

ORDINANCE NO. _____

AN ORDINANCE BY THE CITY OF CLARKSTON TO ADOPT NEW CHAPTER 23 OF THE CITY CODE TO REGULATE LITTER CONTROL; TO PROVIDE PENALTIES FOR VIOLATIONS OF LITTER CONTROL REGULATIONS; TO REPEAL AND REORGANIZE CERTAIN EXISTING PROVISIONS OF THE CITY CODE TO BE CONSISTENT WITH THE LITTER CONTROL ORDINANCE; AND FOR OTHER PURPOSES.

WHEREAS, an accumulation of litter in a community mars its aesthetic appeal and tends to give the impression that the community lacks civic pride; and

WHEREAS, litter often finds its way into our streams, rivers and lakes and detracts from our quality of life; and

WHEREAS, pollutants carried into our streams, rivers, and lakes by litter diminish the quality of our water and its aquatic resources; and

WHEREAS, this ordinance is intended to discourage and prevent littering by providing clear prohibitions, punishments and enforcement mechanisms.

NOW THEREFORE, BE IT ORDAINED by the Clarkston City Council as follows:

Section 1. The following listed sections and subsections of the existing City Code are hereby repealed and replaced with “Reserved”:

- Section 10-10;
- Subsection 10-11(b);
- Subsection 10-12(d)(2);
- Section 12-52.

Section 2. Subsection 10-1(7) of the City Code is hereby amended to replace the words “article II” with “Chapter 23”.

Section 3. Section 5-37 of the City Code is hereby amended to add “as well as Chapter 23, Litter Control.” at the end of the existing section.

Section 4. The Clarkston Litter Control Ordinance, consisting of four (4) pages and attached hereto as Exhibit “A” is hereby adopted as new Chapter 23 of the City Code.

Section 5. This ordinance shall become effective immediately upon its adoption by the City Council and signature of the Mayor.

SO ORDAINED, this ____ day of _____, 2021.

**CITY COUNCIL
CITY OF CLARKSTON, GEORGIA**

BEVERLY BURKS, Mayor

ATTEST:

Tracy Ashby, City Clerk

Approved as to Form:

Stephen G. Quinn
Clarkston City Attorney

EXHIBIT “A”

CHAPTER 23

LITTER CONTROL ORDINANCE

ARTICLE I. GENERAL PROVISIONS

SECTION 23-1 Purpose and Intent

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

- (1) Provide for uniform prohibition throughout the City of Clarkston of any and all littering on public or private property; and,
- (2) Prevent the desecration of the beauty and quality of life of the City of Clarkston and prevent harm to the public health, safety, environment, and general welfare, including the degradation of water and aquatic resources caused by litter.

SECTION 23-2 Applicability

This ordinance shall apply to all public and private property within the City of Clarkston.

SECTION 23-3 Compatibility with Other Regulations

This ordinance 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 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 or the environment shall be considered to take precedence.

SECTION 23-4 Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this ordinance.

ARTICLE II. DEFINITIONS

“**Litter**” means any organic or inorganic waste material, rubbish, refuse, garbage, trash, peelings, debris, grass, weeds, ashes, sand, gravel, slag, metal, plastic, and glass containers, broken glass, dead animals or intentionally or unintentionally discarded materials of every kind and description which are not "waste" as such term is defined in O.C.G.A., §16-7-51, paragraph 6.

“**Public or private property**” means the right of way of any road or highway; any body of water or watercourse; any park, playground, building, refuge, or conservation or recreation area; timberlands or forests; and residential, commercial or industrial properties.

ARTICLE III. PROHIBITION AGAINST WASTE DISPOSAL AND LITTERING IN PUBLIC OR PRIVATE PROPERTY OR WATERS

Section 23-5 Littering in Public

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 City of Clarkston or any waters in City of Clarkston unless:

- a) The property is designated by the State or by any of its agencies or political subdivisions for the disposal of such litter, and such person is authorized by the proper public authority to use such property;
- b) The litter is placed into a receptacle or container installed on such property; or,
- c) 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.

