

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Author: Lyn Whitewolf	RLW	5/6		5/19/98	Introduction
Division Head: Nasser Mansour	MM	5/8	RECEIVED	6/2/98	Hearing
Dept. Head: Jeff Monsen	JM	5/6			
Prosecutor Dennis Gibson	DG	5/7/98	MAY 13 1998		
Purchasing/Budget:			WHATCOM COUNTY COUNCIL		
Executive:	PK	5-12-98			

**SUBJECT:** Amending WCC 8.28, Litter and Illegal Dumping Enforcement

**ATTACHMENTS:** Proposed amended Ordinance  
Cover letter to County Executive

Related County Contract #:

Should Clerk schedule a hearing: NO / / YES / X / Requested Date: 6/2/98

**SUMMARY STATEMENT:** The attached amendment regards changes to the original ordinance to adopt stricter standards for litter and illegal dumping enforcement.

**Distribution Request**

Indicate those who should receive a copy after Council action. List specific names to the right.

ADS Facilities Management	
ADS Finance	
ADS Human Resources	
ADS Info Services	
Assessor	
Auditor	
Cooperative Extension	
District Court	
Executive	
Health	X
Hearing Examiner	
Jail	
Juvenile	
Parks	X
Planning	
Prosecutor	
Public Works	X
Sheriff	X
Superior Court	
Treasurer	

**Recommended Action:** Approval of Ordinance

**COUNCIL ACTION TAKEN:**

1998 - 211 5/19/98: Introduced  
6/2/98: Tabled to Public Works Committee  
6/16/98: Held in Committee until 6/30/98  
6/30/98: Adopted 6 - 0, Nelson absent. Ord. #98-046  
& Amended (Substitute)

**COUNCIL ACTION TAKEN:**

Ordinance or Resolution Number (this item): Ord. # 98-046

SPONSORED BY: Consent

PROPOSED BY: Public Works

INTRODUCTION DATE: 5/19/98

ORDINANCE NO. 98-046

AMENDING WCC 8.28  
LITTER AND ILLEGAL DUMPING ENFORCEMENT

WHEREAS, a Litter and Illegal Disposal Committee was established in 1997 to discuss issues related to litter and illegal disposal methods in different county jurisdictions; and

WHEREAS, one of the priorities of that committee was to adopt stricter standards for litter and illegal dumping enforcement as set by the State of Washington; and

WHEREAS, on June 2, 1998, a public hearing was held to consider amendments to Whatcom County Code 8.28, Litter and Illegal Dumping Enforcement;

NOW, THEREFORE, BE IT ORDAINED that the Whatcom County Code Chapter 8.28, Litter and Illegal Dumping Enforcement be amended as shown in Exhibit "A" attached hereto.

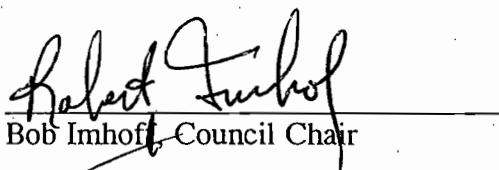
ADOPTED this 30 day of June, 1998.

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

ATTEST:



Dana Brown-Davis, Council Clerk




Bob Imhoff, Council Chair

APPROVED AS TO FORM:

Approved  Denied



Daniel L. Gibson  
Civil Deputy Prosecutor



Pete Kremen, Executive

Date: 7-13-98

Exhibit "A"

LITTER AND ILLEGAL DUMPING CONTROL

Sections:

8.28.010	Purpose.
8.28.020	Definitions.
8.28.030	Control at construction sites.
8.28.040	Sweeping or depositing of litter on public rights-of-way.
8.28.050	Throwing from vehicles prohibited.
8.28.055	Transporting Unsecured Loads
8.28.060	Deposit in parks prohibited.
8.28.070	Deposit in water prohibited.
8.28.080	Illegal Dumping.
8.28.090	Placing or depositing handbills prohibited.
8.28.100	Violations and penalties; Abatement
8.28.110	Probable cause for violation.
8.28.120	Assessments, fines and forfeitures.
8.28.130	Enforcement of chapter.
8.28.140	Severability

8.28.010 Purpose.

The purpose of this chapter, for the benefit of public health and safety, is to accomplish litter control within the unincorporated areas of Whatcom County on county roads, rights-of-ways, county-owned property, and private property. It is also the purpose of this chapter to conduct a program to control and remove litter from county roads, rights-of-ways, county-owned property and private property, to increase public awareness of the need for litter control throughout the unincorporated areas in the county, and to provide penalties for violations by any person or persons unlawfully depositing litter in unauthorized areas in the county. (Ord. 87-24 § 1).

