

CITY OF DULUTH
HEALTH & SANITATION ORDINANCE

The Council of the City of Duluth hereby ordains that the Duluth Code of Ordinance is hereby amended by replacing the following section entitled "Solid Waste Management" as Chapter 13, Article I and II of the Code:

AN ORDINANCE REGULATING HEALTH AND SANITATION WITHIN THE CITY OF DULUTH AND REGULATING STORAGE, COLLECTION AND DISPOSAL OF REFUSE, GARBAGE AND RUBBLE WITHIN THE CITY OF DULUTH, GEORGIA AND FURTHER PROVIDING FOR REGULATIONS AND CHARGES FOR THE FURNISHING OF GARBAGE COLLECTION AND DISPOSAL WITHIN THE CITY OF DULUTH, GEORGIA.

WHEREAS, the City Council of the City of Duluth, Georgia is authorized to adopt ordinances to promote and safeguard the general health, safety and public welfare of its citizens;

WHEREAS, it is desirable to adopt certain regulations to safeguard public health, safety and welfare of its citizens, to control the spread of disease, vermin, eliminate noxious odors, and provide for a means of controlling nuisances relating to improper handling of waste, refuse, garbage and rubble and to promote the efficient collection and disposal of garbage and refuse within the City of Duluth; and

NOW THEREFORE BE IT ORDAINED by the Council of the City of Duluth, Georgia, and it is hereby ordained by authority of the same as follows:

ARTICLE 1
IN GENERAL

SECTION 101. Title

This Ordinance may be known and cited as the Health, Sanitation and Garbage Collection and Disposal Ordinance of the City of Duluth.

SECTION 102. Definitions

All terms shall have their ordinary meaning except as specifically defined herein.

- a. Refuse: Garbage, rubbish or both.
- b. Garbage: Refuse accumulations of animal, fruit or vegetable matter that attend the use and preparation of meat, fish, fowl, fruits, or vegetable, and tin cans, glass jars or other containers originally used for foodstuff.
- d. 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.

- e. 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.
- f. Rubbish: All other refuse, crockery, bottles, tin cans, metal vessels, pasteboard boxes, berry boxes, rags, paper, straw, sawdust, packing materials, shavings, ashes, and similar materials.
- d. Standard Containers:
 - 1. Plastic or galvanized metal container, watertight, with tight-fitting covers approximately thirty-two gallons or less in capacity with cover handle and side rails, or as otherwise approved by the City Council by Resolution.
 - 2. Plastic bags as provided by the approved garbage collector for the City of Duluth.
- e. Bundle: A package containing rubbish only, not exceeding four feet in its longest dimension, securely tied with rope or cord in sufficient strength to permit lifting and carrying of the full weight thereof without spillage or leakage and placed for collection immediately adjacent to the curb, and not exceeding fifty pounds in total weight.
- f. Garbage Collector: Shall mean the City of Duluth, its agents or employees or such person, firm or corporation as the City may be contract or otherwise delegate responsibility for the collection and/or disposal of garbage, refuse and rubbish.
- g. Recycling: The following items are considered to be acceptable for recycling: (amended 8-12-91)
 - 1. newspapers
 - 2. aluminum and metal cans
 - 3. glass
 - 4. plastics (soda bottle and milk jugs only)
- h. Builder's Debris: Any materials associated with the construction of residential and commercial structures. (added 11-9-92)

SECTION 103. Sanitary Toilet Required

All dwellings and living quarters located in the City limits shall have sanitary toilets using septic tanks, drain field or sanitary sewer and running water. No person shall maintain

any unsanitary outside toilet after being given thirty days notice by the City Council to remedy the situation.

SECTION 104. Abandoned Wells

All abandoned wells within the City of Duluth must be filled, capped, or enclosed so as to prevent any hazard to the public health or safety. Any person who fails to fill, cap or enclose an abandoned well within ten days after receiving written notice from the City Council to fill, cap or enclose such abandoned well shall be subject to the penalties provided for hereinafter.

