

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES  
BY DELETING ARTICLE V, LITTERING, OF CHAPTER 17, SOLID WASTE,  
AND ADOPTING A NEW ARTICLE V, LITTERING, OF CHAPTER 17, SOLID  
WASTE; AND FOR OTHER PURPOSES**

WHEREAS, the City Council of the City of Newnan has previously adopted regulations governing, among other things, the desecration of the beauty of the City by littering within the City of Newnan; and

WHEREAS, the City Council adopted a revision to its littering ordinance to update its littering ordinance by adopting the revisions in State law expanding the definition of "litter" and increasing the penalties for violations of the ordinance; and

WHEREAS, the Georgia Environmental Protection Division has requested revisions to the City's littering ordinance to include regulations for litter/pollution from construction sites as a part of the City's Stormwater Management Program; and

WHEREAS, it is further the desire of the City Council to adopt an amendment to include regulations for litter/pollution from construction sites as a part of the City's Stormwater Management Program; and

WHEREAS, the City Council desires to adopt the amendment to the City's Littering Ordinance set forth herein in the interest of protecting the beauty of the City; and

WHEREAS, the City Council has determined that it is in the best interest of the health, safety and welfare of the citizens, residents and property owners of the City of Newnan to adopt the amendment to the City's Littering Ordinance as set forth herein.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council for the City of Newnan and it is hereby ordained by the authority of same that Article V, Littering, of Chapter 17, Solid Waste, of the Code of Ordinances be deleted in its entirety and a new Article V, of Chapter 17, Solid Waste, be adopted to read as follows:

**SECTION I**

**ARTICLE V.**

**LITTERING**

**Section 17-81. General Provisions**

**17-81.1 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:

- (1) Provide for uniform prohibition throughout the City of Newnan 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 Newnan and prevent harm to the public health, safety, environment, and general welfare, including the degradation of water and aquatic resources caused by litter.

**17-81.2 Applicability**

This article shall apply at all public and private property within the City of Newnan.

**17-81.3 Compatibility with Other Regulations**

This article is not intended to interfere with, abrogate, and 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.

**17-81.4 Severability**

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this article 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 article.

**Section 17-82. Definitions**

“Construction Site” means any residential, commercial, industrial, or other area, lot, or site which construction or demolition of any type is conducted including roads at

buildings, and at all other places actively being constructed, demolished, renovated, or repaired.

"Construction waste" means solid waste that is produced or generated during construction, demolition, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction wastes include, but are not limited to lumber, wire, sheet rock, broken brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids and garbage are not construction wastes.

"Discard" means to abandon, dispose of, burn, incinerate, accumulate, store or treat before or instead of being abandoned, disposed of, burned or incinerated.

"Discarded material" means a material that is abandoned, disposed of, burned, incinerated, accumulated, stored or treated before or instead of being abandoned, disposed of, burned or incinerated.

"Dispose" means to discharge, deposit, inject, dump, spill, leak or placement of any solid waste into or on any land or water so that such solid waste or any constituent of it may enter the environment or be emitted into the air or discharged into any waters.

"Litter" means any organic or inorganic waste material, rubbish, refuse, garbage, trash, hulls, peelings, debris, grass, weeds, ashes, sand, gravel, slag, brickbats, 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 O.C.G.A., §16-7-51, paragraph 6.

"Nuisance" means any use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises is located. This includes but is not limited to the keeping of the following: ashes, rubbish, garbage, lumber, bricks, cinder blocks, insulation materials, building debris, refuse, litter, or waste of any kind whether liquid or solid.

"Person" means any individual, corporation, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, representative, or group of individuals or entities of any kind.

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

"Receptacle" means a container that is specifically designed, constructed, and placed for use as a depository for litter or solid waste.

"Refuse" means all solid waste products having the character of solids rather than liquids and that are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination, or other discarded materials.

"Rubbish" means combustible or slowly putrescible discarded materials, which include but are not limited to trees, wood, leaves, trimmings from shrubs or trees, printed matter, plastic and paper products, grass, rags, and other combustible or slowly putrescible materials not included under the term "garbage."

"Sanitary waste" or "domestic waste" or "domestic sewerage" means water borne, human or animal excreta or body wastes and normal culinary, laundry, and washing wastes.

"Solid waste" or "waste" means any garbage, refuse, rubbish, trash, or other discarded material, but does not include solid or dissolved materials in domestic sewage, solid or dissolved materials in irrigation return flows, industrial discharges, or special nuclear or by-product materials.

**Section 17-83. Prohibition Against Littering Public or Private Property or Waters**

(a) It shall be unlawful for any person or persons, firm, corporation or company, in person or by his or her agent, employee, or servant to cast, sweep, sift, deposit, accumulate, place, dump, throw or leave or to cause or permit the casting, sweeping, sifting, depositing, accumulating, dumping, placing, throwing or leaving of litter on any public or private property in the corporate limits of this city, or any waters in the corporate limits of this city, any drain, sewer or receiving basin within the corporate limits of this city unless:

(1) 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;

(2) The litter is placed into a receptacle or container installed on such 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.

