

**ARTICLE 14
LITTER AND WEED CONTROL**

(rev. 06/19/2001 unless otherwise noted)

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14.01 DEFINITIONS

For the purposes of this Article, the following terms, phrases, words and their derivation shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

Aircraft. 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 balloons.

Authorized Private Receptacle. A litter storage and collection receptacle as required and authorized in the City of Orange Beach.

City. The City of Orange Beach, Alabama.

Commercial Handbill. 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 which:

- a. Advertises for sale any merchandise, product, commodity, or thing; or

- b. Direct 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. 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 PROVIDED that nothing contained in this clause shall be deemed to authorize the holding, given or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without required license; or
- d. While containing reading matter other than advertising matter, is predominately 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.

Garbage. Putrefactive animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Litter. *Garbage, refuse, and rubbish* as defined herein and all other waste material.

Newspaper. 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, 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.

Non Commercial Handbill. 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.

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

Person. Any person, firm, partnership, association, corporation, company or organization of any kind,

Private Premises. Any privately owned real property whether inhabited or temporarily or continuously uninhabited or vacant.

Public Place. Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds, buildings, ditches, and gutters.

Refuse. All putrefactive and non-putrefactive wastes, including without limitation garbage, rubbish, ashes, street cleaning, dead animals, solid and liquid wastes, discarded items of furniture, paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, glass, and crockery.

Rubbish. Non-putrefactive solid wastes consisting of both combustible and non-combustible wastes, including without limitation lumber, firewood, abandoned automobiles, and discarded appliances.

Vehicle. 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.

14.02 LITTER IN PUBLIC PLACES

No person shall throw or deposit litter in or upon any public place except in public receptacles, in authorized private receptacles for collection, or in official City dumps.

14.03 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.

14.04 DUTY TO KEEP FREE FROM LITTER

No person shall sweep into or deposit or cause to be deposited in any public place or private premises not owned or controlled by him the accumulation of litter from any other public place or private premises.

14.05 LITTER THROWN BY PERSONS IN VEHICLES

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any public place, or on any private premises.

14.06 VEHICLE LOADS CAUSING LITTER

No person shall drive or move any vehicle, truck or trailer unless such vehicle, truck or trailer is so constructed or loaded so as to prevent any load, contents or litter from being blown or deposited upon any public place or private premises not belonging to the driver.

14.07 LITTER IN BODIES OF WATER

No person shall throw or deposit litter in any pond, lake, stream, bay or other body of water.

14.08 THROWING OR DISTRIBUTING COMMERCIAL HANDBILLS IN PUBLIC PLACES

No person shall throw or deposit any commercial or non-commercial handbill in or upon any public place. Provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute, without charge to the receiver thereof, any commercial or non-commercial handbill.

14.09 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 commercial or non-commercial handbill to any occupant of a vehicle.

14.10 DROPPING LITTER FROM AIRCRAFT

No person in any aircraft shall throw out, drop or deposit any litter, commercial handbill, or non-commercial handbill.

14.11 OWNER TO MAINTAIN PREMISES FREE OF LITTER

The owner or person in control of any private premises shall at all times maintain the premises free of litter subject, however, to the following:

- A.** All private premises not zoned residential that accumulate rubbish resulting from business activity shall be allowed to do so; provided, however, such rubbish shall be removed every six (6) months. Should the City receive a complaint in connection with the accumulation of such rubbish, the City may require the following: 1) erect a wall, or wood or lattice fence around said rubbish; or 2) plant trees or tall shrubs, so as to effectively screen said rubbish.
- B.** This section shall not prohibit the storage of rubbish for a period of not more than three (3) months so long as it is screened as provided in the foregoing Section 11 (a).

14.12 LITTER ON VACANT LOTS

No person shall throw or deposit litter on any private premises whether or not owned or controlled by such person.

14.13 WEEDS AND UNDERGROWTH ON PRIVATE PREMISES

It shall be unlawful for any owner or person in control of private premises to permit on such private premises any weeds, untrimmed grass, or undergrowth of any kind which: impairs the visibility of persons using the public streets and highways, or which constitutes a public danger; or which constitutes a fire hazard; or which constitutes an impediment on a public way; or which constitutes a hazard to the public health, safety, and general welfare. Nothing contained herein is intended to limit or disparage the right of private parties otherwise available under the law to pursue an action to abate a private nuisance existing or alleged to exist on or in connection with any private premises.

14.14 INSPECTION AND NOTICE OF VIOLATION

The Zoning Official and such other city employees as designated by the City will act on behalf of the City and are empowered to enter onto and inspect private premises to determine if there is a violation of this Article. The City shall notify the owner or person in control of private premises of said inspection before entering the premises, by letter, stating the date and time inspection is to take place. The City shall issue written notice of

violation of Sections 11, and 13 of this Article to the owner or person in control of the premises before taking further action under said sections. (rev. 06/19/2001)

14.15 DECISIONS

The concurring vote of four (4) of the five (5) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the administrative official or to decide in favor of the appellant in respect to any matter upon which the Board of Adjustment can legally act. (rev. 06/19/2001)

14.16 APPEALS

Appeals to the Board of Adjustment may be taken by any person aggrieved including without limitation the owner, person in control of the premises, his attorney, or authorized representative, or by any officer or department of the municipality affected by any decision of the administrative officer in the enforcement of this Article. Such appeal shall be made within thirty (30) days after rendition of the order, requirement, decision, or determination appealed from and must be made in writing to the Board of Adjustment. No personal appearance shall be required on Appeal.

14.17 STAY OF PROCEEDINGS

An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the Appeal is taken certifies to the Board of Adjustment after the Notice of Appeal has been filed that, by reason of facts stated by him in writing a stay would cause imminent peril to life or property. Such proceedings may then be stayed by the Board of Adjustment.

14.18 HEARING ON APPEAL

Before rendering a decision upon an appeal, the Board of Adjustment shall hold a public hearing giving public notice and notifying appellant of the date, time, and location of the hearing at the City Hall. At the hearing any party may appear in person or by agent or attorney. The City Official who made the inspection and/or issued the violation, and the appellant shall be accorded an opportunity to be heard and to present evidence. The Board of Adjustment shall report its decision in writing to the appellant and to the City.

14.19 PENALTIES

Upon complaint properly filed with the Municipal court of Orange Beach, any person who violates any of the provisions of this Article may be deemed guilty of a misdemeanor and may be fined in a sum not to exceed five hundred (\$500) dollars for each violation. Provided, however, no complaint shall issue for violation of Sections 11 and 13 of this Article until the time for appeal of such violation has passed or until the Appeal Committee determines that a violation has occurred.

14.20 CLEARING OF LITTER, WEEDS, OR UNDERGROWTH FROM PRIVATE PREMISES BY CITY

When violations of this Article have occurred, the City is authorized and empowered to take action, either separately or in addition to the penalties in Section 18 hereof, to protect the health, safety, and general welfare of its citizens as follows:

- A.** After notice of any violation under Sections 11 and/or 13 of this Article has been given and after appeals, if taken, have been exhausted, the City is authorized to notify the owner or person in control of private premises to properly dispose of litter, weeds, or undergrowth located on such premises. Such notice shall be by registered mail, addressed to either the owner or the person in control of the premises, at his last known address or hand delivered. For purposes of the owner's address, the most recent address shown on the records of the Baldwin County Tax Assessor shall be sufficient.