

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ORDINANCE NUMBER 2359, ADOPTED 11-6-90, AND
ORDINANCE NUMBER 1600, ADOPTED 2-8-67, PROHIBITING THE THROWING OR
DEPOSITING OF LITTER IN PUBLIC PLACES IN THE CITY OF HATTIESBURG;
REGULATING THE DISTRIBUTION OF COMMERCIAL AND NON-COMMERCIAL
HANDBILLS; CONTROLLING DEPOSITING OF LITTER ON PRIVATE PREMISES;
PROVIDING A LIEN FOR CITY CLEARANCE; AND PRESCRIBING PENALTIES
FOR THE VIOLATION OF ITS PROVISIONS**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF
HATTIESBURG, MISSISSIPPI:**

SECTION 1. Short Title. This ordinance shall be known and may be cited as the “Hattiesburg Anti-Litter Ordinance.”

SECTION 2. Definitions. For the purposes of this article the following terms, phrases, words and their derivations 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 number. The word "shall" is always mandatory and not merely directory.

- A. 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 balloons.
- B. Authorized private receptacle** is a litter storage and collection receptacle as required and authorized in this ordinance.
- C. City** is the City of Hattiesburg, Mississippi.
- D. 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:
 - (1) Which advertises for sale any merchandise, product commodity, or thing; or
 - (2) 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
 - (3) 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 incidental 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 this city; or
 - (4) 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.
- E. Garbage** is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

- F. 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.
- G. 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.
- H. Noncommercial 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.
- I. Park** is 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.
- J. Person** is any person, firm, partnership, association, corporation, company or organization of any kind.
- K. Private premises** 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.
- L. Public place** is any and all, paved or unpaved street, sidewalk, boulevard, alley, creek, drainage ditch, drainage space or other public ways and any and all public parks, squares, spaces, grounds and buildings.
- M. Refuse** is all putrescible and non-putrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.
- N. Rubbish** is non-putrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.
- O. 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.

SECTION 3. Litter in Public Places. No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the city except in public receptacles, authorized private receptacles for collection, or in official city dumps.

SECTION 4. 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 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.

SECTION 5. Removal of Rubbish, Other Materials from Building, Similar Operations; Sweeping Litter into Gutters, Streets, Parking Areas and Other Public Places.

- A.** Property owners, tenants, lessees and contractors for hire engaged in the construction, repair, reconstruction, removal, and demolition of structures, improvements and property or part thereof, shall, at their own expense, remove trash, trees, limbs, roofing, lumber and any and all other kinds of rubbish, garbage, litter and refuse arising from their operations; and no person shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any such activity or from any public or private sidewalk, parking area or driveway. Persons owning or occupying property shall keep the sidewalks and parking areas in front of their premises free of litter.

- B. If any part of a structure is not completely demolished, the owner of said property will be responsible for its condition. Should the City of Hattiesburg find it necessary to clear any lot or lots or a part of a structure left standing, it shall be done in accordance with Section 21-19-11, and any other provisions of the Mississippi Code of 1972, Annotated as amended, that may apply. The Code Enforcement Manager or the Code Enforcement Manager's designee(s) shall be responsible for the enforcement of this article.
- C. No person or persons shall engage in the improvement, removal or demolition of any structure, in part or whole, in the City of Hattiesburg without first obtaining a written permit therefor from the city Building Official, who shall require the posting of a cash bond of not less than one hundred dollars (\$100.00), but which amount shall be determined by the Building Official on the basis of the estimated amount of debris remaining from such improvement, removal or demolition, which said bond shall be conditioned upon the clearing and removal of any and all such debris left on the site from which said structure is removed or demolished. If the structure is completely removed, the vacant lot where the structure has been demolished or removed shall be filled with dirt and maintained to the existing grade, in accordance with section 3303.4 of the International Building Code (IBC).
- D. Said bond is for the insurance of the clearing of debris only, and not for the removal of any structure, or part thereof. If any amount or kind of debris is left on any premises the total amount of any bond will be forfeited to the city and used to have said premises cleared of any remaining debris. **Such bond will be refunded within thirty (30) days after final inspection of such premises provided all such debris from said operations has been removed by the party posting said bond. Said final inspection will be made by the Building Official within ten (10) days of written request from the party posting said bond or the expiration date of permit issued for the hereinabove described removal or demolition, whichever is earlier.**
- E. Any permit issued shall become invalid unless the work authorized by it shall have been commenced and completed within sixty (60) days after its issuance; provided, that, for cause, one extension of time, for a period not exceeding thirty (30) days, may be allowed in writing by the Building Official.

SECTION 6. Merchants' Duty to Keep Sidewalks and Parking Areas Free of Litter. No person owning or occupying a place of business shall sweep or cause to be deposited into any gutter, street, parking area or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk, parking area or driveway. Persons owning or occupying places of business within the city shall keep the sidewalks and parking areas in front of their business premises free of litter.

SECTION 7. 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.

SECTION 8. 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 public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

SECTION 9. Litter in Parks. 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.

SECTION 10. Litter in Lakes and Fountains. No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or other body of water in a park or elsewhere within the city.

