties, the real property owner is responsible for having the tenant's property properly disposed of. If the tenant's property is illegally disposed of at a different location, the real property owner must provide the tenant's forwarding information if it is within the real property owner's knowledge.

8.20.150 Administrative Appeals. <https://qcode.us/codes/southsanfrancisco/view.php?topic=8-8_20-8_20_140&frames=on>

- A. An administrative assessment of fines or costs may be appealed administratively to the City Manager. The City Manager's decision shall be final and binding.
- B. A party aggrieved by a final administrative decision of the city may seek judicial review of the administrative decision pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6 within the time frame pursuant to those code sections.

SECTION 4. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of this Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of South San Francisco hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 5. PUBLICATION AND EFFECTIVE DATE

Pursuant to the provisions of Government Code Section 36933, a summary of this Ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the Summary, and (2) post in the City Clerk's Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk's Office a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against this Ordinance or otherwise voting. This Ordinance shall become effective thirty days from and after its adoption.

* * * * *

Introduced at a regular meeting of the City Council of the City of South San Francisco, held the ____ day of _____, 2019.

Adopted as an Ordinance of the City of South San Francisco at a regular meeting of the City Council held the ____ day of _____, 2019 by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

ATTEST:

City Clerk

As Mayor of the City of South San Francisco, I do hereby approve the foregoing ordinance this ____ day of _____, 2019.

Karyl Matsumoto, Mayor

3000649.4