ARTICLE 2 GARBAGE, TRASH AND WEEDS

SECTION 201. Deposit on Property, Streets Prohibited

It shall be unlawful for any person to throw or place upon the ground, or cause to be thrown or be placed upon the ground, or to allow to accumulate outside a container, on or about the premises of any dwelling or business place, or upon any vacant property, or in or upon any street, road or alley, within the City, any garbage, refuse matter, filth, food scraps, litter, papers, decayed matter, or matter liable to decay, or liable to cause offensive odors, or to endanger life, limb or property or liable to create a fire hazard, except as may hereinafter be provided regarding the collection of garbage, refuse, matter, filth, food scraps, litter, papers, decayed matter, or matter liable to decay or liable to cause offensive odors.

Section 201A. 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 202. 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 Duluth or any waters in the City of Duluth 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 203. Discarding Vessels, Containers, Etc.

It shall be unlawful for any person to throw, place or discard any can, cup, box, bottle, or other vessel or paper or trash on any lot, yard, alley, ditch, or other place in the City.

SECTION 204. Nuisance Created In Improper Handling of Garbage; Penalty for Failure to Abate

Any person who permits or allows any refuse, waste matter or other substance commonly classified as garbage and collected and disposed of by the City to remain at or upon any premises in the City in such condition as to provide a breeding place for flies, a feeding place for rats, any source of foul or obnoxious odors shall be deemed to have created a nuisance.

Any person who creates a nuisance as described in this Section and who fails to abate such nuisance after notice from the City of Duluth within forty-eight hours after such notice to abate from the City of Duluth shall, upon conviction thereof, be punished as provided hereinafter. Each day that such nuisance goes unabated shall constitute a separate offense.

SECTION 205. Cleanliness of Premises Required

Every person whether owner, tenant, agent or employee owning, holding or occupying property in the City shall at all times maintain such property, whether a vacant lot or otherwise, in a clean and sanitary condition, keeping all waste paper, trash, garbage, appliances, furniture, pallets, tires, refuse matter and other rubbish of every sort cleaned off of such property. Storage of such waste paper, trash, garbage, refuse matter, filth, food scraps, litter, decayed or decaying matter and other rubbish in standard containers or as otherwise provided for herein for the purpose of collection by the garbage collector shall be deemed to be in compliance with this Section.

Any person whether owner, tenant, agent or employee who shall fail or refuse to clean up all waste paper, trash, garbage, refuse matter, filth, food scraps, litter, decayed matter and rubbish of every character from any vacant lot or other property owned, held, or controlled by such person within ten days after notice by the City of Duluth, so to do, the City of Duluth shall thereupon cause such work to be done.

The existence of excessive accumulation or untended growth of weeds, undergrowth or other dead or living plant life or unsightly or unsanitary matter upon any lot, tract or parcel of land within the City of Duluth be it uncovered or under open shelter, to the extent and in the manner that such lot, tract or parcel of land is or may reasonably become infested or inhabited by rodents, vermin or wild life, or threatens or endangers the public health, safety or welfare, or may reasonably cause disease, or adversely affects or impairs the economic welfare of adjacent property, is hereby prohibited and declared to be unlawful.

SECTION 206. Assessment and Lien For Cost of Work Done by City

When the City of Duluth has caused waste paper, trash, garbage, refuse matter, filth, food scraps, litter, decayed matter and other rubbish of every sort to be removed from a lot, a Resolution shall be passed assessing the cost of such cleaning and rendering sanitary such vacant lot or other property against the owner, tenant, agent or owning, occupying or controlling such property. Such Assessing Resolution shall thereupon assert a lien against the owner, tenant, agent or other party in charge of such property and such lien shall be declared at the time the Assessing Resolution is passed.

SECTION 207. Notice of Assessment; Time Limit for Payment; Service of Notice

A written statement shall be furnished by the City Clerk to the owner, agent or other party in charge of the property subject to the assessment provided for in Section 206 showing the amount of the assessment. It shall be the duty of the owner, agent, or other party in charge of the property subject to such assessment to pay the City Clerk within thirty days after the receipt of such statement the entire amount of the assessment against such property and such owner, tenant, agent or other party in charge of such property.

Notice of assessment shall be served personally or by certified mail with return receipt requested on each owner, tenant, agent or other party owning, holding, occupying or in control of such property who resides in the City. Where such person is a non-resident of the City, such notice shall be mailed to the last known Post Office address of such person. In the event such owner, tenant, agent or other party in control of the property is not known, it will be sufficient to serve such notice by posting the same before the front door of City Hall and at one other public place in the City.

