

LOWNDES COUNTY ANTI-LITTER ORDINANCE

ARTICLE I - GENERAL PROVISIONS

Section 1.1 Intent and Purpose. The Lowndes County Board of Commissioners hereby declares the intent and purpose of this Ordinance to be the prohibition of littering in the unincorporated areas of the County so as to:

- (a) Protect the public health, safety and welfare by preventing the dissemination of inorganic refuse materials laden with bacterial elements and contaminants detrimental to the general well being of the citizens, their property, and the environment;
- (b) Provide for the uniform prohibition throughout the unincorporated areas of the County of any and all littering on public and private property and to curb thereby the desecration of this County's scenic beauty;
- (c) Protect and enhance the quality of the water, air and overall environment of this County by guarding against any of the degradations thereto which stem from the unfettered burial, deposition, burning, dumping, discarding or disposal of litter and solid waste in this County.

Section 1.2 Applicability. This Ordinance shall apply to all property open to the public and to all private property within unincorporated areas of the County as such areas from time to time may exist. The provisions contained herein prescribe rules and regulations prohibiting the depositing, discarding or abandoning of litter within the unincorporated areas of the County.

Section 1.3 Enactment Authority. The Board of Commissioners, under the authority of article 9, section 2, paragraphs I and III of the Constitution of the State of Georgia (1983), and O.C.G.A. title 12, chapter 8, article 2 and O.C.G.A. title 16, chapter 7, hereby ordains and enacts into law this Ordinance.

Section 1.4 Title. This Ordinance shall be known collectively and may be cited as "The Anti-Litter Ordinance of Lowndes County, Georgia."

Section 1.5 Definitions. The following words, terms and phrases, when used in this Ordinance, shall have the meaning ascribed to them below in this Section, except where the context clearly indicates a different meaning. All terms used in this Ordinance, and not otherwise defined below in this Section, shall have the definitions ascribed to them in O.C.G.A. § 12-8-22, as the same may be from time to time amended, except where the context clearly indicates a different meaning. Except as specifically defined herein or in O.C.G.A. § 12-8-22, all words used in this Ordinance shall have their customary, plain meaning, dictionary definitions. Words used in the singular shall include the plural and words used in the plural shall include the singular. Words used in the present tense shall include the future tense.

Board of Commissioners shall mean the Board of Commissioners of Lowndes County, Georgia.

Construction/demolition waste shall mean waste building materials and rubble resulting from construction, remodeling, repair or demolition operations on pavements, houses, buildings, infrastructures, or other similar structures or systems. Such waste includes but is not limited to asbestos-containing waste, wood, bricks, metal, concrete, wall board, paper cardboard, inert waste landfill material and other nonputrescible waste which has a low potential for groundwater contamination.

County Manager shall mean the County Manager of Lowndes County.

Egregious litter shall mean all litter exceeding ten pounds in weight or 15 cubic feet in volume; such waste includes but is not limited to mattresses, refrigerators, freezers, stoves, ranges, heaters, air conditioners, water heaters, dishwashers, and similar large appliances, furniture, carpet, vehicles, and other waste materials of a similarly large or bulky size; any discarded or abandoned substance in any weight or volume if biomedical waste, hazardous waste, or a hazardous or potentially hazardous substance; any substance or material dumped for commercial purposes; or construction/demolition waste.

Handbill shall mean any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper, newspaper, magazine, periodical, booklet, flyer or any other printed or otherwise reproduced original or copies of any matter of literature which:

- (a) Advertises for sale any merchandise, product, commodity, service, business, event opportunity or thing;
- (b) Directs attention to any business, mercantile or commercial establishment or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales;
- (c) Directs attention to or advertises any meeting, theatrical show or other entertainment performance, exhibition or event of any kind, whether or not an admission fee is charged; or
- (d) While containing reading or other printed matter or information other than advertising matter, is predominately and essentially an advertisement and is distributed or circulated for advertising purposes or for the private benefit and economic gain of any person so engaged as advertiser or distributor.

