

**Chapter 43**

**DEKALB LITTER CONTROL ORDINANCE**

Current as of 01-25-08

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**43.01 GENERAL PROVISIONS.**

a) Definitions. Unless otherwise expressly stated, the following words and terms shall, for the purposes of this Chapter, have the meanings indicated in this Section.

1. "Aircraft" is any contrivance now known or hereafter invented, used, or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter than air dirigibles and

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balloons.

2. "Authorized Private Receptacle" is a leak proof litter storage and collection receptacle owned, leased or possessed by private persons as opposed to public bodies or agencies, and of such design so as to prevent litter deposited therein from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property and which is approved by the Director of Community Development. (85-03)

3. "City" is the City of DeKalb.

4. "Commercial Handbill" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

(a) Which advertises for sale any merchandise, product, commodity, or thing; or,

(b) Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or,

(c) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; PROVIDED, that nothing contained in this clause shall be deemed to authorize the holding, giving, or taking place of any meeting, theatrical performance, exhibition, or event of any kind without a license, where such license is or may be required by any law of this State, or under any ordinance of the City; or,

(d) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

5. "Enforcement Official" is the City Manager, the City Manager's designated representative, the Director of Building and Community Services Department, or designee, any conservator of peace, the DeKalb Environmental Pollution Control Commission, the Coordinator of the DeKalb Environmental Pollution Control Commission, the Board of Health, or the Health Officer.

6. "Garbage" is putrescent animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

7. "Junk Yard" is an open area of land and any accessory building or structure thereon which is used for buying, selling, exchanging, storing, baling, packing, disassembling, or handling waste or scrap materials, including vehicles, machinery, and equipment not in operable condition or parts thereof, and other metals, paper, plastics, rags, rubber tires, and bottles. Two or more vehicles not in operating condition stored on a zoned lot shall be classified as a junk yard. A "junk yard" includes an automobile wrecking yard, but does not include an establishment located in the applicable manufacturing district, engaged exclusively in processing of scraps, iron or other metals to be sold only to establishments engaged in manufacturing of steel or metal

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alloys.

8. "Litter" is "garbage", "refuse", and "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, and welfare.

9. "Newspaper" is any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with Federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

10. "Non-Commercial Handbill" is any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

11. "Park" is a park, reservation, playground, recreation center or any other public area in the City, owned or used by the City and devoted to active or passive recreation.

12. "Person" is any person, firm, partnership, association, corporation, company or organization of any kind including public bodies except where the context indicates otherwise.

13. "Private Premise" is any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

14. "Public Place" is any and all street, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

15. "Refuse" is all putrescent and non-putrescent solid wastes including garbage, rubbish, ashes, street cleaning, dead animals, abandoned automobiles, and solid market, construction, and industrial wastes.

16. "Rubbish" is non-putrescent solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, wood, glass, bedding, crockery and similar materials.

17. "Vehicle" is every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

#### **43.02 LITTER IN PUBLIC PLACES.**

No person shall throw, discard or deposit litter in or upon any street, sidewalk or other public place within the City except in public or private waste receptacles authorized for collection of such waste. Penalty. Any person violating this Section shall be fined not less than Seventy-Five Dollars (\$75.00) nor more than Five Hundred Dollars (\$500.00) for each offense. (93-38, 08-03)

#### **43.03 PLACEMENT OF LITTER IN RECEPTACLES SO AS TO PREVENT**

## **SCATTERING.**

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

### **43.04 SWEEPING LITTER INTO GUTTERS PROHIBITED.**

No person shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

### **43.05 MERCHANTS' DUTY TO KEEP SIDEWALKS FREE OF LITTER.**

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot from any public or private sidewalk or driveway. Persons owning or occupying places of business within the City shall keep the sidewalk in front of their business premises free of litter.

### **43.06 LITTER THROWN BY PERSONS IN VEHICLES.**

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the City, or upon private property.

### **43.07 TRUCK LOADS CAUSING LITTER.**

No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any street, alley or other place, mud, dirt, sticky substances, litter or foreign matter of any kind.

