

APPROVED: November 30, 2005
EFFECTIVE: December 15, 2005

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

AMENDED ORDINANCE NO. 05-136

RELATING TO SOLID WASTE DISPOSAL,
REVISING UNLAWFUL ACTS AND PENALTIES, ADDING CIVIL
PENALTIES, REPEALING CHAPTER 10.20 SCC,
AND AMENDING CHAPTER 7.35 SCC

BE IT ORDAINED:

Section 1. Snohomish County Code Section 7.35.120, adopted by Ordinance No. 83-151 on December 28, 1983, is amended to read:

7.35.120 Unlawful disposal of solid waste.

~~((It is unlawful for any person to dump or deposit or permit the dumping or depositing of any solid waste onto or under the surface of the ground or into the waters of this state except at a solid waste disposal site for which there is a valid permit; PROVIDED, That nothing herein shall prohibit a person from dumping or depositing solid waste 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. Any person violating this section shall be guilty of a misdemeanor.))~~

(1) It shall be unlawful for any person to dump or deposit or permit the dumping or depositing of any solid waste onto or under the surface of the ground or into the waters of this state except at a solid waste disposal site for which there is a valid permit. This section does not:

(a) Prohibit a person from dumping or depositing solid waste resulting from his or her own activities onto or under the surface of ground owned or leased by him or her when such action does not violate statutes or ordinances, or create a nuisance;

(b) Apply to a person using a waste-derived soil amendment that has been approved by the department under RCW 70.95.205; or

(c) Apply to the application of commercial fertilizer that has been registered with the department of agriculture as provided in RCW 15.54.325, and

that is applied in accordance with the standards established in RCW 15.54.800(3).

(2)(a) It is a class 3 civil infraction as defined in RCW 7.80.120 for a person to litter in an amount less than or equal to one cubic foot.

(b) It is a misdemeanor for a person to litter in an amount greater than one cubic foot but less than one cubic yard. The person shall also pay a litter cleanup restitution payment equal to twice the actual cost of cleanup, or fifty dollars per cubic foot of litter, whichever is greater. The court shall distribute one-half of the restitution payment to the landowner and one-half of the restitution payment to the jurisdictional health department investigating the incident. The court may, in addition to or in lieu of part or all of the cleanup restitution payment, 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. The court may suspend or modify the litter cleanup restitution payment for a first-time offender under this section, if the person cleans up and properly disposes of the litter.

(c) It is a gross misdemeanor for a person to litter in an amount of one cubic yard or more. The person shall also pay a litter cleanup restitution payment equal to twice the actual cost of cleanup, or one hundred dollars per cubic foot of litter, whichever is greater. The court shall distribute one-half of the restitution payment to the landowner and one-half of the restitution payment to the jurisdictional health department investigating the incident. The court may, in addition to or in lieu of part or all of the cleanup restitution payment, 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. The court may suspend or modify the litter cleanup restitution payment for a first-time offender under this section, if the person cleans up and properly disposes of the litter.

(d) If a junk vehicle is abandoned in violation of this chapter, RCW 46.55.230 governs the vehicle's removal, disposal, and sale, and the penalties that may be imposed against the person who abandoned the vehicle.

Section 2. Snohomish County Code Section 7.35.140, adopted by Ordinance No. 83-151 on December 28, 1983, is amended to read:

7.35.140 ((Penalties.)) Unlawful waste containers – lacking identification.

~~((Any person, firm or corporation which violates or refuses to or fails to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and liable to punishment as provided in SCC 1.01.100. Nothing herein contained shall be construed to exempt an offender from any other suit, prosecution, or other penalty otherwise provided by law.))~~

(1) It shall be unlawful for any person, firm or corporation, other than political subdivisions, municipalities, government agencies and departments or commercial garbage haulers regulated by the Washington state utilities and transportation commission, to place on property located within the unincorporated portions of Snohomish county, a waste container with a capacity of greater than one cubic yard, which is used to store and transport solid waste, including recyclables, unless the container is clearly and conspicuously identified by displaying the owner's name and telephone number on at least two sides of the container in letters and numbers at least four inches high.

(2) It is unlawful for any person, firm or corporation, other than political subdivisions, municipalities, government agencies and departments or commercial garbage haulers regulated by the Washington state utilities and transportation commission, to use a motor vehicle to move on public roads a waste container that has been placed on property within the unincorporated portions of Snohomish county, that has a capacity of greater than one cubic yard, and that has been used to store and transport solid waste, including recyclables, unless the owner's name of the vehicle used to move the container is clearly and conspicuously visible on both sides of the vehicle in letters and numbers at least four inches high.

Section 3. Snohomish County Code Section 7.35.160, adopted by Ordinance No. 83-151 on December 28, 1983, is amended to read:

7.35.160 ((Severability.)) Misdemeanor.

~~((If any portion of this chapter, its application to any person or circumstances is held invalid, the remainder of the act and the application of the provisions to other circumstances is not affected.))~~

Unless otherwise stated herein, any violations of this chapter shall be deemed a misdemeanor and punishable under the provisions as set out in SCC 1.10.100.