Handbill shall not include any of the foregoing for bona fide political, charitable, and other non-profit purposes, nor shall it include newspapers, magazines or periodicals being distributed or delivered to a bona fide subscriber therefore.

Hazardous waste shall mean any solid waste identified or listed as a hazardous waste by the State of Georgia (including without limitation by the Georgia Hazardous Waste Management Act, O.C.G.A. § 12-8-60 et seq., or in regulations promulgated by the Georgia Board of Natural Resources, chapter 391-3-11) or the U.S. Environmental Protection Agency pursuant to the

Federal Resource Conservation and Recovery Act, 72 U.S.C. 6901 et seq., as amended including future amendments thereto.

Litter shall mean discarded or abandoned, or to discard or abandon any, organic or inorganic waste material, rubbish, refuse, garbage, trash, hulls, peelings, debris, grass, weeds, ashes, sand, gravel, slag, brickbats, metal, plastic, cans, glass containers, broken glass, dead animals, or intentionally or unintentionally discarded materials of every kind and description.

Litter receptacle shall mean a receptacle designed and constructed to receive, collect, store and contain litter in a convenient, sanitary, vector-proof, leakproof, and spillproof manner.

Lowndes County or County shall mean Lowndes County, a political subdivision of the State of Georgia.

Park shall mean a park, reservation, playground, beach, recreation center or any other public area in the County which is owned, operated or used by the County or any recreation, tourism or similar governmental authority or unit and devoted to active or passive recreation.

Person shall mean an individual, corporation, limited liability company, partnership, association, trust, unincorporated organization or other entity, or federal, state or local governmental body, unit, authority or agency.

Private property shall mean any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

Property open to the public shall mean the right-of-way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any public park, playground, building, refuge, or conservation or recreation area; timberlands or forests; and residential, institutional, commercial or industrial properties.

Public place shall mean any and all streets, rights-of-way, boulevards, alleys or other public ways, and any and all public parks, squares, grounds, buildings, beaches, playgrounds or conservation or recreation areas.

Vehicle shall mean any mobile device (whether or not motorized) in, upon, or by which any person or property is or may be transported or drawn upon a highway, road, rail or track.

ARTICLE II - LITTER CONTROL

Section 2.1 Compatibility With Other Regulations. This Ordinance is not intended to interfere with, abrogate, limit, or annul any other ordinance, rule or regulation, statute, or other provision of law governing, prohibiting or otherwise related to littering. The requirements of this Ordinance should be considered minimum requirements, and where any provision of this

Ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health, safety, welfare, or the environment shall be considered to take precedence.

Section 2.2 Prohibition Against Littering at, on or in Public or Private Property or Waters.

(a) It shall be unlawful for any person or persons to dump, deposit, throw, leave, or abandon any litter at, on or in any public or private property in the unincorporated areas of this County or any waters in the unincorporated areas of this County, unless:

(1) The area is designated by the State of Georgia or by any of its agencies or political subdivisions for the disposal of litter and, where necessary under applicable law, rules and regulations, such person is authorized by the County to use such area;

(2) The litter is placed into a non-disposable litter receptacle or container designed for the temporary collection or storage of litter and located in an area designated therefore by the owner or tenant in lawful possession of the property; or

(3) The person is the owner or tenant in lawful possession of such property or has first obtained consent of such owner or tenant in lawful possession, or unless the act is done under the personal direction of such owner or tenant, and in each case the act is done in a manner that will not adversely affect the public health, safety and welfare and is not in violation of any other County ordinance, rule, or regulation or other applicable federal, state or local law, rule or regulation.