### **43.08 LITTER IN PARKS AND OTHER PUBLIC PLACES.**

No person shall throw or deposit litter in any park within the City except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

### **43.09 LITTER IN LAKES AND FOUNTAINS.**

No person shall throw or deposit litter in any fountain, pond, lake, stream, or any other body of water within the City.

### **43.10 THROWING OR DISTRIBUTING COMMERCIAL AND NON-COMMERCIAL HANDBILLS IN PUBLIC PLACES.**

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No person shall throw or deposit any commercial or non-commercial handbill in or upon any sidewalk, street or other public place within the City. Nor shall any person hand out or distribute or sell any commercial handbill in any public place. Provided, however, that it shall not be unlawful on any sidewalk, street, or other public place within the City for any person to hand out or distribute, without charge to the receiver thereof, any non-commercial handbill, to any person who is willing to accept it.

**43.11 PLACING COMMERCIAL AND NON-COMMERCIAL HANDBILLS ON VEHICLES.**

No person shall throw or deposit any commercial or non-commercial handbill in or upon any vehicle. Provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a non-commercial handbill to any occupant of a vehicle who is willing to accept it.

**43.12 DEPOSITING COMMERCIAL AND NON-COMMERCIAL HANDBILLS ON UNINHABITED OR VACANT PREMISES.**

No person shall throw or deposit any commercial or non-commercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

**43.13 DISTRIBUTING COMMERCIAL AND NON-COMMERCIAL HANDBILLS AT UNINHABITED PRIVATE PREMISES.**

No person shall throw, deposit or distribute any commercial or non-commercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises. Provided, however, that in the case of inhabited private premises, such person may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets, or other public places, and except that mailboxes may not be used when so prohibited by Federal postal law or regulations.

a) Exemption for Mail and Newspapers. The provisions of this Section shall not apply to the distribution of mail by the United States nor to newspapers (as defined herein) except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property.

**43.14 DROPPING LITTER FROM AIRCRAFT.**

No person in an aircraft shall throw out, drop or deposit within the City any litter, handbill or any other object.

**43.15 POSTING NOTICES PROHIBITED.**

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public to buy, on any lamp post, public utility pole, tree, or upon any structure or building, except as may be authorized or required by Article 13, Signs, of the Unified Development Ordinance of the City of DeKalb. (94-132)

#### **43.16 LITTER ON OCCUPIED PRIVATE PROPERTY.**

No person shall throw or deposit litter on any occupied private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

a) Exemption for Junk Yards: The provisions of this Section shall not apply to an open area of land and any accessory building or structure utilized for the buying, selling, exchanging, storing, baling, packing, disassembling, or handling waste or scrap materials; including vehicles, machinery, and equipment not in operable condition or parts thereof, and other metals, paper, plastics, rags, rubber tires, and bottles; except that such operations shall be conducted only on private property correctly zoned and approved for such use in accordance with provisions of the Unified Development Ordinance of the City of DeKalb, and in such a manner as to prevent said materials from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property. (94-132)

#### **43.17 OWNER TO MAINTAIN PREMISES FREE OF LITTER, TRASH OR DEBRIS.**

The owner, resident or person in control of any private property shall at all times maintain the premises free of litter, trash or debris. It is hereby declared to be a violation for any person, firm, corporation, partnership, association, owner, agent, occupant or person in possession, charge or control of any lot, building or premises to allow or permit the following:

To construct, impede, block or deny access to approved refuse collection containers. Every refuse container shall be provided sufficient access at all times to allow the container to be emptied by the contracted agency. This would include obstructing such access by any motorized vehicle, debris, or any other materials which would interfere with or deny access to a refuse container for purposes of emptying or removal on scheduled or a specially requested day for pickup.

It shall be the property owners responsibility to designate an area for the placement of refuse containers and to provide markings clearly indicating where the container(s) shall be placed. The area designated for refuse containers shall be approved by the contracted agency and the Director of Building & Community Services or his designee.

Any person, firm or corporation who shall violate any of the provisions as prescribed above shall be subject to the penalties as prescribed in Chapter 13, Section 13.04 of the DeKalb Municipal Code. This section shall not prohibit the storage of litter, garbage or debris in approved receptacles intended for refuse collection. (94-124)

#### **43.18 LITTER ON VACANT LOTS.**

No person shall throw or deposit litter on any open or vacant private property within the City whether owned by such person or not.

