

Chapter 8.14

ILLEGAL DUMPING; NUISANCE VEHICLES

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8.14.010 Findings and purpose.

The City Council finds as follows:

- A. Illegal dumping activities pose a danger to public health and safety, decrease property values, lower the quality of life, contribute to blight, and attract more illegal dumping.
- B. Materials that are illegally dumped create a nesting area for rodents, insects, and other vermin while impacting the proper drainage of runoff, and making areas more susceptible to flooding when draining basins become clogged.
- C. Illegal dumping activities also place an undue burden on the City of Ripon, for cleanup, public education, and enforcement costs.
- D. Illegal dumping is facilitated by the use of vehicles, whereby persons utilize vehicles to transport waste matter for the purpose of illegally dumping the waste matter.
- E. The procedures for seizing and impounding vehicles used to illegally dump waste matter are expressly intended as a remedy to abate these public nuisances and to protect the City's residents and the public from harm to their health, safety, and welfare. Examples of such damages are the costs of cleaning up illegal dumpsites and diverting limited public resources to address the nuisance activities through direct enforcement and other programs designed to prevent illegal dumping. Any deterrent effect is deemed incidental to the remedial purpose of this chapter. (Ord. 865, 2017)

8.14.020 Authority.

This chapter is adopted pursuant to the authority granted in Article XI, Section VII of the

California Constitution, Section 38771 of the California Government Code, and Section 22659.5 of the California Vehicle Code. (Ord. 865, 2017)

8.14.030 Definitions.

The following words, terms, and phrases when used herein shall have the meaning ascribed to them in this Section except where the context clearly indicates a different meaning.

- A. "Enforcement officer" is a peace officer, or other person(s) designated under California Penal Code § 830.7 and by resolution, with authority to arrest under California Penal Code §§ 830 through 830.14, inclusive or as each of those statutes may be amended or reenacted.
- B. "Bulky item" is any discarded furniture, home or industrial appliance or abandoned vehicle or a part of an abandoned vehicle.
- C. "Commercial quantities" means an amount of waste matter generated in the course of a trade, business, profession, or occupation, or an amount equal to or in excess of one cubic yard. This definition does not apply to the dumping of household waste at a person's residence.
- D. "Hazardous material" is any waste as defined in California Health and Safety Code § 25117, or as that statute may be amended or reenacted.
- E. "Illegal dumping" is the willful throwing, dropping, placing or depositing of a bulky item, hazardous waste or solid waste on public or private property not designated for that dumping or disposal purpose.
- F. "Impounding agency" shall mean the City of Ripon.
- G. "Solid waste or wastes" include all putrescible and non-putrescible solid and semisolid wastes, such as refuse, garbage, rubbish, garden waste, paper, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid or semisolid wastes, any nauseous or offensive matter of any kind, or any object likely to injure any person or to create a traffic hazard, or as otherwise defined by Section 374(b) of the California Penal Code, and also includes liquid wastes disposed of in conjunction with solid wastes at solid waste

transfer/processing stations or disposal sites, but excludes:

- (1) Sewage collection and treated in a municipal or regional sewage system.
- (2) Materials or substances having commercial value which have been salvaged for reuse, recycling, or resale.
(Ord. 865, 2017)

8.14.040 Dumping waste unlawful.

A. It is unlawful for any person or entity to dump or cause the dumping of any waste, except at permitted facilities used to receive, temporarily store, separate, convert or otherwise process the materials or public property specifically designated to receive such waste.

B. Any person who causes or permits the dumping of waste on the right-of-way of any public highway, street, easement or thoroughfare, or upon any public park, private property, or on any premises, or in any container, without legal permission; or who causes, maintains or permits the accumulation of waste which creates an unsanitary condition or permits or encourages the accumulation or breeding of vectors as determined by the Enforcement Officer, is guilty of an infraction and subject to a civil penalty of one thousand dollars (\$1,000). A second or subsequent violation of this Section is an infraction and subject to a civil penalty of one thousand five hundred dollars (\$1,500). A third violation of this Section is an infraction and subject to a civil penalty of three thousand dollars (\$3,000).

C. Any person who causes or permits the dumping of waste on the right-of-way of any public highway, street, easement or thoroughfare, or upon any public park, private property, or on any premises, or in any container, without legal permission; or who causes, maintains or permits the accumulation of waste in commercial quantities is guilty of a misdemeanor punishable by imprisonment in a county jail for not more than six (6) months and subject to a civil penalty of three thousand dollars (\$3,000). A second or subsequent violation of this Section is a misdemeanor and subject to a civil penalty of six thousand dollars (\$6,000). A third violation of this Section is a misdemeanor and subject to a civil penalty of ten thousand dollars (\$10,000).

D. For the purposes of this Section, the presence of at least two pieces of addressed mail or other identifying information in the dumped material shall be deemed to create a rebuttable presumption that the person so identified is responsible for the dumping or causing the dumping of the waste.

E. Upon discovery of a violation of this Section, the enforcement officer shall issue a citation directing the responsible party to court.