(b) It shall be unlawful for any person to intentionally dump, deposit, throw, leave, or abandon any egregious litter unless authorized to do so by law or by a lawfully issued permit:

(1) In or on any public highway, road, street, alley, or thoroughfare in the unincorporated areas of the County, including any portion of the right of way thereof, or on any other public lands except in containers or areas lawfully provided and designated for such dumping;

(2) In or on any private property, unless prior consent of the owner or tenant in lawful possession of such property has been given, and unless in each case the act is done in a manner that will not adversely affect the public health, safety and welfare and is not in violation of any other County ordinance, rule, or regulation or other applicable federal, state or local law, rule or regulation

Section 2.3 Provision of Litter Receptacles. All commercial businesses and institutions in the unincorporated areas of the County patronized by the public shall place and maintain on the exterior of their premises in places easily accessible by the public litter receptacles for the

deposit of litter at appropriate locations where the property is frequented by the public and to post signs directing people to the receptacles. All owners or tenants in possession of such commercial businesses and institutions in the unincorporated areas of the County shall regularly maintain and empty the litter receptacles located on their property or on the public right of way adjacent to their property.

Section 2.4 Distribution of Handbills.

- (a) It shall be unlawful for any person to throw, deposit, leave, place or cause or permit the throwing, depositing, leaving or placing of any handbill, unless exempted by or permitted by this Ordinance, upon any private property (including vehicles) whether such property is occupied or vacant.
- (b) Nothing in this Ordinance authorizes placing handbills in or on mailboxes when such use is prohibited by federal law or by U.S. Postal Service regulations.
- (c) No person shall throw, deposit, leave, place or cause or permit the throwing, depositing, leaving or placing of any handbill, unless exempted by or permitted by this Ordinance, upon any property open to the public, provided, however, it shall not be a violation of this Article for any person to hand out or to distribute without charge to the receiver thereof any handbill to any person willing to receive such handbill without coercion.
- (d) No person shall throw, deposit, leave, place or cause or permit the throwing, depositing, leaving or placing of any handbill, unless exempted by this Ordinance, upon any vehicle, provided, however, it shall not be a violation of this Ordinance for any person to hand out or to distribute without charge to the receiver thereof any handbill to any occupant of a vehicle who is willing to receive such handbill without coercion.
- (e) No person shall, post or affix any handbill upon any public or private utility pole, tree, lamppost or upon any other public structure except as may be authorized or required by law.

Section 2.5 Vehicle Loads Causing Litter. No person shall operate any vehicle with a load on or in such vehicle unless the load on or in such vehicle is adequately secured so as to prevent any of its load from dropping, escaping, or shifting in such a manner as to:

- (a) Create a safety hazard; or
- (b) Cause or permit litter to be deposited, dropped or dumped on public or private property while such vehicle is on a public road.

Section 2.6 Individual Disposal. Except as otherwise provided in this Ordinance, the provisions of this Ordinance do not restrict or prohibit the disposal of solid waste by any individual from his, her or its own dwelling when done in strict accordance with all applicable laws and so as not to create a nuisance or a menace to public health or safety.

ARTICLE III – OTHER

Section 3.1 Violations, Enforcement and Penalties.

(a) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. Any person who has violated or continues to violate the provisions of this Ordinance, may be subject to the enforcement actions outlined in this Ordinance, may be restrained by injunction, and/or otherwise sentenced in a manner provided by law. All violations, penalties and/or remedies specified in this Ordinance are cumulative. Pursuance of any one violation, penalty or remedy shall not be deemed an election of remedies and shall not prohibit the simultaneous pursuit of any other applicable violation, penalty or remedy.

(b) Any violation of this Ordinance shall be tried upon citations issued by enforcement personnel of the County as designated by the County Manager, issued by law enforcement officers pursuant to O.C.G.A. § 15-10-63 and any successor statute, or as otherwise permitted or required by law. Without limitation, commercial solid waste collectors, contractors, their agents, servants, employees or assigns, and such other parties as are responsible for any such violation may be cited for such violation.

(c) Violations – Additional Provisions

(1) Whenever any litter or egregious litter is thrown, deposited, dropped or dumped from any vehicle, boat, airplane, or other conveyance in violation of this Ordinance, the trier of fact may in its discretion and in consideration of the totality of the circumstances infer that the operator of the vehicle, boat, airplane, or other conveyance is the person who violated this Ordinance.

