

2016 MAR 14 AM 11 31

229

UNAUTHORIZED DUMPING AND LITTER CONTROL ORDINANCE

WAYNE SMITH

CHANCERY CLERK

AN ORDINANCE ESTABLISHING A COMPREHENSIVE PROGRAM FOR LAMAR COUNTY, MISSISSIPPI TO CONTROL UNAUTHORIZED DUMPS, AND LITTER; ESTABLISHING PENALTIES FOR VIOLATION OF SAID ORDINANCE AND ESTABLISHING AN EFFECTIVE DATE THEREOF.

WHEREAS, the Board of Supervisors of Lamar County has become aware of unauthorized dumping and littering on public and private property and county roadways in Lamar County, Mississippi, and;

WHEREAS, said unauthorized dumping and littering on public and private property and county roadways degrades the environment and community, and causes environmental, health and safety hazards, and;

WHEREAS, the cost incurred by Lamar County to clean up said unauthorized dumps and scattered litter creates an undue burden upon the taxpayers of Lamar County, and;

WHEREAS; Pursuant to Mississippi Code, Sections 19-5-17, 17-17-5, 17-17-17, 19-5-173, 97-15-29, 97-15-30, and 97-15-31, the Board of Supervisors of Lamar County has authority to enact such ordinances as necessary, to protect public interests and to establish and maintain a system of proper management of refuse, garbage and derelict property.

NOW THEREFORE, be it resolved by the Board of Supervisors of Lamar County, Mississippi, that for the reasons set forth above and pursuant to the authority granted therein, the following resolution is hereby enacted:

1. SHORT TITLE

This Ordinance shall be known as the Lamar County Unauthorized Dumping and Litter Control Ordinance.

2. INTENT

It is the expressed intent of the Board of Supervisors and of this Ordinance to promote a clean, healthy, safe and attractive environment in which to live.

3. APPLICABILITY

This Ordinance shall apply to and be enforced within the unincorporated boundaries of Lamar County, Mississippi.

220

4. DEFINITIONS

The following words, phrases or terms, used in this Ordinance, unless the context indicates otherwise, shall have the following meanings:

- a. Authorized receptacle: A waste storage and collection container as required and authorized by this Ordinance.
- b. Container: The receptacle, which the County recommends that the owner or occupant use for collecting and disposing of garbage which is appropriate in size and capacity. Said container shall be constructed in a manner appropriate for depositing, holding and collecting garbage. It is recommended that such container be constructed so that litter or garbage cannot fall, drop, or be blown from the container. These specifications, terms and conditions are subject to change upon proper notice.
- c. Cover: Any device, equipment, container, close fitting tarpaulin, chain, rope, wire or line used on vehicles to prevent any part of a vehicle load from shifting, blowing, leaking, falling or escaping in any manner from the vehicle.
- d. Garbage: Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, including wastes from markets, storage facilities, handling and sale of produce and other food products, and excepting such materials that may be serviced by garbage grinders and handled as household sewage.
- e. Litter: All trash, including that which is unsightly and/or excessive in accumulation, including but not limited to paper, bottles, cans, glass, crockery, plastic, rubber, waste building materials, disposable packages and containers, white goods, small automobiles parts, tires, furniture, yard waste, or any other matter which tends to create a hazard to the public health, safety and welfare.
- f. Person: Any person, owner, lessee, firm, business, partnership, sole proprietorship, association, corporation, company or organization of any kind.
- g. Private Property: Any dwelling, house, building or other structure designed or used for private, commercial, or residential purposes, including any yard, grounds, acreage, vacant lots, walk, driveway, porch, steps, parking areas, vestibule, or mailbox belonging to such dwelling, house, building or other structure.
- h. Public Property: Any and all streets, public rights of way, easements, medians, sidewalks, boulevards, highways, streets, alleys, or other public parks, squares, spaces, grounds and buildings.