(4) The material is deposited under a permit authorized by any ordinance of the city or is deposited in or conducted into the city sewer system through lawful drains in accordance with the ordinances of the city relating thereto.

(b) Notwithstanding anything else contained herein to the contrary, it shall be unlawful for any person, firm, or corporation, in person or by his agent, employee or servant, to dump or deposit garbage, waste or litter of any kind or nature, household or commercial, in any litter receptacle or container, public or private, the total weight of which, by volume, exceeds five pounds, which garbage, waste or litter, household or commercial, has been generated outside of the corporate limits of the city and which is brought into the corporate limits of the city; except that this section shall not apply to garbage, waste or litter, household or commercial, dumped or deposited into a property licensed waste transfer station.

#### **Section 17-84            Vehicle Loads Causing Litter**

It shall be unlawful for any person, firm or corporation, in person or by his or her or its agent, employee, or servant, to use any vehicle to haul any kind of dirt, rubbish, waste, articles or things of substance whether liquid or solid, unless such vehicle is covered to prevent any part of its load from spilling or dropping at all times while such vehicle is in motion on any street or alley in the city.

Provided, however, that the requirements herein for covering such vehicles shall not apply to vehicles carrying brush cuttings, tree trimmings, branches, logs and similar waste material, if such matter is securely lashed to such vehicle to prevent spilling or dropping of the aforesaid.

#### **Section 17-85.            Construction Sites**

(a) Litter prohibited. It shall be unlawful for any owner or agent of a construction site, or any contractor on a construction site, to cause, permit, or allow the presence of litter on such site outside of a proper receptacle or to cause, permit, or allow litter or waste to be spilled, discharged, or blown by wind or water. It shall be the responsibility of the owner or agent of the property and each contractor performing work on the site to keep the property free of litter.

(b) Receptacles required. The owner, agent, or contractor in charge of a construction site shall furnish on such site receptacles sufficient to contain worker's litter and receptacles sufficient to contain all construction waste. All receptacles shall be conveniently available and maintained and secured or covered so as to prevent litter and waste from being spilled, discharged, or blown by wind or water. The primary contractor should determine the number and capacity of receptacles, but no less than one (1) receptacle for worker's litter and no less than one (1) receptacle for construction waste shall be placed at each construction site. Receptacles required under this subsection shall be not less than ten (10) gallons capacity. All receptacles shall be emptied as necessary, but not less frequently than weekly, except that receptacles used exclusively to contain construction waste shall be serviced with sufficient frequency to prevent spillage from overflow and to prevent offensive odors. All receptacles required under this subsection shall remain conveniently available on the site from the time construction activity commences until the construction activity ceases.

(c) Exclusion. The requirement for receptacles in this section shall not apply to any construction site on which only repair or renovation of a building is taking place, provided that no litter or construction waste is placed, stored, or otherwise accumulated on the exterior of the property outside of a proper receptacle and any such receptacle is maintained in accordance with this chapter.

(d) Portable toilets required. The owner, agent or contractor in charge of a construction site shall furnish no less than one portable toilet facility on such site but in any event such number sufficient to service the sanitary waste needs for the site. It shall be unlawful for the owner, agent or contractor in charge of a construction site to cause, permit or allow such facility to spill or discharge on the site or into waters located on the site. It shall be the responsibility of the owner, agent or contractor in charge of a construction site to have such facility emptied, serviced and maintained on an "as needed" basis.

(e) Concrete truck washout. It shall be unlawful for the owner, agent or contractor in charge of a construction site to permit and unlawful for the driver operator or other employee on a concrete truck to wash or discharge excess concrete from the chute, pump, drum or barrel of a concrete truck onto a construction site, upon the city right-of-way or city streets.

(f) Chemical storage. Any chemicals stored on a construction site shall be stored in approved containers, properly secured, and it shall be unlawful for the owner, agent or contractor in charge of a construction site to permit the improper storage of chemicals on a construction site.

#### **Section 17-86. Litter Receptacles at Places Frequented by the Public**

(a) Receptacles required. Every owner, occupant, tenant, or lessee in control of any property that is held out to the public as a place for assemblage, for the transaction of business or recreation, or as a public way shall provide adequate receptacles of sufficient number and size to contain all litter generated by those persons frequenting that public place. The owner, occupant, tenant, or lessee in control of any property shall determine the number and size of the receptacles, except that no less than one (1) receptacle shall be placed at each site. Receptacles shall be no less than ten (10) gallons in capacity and clearly marked and designed to prevent the escape of litter and waste. Any person owning or in control of any property at which receptacles are required by this chapter shall at his or her own expense be responsible for the placement, and maintenance of such receptacles as required by this chapter.

(b) Periodic emptying of receptacles. All litter and solid waste shall be removed from receptacles as necessary, but not less frequently than weekly, and all receptacles shall be maintained in a sanitary and serviceable condition.