(2) Except as provided in subsection (1), whenever any litter or egregious litter is dumped, deposited, thrown, left or abandoned on public or private property in violation of this Ordinance and is discovered to contain any article or articles, including but not limited to letters, bills, publications or other writings, which display the name of the person thereon in such a manner as to indicate that the article belongs or belonged to such person, the trier of fact may in its discretion and in consideration of the totality of the circumstances infer that such person is the person who has violated this Ordinance.

(3) Whenever a litter receptacle located on the public right of way adjacent to the property of a commercial property owner is overflowing with litter, odorous and/or visually unsightly, it shall be prima facie evidence that the commercial property owner has violated this Ordinance. The term "visually unsightly" shall mean physically unattractive and/or dirty.

(d) Any person who violates this Ordinance shall be punished as follows:

(1) Any person who intentionally violates this Ordinance shall be guilty of a misdemeanor. For purposes of this subsection, each day a continuing violation occurs shall constitute a separate violation.

(2) Any person who intentionally dumps or abandons egregious litter, or any biomedical waste, hazardous waste, or a hazardous substance in any quantity in violation of this Ordinance shall be guilty of a misdemeanor of a high and aggravated nature. For purposes of this subsection, each day a continuing violation occurs shall constitute a separate violation.

(3) In addition to the punishment provided for violations of paragraphs (1) or (2) of this subsection, the violator shall reimburse the County for the reasonable cost of emptying the litter receptacle or removing the litter or egregious litter, and for its proper disposal when done so by the County;

(4) In the sound discretion of the court, the person who violates this Ordinance may be directed to personally pick up, clean up, and remove in an orderly manner, or render harmless any and all litter or egregious litter, from any property open to the public, any right-of-way, or with prior permission of the legal owner or tenant in lawful possession of such property, any private property upon which it can be established by competent evidence that he has deposited or abandoned or caused to be deposited or abandoned litter or egregious litter. Pick up and removal shall include any and all litter or egregious litter deposited thereon by anyone prior to the date of execution of sentence;

(5) The court may cause to be published the name of each person convicted of violating this Ordinance. Such notice of conviction shall be published in the legal organ of the County and, in the case of a nonresident of the County, in the legal organ of the county in which the person resides; and

(6) If a notice(s) of conviction is published pursuant to this subsection, the convicted person shall be assessed the cost of publication of such notice(s), and such assessment shall be imposed at the time of conviction in addition to any other fine imposed pursuant to this Ordinance.

(e) Unless otherwise specially provided by resolution of the Board of Commissioners, the enforcement of this Ordinance shall be within the jurisdiction of the County's enforcement personnel authorized by the County Manager, and such enforcement personnel shall have such powers as are reasonably necessary to enforce and give effect to this Ordinance. In addition, any law enforcement officer authorized to enforce county ordinances within the County is hereby authorized, empowered and directed to enforce compliance with this Ordinance.

Section 3.2 Severability of Provisions. If any article, section, part, subpart, subsection, paragraph, item, sentence, clause, phrase or word of this chapter is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining

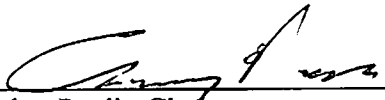
provisions or portion of this Ordinance, which shall remain of full force and effect as if such portions so declared or adjudged invalid or unconstitutional were not originally a part of this chapter. The Board of Commissioners declares that it would have enacted the remaining provisions or parts of this chapter had it known that such portion hereof would be declared and adjudged invalid or unconstitutional.

All ordinances or parts of ordinances, or resolutions or parts of resolutions, in conflict herewith shall be, and the same is, repealed.

This ordinance shall be deemed effective upon adoption.

It is so ordained, this 14 day of July, 2009.

LOWNDES COUNTY:



Ashley Paulk, Chairman
Lowndes County Board of Commissioners

ATTEST:


K. Paige Dukes, County Clerk