

Public Hearing Published _____ First Reading _____
Public Hearing _____ Passed _____

ORDINANCE NO. _____

AN ORDINANCE TO PROTECT AGAINST LITTERING AND PROVIDE AN ENFORCEMENT MECHANISM WITH PENALTIES FOR DEALING WITH THOSE FOUND LITTERING WITHIN THE CITY OF FLOWERY BRANCH, GEORGIA BY SETTING FORTH DEFINITIONS; PROVIDING FOR VIOLATIONS, ENFORCEMENT, PENALTIES AND FOR OTHER LAWFUL PURPOSES; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the Mayor & City Council recognize that litter found throughout our community often finds its way into our streams, rivers and lakes and detracts from our quality of life; and

WHEREAS, the Mayor & City Council recognize the need to prohibit litter within the city limits of Flowery Branch in order to serve the public interest and to protect the public welfare; and

WHEREAS, the Mayor & City Council held a public hearing at the meeting of August 25, 2005, regarding said Ordinance, as shall be set forth in the minutes of said meeting.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FLOWERY BRANCH DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Title

This ordinance shall be known as the “City of Flowery Branch Litter Control Ordinance.” This ordinance is modeled on the “Georgia Litter Control Law” (O.C.G.A. § 16-7-40 et. seq.) and adoption of this ordinance is authorized by (O.C.G.A. § 16-7-48).

Description

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Section 2. Findings and Purposes

2.1. 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:

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

2.2.1 Applicability

This ordinance shall apply to all public and private property within the City of Flowery Branch.

2.3. 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.

Section 3. Definitions

“Litter” means any organic or inorganic waste material, rubbish, refuse, cigarette butts, 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 4. Prohibition Against Littering Public or Private Property

It shall be unlawful for any person or persons to dump, deposit, throw, throw from a vehicle, or leave or to cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property or any waters in the City of Flowery Branch 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; or
- (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 5. 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 6. Violations, Enforcement and Penalties

6.1 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.

6.2 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.

6.3 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 \$500 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 Flowery Branch for the reasonable cost of removing the litter when the litter is or is ordered removed by the City of Flowery Branch; and
- (3) (A) In the sound discretion of the Flowery Branch Municipal 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 Flowery Branch Municipal 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.

6.4 Enforcement

The Police Chief or some other duly designated officer of the City, are hereby authorized, empowered and directed to enforce compliance with this article.

Section 7. Severability

If any article, section, subsection, paragraph, clause, phrase or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decision shall not affect or invalidate the remaining portions of this ordinance.

Section 8: Effective Date

The effective date of this Ordinance shall be upon approval by the Mayor & Council of the City of Flowery Branch, Georgia.

Section 9: Repealer

All ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

Approved this _____ day of _____, 2005.

Mayor, on Behalf of the City Council

City Clerk, ATTEST

City Attorney, APPROVED AS TO FORM