- i. **Rubbish:** Nonputrescible solid wastes (excluding ashes) consisting of both combustible and noncombustible wastes. Combustible rubbish includes paper, rags, cartons, wood, furniture, rubber, plastics, yard trimmings, leaves and similar material. Noncombustible rubbish includes glass, crockery, metal cans, metal furniture and like material which will not burn at ordinary incinerator temperatures (not less than 1600 degrees F.).
- j. **Solid Waste:** Any garbage, or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities but does not include solid or dissolved materials in activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. 1342, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).
- k. **Unauthorized Dump:** Any collection of solid waste either dumped or caused to be dumped or placed on any property either public or private, whether or not regularly used. An abandoned automobile, large appliance, or similar large item of solid waste shall be considered as forming an unauthorized dump within the meaning of Miss. Code 17-17-1, et. seq., but not the careless, scattered littering of smaller individual items as tires, bottles, cans, and the likes. An unauthorized dump shall also mean any solid waste disposal site which does not meet the regulatory provisions of Miss. Code Sec. 17-17-1, et. seq.
- l. **Yard Waste:** The leaves, grass cuttings, weeds, garden waste, tree limbs, and other vegetative wastes generated at residential, commercial, institutional, governmental, or industrial properties.

5. PREVENTION OF UNAUTHORIZED DUMPING AND LITTERING

- a. *Littering Prohibited:* It is unlawful for any person to throw, discard, or deposit garbage, rubbish, yard waste, or any other solid waste in any manner or amount in or upon any public property or private property, highway, street, right-of-way, body of water or park in the county, except in public receptacles, in authorized private receptacles, or in accordance with regulations and requirements set forth by the county and its agent for collection.
- b. *Unauthorized dumping prohibited.* It shall be unlawful for any person to cause, create or allow an unauthorized dump on any private or public property. Unauthorized dumps are declared to be a public nuisance per se and shall be eliminated by removal or on site burial. If removed, the debris from the dump will be disposed in an approved and permitted landfill. If buried on site, such burial will be in accordance with all applicable state laws and regulations.

252

c. *Unauthorized discharge to state waters.* It shall be unlawful for any person to throw, discard or deposit garbage, rubbish, yard waste or other solid wastes into any river, creek, stream, water drainage way or in any other manner that would result in the washout of wastes into state waters.

6. CONTAINERIZATION OF LITTER AND SOLID WASTES IN RECEPTACLES REQUIRED

a. It is unlawful for any person to deposit any materials in receptacles placed for public use as a depository for litter, recyclables or solid wastes other than that specifically designated for that container.

b. All persons that place their garbage in plastic bags or in containers for collection are responsible for unsightly garbage in and about the property owned, operated or controlled by said persons. Spillage and overflow of wastes around containers shall be promptly cleaned and properly disposed of.

c. It shall be the responsibility of each person to keep his or her own property clean and free of garbage, yard wastes, and any resulting litter. Any non-contained and uncontrolled accumulation of garbage and yard waste on any public or private property is a violation of this ordinance.

d. Persons owning or occupying property shall keep right-of-way areas and sidewalks in front of their premises free of garbage and yard waste.

e. It shall be the responsibility of the occupant of a residence or the owner or manager of a commercial or multi-family residential establishment to utilize a storage system that will include containers of adequate size and strength, and in sufficient numbers, to contain all solid waste that the residence or other establishment generates in the period of time between collections. The owner or, if leased, the lessee of the storage containers shall be responsible for compliance with this requirement.

f. Any solid wastes resulting from construction, repair or alteration of any building in the county shall be contained and removed in a timely manner at the expense of the builder. All trees, tree limbs, and brush cut by a contractor or any person performing such task or any other yard wastes collected from the property shall either be managed on-site in accordance with state law or should be removed and properly disposed of at that person's expense.

7. COUNTY GARBAGE COLLECTION

The county or its agent shall provide a method for collection of household garbage that has been prepared and contained in covered receptacles or plastic bags. The county or its agent will maintain regular collection routes on particular days at particular times. The routes, days, and times of regular collections will be made known to the public. The county or its agent, with the approval of the Board of Supervisors, shall notify the public of any variation of changes in the regular collection schedule.