SECTION 208. Failure to Pay Assessment; Issuance and Effect of Execution

When any such owner, tenant, agent or other party in control of such property subject to assessment as provided in Article 2, Section 206 of this Ordinance who fails or refuses to pay to the City Clerk the amount of such assessment at the expiration of thirty (30) days after the service of the notice of statement provided in Article 2, Section 207 of this Ordinance, the City Clerk shall issue an execution bearing date of its issuance in the name of the Mayor of the City and specifying the purpose for which it is issued against the owner, agent, tenant, or other party in control of the property subject to the assessment and also against the property of such owner, tenant, agent or other party in control of the property upon which the work in question is performed. Such execution shall assert and be a lien against the property from the date of completion of the performance of the work hereinbefore described and shall bear interest at the rate of seven percent (7%) from the date on which it is issued.

SECTION 209. Delivery of Execution; Levy and Sale of Property; Applicable Law

The execution issued under the provisions of Article 2, Section 208 of this Ordinance who shall be delivered to the Chief of Police who shall execute the same by levying upon and selling the property described therein or so much thereof as may be necessary for the amount due the City from the doing of such work, together with all costs that may accrue thereon. The law applicable to the sale under other execution and the Chief of Police shall have authority to execute a deed to the purchaser when

the property is sold and shall deliver possession thereof to the purchaser within the time required by law as under tax executions.

SECTION 210. Municipal Court

The owner, tenant, agent, or employee owning, occupying or controlling such property may also be subject to appearance before the Municipal Court of the City of Duluth and punished as set forth in this Ordinance.

ARTICLE 3 GARBAGE DISPOSAL AND COLLECTION

SECTION 301. The following regulations are hereby adopted in order to promote the safe, efficient and proper collection of garbage within the City limits of the City of Duluth, Georgia.

- a. All garbage, refuse matter, filth, food scraps, litter, papers, decayed matter, or matter liable to decay or liable to cause offensive odors shall be placed in a standard container as defined in this Ordinance.
- b. All leaves, grass and yard trimmings may be placed in standard containers or in plastic bags of sufficient strength to prevent separation or tearing in order to be eligible for collection and removal by the garbage collection as designated by the City Council.
- c. All containers shall be located on private property at curb, alley or at the rear or side of residences, multiple unit premises, institutional or commercial buildings.
- d. Standard containers shall be easily accessible to the garbage collector for collection, preferably in a paved area. In the event that said containers are not easily accessible or are so situated that the garbage collector must contend with dogs or other pets, animals or livestock of the owner, tenant, or person in possession of the premises, so as to cause said collector to be apprehensive about his safety, collection of garbage, refuse and rubble shall be excused until such time as the problem is remedied. Such situation shall not excuse payment for the service to be rendered or responsibility of the owner, tenant, or person in possession of the premises to comply with this Ordinance.
- e. All standard containers shall be kept in a sanitary condition by the owners or persons in possession or control thereof. Covers shall not be removed except for the purpose of placing refuse therein or removing therefrom.
- f. Garbage, refuse, filth, food scraps, litters, papers, decayed matter or matter liable to decay or liable to cause offensive odors placed in a

standard container shall not exceed a weight of fifty pounds including any such container and contents.

- g. Containers, bins or boxes shall not be filled beyond the point at which lids can be tightly closed or bags securely tied.
- h. Refuse to be collected by special haul services provided for hereinafter shall be placed so as to be easily accessible to the garbage collector.
- i. There shall be no obligation on the garbage collector to collect any garbage, refuse, rubbish or other waste matter that may be contained in any standard container in excess of thirty-two gallon capacity.
- j. No refuse shall be placed for collection unless in standard containers or in securely tied bundles or boxes as defined herein except commercial or institutional premises and under the provisions relating to special haul services as provided for hereinafter.

SECTION 302. Rates

The rates and charges for residential services shall be as established by the City Council. The rates and charges for Commercial, Industrial and Institutional service shall be as established in the agreement between the City of Duluth and the approved garbage collector for the City.

