

ORDINANCE

20-01

AN ORDINANCE ADOPTING A PENALTY FOR ANY PERSON CONVICTED OF ILLEGAL DUMPING OF SOLID WASTE IN HUERFANO COUNTY AND ADOPTING A REWARD FOR INDIVIDUALS PROVIDING INFORMATION THAT LEADS TO THE SUCCESSFUL CONVICTION OF A PERSON COMMITTING THE ACT OF ILLEGAL DUMPING

WHEREAS, 30-11-101(2) C.R.S. authorizes the Board of County Commissioners to adopt this ordinance regarding health, safety and welfare issues as otherwise prescribed by law; and

WHEREAS, 30-11-101(2) C.R.S. authorizes the Board of County Commissioners to classifying illegal dumping of solid waste as a class 2 petty offense and assess a fine in accordance with the penalty assessment procedures in 16-2-201 C.R.S.; and

WHEREAS, Huerfano County has experienced numerous cases of illegal dumping of solid waste in the County; and

WHEREAS, the public health, safety and welfare are threatened by those people who dump solid waste illegally; and

WHEREAS, public and private property is damaged when an act of illegal dumping occurs; and

WHEREAS, illegal dumping of solid waste in Huerfano County causes the County to expend scarce resources cleaning up after people who illegally dump; and

WHEREAS, the Huerfano County Commissioners are desire to enact a penalty for individuals convicted of illegal dumping and offering a reward to an individual who provides information to the Huerfano County Sheriff that leads to the successful conviction of a person or persons who commit the act of illegal dumping; and

WHEREAS, the Board of County Commissioners finds and determines that it would be in the public interest to adopt an ordinance addressing the act of illegal dumping of solid waste.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Huerfano County, Colorado as follows:

Section 1 Penalties: There will be a fine of \$1,000.00 imposed on any person or persons who commit the act of illegal dumping of solid waste in Huerfano County.

Section 2 Reward: The Huerfano County Commissioners will offer a reward of \$500.00 to any individual who provides information to the Huerfano County Sheriff that leads to the successful conviction of a person who commits the act of illegal dumping.

Section 3 Allocation of Funds: The \$1,000.00 collected as a fine will be allocated as follows: \$500.00 will be received by Huerfano County to recoup the cost of cleaning the sites of illegal dumping and for educating the public; the other \$500.000 will be given to the individual who provides information to the Huerfano County Sheriff that leads to the successful conviction of a person who commits the act of illegal dumping. In the event that there is no person who provides information, the entire \$1,000.00 will be recouped by Huerfano County.

Section 4 Definitions:

Illegal Dumping: Illegal dumping is defined as the willful throwing, dropping, placing or depositing of solid waste on public or private property not designated for that dumping or disposal purpose. The act of depositing, disposing of, throwing, or placing any solid waste upon any street, road, alley, sidewalk, unauthorized private receptacle, or public grounds, in the unincorporated areas of Huerfano County except in public receptacles or authorized private receptacles, to include inappropriate dumping into recycling bins or containers.

Solid Waste: Solid waste is defined as solid or semisolid, non-soluble material (including cases and liquids in containers) such as agricultural refuse, demolition waste, industrial waste, mining residues, municipal garbage, household waste, and sewage sludge. Examples include, but are not limited to: rubbish, glass, metals, plant matter such as yard trimmings, plastics, papers, asbestos, cardboard, batteries, chemicals, tires, used vehicles, appliances or furniture.

Section 5 Effect of Ordinance: Any person arrested for illegal dumping in the unincorporated areas of Huerfano County may be prosecuted before the Huerfano County Court pursuant to the stipulations set forth in Sections 1 and 7 of this Ordinance.

Section 6 Applicability: This Ordinance shall apply to all unincorporated areas of Huerfano County, Colorado.

Section 7 Enforcement:

Prosecution: Any person(s) who violate this ordinance may be subject to prosecution before the Huerfano County Court.

Citations shall include the following information:

- (1) the offense for which the person is being cited (illegal dumping, per this Ordinance);
 - (2) the specific location of the illegally-dumped waste;
 - (3) the date(s) and time(s) of the suspected offense(s) (if witnessed); or
 - (4) the date discovered by the law enforcement officer (with prima facie evidence as detailed above);
 - (5) the date, time and location where the cited person is to appear before the Huerfano County Court;
- and
- (6) the name and legible signature of the officer issuing the citation.

Section 8 Liability: The adoption of the Ordinance codified in this document shall not create any duty to any person, firm, corporation, or any other entity with regard to enforcement of non-enforcement of this Ordinance. No person, firm, corporation, or other entity shall have any civil liability remedy against the Huerfano County Board of County Commissioners or Huerfano County Sheriff, their officers or agents for any damage(s) arising out of, or in any way connected with the adoption, enforcement or non-enforcement of this Ordinance. Nothing in this Ordinance shall be construed to create any liability or to waive any of the immunities, defenses, limitations or liability, or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S. or to waive any immunities, or defenses or limitations on any liability otherwise available to each entity, agency, governmental body, it's officers, employees and agents.

Section 9 Safety: The Huerfano County Board of County Commissioners has determined that adoption of this Ordinance is in the best interest, safety and welfare of the citizens and visitors to Huerfano County.

Section 10 Severability: If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Huerfano County Board of County Commissioners hereby declares that it would have passed this Ordinance irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 11 Recording:

INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED in full on first reading the 20th day of October 2020.

READ, ADOPTED, and ORDERED PUBLISHED BY TITLE ONLY on this 10th day of November 2020. This Ordinance will become effective 30 days after publication.



ATTEST:

Nancy C. Cruz
County Clerk and Recorder and
Ex-Officio Clerk to said Board

BOARD OF COUNTY COMMISSIONERS
OF HUERFANO COUNTY, COLORADO

BY *Edward R. Garcia*
Edward R. Garcia, Chairman

Max Vezzani
Max Vezzani, Commissioner

Gerald A. Cisneros
Gerald A. Cisneros, Commissioner