8.28.020 Definitions.

For the purposes of this chapter, the following terms, phrases, words, and their derivations, shall have the meanings given in this section. 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. "Authorized disposal site" means a site permitted by the Whatcom County Health and Human Services Department or other jurisdictional authority.

B. "County" means the unincorporated areas of Whatcom County.

C. "Dangerous Wastes" means those solid wastes designated in WAC 173-303-070 through 173-303-100 as dangerous, or extremely hazardous or mixed waste. (Ord. 94-031; Ord. 87-24 § 2).

D. "Fire hazard" as defined by the Uniform Building Code and the county fire marshal.

E. "Garbage" means putrescible animal and vegetable waste resulting from the handling, preparation and consumption of food.

F. "Handbills" means any printed or written matter, any sample, device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature which may or may not do the following: (1) advertise for sale any merchandise product, commodity or thing; (2) directs attention to any

business, commercial establishment; or (3) directs attention to any meeting, theatrical performance, exhibition or event for which admission fee is charged or donation is solicited.

G. "Health Officer" means the health officer of Whatcom County Health and Human Services department or the health officer's authorized representative.

H. "Illegal Dumping" means dumping or depositing solid waste at a site other than a permitted solid waste disposal site.

I. "Litter" means garbage, refuse and rubbish.

J. "Nuisance" means doing an act, or omitting to perform a duty, which act or omission either injures or endangers the comfort, health or safety of others, offends decency, or unlawfully interferes with, obstructs, or tends to obstruct, or render dangerous for passage, any lake or navigable river, bay, stream, canal or basin, or any public park, square, street or highway; or in any way renders other persons insecure in life, or in the use of property.

K. "Refuse" means all putrescible and non-putrescible wastes, except body wastes, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

L. "Rubbish" means nonputrescible solid waste consisting of both combustible and noncombustible wastes such as paper, wrapping, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

M. "Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

N. "Unsecured load" means a load of solid waste which has not been tied, covered, or confined within a vehicle in such a manner that will prevent any part of the load from leaving the vehicle.

O. "Vehicle" means every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway.

P. "Watercraft" means any boat, ship, barge or other floating craft.

#### 8.28.030 Control at construction sites.

A. No individual or person in charge of a construction site shall cause or allow any litter from the site to be deposited by the elements or otherwise upon any adjacent public or private property.

B. During such time as the construction site is not actually being used, all litter shall be stored or deposited in a container or receptacle to the extent practicable in such a manner as to prevent the litter from being deposited upon adjacent property by the elements or otherwise and to prevent unsightly piles of litter; provided, that nothing in this section shall be construed as permitting unsightly piles of litter to accumulate on the premises should insufficient containers or receptacles be available. (Ord. 87-24 § 3).

#### 8.28.040 Sweeping or depositing of litter on public rights-of-way.

No person shall sweep or deposit in any ditches, traveled way, or public place within the county the accumulation of litter from any public or private property. (Ord. 87-24 § 4).

#### 8.28.050 Throwing from vehicles prohibited.

No person shall throw or deposit litter on any county roads or on private property from a vehicle. (Ord. 87-24 § 5).

8.28.055 Transporting Unsecured Loads.

A. No vehicle shall be driven or moved on any public road unless such vehicle is so constructed or loaded as to prevent any of its load from dropping or otherwise escaping therefrom. Any person operating a vehicle from which any objects have fallen or escaped that could constitute an obstruction or damage property or otherwise endanger travel upon such public roadway, shall immediately cause the public road to be cleaned of all such objects and shall pay any costs therefor.

B. No person may operate on any public road any vehicle with any load unless the load and such covering as required thereon by subsection © of this section is securely fastened to prevent the covering or load from becoming loose, detached, or in any manner a hazard to other users of the roadway.

C. Any vehicle operating on a paved public road with a load of dirt, sand, or gravel susceptible to being dropped, spilled, leaked, or otherwise escaping therefrom shall be covered so as to prevent spillage. Covering of such loads is not required if six inches of freeboard is maintained throughout the bed.

D. Nothing in this section may be construed to prohibit a public maintenance vehicle from dropping sand on a road to enhance traction, or sprinkling water or other substances to clean or maintain a roadway.

