
Sec. 66-282. Littering, dumping, and dumping of specific materials.

- (a) *Littering.* No person shall dump, leave, throw, discard, eject, emit, or otherwise permit the intentional or accidental dumping, leaving, throwing, discarding, ejection, emission, or escape of any glass or metallic objects, trash, refuse, garbage, or other solid waste as defined by the rules and regulations of the state department of environmental quality or as defined in section 138-2, from the body of any person or pedestrian, or from any vehicle, upon any public place within the city limits, upon any private property within the city, upon property owned or controlled by the city, or in the waters within the city, whether from a vehicle or otherwise including, but not limited to, any public highway, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley.
- (b) *Dumping.* No person shall dump, leave, throw, discard, eject, emit, or otherwise permit the intentional or accidental dumping leaving, throwing, discarding, ejection, emission, escape of any glass or metallic objects, trash, refuse, garbage, or other solid waste as defined by the rules and regulations of the state department of environmental quality or as defined in section 138-2, from a vehicle upon any public place within the city limits, upon any private property within the city, upon property owned or controlled by the city, or in the waters within the city, whether from a vehicle or otherwise including, but not limited to, any public highway, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street, or alley.
- (c) *Dumping or littering; specific materials.* No person shall dump, leave, throw, discard, eject, emit, or otherwise permit the intentional or accidental dumping, leaving, throwing, discarding, ejection, emission, escape of any vehicle parts, construction debris, furniture, used oil, or other hazardous wastes, as defined by the rules and regulations of the state department of environmental quality or as defined in section 138-2, upon any public place within the city limits, upon any private property within the city, upon property-owned or controlled by the city, or in the waters within the city, whether from a vehicle or otherwise including, but not limited to, any public highway, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street, or alley.
- (d) *Presumption of violation.*
- (1) Whenever solid waste is thrown, deposited, dropped, or dumped from any vehicle not carrying passengers for hire, the presumption shall be that the operator of the vehicle has violated this section, but that presumption may be rebutted.
 - (2) If established that dumped, left, or deposited solid waste was in the possession by a person immediately before the act of dumping, the presumption shall be that the possessor has violated this section, but that presumption may be rebutted.
 - (3) Proof of ownership of solid waste found upon public or private property shall create the presumption that the owner of the solid waste violated this section, but that presumption may be rebutted.
 - (4) The owner of solid waste being prosecuted for a violation of this section may allege as an affirmative defense that such person legally contracted with another person to deposit the solid waste at a place designated by the state or any of its agents, political subdivision, units of local government or school districts for the disposal of solid waste.
 - (5) The owner of solid waste being prosecuted for a violation of this section may allege as an affirmative defense that he contracted to have the solid waste taken to a recycling center, or approved composting operation.
 - (6) A person may be found in violation of this section, although the commission of the offense did not occur in the presence of a law enforcement officer, if the evidence presented indicates that the person has committed the offense.
- (e) *Penalties—Littering.* Any person who violates subsection (a) shall be punished as follows:

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- (1) For a first offense, a fine of not less than \$200.00 and community service of not less than six seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries;
 - (2) For a second offense, a fine of not less than \$300.00 and community service of not less than ten seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries; and
 - (3) For a third conviction and each subsequent offense, a fine of not less than \$500.00 and community service of not less than 20 seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries, and imprisonment for not more than 180 days.
- (f) *Penalties—Dumping.* Any person who violates subsection (b) shall be punished as follows:
- (1) For a first offense, a fine of not less than \$1,500.00 and community service of not less than ten seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries;
 - (2) For a second offense, a fine of not less than \$3,000.00 and community service of not less than 15 seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries, and imprisonment for not more than 180 days; and
 - (3) For a third and each subsequent offense, a fine of not less than \$5,000.00 and community service of not less than 20 seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries, and imprisonment for not more than 180 days.
- (g) *Penalties—Dumping or littering; specific materials.* Any person who violates subsection (c) shall be punished as follows:
- (1) For a first offense, a fine of not less than \$500.00, community service of not less than ten seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries, and imprisonment for not more than 30 days;
 - (2) For a second offense, a fine of not less than \$500.00, community service of not less than 15 seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries, and imprisonment for not more than 60 days;
 - (3) For a third offense, a fine of not less than \$500.00, community service of not less than 20 seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries, and imprisonment for not more than 180 days.
- (h) *Inability to pay penalties.* If a person convicted of a violation under this section can demonstrate the inability to pay a penalty imposed by the court, that person shall be ordered, in lieu of the penalty, to perform community service of not less than one seven-hour day of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries per \$50.00 of the penalty imposed.
- (i) *Community service.* The community service of collecting and picking up litter and trash on public roads, streets and highways and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries performed by such persons shall be performed under the supervision and

direction of the director of sanitation or as designated by the court; the director may delegate such authority to the sanitation rangers or other appropriate personnel. The court may elect to substitute two seven-hour days of community service for each one day of imprisonment.