8. SOLID WASTE TRANSPORTATION

- a. Any solid waste materials such as garbage, rubbish or yard waste being transported by vehicle shall be secured in such a manner to prevent the materials from blowing, spilling, or falling from the vehicle.
- b. Any driver or person in direct control of any vehicle from which any materials or objects have fallen, blown, leaked, shifted or otherwise escaped shall immediately cause said materials or objects to be cleaned up at their own expense or be cited and fined in accordance with this ordinance and the laws of the State of Mississippi.

9. SOLID WASTE DISPOSAL REQUIREMENTS

- a. It shall be required that all debris, garbage, rubbish or yard waste from private households, businesses, industries and other sources shall upon removal from the point of generation be disposed at a permitted landfill, rubbish site or other solid waste disposal facility. Exceptions to this requirement are for those wastes transported to a legitimate recycling facility or used for beneficial use where such recycling or beneficial use is conducted in accordance with state and local regulations.
- b. It shall be unlawful to dispose of any hazardous waste except in the manner specifically authorized by state and federal regulations. Hazardous wastes from commercial sources shall not be disposed of as part of normal garbage, rubbish, or yard waste collection.

10. OPEN BURNING {OPTIONAL ORDINANCE LANGUAGE}

The open burning of residential, commercial, institutional, or industrial solid waste is prohibited by this ordinance. This prohibition generally does not apply to the infrequent on-site burning of certain vegetative wastes including: agricultural wastes in the field, vegetative debris from forest management activities and land-clearing debris and associated vegetation. These exceptions for vegetative debris burning are only allowed by this ordinance if:

2014

- a. The open burning is conducted on the site of generation.
- b. The open burning is conducted in a manner that prevents nuisance conditions.
- c. Starter or auxiliary fuels used in conducting the burning are comprised only of vegetation, petroleum derived fuels, or other combustible materials that do not cause excessive smoke. The use of tires, plastics, shingles, engineered wood products and other similar materials as starter fuel is prohibited.
- d. The open burning is conducted in a manner that prevents the smoke from causing safety or traffic hazards.
- e. The Mississippi Forestry Commission or local fire officials have not issued a High Fire Danger Alert for the area.
- f. The MDEQ has not imposed an Emergency Air Pollution Episode Alert for the area.

The Mississippi Commission on Environmental Quality also administers the State Air Emission Regulations (APC-S-1, Section 3.7) governing open burning, which include additional criteria and setback distances. Open burning activities determined to be in violation of these state regulations by the Commission or the MDEQ may also constitute a violation of this ordinance. In addition, the open burning prohibitions of this ordinance do not apply to the authorized burning of debris from emergency clean-up operations by the MDEQ and to the authorized destruction of armament or other ordinance.

11. ENFORCEMENT

a. ENFORCEMENT PROCEDURES

(1) The County Solid Waste Enforcement Officer and/or other law enforcement officers of the county are hereby empowered to issue corrective written notices or citations to persons in violations of any of the provisions of the ordinance. Further, any citizen of Lamar County may file a sworn affidavit in Justice Court of Lamar County to be taken against any party in violation of the ordinance.

(2) The Solid Waste Enforcement Officer or law enforcement officer of the county shall initiate prosecution for a violation of this ordinance where the officer(s) has sufficient probable cause to believe this ordinance is being violated. If the Solid Waste Enforcement Officer or law enforcement officer discovers an article of garbage bearing a person, corporation, company, firm, business or institution's name or address on any public or private property, it shall be presumed that said article of garbage being so discovered is the property of such person whose name appears thereon, and said person placed or caused to

206

be placed upon such article of garbage; provided, however, that such presumption shall be rebutted by competent evidence. This presumption is based on the intent that all generators of such items are responsible for such items until such time it has been properly disposed of.

