

GWINNETT COUNTY
LITTER CONTROL ORDINANCE

AMENDED DECEMBER 11, 2007

LITTER CONTROL ORDINANCE

WHEREAS, the Board of Commissioners enacted the Gwinnett County Litter Control Ordinance (hereinafter "the Ordinance") on April 13, 2004 to protect the public health, safety, environment, and general welfare through the regulation and prevention of litter; and

WHEREAS, the objectives of the Ordinance are to provide for uniform prohibition throughout unincorporated Gwinnett County of any and all littering on public and private property, to prevent the desecration of the beauty and quality of life of Gwinnett County, and to protect the public health through the prevention of communicable diseases; and

WHEREAS, on April 21, 2006, the Georgia General Assembly passed the Comprehensive Litter Prevention and Abatement Act of 2006, Georgia L. 2006, p. 275, § 1-1, not codified by the General Assembly (hereinafter, the "Act"); and

WHEREAS, the Act was approved by the Governor and became effective on July 1, 2006; and

WHEREAS, Gwinnett County is located within the state of Georgia and therefore must comply with the Act; and

WHEREAS, the Board of Commissioners shall amend the Ordinance to be consistent with the provisions of the Act; and

WHEREAS, Gwinnett County desires to participate in the Governor's Clean Community Challenge (CCC) program; and

WHEREAS, in order to participate in the CCC program, the Ordinance must be as restrictive as the Act; and

WHEREAS, Gwinnett County has designated certain areas of unincorporated Gwinnett County as overlay districts, and one of the purposes of these districts is to achieve and maintain a unified and pleasing aesthetic/visual quality in landscaping; and

WHEREAS, decorative, commercial-quality, benches and litter receptacles are required for all commercial developments located within overlay districts to provide a pleasing streetscape; and

WHEREAS, the Board of Commissioners has determined that certain litter receptacles located within the public right of way in overlay districts have not been maintained and/or emptied on a frequent basis as needed; and

WHEREAS, the Board of Commissioners has determined that overflowing litter receptacles harm the public environment and welfare when such litter is blown into the sidewalks and streets and onto lawns; and

WHEREAS, the Board of Commissioners is concerned that overflowing and/or unattractive litter receptacles may contribute to the spread of communicable diseases; and

WHEREAS, an accumulation of litter detracts from the quality of life of Gwinnett residents; and

WHEREAS, the Board of Commissioners has determined that maintaining and emptying litter receptacles located within the public right of way will achieve and sustain a pleasing aesthetic quality to overlay districts and enhance the viability of the areas surrounding overlay districts; and

WHEREAS, the Board of Commissioners has determined that it is in the best interest of Gwinnett County residents to amend Gwinnett County's Litter Control Ordinance to include provisions which require commercial property owners to regularly maintain and empty trash receptacles located on the public right of way adjacent to their property in overlay districts;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF GWINNETT COUNTY, GEORGIA, AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF SAME, that Chapter 90, Article II of the Code of Ordinances of Gwinnett County, Georgia, is hereby amended as follows:

ARTICLE II. LITTER CONTROL

Sec. 90-26. Short title, authority and applicability.

- (a) This article shall be known and may be cited as the county litter control ordinance.
- (b) Gwinnett County has the authority to adopt this article pursuant to Article 9, Section 2, Paragraph I and Article 9, Section 2, Paragraph III of the Constitution of the State of Georgia and Title 16, Chapter 7 of the Official Code of Georgia Annotated, which is known as the Georgia Litter Control Law.

(Ord. of 4-13-04)

Sec. 90-27. Purpose and intent.

The purpose of this article is to protect the public health, safety, environment, and general welfare through the regulation and prevention of litter. The objectives of this article are to:

- (1) Provide for uniform prohibition throughout unincorporated Gwinnett County of any and all littering on public or private property; and
- (2) Prevent the desecration of the beauty and quality of life of Gwinnett County; and

(3) Prevent harm to the public health, safety, environment, and general welfare, including prevention of communicable disease and degradation of water and aquatic resources caused by litter.

(Ord. of 4-13-04)

Sec. 90-28. Definitions.

As used in this article, the following terms shall have the following meanings:

Egregious litter means all litter, as such term is defined in this article, exceeding ten pounds in weight or 15 cubic feet in volume; any discarded or abandoned substance in any weight or volume if biomedical waste, hazardous waste, or a hazardous substance; or any substance or material dumped for commercial purposes.

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

- (1) Advertises for sale any merchandise, product, commodity, service, business, opportunity or thing; or
- (2) Directs attention to any business or mercantile or commercial establishment or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- (3) Directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged; or
- (4) While containing reading matter 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; and

(5) Handbills for political, charitable and other nonprofit purposes are exempt from this article.

Litter means any discarded or abandoned:

(A) Refuse, rubbish, junk, cigarette butts, or other waste material; or

(B) Dead animals that are not subject to the provisions of the Official Code of Georgia Annotated § 4-5-4.

Property open to the public means 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.

Private property means 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.

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

(Ord. of 4-13-04)

Cross references: Definitions generally, § 1-2.

Sec. 90-29. Applicability.

This article shall apply to all property open to the public and to all private property within unincorporated Gwinnett County.

(Ord. of 4-13-04)

Sec. 90-30. Compatibility with other regulations.

This article is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this article should be considered minimum requirements, and where any provision of this article 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 or the environment shall be considered to take precedence.

