

**AN ORDINANCE AMENDING AND ENACTING
A CODE FOR THE CITY OF AUSTELL**

**ARTICLE VII
LITTER CONTROL**

Section 14-99 General Provisions

99.1. 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 to:

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

99.2. Applicability

This Ordinance shall apply to all public and private property within the City of Austell.

99.3. 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.

99.4. 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.

Section 14-100. Definitions

“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 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 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.

Section 14-101. Prohibition Against Littering 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 Austell jurisdiction or any waters in the jurisdiction 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.

Section 14-102. 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.

Section 14-103. Violations, Enforcement and Penalties

103.1. 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.

103.2. Evidence

- (1) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane, 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.

103.3. 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 \$200.00 and not more than \$1,200.00; and
- (2) In addition to the fine set out in subsection 1 above, the violator shall reimburse the City of Austell for the reasonable cost of removing the litter when the litter is or is ordered removed by the City of Austell; 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 Ordinance.

103.4. 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.

ADOPTED by the City Council of the City of Austell this 1st day of March 2004.

APPROVED AS TO FORM:



HYLTON DUPREE
CITY ATTORNEY



JOE JERKINS
MAYOR



Attest: CAROLYN DUNCAN
CITY CLERK