(3) Corrective written notice may be issued to violators of this ordinance to correct an offense, in lieu of citation or arrest. The notice shall state the date and time issued, nature of offense committed, corrective measures to be taken and the date and time by which such corrections shall be made. The issuing authority for public inspections shall retain all such notices issued during normal office hours. Notice mailed by Certified Mail, return receipt requested, mailed to the violator's last known place of residence, shall be deemed personal service upon the person for the purpose of this ordinance.

b. FAILURE TO COMPLY WITH NOTICE

Any person who has been served a corrective written notice in accordance with the provisions of this ordinance, and who shall neglect, refuse or fail to fully comply with the corrective notices so ordered and/or within the time frame so ordered therein, shall be in violation of this ordinance.

c. PENALTIES

Any person found to be in violation of any provisions of this ordinance may be given a written citation with permanent record held at Justice Court plus a minimum fine of One Hundred (\$100.00) Dollars. The second offense will mandate a minimum fine of Two Hundred and Fifty (\$250.00) Dollars and a maximum fine of Five Hundred (\$500.00) Dollars. Further violation will lead to fine, community service and/or jail sentence to be determined by the judge with a minimum fine of Five Hundred (\$500.00) Dollars and a maximum fine of One Thousand (\$1,000.00) Dollars. In situations where residential or business owners deliberately litter, dump, or refuse to clean up their property, fines may be assessed to include cost for cleanup and/or restoration of property.

d. CLEANING OF PRIVATE PROPERTY

Upon the failure, or refusal of any person so notified to properly dispose of garbage, rubbish and/or yard waste from their property within 30 days after issuance of proper corrective notice, the county may effect the removal of said garbage, rubbish, and/or yard waste and charge the owner of such property for the actual cost of removal pursuant to Miss. Code 19-5-105 and such assessment shall be a lien against the property.

12. SOLID WASTE ASSISTANCE PROGRAM GRANT

In accordance with Section 19-5-105 of the Mississippi Code, Annotated, the Solid Waste Coordinator, with the approval of the Board of Supervisors, is hereby authorized to clean unauthorized dumps with such solid waste being disposed of in permitted or authorized solid waste landfills or rubbish disposal facilities, or buried onsite with prior approval of the Mississippi Department of Environmental Quality if such materials are non-hazardous and if such clearing is reimbursable under the terms of the county's Solid Waste Assistance Grant secured through the Mississippi Department of Environmental Quality. Each individual cleanup must be pre-approved by the Lamar County Board of Supervisors. The authority granted in this section shall apply to voluntary request when made in writing by private landowner as well as the enforcement procedure set forth in Paragraph 9.4.

13. CONFLICT

Any other ordinances of Lamar County, Mississippi which are conflicting or inconsistent with this ordinance are hereby repealed to the extent of any inconsistencies of the conflict.

14. SEVERABILITY

Severability is intended throughout and within the provisions of this Unauthorized Dumping and Litter Control Ordinance. If any provision, including any exception, part, phrase or term or the application thereof to any person or circumstance is held invalid by a Court of appropriate jurisdiction, the application to other persons or circumstances shall not be affected thereby, and the validity of the Unauthorized Dumping and Litter Control Ordinance in any and all other respects shall not be affected thereby. The Board of Supervisors of the County do not intend a result that is absurd, impossible to execute or unreasonable. It is intended that this Unauthorized Dumping and Litter Ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional as Constitutionally permitted construction is intended and shall be given.

15. ORDINANCE CUMULATIVE

This Ordinance shall be cumulative and in addition to any other laws in force.

16. EFFECTIVE DATE

The Board of Supervisors of the County do hereby unanimously find that it is necessary for the immediate and temporary preservation of the public cleanliness, health and safety that this Unauthorized Dumping and Litter Ordinance be made effective immediately. Accordingly, this Unauthorized Dumping and Litter Control Ordinance shall be in full force and effect from and after the 7th day of MARCH, 2016 of its enactment, and the Clerk is directed to publish notice accordingly.

236

SO ORDERED AND ADOPTED by the Board of Supervisors of the County of LAMAR, Mississippi,
on this the 7 day of May, 2000.

Lee Bank
President
LAMAR County Board of Supervisors



CERTIFICATE OF FILING AND RECORDING
STATE OF MISSISSIPPI
LAMAR COUNTY
Wayne Smith, Chancery Clerk
Ordinance Book 2 Page 229
Indexed Recorded Abstracted
Roll Tracks D.C.