**Section 17-87. Duty of Owners and Occupants.**

- (a) General requirement. It shall be the responsibility of each owner, agent, occupant, or lessee to keep his or her property free of litter. The owner, agent, occupant, or lessee of any property shall be responsible for removing litter accumulating on said property.
- (b) Litter prohibited. No owner, agent, occupant, or lessee of any property shall allow the storage or accumulation of litter on the exterior of said property outside of a receptacle that is covered, secured, and maintained so as to prevent blowing, spilling, scattering, or leaking of the litter and waste contained therein, except that this requirement shall not apply to an area designated and approved by the County as a permitted disposal site.
- (c) Adjacent and surrounding areas. It shall be the responsibility of each proprietor and each operator of any business, industry, or institution to keep the adjacent and surrounding areas free of litter. These areas include, but are not limited to public and private sidewalks, roads, and alleys; grounds; parking lots; loading and unloading areas; and all vacant lots that are owned or leased by such establishment or institution. Removal of any litter shall be performed in accordance with this chapter.

**Section 17-88. Violations, Evidence, Notification and Enforcement Penalties**

**17-88.1 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.

**17-88.2 Evidence**

- (1) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane, or other conveyance in violation of this article, it shall be prima facie evidence that the operator of the conveyance has violated this article.
- (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 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, it shall be a rebuttable presumption that such person has violated this article.

**17-88.3 Notification**

Notice of a violation of this article and chapter shall be made by serving a citation by mail or in person by an officer, agent or official of the city empowered by the Code of Ordinances of the City of Newnan or by the State of Georgia to issue citations on behalf of the city.

**17-88.4 Penalties**

Any person who violates the provisions of this article and this Chapter or is charged with causing the violation of any provision of this article and this Chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as follows:

(1) By a fine of not less than \$200 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 Newnan for the reasonable cost of removing the litter when the litter is or is ordered removed by the City of Newnan; and

(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 for a distance not to exceed one mile 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 article and Chapter in the legal organ of the city.

**17-88.5 Enforcement**

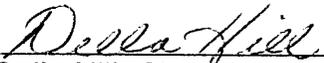
All law enforcement agencies, officers and officials of this state or any political subdivision thereof, or any enforcement agency, officer or any official of any commission of this state or any political subdivision thereof, are hereby authorized, empowered and directed to enforce compliance with this article and Chapter.

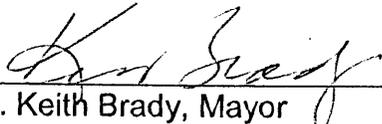
**Section 17-89 Abatement**

Whenever any person convicted of violating this article and Chapter shall continue to maintain property in violation of this article and Chapter, an appropriate designee of the city may be empowered to enter upon the property and correct the

**DONE, RATIFIED AND PASSED** in regular session, on second reading, this the 22<sup>nd</sup> day of NOVEMBER, 2005.

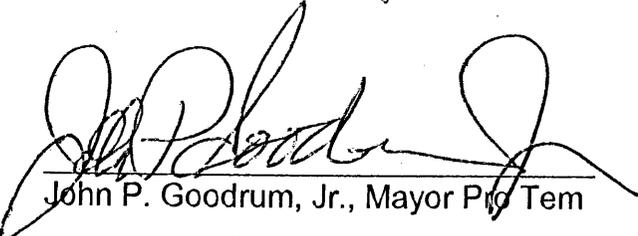
ATTEST:

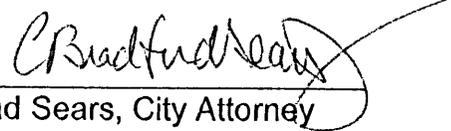
  
Della Hill, City Clerk

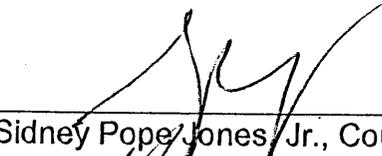
  
L. Keith Brady, Mayor

REVIEWED:

  
Richard A. Bolin  
City Manager

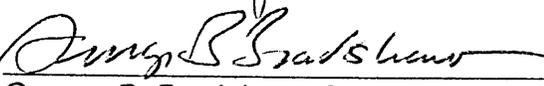
  
John P. Goodrum, Jr., Mayor Pro Tem

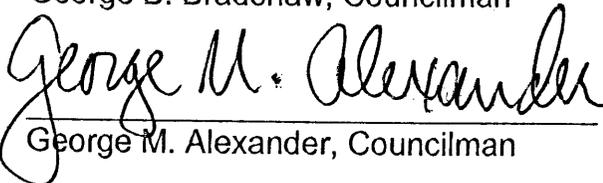
  
Brad Sears, City Attorney

  
Sidney Pope Jones, Jr., Councilman

  
Greg Lewis, Councilman

  
Cynthia E. Jenkins, Councilwoman

  
George B. Bradshaw, Councilman

  
George M. Alexander, Councilman