(Ord. of 4-13-04)

Sec. 90-31. Prohibition against littering public or private property or waters.

(a) It shall be unlawful for any person or persons to dump, deposit, throw, or leave or to cause or permit the dumping, depositing, placing, throwing, or leaving of litter on any public or private property in this county or any waters in this county, unless:

- (1) The area is designated by the state or by any of its agencies or political subdivisions for the disposal of litter and such person is authorized by the county to use such area;

(2) The litter is placed into a nondisposable litter receptacle or container designed for the temporary storage of litter and located in an area designated 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 the owner or tenant in lawful possession or unless the act is done under the personal direction of the owner or tenant, all in a manner consistent with the public welfare.

(b) It shall be unlawful for any person to intentionally dump egregious litter unless authorized to do so by law or by a duly issued permit:

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

(2) In or on any private property, unless prior consent of the owner has been given and unless such dumping will not adversely affect the public health and is not in violation of any other county ordinance, rule, or regulation.

(Ord. of 4-13-04)

Sec. 90-32. Provision of litter receptacles.

(a) All commercial businesses and institutions patronized by the public shall place and maintain on the exterior of their premises in places easily accessible by the public 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.

- (b) All owners of commercial property located in overlay districts shall regularly maintain and empty the litter receptacles located on the public right of way adjacent to their property.

(Ord. of 4-13-04)

Sec. 90-33. Distribution of handbills.

(a) *Private property.* 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 this article, upon any private property if the mailbox is specifically marked with the identifying insignia (Gwinnett County green sticker) which signifies that the occupant does not wish to receive handbills. The identifying insignia is to be posted on the bottom right corner of the mailbox door. The insignia will be green, state "HANDBILLS" with the universal insignia for "NO" superimposed over "HANDBILLS," and identify the enforcing ordinance, to wit:

GRAPHIC LINK:[NO HANDBILLS](#)

(b) *[Vacant property.]* No person shall throw, deposit, leave, place or cause or permit the throwing, depositing, leaving or placing of any handbill, upon any private property which is vacant and which could be reasonably ascertained to be vacant.

(c) *[Property not posted or marked; or vacant.]* Unless private property is posted as provided in subsection (a), or vacant as provided in subsection (b), or unless requested by anyone upon such premises not to do so, whether such private property is posted as provided in subsection (a) or not, the person distributing the handbills may place or deposit any such handbill in or upon such inhabited private property as follows::

(1) Such handbill may be placed in doorknob hangers provided by the person distributing the handbill; or

(2) Such handbill may be placed or deposited on inhabited private property if such handbill is placed or deposited in a manner that is reasonably designed to secure or prevent such handbill from being blown or drifted about such private property or property open to the public, including streets, storm water catchment and conveyance systems and other public places.

(d) [*Prohibition by federal law or postal regulations.*] Nothing in this article authorizes placing handbills in mailboxes when such use is prohibited by federal law or by postal regulations.

(e) *Property open to the public.* No person shall throw, deposit, leave, place or cause or permit the throwing, depositing, leaving or placing of any handbill, unless exempted by this article, 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 it.

(f) *Vehicles.* No person shall throw, deposit, leave, place or cause or permit the throwing, depositing, leaving or placing of any handbill, unless exempted by this article, upon any vehicle, 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 occupant of a vehicle who is willing to receive it.

(g) *Public utility poles, trees and other structures.* No person shall throw, post or affix any handbill upon any public utility pole, tree, lamppost or upon any other public structure except as may be authorized or required by law.

(Ord. of 4-13-04)

Sec. 90-34. Vehicle loads causing litter.

No person shall operate any motor 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:

- (1) create a safety hazard; or
- (2) deposit litter on public or private property while such vehicle is on a public road.

(Ord. of 4-13-04)

Sec. 90-35. Violations, enforcement and penalties.

(a) *Violations.* It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. Any person who has violated or continues to violate the provisions of this article, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise sentenced in a manner provided by law.

(b) *Evidence.*

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

(2) Except as provided in subsection (1), whenever any litter or egregious litter is dumped, deposited, thrown or left on public or private property in violation of this article is discovered to contain any article or articles, including but not limited to letters, bills, publications or other writing 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 has violated this part.

(3) Whenever a litter receptacle located on the public right of way adjacent to the property of a commercial property owner in an overlay district 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.

(c) *Penalties.*

(1) Any person who intentionally violates this article shall be guilty of a misdemeanor; and

(2) Any person who intentionally dumps egregious litter in violation of this article in an amount not exceeding 500 pounds in weight or 100 cubic feet in volume which is not biomedical waste, hazardous waste, or a hazardous substance and not for commercial purposes 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; and

(3) In addition to the punishment provided under 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 when it is removed by the county; and

(4) In the sound discretion of the court, the person may be directed to pick up and remove 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 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; and,

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

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

(Ord. of 4-13-04)

State law references: Litter Control Law, O.C.G.A. § 16-7-40 et seq.

THIS AMENDMENT IS ADOPTED by the Gwinnett County Board of Commissioners
this the _____ day of _____, 2007.

**BOARD OF COMMISSIONERS
GWINNETT COUNTY, GEORGIA**

By: _____
CHARLES E. BANNISTER
Chairman

ATTEST:

County Clerk/Deputy County Clerk

(SEAL)

APPROVED AS TO FORM:

TUWANDA RUSH WILLIAMS
Sr. Assistant County Attorney