Section 4. A new section 7.35.165 is added to Chapter 7.35 of the Snohomish County Code to read:

7.35.165 Civil penalty.

(1) In addition to, or as an alternative to, any other penalty provided in this chapter or by law, any person who violates this chapter, unless otherwise stated herein, shall incur a civil penalty as provided as follows:

(a) Penalties for noncommercial violations shall be assessed at the rate of \$50.00 per violation. Any person(s) engaged in the hauling, processing, or disposal of solid waste generated exclusively by the person(s) or his or her immediate family is engaged in a noncommercial action for purposes of this chapter.

(b) Penalties for commercial violations shall be assessed at the rate of \$250.00 per violation. Any violation other than a noncommercial violation is a commercial violation.

(c) Each and every day or portion thereof during which any violation is committed shall be a violation for purposes of this chapter.

(d) Second, third or repeated, but separate, violations of a like nature, by the same person, are repeat violations. Penalties for repeat violations shall be two times (2x) the rates identified in (a) and (b) above.

(2) In addition to, or as an alternative to, any other penalty provided herein or by law, any person who violates SCC 7.35.125 shall incur a civil penalty as provided as follows:

(a) Penalties for noncommercial violations shall be assessed at the rate of \$50.00 per violation. Any person(s) engaged in the hauling, processing, or disposal of solid waste generated exclusively by the person(s) or his or her immediate family is engaged in a noncommercial action for purposes of this chapter.

(b) Penalties for commercial violations shall be assessed at the rate set forth below. Any violation other than a noncommercial violation is a commercial violation.

- 1.) Where the vehicle used to violate SCC 7.35.125 is less than five (5) tons gross weight, the penalty shall be assessed at the rate of \$500.00 per violation.
- 2.) Where the vehicle used to violate SCC 7.35.125 is greater than five (5) tons gross weight but less than ten (10) tons gross weight, the penalty shall be assessed at the rate of \$1,000.00 per violation.
- 3.) Where the vehicle used to violate SCC 7.35.125 is greater than ten (10) tons gross weight, the penalty shall be assessed at the rate of \$1,500.00 per violation.

(c) Each and every day or portion thereof during which any violation is committed shall be a violation for purposes of this chapter.

(d) Second, third or repeated, but separate violations, of a like nature, by the same person, are repeat violations. Penalties for repeat violations shall be two times (2x) the rates identified in (a) and (b) above.

Section 5. A new section 7.35.170 is added to Chapter 7.35 of the Snohomish County Code to read:

7.35.170 Enforcement.

(1) The Director of the Snohomish County Department of Public Works or his or her designee is authorized and directed to enforce the provisions of this chapter. If it is determined through investigation, inspection, or other means that any person has violated any provision of this chapter, he or she may issue a notice of violation containing:

- (a) The name and address of the person in violation of this chapter.
- (b) A brief description of the violation.
- (c) A statement assessing a civil penalty for each violation, which penalty(ies) shall be paid to the county within 20 days from the date of issuance.
- (d) A statement advising that if any civil penalty is not timely paid, the matter will be referred to a collection company.
- (f) A statement advising:
 - (i) that the notice of violation may be appealed to the Snohomish county hearing examiner pursuant to the provisions of SCC 2.02.125 and SCC 9.12.101;
 - (ii) that any per diem civil penalty shall not accrue during the pendency of such administrative appeal; and
 - (iii) that the failure to file a timely and complete appeal will constitute a waiver of all rights to an administrative appeal under county code.

(2) The notice of violation shall be served on the person in violation of this chapter either personally or by mailing a copy of such notice by certified mail, postage prepaid, return receipt requested, to the person at his last known address.

Proof of personal service of the notice shall be made at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring time, date and manner in which service was made.

Section 6. A new section 7.35.175 is added to Chapter 7.35 of the Snohomish County Code to read:

7.35.175 Appeals - procedure

(1) The person served with a notice of violation under SCC 7.35.170 may appeal to the hearing examiner. Appeals shall be filed and processed pursuant to the provisions of Chapter 2.02 SCC.

(2) At the appeal, the director of the Snohomish county department of public works or his designee shall have the burden of proving the violation, which burden shall be met by a preponderance of the evidence.

(3) The decision of the hearing examiner on any such appeal shall be final and conclusive with an optional right of reconsideration as provided in Chapter 2.02 SCC and may then be reviewable by an action for writ of review filed with Snohomish county superior court as provided in Chapter 2.02 SCC.

Section 7. A new section 7.35.180 is added to Chapter 7.35 of the Snohomish County Code to read:

7.35.180 Remedies not exclusive.

The remedies for violation of this chapter set forth herein are not exclusive.

Section 8. A new section 7.35.185 is added to Chapter 7.35 of the Snohomish County Code to read:

7.35.185 Severability.

If any portion of this chapter, its application to any person or circumstances is held invalid, the remainder of the chapter and the application of the provisions to other circumstances is not affected.

Section 9. Chapter 10.20 SCC, adopted by resolution on July 10, 1922, is repealed.

PASSED this 30th day of November, 2005.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

/s/ Gary A. Nelson
Gary Nelson, Chair

ATTEST:

/s/ Barbara Sikorski
Asst. Clerk of the Council

APPROVED

EMERGENCY

VETOED

Date: December 5, 2005

/s/ Mark Soine
Deputy Executive for County Executive

ATTEST:

/s/ Laura Nelson

Approved as to form only:

Deputy Prosecuting Attorney