- (j) *Exceptions.* No violation of this section has occurred if the dumping, leaving, throwing, discarding, ejection, emission, escape of any glass or metallic objects, trash, refuse, garbage, vehicle parts, construction debris, furniture, used oil, or other solid or hazardous waste is:
- (1) Done on property designated by the state or any of its agencies, political subdivisions, units of local government or school districts for the disposal of litter and the litter is disposed of on that property in accordance with the applicable rules and regulations of the state department of environmental quality, does not violate any other statute or city ordinance, and does not create a public health or safety hazard, a public nuisance or a fire hazard;
 - (2) Done by a person who is the owner or tenant in lawful possession of the property or has first obtained the consent of the owner or tenant in lawful possession, or the act is done under the personal direction of the owner or tenant, and the material is disposed of on that property in accordance with the applicable rules and regulations of the state department of environmental quality, does not violate any other statute or city ordinance, and does not create a public health or safety hazard, a public nuisance, or a fire hazard; and
 - (3) Placed into a receptacle intended by the owner or tenant in lawful possession of that property for the deposit of the same, and the material is disposed of on that property in accordance with the applicable rules and regulations of the state department of environmental quality, does not violate any other statute or city ordinance, and does not create a public health or safety hazard, a public nuisance, or a fire hazard.
- (k) *Affidavits.* When a peace officer or sanitation ranger has reasonable grounds to believe a person has committed an offense of littering or dumping, or otherwise violated a provision of this section, he shall issue a summons to the offender in accordance with law, commanding him to appear and answer the charge. A violation of this section may be based upon an affidavit completed on a form provided by the superintendent of police for such purpose, containing the sworn statement of any citizen of the age of majority, deposing that the citizen witnessed a violation of this section, and particularly describing the offender and any vehicle or watercraft involved. Such affidavits shall be preaddressed and returnable to the appropriate enforcement office.
- (l) Prosecutions for a violation of sections 66-282 and 66-283 may, at the discretion of the city attorney:
- (1) Be civil in nature and be conducted in an administrative hearing pursuant to chapter 6 of this Code; or
 - (2) Be criminal in nature and conducted in the municipal courts. If a prosecution is civil in nature as described in (1) above, the standard of proof for a finding of guilty shall be by a preponderance of the evidence; community service and incarceration shall not be imposed, and all appeals of a finding of guilty shall be to the civil district court for the Parish of Orleans pursuant to chapter 6 of this Code.

(Code 1956, § 28-18; M.C.S., Ord. No. 17,201, § 1, 9-21-95; Ord. No. 20,261, § 1, 8-2-01; Ord. No. 20,861, § 4, 9-19-02; M.C.S., Ord. No. 22204, § 1, 4-20-06; M.C.S., Ord. No. 22601, § 2, 4-19-07)

State law reference(s)—Administrative adjudication of public health, housing, fire code, environmental and historic district violations, R.S. 13:2575.

Sec. 66-283. Rewards; illegal dumping.

- (a) The director of the department of health shall establish and maintain a reward program to reward private citizens for information that results in a guilty plea, conviction, or civil adjudication of liability of any person

for illegal dumping, as defined in section 66-282(b) and illegal dumping or littering of specific materials, as defined in section 66-282(c). The amount of any reward shall be \$200.00 for any recipient with respect to any one violation and shall be paid out of the environmental improvement revolving fund as defined in section 70-391 of this Code.

- (b) The reward shall be paid subject to the following:
- (1) The eligibility for any reward shall be determined by the director in his sole discretion;
 - (2) The payment of rewards shall be made only when, and if, funds are available and are not needed for purposes deemed more important by the director;
 - (3) No reward shall be awarded until after a guilty plea, conviction or adjudication is final.

(Ord. No. 20,453, § 1, 11-15-01)

Editor's note(s)—M.C.S., Ord. No. 17,201, § 2, adopted Sept. 21, 1995, repealed § 66-283, which pertained to littering from motor vehicles and derived from § 28-54 of the 1956 Code.

Subsequently, Ord. No. 20,453, § 1, adopted Nov. 15, 2001, added a new § 66-283, as set forth herein.

Sec. 66-283.5. Illegal dumping; enforcement; penalty; fees.