SECTION 303. Special Haul Services

Special haul services shall be as specially requested by occupants or owners of amounts of refuse accumulations of animal, fruit or vegetable matter that attend the use and preparation of meat, fish, fowl, fruits, or vegetables or any tin cans, glass jars or other containers originally used for foodstuffs nor any aerosol or pressurized containers within the corporate limits of the City of Duluth. If the designated garbage collector does not offer a service desired, or a comparable service, it may be obtained from another vendor with prior approval from the City.

SECTION 304. Burning of Trash, Paper, Etc., Prohibited

- a. No person shall burn or incinerate, or cause to be burned or incinerated, any rubbish, paper, pasteboard boxes, rags, straw, packing materials, shavings, and similar materials within the City of Duluth, except in an incinerator equipped with spark arrestor devices and meeting all standards and requirements as may now be or as may hereafter be established by the Air Quality Control Branch of the Environmental Protection Division of the Department of Natural Resources or the Gwinnett County Fire Marshal. The open burning of leaves, tree branches, and limbs by individual homeowners is not within the prohibition or requirements of this Section, provided such burning is associated with storm clean-up and individual yard work.

- b. Hand warming fires on a construction site are permitted if the weather reaches 50 degrees Fahrenheit or below. Such hand warming fires shall be contained within a 55-gallon barrel or drum, barrel or drum containing the fire shall be located at least 20 feet from the structure being built on the site, and only wood may be burning inside the barrel or drum. (added 11-9-92)
- c. It shall be unlawful for builder's debris to be burned within the City Limits of Duluth. (added 11-9-92)

SECTION 306. Unlawful Competition Within the City

It shall be unlawful for any person, firm, or corporation other than the City of Duluth, or its agents, to collect garbage, refuse matter, filth, food scraps, litter, paper, decayed matter, or matter liable to decay or liable to cause offensive odors or any other rubble or to interfere in any manner with any receptacle containing refuse, rubble, garbage, or other waste or to remove any such receptacle from the place where the same are placed by the owner, agent, or person lawfully in control thereof or to remove the contents of such receptacles.

SECTION 307. Enforcement; Compliance Official

It shall be the duty of the Compliance Official, who is hereby given authority, to enforce the provisions of this Ordinance. The Compliance Official shall be such an individual appointed by the City Council, shall be an employee of the City of Duluth and shall be empowered to issue citations directing offenders to appear before the Municipal Court of the City of Duluth.

SECTION 308. Recycling

The City shall provide collection bins for the purpose of recycling at the curb side. The City shall also, from time to time, designate certain collection points where recyclable items may be brought to a designated collection bin. It shall be an offense punishable as stated in Article 4 of this Ordinance to place any garbage or household waste, other than recyclable items, in or around a designated recycling bin. (amended 8-12-91)

SECTION 309. Burial Pits

It shall be unlawful for any person to bury or cause to be buried any builder's debris, stumps, logs, branches, limbs, trash, garbage, waste paper, refuse matter, filth, food scraps, litter, decayed matter, or any other materials or any sort within the city limits of Duluth. (amended 5-13-96)

SECTION 310. Dead, Diseased, Decayed Trees.

It shall be the responsibility of the property owner to keep their property free of dead, decaying, diseased or otherwise unhealthy trees that may pose an immediate hazard to the general public or adjacent properties.

The Director of Planning and Development shall notify the property owner in writing when such a situation arises where the safety of the general public is threatened by a

dead, decaying, diseased or otherwise unhealthy tree giving a reasonable time frame to have the tree removed.

If any person refuses to comply or ignores a request to remove a dead, decaying, diseased or otherwise unhealthy tree, the City or its agents, may enter the property and remove the tree(s). Any expenses incurred in the removal of said tree(s) will be charged to the property owner and must be paid within 30 days.

ARTICLE 4 VIOLATIONS, EVIDENCE, PENALTIES, REPEALER, ETC.

SECTION 401. 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 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.

B. 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.

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 \$1,200; and
- (2) In addition to the fine set out in subsection 1 above, the violator shall reimburse the City of Duluth for the reasonable cost of removing the litter when the litter is or is ordered removed by the City of Duluth; 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.

D. 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.

SECTION 402. Severability

It is hereby declared to be the intention of the City Council that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or section of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 403. Repealer

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 404. Effective Date

This Ordinance shall become effective immediately upon its approval by the City Council of the City of Duluth.

It is so Ordained this 8th day of March, 2004.