F. The court shall require, in addition to any fine imposed upon a conviction, that, as a condition of probation and in addition to any other condition of probation, a person convicted under this Section remove, or pay the cost of removing, any waste matter which the convicted person dumped or caused to be dumped upon public or private property.

G. Except when the court requires the convicted person to remove waste matter which he or she is responsible for dumping as a condition of probation, the court may, in addition to the fine imposed upon a conviction, require as a condition of probation, in addition to any other condition of probation, that any person convicted of a violation of this section to perform twelve (12) hours of community service.

(Ord. 865, 2017)

8.14.050 Declaration of nuisance vehicle.

A. Any motor vehicle used for the purpose of illegal dumping is a public nuisance and the vehicle shall be subject to seizure and impoundment for a period up to thirty (30) days when:

- (1) The motor vehicle is used in the commission or attempted commission of an act that violates Section 373.4(h) of the California Penal Code; and
- (2) The owner or operator of the vehicle has had a prior conviction for the same offense within the past three (3) years.

B. Any person or any agent who owns, leases, borrows, possesses, maintains, or uses any vehicle for the purpose or act set forth in Subsection A is responsible for creating a public nuisance.

(Ord. 865, 2017)

8.14.060 Seizure and impoundment of nuisance vehicle.

A. Within two (2) working days after impoundment, the impounding agency shall send a notice by certified mail, return receipt requested, to the legal owner of the vehicle, at the address obtained from the Ripon Police Department, informing the owner that the vehicle has been impounded. The notice shall also include notice of the opportunity for a post-storage hearing to determine the validity of the storage or to determine mitigating circumstances establishing that the vehicle should be released. The impounding agency shall be prohibited from charging for more than five (5) days' storage if it fails to notify the legal owner within two (2) working days after the impoundment when the legal owner redeems the impounded vehicle. The impounding agency shall maintain a published telephone number that provides information twenty-four (24) hours a day regarding the impoundment of vehicles and the rights of a legal owner and a registered owner to request a hearing. The notice shall include all of the following information:

- (1) The name, address, and telephone number of the agency providing the notice;
- (2) The location of the place of storage and description of the vehicle, that shall include, if available, the model or make, the manufacturer, the license plate number, and the mileage;
- (3) The authority and purpose for the removal of the vehicle;
- (4) A statement that, in order to receive a post-storage hearing, the owners, or their agents, shall request the hearing in person, writing, or by telephone within ten (10) days of the date appearing on the notice.

B. The post-storage hearing shall be conducted within forty-eight (48) hours of the request, excluding weekends and holidays. The public agency may authorize one of its own officers or employees to conduct the hearing if that hearing officer is not the same person who directed the seizure of the vehicle.

C. Failure of the legal and the registered owners, or their agents, to request or to attend a

scheduled hearing shall satisfy the post-storage hearing requirement.

D. The agency employing the person who directed the storage shall be responsible for the costs incurred for towing and storage if it is determined in the post-storage hearing that reasonable grounds for the storage are not established.

E. Any period during which a vehicle is subjected to storage under an ordinance adopted pursuant to this Section shall be included as part of the period of impoundment.

F. The impounding agency shall release the vehicle to the registered owner or his or her agent prior to the end of the impoundment period under any of the following circumstances:

- (1) The driver of the impounded vehicle was arrested without probable cause;
- (2) The vehicle is a stolen vehicle;
- (3) The vehicle is subject to bailment and was driven by an unlicensed employee of a business establishment, including a parking, service or repair garage;
- (4) The driver of the vehicle is not the sole registered owner of the vehicle and the vehicle is being released to another registered owner of the vehicle who agrees not to allow the driver to use the vehicle until after the end of the impoundment period;
- (5) A spouse, registered domestic partner, or other affected third party objects to the impoundment of the vehicle on the grounds that it would create a hardship if the subject vehicle is the sole vehicle in a household. The hearing officer shall release the vehicle where the hardship to a spouse, registered domestic partner, or other affected third party created by the impoundment of the subject vehicle, or the length of the impoundment, outweigh the seriousness and the severity of the act in which the vehicle was used.

G. Notwithstanding any provision of law, if a motor vehicle is released prior to the conclusion of the impoundment period because the driver was arrested without probable cause, neither the arrested person nor the registered

owner of the motor vehicle shall be responsible for the towing and storage charges.

H. Except as provided in Subsection G, the registered owner or his or her agent shall be responsible for all towing and storage charges related to the impoundment.

I. A vehicle removed and seized under this Section shall be released to the legal owner of the vehicle or the legal owner's agent prior to the end of the impoundment period if both of the following conditions are met:

- (1) The legal owner is 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; and
- (2) The legal owner or the legal owner's agent pays all towing and storage fees related to the seizure and impoundment of the vehicle.

J. (1) No lien sale processing fees shall be charged to the legal owner who redeems the vehicle prior to the fifteenth (15th) day of the impoundment period. Neither the impounding agency nor any person having possession of the vehicle shall collect from the legal owner as described in Subsection I(1), or the legal owner's agent, any administrative charges imposed pursuant to Vehicle Code § 22850.5, unless the legal owner voluntarily requested a post-storage hearing.