Section 23-6 Waste and disposal thereof

- (1) It shall be unlawful to set fire to any leaves, rubbish, or trash of any kind anywhere in the city, in accordance with the provisions of [section 9-12](#) of this Code.
- (2) It shall be unlawful for any person to deposit offal or dead animals at any place within the city
- (3) It shall be unlawful to sweep or push litter from sidewalks into the streets. Such litter shall be deposited in a proper receptacle which shall be covered to prevent scattering by wind and animal.
- (4) It shall be unlawful for any person to use the streets, sidewalks or gutters as means of drainage to carry off any used and dirty water or other liquid substances that are damaging to the environment from kitchen or elsewhere into any streets of the city.

ARTICLE IV. TRANSPORT OF WASTE, TRASH, JUNK AND OTHER MATERIAL

- (1) No person including city refuse collectors or municipal solid waste contractors shall haul or transport for any distance, any load including but not limited to dirt, soil, sand, rubbish, or other material unless the load is adequately secured to prevent the material from dropping, shifting, leaking or being blown off due to transportation of such load onto the roadway. The operator or owner of the offending vehicle shall be personally responsible for any violation of this section.

- (2) It shall be unlawful for any person or contractor or business not licensed by the city to collect and haul any refuse other than that arising from such person's own accumulation within any areas of the city in which refuse collection service is maintained by the city.

ARTICLE V. ANIMAL WASTE IN PUBLIC AREAS AND COMMON AREAS OF MULTIFAMILY DWELLINGS

- (1) It shall be unlawful for the owner or custodian of any animal to allow waste from such animal to be deposited or remain on the ground of any public area within City owned property or common area of a multifamily dwelling. Any such waste shall be cleaned up and removed by the owner or custodian of such animal.
- (2) In the event that the owner or custodian of any animal cannot be identified, the management of any multifamily dwelling where animal waste is found in a common area shall be responsible for the removal of such waste and shall keep common areas free and clear of all animal waste.

ARTICLE VI. VIOLATIONS, ENFORCEMENT AND PENALTIES

Section 23-7 Enforcement

- (1) The Director of Public Works, the Code Enforcement Officer, and the duly sworn police officers of the city are hereby empowered to issue citations to, or to arrest, persons violating the provisions of this section, and may serve and execute all warrants, and other process, issued by the court in enforcing the provisions of said section. In addition, mailing by certified mail of such process to his last known place of residence shall be deemed as personal service upon the person charged.
- (2) Whenever any person is arrested for a violation of this section, the arresting officer shall take the name and address of such person and issue a complaint, summons or otherwise notify him in writing to appear at a time and place specified in such complaint or notice. Said offenses shall be tried in the Municipal Court and shall be subject to the fines and/or imprisonment upon conviction as set forth in [section 1-7](#) of this Code of Ordinances.

Section 23-8 Violations

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 section or may be restrained by injunction or otherwise sentenced in a manner provided by law.

Section 23-9 Evidence

- (1) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, or other conveyance in violation of this ordinance, it shall be prima facie evidence that the operator of the conveyance has violated this ordinance.

- (2) Except as provided in subsection (1), whenever any litter which is dumped, deposited, thrown or left on public or private property in violation of this ordinance 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, it shall be a rebuttable presumption that such person has violated this ordinance.

Section 23-10 Penalties

Any person who violates this ordinance shall be guilty of a violation and, upon conviction thereof, shall be punished as follows:

- (1) By a fine of not less than \$250 and not more than \$1,000; and
- (2) In addition to the fine set out in subsection 1 above, the violator shall reimburse the City of Clarkston for the reasonable cost of removing the litter when the litter is or is ordered removed by the City of Clarkston;
- (3)
 - a) In the sound discretion of the court, the person may be directed to pick up and remove from any public street or highway or public right-of way within the City limits any litter he has deposited and any and all litter deposited thereon by anyone else prior to the date of execution of sentence; or
 - b) In the sound discretion of the court, the person may be directed to pick up and remove any and all litter from any public property, private 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. Pick up and removal shall include any and all litter deposited thereon by anyone prior to the date of execution of sentence; and,
- (4) The court may publish the names of persons convicted of violating this ordinance.