8.28.060 Deposit in parks prohibited.

No person shall throw or deposit litter in any park within the county except in approved public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any road or other public place. Where receptacles are either full or not allowed, all such litter shall be carried away and properly disposed of at the person's private residential receptacle or at a county-approved disposal site. (Ord. 87-24 § 6).

8.28.070 Deposit in water prohibited.

No person shall throw or deposit litter in any pond, lake, stream, river, bay, or other body of water within the county. (Ord. 87-24 § 7).

8.28.080 Illegal Dumping.

It shall be unlawful for any person to dump or deposit or permit the dumping or depositing of any solid waste or dangerous waste onto or under the surface of the ground or into the waters of this county except at a solid waste or dangerous waste disposal site for which there is a valid permit. This section shall not prohibit a person from dumping or depositing yard clippings, leaves, prunings, or compostables resulting from his own activities onto or under the surface of ground owned or leased by him when such action does not violate statutes or ordinances, or create a nuisance.

8.28.090 Placing or depositing handbills prohibited.

No person shall throw or deposit handbills or papers on any public property or uninhabited or vacant private property. (Ord. 87-24 § 9).

8.28.100 Violations and penalties; Abatement.

Any Violation of this chapter shall be subject to the following penalties:

A. It is a class 3 civil infraction as defined in RCW 7.80.120 for a person to transport an unsecured load or for a person to litter or to allow improper disposal, in an amount less than or

equal to one cubic foot.

B. It is a class 1 civil infraction as defined in RCW 7.80.120 for a person to litter or allow improper disposal in an amount greater than one cubic foot. Unless suspended or modified by a court, the person shall also pay a litter cleanup fee of twenty-five dollars per cubic foot of litter. The court may, in addition to or in lieu of part or all of the cleanup fee, order the person to pick up and remove litter from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property. A punitive percentage set by the court relating to staff and court costs may also be levied. Said percent shall not exceed the actual cost incurred.

C. If the violation occurs in a county park, the court may, in addition to any other penalties assessed, order the person to perform up to twenty-four hours of community service in the county park where the violation occurred.

D. If the court orders a cleanup of said property and the person, who has previously been charged and was found to have committed the infraction, does not comply with the court's order, the court may then grant the county the authority to enter said property to comply with the court's order, and thereafter bill the person found to have committed the infraction for the costs incurred. If the person found to have committed the infraction is someone other than the owner of the property, the owner of the property must first be given notice of the county's intent to clean up the property and be provided a period of no less than seven days after notice is given to complete cleaning up the property himself. Where the full amount due to the county for cleanup is not paid within 30 days after the disposal of the litter, and if the owner or his agent, including any tenant of the property, was the person found to have committed the infraction, the county may cause to be recorded in the Whatcom County Auditor's Office a sworn statement showing the costs and expense incurred for the work, the date the work was done, and the location of the property on which the work was done. If the person found to have committed the infraction is someone other than the owner of the property, the owner shall be given notice by the county of the recordation of the statement at the time of its filing in the Auditor's Office. The recordation of such sworn statement shall constitute a lien and privilege on the property that shall remain in full force and effect for the amount due in principal and interest of one percent per month, plus costs of court, if any, for collection, until final payment has been made.

#### 8.28.110 Probable cause for violation.

Any litter found to have two pieces or more of litter to identify the location of origin of the litter, would be sufficient evidence to issue a notice of infraction to the addressee pursuant to the requirements of RCW 7.80.050. The burden of proof would be upon the defendant to show by preponderance of evidence that his litter had been deposited without his knowledge. (Ord. 87-24 § 16).

#### 8.28.120 Assessments, fines and forfeitures.

Funds collected or received for abatement pursuant to this chapter shall be deposited in the fund of the department that paid for the abatement.

#### 8.28.130 Enforcement of Chapter.

The Whatcom County Health Officer shall work with the County Sheriff and Parks director to designate trained employees who shall be vested with police powers to enforce and administer the provisions of this chapter and all rules and regulations adopted hereunder in areas of their jurisdiction. The Health Officer shall also have authority, subject to the purchasing provisions of the county ordinances, to contract with other state and local government agencies for services

and personnel reasonably necessary to carry out the enforcement provisions of this chapter. All the foregoing enforcement officers may serve and execute all warrants, and citations relating to this chapter in their designated jurisdictions, and other process issued by the courts in enforcing the provisions of this chapter and rules and regulations adopted hereunder. In addition, mailing by registered mail of such warrant, citation, or other process to his last known place of residence shall be deemed as personal service upon the person charged.

8.28.140 Severability.

If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances shall not be affected.

(Rev. 6/98)