(a) *Definitions.*

- (1) *Dumping or illegal dumping* as used in this section shall mean "dumping" or "dumping or littering; specific materials", as defined in sections 66-282(b) and 66-282(c) of this chapter.
- (2) *Standard of proof.* The standard of proof necessary to find a person guilty of violating this section shall mean a civil adjudication that a person has violated this section, by a preponderance of the evidence, in an administrative hearing pursuant to chapter 6 of this Code. In this instance of such a finding of guilt, all appeals shall be to the civil district court for the Parish of Orleans pursuant to chapter 6 of this Code.

(b) All motor vehicles which are used, or intended to be used, to transport, or in any manner to facilitate a violation of 66-292(b) through (c) of this chapter, shall be impounded and subject to forfeiture, except that:

- (1) No motor vehicle used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;
- (2) No motor vehicle is subject to forfeiture under this section by reason of any act or omission that the owner establishes was committed or omitted by a third party without the owner's knowledge and consent; and
- (3) A forfeiture of a motor vehicle encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of, nor consented to, the act or omission.
- (4) If a motor vehicle is used by a person found guilty of violating this section as a second or subsequent offense, the motor vehicle shall, upon a second finding of guilt, be subject to seizure and forfeiture, notwithstanding the fact that the motor vehicle used in the second offense is not the same motor vehicle used in a previous or first offense;
- (5) If a person is found guilty of dumping as a first offense while using a motor vehicle which was used by a different person found guilty of illegal dumping in a previous dumping violation, the motor vehicle shall be subject to forfeiture;

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- (6) If a person is found guilty of violating this section as a first offense while using a motor vehicle owned, leased, borrowed or otherwise in the custody and control of a company or entity, and a different motor vehicle owned; leased borrowed or otherwise in the custody and control of the same company or entity was previously used in the commission of illegal dumping, the motor vehicle shall be subject to forfeiture.

- (c) (1) A motor vehicle impounded under this section shall not be subject to replevin, recognition of ownership for a thing wrongfully taken, but shall be deemed to be in the custody of the director of the department of public works.

When a motor vehicle is seized under this chapter, the director shall:

- a. Place the motor vehicle under seal;
- b. Remove the motor vehicle to a place designated by the director; or
- c. Remove the motor vehicle to an appropriate location for disposition in accordance with law.

- (d) (1)

- a. The motor vehicle shall be impounded and the operator shall be issued a notice of violation of the provisions of this article on a form to be provided by the director of the department of health. A copy of the notice of violation shall be provided to the towing or storage company and a copy shall be forwarded to the director of the department of health within three calendar days after the notice of violation was served. The notice of violation shall serve as notice of administrative hearings rights.
 - b. Upon request, the operator of vehicle or vehicle owner may, within three days, three calendar days, excluding Saturdays, Sundays and legal holidays, from the date that the notice of violation was issued to present to the director of the department of health, prove that the vehicle is not subject to seizure and forfeiture because it is subject to one of the exceptions enumerated in paragraph (b) of this section, at an administrative hearing held for that purpose. The owner of the vehicle may request, and the director of the public works department may grant, an extension of time beyond the three days within which a hearing must be held. Upon its own motion, where appropriate, the director of the department of health may extend the hearing date until after the disposition of any criminal violations for illegal dumping. If the owner fails to provide proof of the fact that the vehicle is not subject to seizure and forfeiture at the time the notice of violation was issued, the director of the department of health shall institute forfeiture proceedings pursuant to chapter 66, article III, junked and abandoned vehicles.
- (2) The director of the department of health shall formulate and promulgate rules and regulations for the implementation of the provisions of this section. To this end, no vehicle shall be seized and/or forfeited pursuant to the authority granted in this section until such rules are properly promulgated in accordance with law. However, this limitation shall not be construed so as to otherwise limit the enforcement of laws relative to illegal dumping.
- (3) a. The administrative hearing shall be limited to a review of the issue of whether the vehicle was engaged in illegal dumping, as defined in 66-282(b) through (c), at the time of the alleged violation. The report and/or affidavit of the investigating law enforcement officer shall be prima facie proof of the violation, and the owner or operator shall have the burden of proving that the vehicle was not engaged in illegal dumping at the time of the violation. The owner or operator may present the testimony of any witnesses at the hearing, including the officer issuing the violation, to establish that the owner or operator was not in violation with the law at the time of the alleged violation.
- b. The director of the department of health shall promulgate such rules and regulations as are necessary to implement the requirements of this section. Any action for judicial review of the

decision from the administrative hearing shall be in the same manner and under the same conditions as provided in chapter 6, administrative procedures. No court shall issue an injunction, stay or other process preventing the enforcement of the sanctions required by this part pending the hearing provided for in this part, except as provided by R.S. 49:964.