#### **43.19 DUTY OF MERCHANTS WHO GENERATE LITTER TO CLEAN LITTER (FAST FOOD RESTAURANTS, ETC.).**

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Person's owning or occupying a place of business within the City of DeKalb, who sell or offer for sale food or other goods for immediate consumption wrapped in paper, plastic, cardboard or other similar disposable materials or containers, shall endeavor to implement or cause a general litter removal program within an area of seven hundred fifty feet (750') of their premises so as to remove litter generated by said business at least each business day. The foregoing shall in no way permit the owner to trespass upon private property (however, the owner shall endeavor to gain permission of the owner of private property for said purposes), nor shall said program include any area within a public street or highway.

**43.20 CLEARING LITTER FROM OPEN PRIVATE PROPERTY BY CITY.**

a) Notice to Remove. The Director of Community Development is hereby authorized and empowered to notify the owner of any private property within the City or the agent of such owner to immediately and properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such notice shall be by Registered Mail, addressed to said owner at his last known address.

b) Action Upon Non-Compliance. Upon the failure, neglect or refusal of any owner or agent so notified, to properly dispose of litter dangerous to the public health, safety or welfare within one hundred twenty (120) hours, (five [5] days), excluding Saturdays, Sundays and holidays, after receipt of written notice provided for in subsection (a) above, or within one hundred twenty (120) hours, (five [5] days), excluding Saturdays, Sundays and holidays, after the date of such notice in the event the same is returned to the City because of its inability to make delivery thereof, provided the same was properly addressed to the last known address of such owner, or agent, the Director of Community Development is hereby authorized and empowered to pay for the disposing of such litter or to order its disposal by the City. (80-46)

c) Lien for Cost of Removal. The City may collect from such owner of said private property the reasonable cost for the removal of such litter. This cost is a lien upon the real estate affected superior to all subsequent liens and encumbrances, except tax liens, if within sixty (60) days after such cost and expense is incurred the municipality, or person performing the service by authority of the municipality, in his or its own name, files notice of lien in the office of the Recorder of Deeds in the County in which such real estate is located or in the office of the Registrar of Titles of such county if the real estate affected is registered under the Torrens system. The notice shall consist of a sworn statement setting out :

1. a description of the real estate sufficient for identification thereof;
2. the amount of money representing the cost and expense incurred or payable for the service; and,
3. the date or dates when such cost and expense was incurred by the municipality.

However, the lien of such municipality shall not be valid as to any purchaser whose rights in and to such real estate have arisen subsequent to removal of the garbage and debris and prior to the filing of such notice, and the lien of such municipality shall not be valid as to any mortgagee, judgment, creditor or other lien or whose rights in and to such real estate arise prior to the filing of such notice.

Upon payment of the cost and expense by the owner of or persons interested in such property after notice of lien has been filed, the lien shall be released by the municipality or person in whose name the lien has been filed and the release may be filed for record as in the case of filing notice of lien. The lien may be enforced by proceedings to foreclose as in the case of mortgages or mechanics' liens. Suit to foreclose this lien shall be commenced within two (2) years after the date of filing notice of lien.

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**43.21 NO DUMPING ALLOWED.**

Any person shall place any article of clothing, appliance, furniture, or any other household item outside of a business or the office of any not-for-profit agency, except by delivering such items directly to an employee of such business or not-for-profit agency during the hours that business or agency is open to receive such items.

PENALTY. Any person violating these provisions shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00). A separate and distinct offense shall be regarded as committed each day on which such is permitted to exist after notification thereof. (94-100)

**43.22 PENALTIES.**

Any person, firm or corporation violating, disobeying, omitting, neglecting, or refusing to comply with any of the provisions of this Chapter, shall be punished by a fine of not less than Thirty Five Dollars (\$35.00) nor more than Five Hundred Dollars (\$500.00). A separate and distinct offense shall be regarded as committed each day on which such is permitted to exist after notification thereof. (86-29, 91-33, 94-100)