



## **CITY OF DUNWOODY**

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# **MEMORANDUM**

**To:** Mayor and City Council

**From:** Chuck Davis, Deputy Director of Public Works

**Date:** September 13, 2010

**Subject:** **Litter Control Ordinance**

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The City must adopt a litter control ordinance in order to comply with the requirements of our National Pollutant Discharge Elimination System (NPDES) permit for operation of a municipal separate storm sewer system.

This ordinance is based upon the model ordinance provided by the Metro North Georgia Water Planning District (MNGWPD). Its purpose is to protect the public health and safety as well as protect the environment and our City's streams from trash and refuse being discarded inappropriately in the City of Dunwoody. This ordinance prevents littering on both public and private property, and requires that all "loads" be covered in order to prevent debris from being blown out of a vehicle while being transported.

Public works staff recommends that this ordinance be adopted as submitted, and be incorporated into the City's Code of Ordinances in order to comply with the requirements of our NPDES permit and to better protect the citizens and property of the City of Dunwoody.

**AN ORDINANCE AMENDING CHAPTER 24 OF THE CITY OF DUNWOODY CODE  
OF ORDINANCES BY ADDITION OF LITTER CONTROL REGULATIONS**

**WHEREAS,** the City of Dunwoody (the “City”) has heretofore adopted an ordinance for Offenses and Violations, as set forth in Chapter 24 of the Code of the City of Dunwoody (the “Code”); and

**WHEREAS,** Chapter 24 does not currently have any regulations prohibiting littering in the City and regulating the conduct causing litter which pollutes the streets of the City, as well as its waters and streams; and

**WHEREAS,** the City Council finds that litter finds its way into streams, rivers and lakes and pollutes the quality of life in the City and diminish the quality of the water and other resources of the City; and

**WHEREAS,** pursuant to the authority granted by O.C.G.A. § 16-7-48, and the requirements of the City’s NPDES permit, the City Council finds that a litter control ordinance ensures a regulatory and enforcement mechanism to protect the City’s resources from pollutants and contaminants and helps to preserve the health, safety and welfare of its inhabitants.

**THEREFORE,** Mayor and City Council of the City of Dunwoody hereby ordain as follows:

**Section 1:** The City of Dunwoody Offenses and Violations ordinance, Chapter 24, is hereby amended by an addition of Article VI, Litter Control, to read as follows:

**ARTICLE VI. LITTER CONTROL**

**Sec. 24-150. 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 ordinance are:

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

**Sec. 24-151. Applicability**

This Article shall apply to all public and private property within the City of Dunwoody.

**Sec. 24-152. 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.

**Sec. 24-153. Definitions**

“Litter” shall mean 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 in O.C.G.A., §16-7-51, paragraph 6.

“Public and Private Property,” for the purposes of this ordinance, shall mean 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.

**Sec. 24-154. Prohibition Against Littering in Public or Private Property or Waters**

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 the City of Dunwoody or any waters in this City 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 proper 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.

**Sec. 24-155. 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 to prevent the dropping or shifting of materials from such load onto the roadway.

**Sec. 24-156. 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, 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 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.

(c) *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 \$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 Dunwoody for the reasonable cost of removing the litter when the litter is or is ordered removed by the City or the Municipal Court; and

(3) *Discretionary penalty.*

(A) In the sound and reasonable discretion of the Municipal Court Judge, 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 and reasonable discretion of the Municipal Court Judge, 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 the 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,

**Sec. 24-157. 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 within the limits of the City of Dunwoody.

**Section 2:** This Amendment shall become effective immediately upon its adoption by the City Council, and incorporated into the Code of the City of Dunwoody, Georgia. This Amendment hereby repeals any and all conflicting ordinances and amendments.

**SO ORDAINED**, this \_\_\_\_ day of \_\_\_\_\_, 2010.

Approved:

\_\_\_\_\_  
Ken Wright, Mayor

ATTEST:

Approved as to Form and Content:

\_\_\_\_\_  
Sharon Lowery, City Clerk

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Brian Anderson, City Attorney

(Seal)