- (4) Notwithstanding any other provision of law to the contrary, in no event shall a car be released from impoundment until such time as proof, in writing, has been presented the director of the department of public works that all requirements of this section have been met.
- (5) In those instances when there is a passenger in the motor vehicle under the age of 12 or when the driver or a passenger in the motor vehicle is handicapped or when considering the location and the time of day of the stop, the law enforcement officer perceives that there would be a threat to the public safety or to the occupants in the motor vehicle, such law enforcement officer enforcing the provision of this section may transport the persons to an appropriate location or obtain commercial transportation to be paid for by the persons needing transportation.
- (6) The towing of vehicles shall utilize the NOPD call allocation list established in chapter 162 of this Code. All towing, storage and other such fees contained in this section shall be consistent with Louisiana Public Service Commission General Order dated July 7, 2000, Docket No. T-24789, Statewide Prescribed Rates for Non-Consensual Tow/Recovery.
- (7) The towing of vehicles shall utilize the NOPD call allocation list established in chapter 162 of this Code.
- (e) In the case, where the driver is a minor child, the owner of the vehicle shall be responsible under this section. If the owner of the vehicle is the minor child, the parents of the minor child shall be jointly subject to the provisions of this section along with the minor child, unless the minor has been adjudicated emancipated, or is in the sole custody of another or only one parent under the law. If the minor is in the sole custody of another or only one parent under the law, the person or parent in whose sole custody the child has been placed will be jointly responsible with the minor child under this section.
- (f) Whenever any person who has an interest in a forfeited conveyance files with the director of the department of health, either before or after the sale or disposition of motor vehicle, a petition for remission or mitigation of the forfeiture, the director of the department of health shall remit or mitigate the forfeiture upon the terms and conditions as the director of the department of health deems reasonable if the director of the department of health finds that:
 - (1) The forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to violate the law; or
 - (2) Mitigating circumstances justify the remission or mitigation of the forfeiture.
- (g) Any property contained in or dumped by the motor vehicle at the time of seizure may be held for evidentiary purposes until such time as the forfeiture proceeding is concluded, or the law department determines that the property is no longer needed for evidentiary purposes, whichever is sooner. Any property that is not needed for evidentiary purposes may be returned to the person who has a right of claim to the property. The director of the department of health may dispose of any solid waste contained in the motor vehicle at the time of seizure and collect up to three times the cost and expense incurred for the proper disposal.
- (h) Any adult residing in this state who has pled guilty or has been found guilty of illegal dumping pursuant to sections 66-282(b) through (c) of this chapter shall, within 21 days of such plea or finding, cause to be published on two separate days within the 21-day period provided for herein, without cost to the city, in the official journal of the City of New Orleans and in the official journal of the parish in which the person resides, notice of his name, home address, company name, company logo or trademark, and company address. The notice provided to the official journal or other designated newspaper pursuant to this subparagraph shall also include a recent photograph of the offender, or a clear photocopy of a recent photograph of the offender.

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- (i) In addition to the penalties provided for in sections 66-282(f) and 66-282(g):
- (1) Any person who is found guilty of violating this section as a first offense, shall be punished by having the motor vehicle used in the commission of the offense seized and/or forfeited. The motor vehicle may be released to the person upon the payment and satisfaction of any applicable fines and/or penalties pursuant to section 66-282 of this chapter, towing and storage fees, and hearing and/or proceeding cost.
 - (2) Any person who is found guilty of violating this section as a second or subsequent offense, shall, upon a finding of guilt be punished by having their vehicle seized and forfeited.
 - (3) Any person who is found guilty of violating this section as a second or subsequent offense, shall, upon a finding of guilt be punished by having their vehicle seized and forfeited. In addition, such person shall be responsible for the payment and satisfaction of any applicable fines and/or penalties pursuant to section 66-282 of this chapter, towing and storage fees, waste disposal and cleanup fees, and hearing and/or processing costs.
- (j) The officers of the department of police or such officers as are assigned by the superintendent of police to do so shall enforce all ordinances of the city and all of the state litter and illegal dumping laws applicable to litter and illegal dumping in the city.

(Ord. No. 20,861, § 1, 9-19-02)

Editor's note(s)—Ord. No. 20,861, § 1, adopted September 19, 2002, enacted provisions intended for use as § 66-283a. To preserve the style of the Code, these provisions were included herein as § 66-283.5, at the discretion of the editor.