SECTION 11. Commercial or Noncommercial Handbills—Throwing or Distributing. No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street, parking area or other public place within the city, or hand out, distribute or sell any commercial handbill in any public place. However, it shall not be unlawful on any sidewalk, street, parking area or other public place within the city for any person to hand out or distribute, without charge to the receiver thereof, a noncommercial handbill to any person willing to accept it.

SECTION 12. Same—Placing on Vehicles. No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle. However, it shall not be unlawful in any public place for a person to hand out or distribute, without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

SECTION 13. Same—Depositing on Uninhabited or Vacant Premises. No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

SECTION 14. Same—Prohibiting Distribution Where Properly Posted. No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No trespassing," "No Peddlers or Agents," "No Advertisement" or any similar notice, indicating in any matter that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises.

SECTION 15. Same—Distributing at Inhabited Private Premises.

- A. Manner of distribution.** No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises that are inhabited, except by handing or transmitting any such handbills directly to the owner, occupant, or other person then present in or upon such private premises. However, in case of inhabited private premises that are not posted as provided in this article, such person, unless requested by anyone upon such premises not to do so, 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 so used when so prohibited by Federal postal law or regulations.
- B. 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 manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

SECTION 16. 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.

SECTION 17. 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 any lamppost, public utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law.

SECTION 18. 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.

SECTION 19. Owner to Maintain Premises Free of Litter. The owner or person in control of occupied or vacant private property shall at all times maintain the premises free of litter. However, this section shall not prohibit the storage of litter in authorized private receptacles for collection.

SECTION 20. Litter on Vacant Lots. No person shall throw or deposit litter on any open or vacant private property, whether owned by such person or not, within the city.

SECTION 21. Clearing of Litter from Open Private Property by City.

- A.** The Code Enforcement Manager or the Code Enforcement Manager's designee(s) is hereby authorized and empowered to notify any owner, or agent of such owner, of any open or vacant private property within the City to dispose properly of litter located on such owner's property and dangerous to public health, safety or welfare. Such notice shall be by Certified Mail, addressed to said owner at his last known address.
- B.** The method of compliance and penalty shall be in accordance with Section 21-19-11, and any other provisions of the Mississippi Code of 1972, Annotated as amended, which may apply. The Code Enforcement Manager or the Code Enforcement Manager's designee(s) shall be responsible for the enforcement of this section.

SECTION 22. Enforcement Responsibility. The enforcement of this article shall be the shared responsibility of the Building Official or the Building Official's representatives for violations on private property, and the Hattiesburg Police Chief or the Police Chief's representatives for violations on public property.

SECTION 23. Penalty for Violation of Article. It shall be unlawful for any person to violate any provision of this article. Such violation shall be a misdemeanor and shall be punishable by a fine of one thousand dollars (\$1,000.00) or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment; the municipal judge may use discretion in suspending a portion of the fine. If a violation is continuing, each day's violation shall be deemed a separate offense.

SECTION 24. General.

- A.** The City of Hattiesburg, Mississippi has received a certified copy of a resolution adopted by the Pine Belt Regional Solid Waste Management Authority (The Authority) dated September 11, 2002, directing each member of the Authority to adopt a resolution or ordinance to require the mandatory flow of municipal solid waste to the Authority Solid Waste Landfill in Perry County, Mississippi.
- B.** The City of Hattiesburg, Mississippi is a member of The Authority and is required to adopt such an ordinance pursuant to the terms and provisions of Sec. 17-17-319 (Supp.2002) of the Mississippi Code of 1972.

SECTION 25. Definitions.

- A.** Municipal Solid Waste shall mean any non-hazardous solid waste resulting from the operation of residential, commercial, governmental, industrial or institutional establishments, except oil field exploration and production waste and sewage sludge.
- B.** Person shall mean a person as defined in Sec. 17-17-3 of the Mississippi Code of 1972.

SECTION 26. Municipal Solid Waste Generated and Effective Date. All municipal solid waste generated within the geographic boundaries of the City of Hattiesburg, Mississippi, that is placed in the waste stream shall be transported to, stored and managed at the Pine Belt Regional Solid Waste Management Authority's landfill in Perry County, Mississippi, or at a transfer station owned by the Pine Belt Regional Solid Waste Management Authority.

Effective date shall be in force on January 1, 2003.

SECTION 27. Penalties. It shall be unlawful for any person to violate any provision of this article. Such violation shall be a misdemeanor and shall be punishable by a fine of one thousand dollars (\$1,000.00), or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment; the municipal judge may use discretion in suspending a portion of the fine. If a violation is continuing, each day's violation shall be deemed a separate offense.

SECTION 28. Any and all Ordinances in conflict therewith be and the same are hereby repealed.

SECTION 29. This Ordinance shall take effect and be in force within the time and manner provided by law.

The foregoing Ordinance, having been reduced to writing, was introduced by Council member _____, seconded by Council member _____, and was adopted by the following vote, to-wit:

YEAS:

NAYS:

The President thereby declared the motion carried and the Ordinance adopted, this the 3^d day of May, A.D., 2016.

(SEAL)

ATTEST:

ADOPTED:

CLERK OF COUNCIL

PRESIDENT

The above and foregoing Ordinance, having been submitted to and approved by the Mayor, this the 3rd day of May , A.D., 2016.

ATTEST:

APPROVED:

CITY CLERK

MAYOR