(2) A person operating or in charge of a storage facility where vehicles are stored pursuant to this Section shall accept a valid bank credit card or cash for payment of towing, storage, and related fees by a legal or registered owner or the owner's agent claiming the vehicle. A credit card or debit card shall be in the name of the person presenting the card. For purposes of this Section, "credit card" is as defined in Civil Code § 1747.02(a). Credit card does not include a credit card issued by a retail seller.

(3) A person operating or in charge of a storage facility described in

Subsection J(2) who violates Subsection shall be civilly liable to the owner of the vehicle or the person who tendered the fees for four (4) times the amount of the towing, storage, and related fees not to exceed five hundred (\$500.00) dollars.

(4) A person operating or in charge of the storage facility described in Subsection J(2) shall have sufficient funds on the premises of the primary storage facility during normal business hours to accommodate, and make change for, a reasonable monetary transaction.

(5) Credit charges for towing and storage services shall comply with Civil Code § 1748.1. Law enforcement agencies may include the costs of providing for payment by credit when making agreements with towing companies on rates.

(6) A failure by a storage facility to comply with any applicable conditions set forth in this Subsection shall not affect the right of the legal owner or the legal owner's agent to retrieve the vehicle if all conditions required of the legal owner or legal owner's agent under this Subsection are satisfied.

K. (1) The legal owner or the legal owner's agent shall present to the law enforcement agency, impounding agency, person in possession of the vehicle, or any person acting on behalf of those agencies, a copy of the assignment, as defined in Business and Professions Code §7500.1(b), a release from the one responsible governmental agency, only if required by the agency, a government-issued photographic identification card, and any one of the following as determined by the legal owner or the legal owner's agent: a certificate of repossession for the vehicle, a security agreement for the vehicle, or title, whether or not paperless or electronic, showing proof of legal ownership for the vehicle. Any documents presented may be originals, photocopies, or facsimile copies, or may be transmitted electronically. The law

enforcement agency, impounding agency, or other governmental agency, or any person acting on behalf of those agencies, shall not require any documents to be notarized. The law enforcement agency, impounding agency, or any person acting on behalf of those agencies may require the agent of the legal owner to produce a photocopy or facsimile copy of its repossession agency license or registration issued pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, or to demonstrate, to the satisfaction of the law enforcement agency, impounding agency, or any person acting on behalf of those agencies that the agent is exempt from licensure pursuant to Section 7500.2 or 7500.3 of the Business and Professions Code.

(2) Administrative costs authorized under California Vehicle Code § 22850.5(a) shall not be charged to the legal owner of the type specified in Subsection I(1) who redeems the vehicle unless the legal owner voluntarily requests a post-storage hearing. A City, County, City and County, or State agency shall not require a legal owner or a legal owner's agent to request a post-storage hearing as a requirement for release of the vehicle to the legal owner or the legal owner's agent. The law enforcement agency, impounding agency, or other governmental agency, or any person acting on behalf of those agencies, shall not require any documents other than those specified in this Subsection. The legal owner or the legal owner's agent shall be given a copy of any documents he or she is required to sign, except for a vehicle evidentiary hold log book. The law enforcement agency, impounding agency, or any person acting on behalf of those agencies, or any person in possession of the vehicle, may photocopy and retain the copies of any documents presented by the legal owner

or legal owner's agent. The legal owner shall indemnify and hold harmless a storage facility from any claims arising out of the release of the vehicle to the legal owner or the legal owner's agent and from any damage to the vehicle after its release, including the reasonable costs associated with defending any such claims.

L. A legal owner, who meets the requirements for release of a vehicle pursuant to Subsection I, or the legal owner's agent, shall not be required to request a post-storage hearing as a requirement for release of the vehicle to the legal owner or the legal owner's agent.

M. (1) A legal owner, who meets the requirements for release of a vehicle pursuant to Subsection I, or the legal owner's agent, shall not release the vehicle to the registered owner of the vehicle or an agent of the registered owner, unless the registered owner is a rental car agency, until after the termination of the impoundment period. (2) Prior to relinquishing the vehicle, the legal owner may require the registered owner to pay all towing and storage charges related to the seizure and impoundment.

N. (1) A vehicle removed and seized pursuant to an ordinance adopted pursuant to this Chapter shall be released to a rental car agency prior to the end of the impoundment period if the agency is either the legal owner or registered owner of the vehicle and the agency pays all towing and storage fees related to the seizure and impoundment of the vehicle.

(2) The owner of a rental vehicle that was seized under this Section may continue to rent the vehicle upon recovery of the vehicle. However, the rental car agency shall not rent another vehicle to the driver of the vehicle that was seized until the impoundment period has expired.

(3) The rental car agency may require the person to whom the vehicle was rented to pay all towing and storage

charges related to the seizure and
impoundment. (Ord. 865, 2017)