

**STATE OF GEORGIA
COUNTY OF CHEROKEE**

ORDINANCE NO. 2005 - O - 003

BE IT ORDAINED by the Cherokee County Board of Commissioners and it is hereby enacted pursuant to the authority of the same that the Cherokee County Code of Ordinances and the Cherokee County Development Regulations are hereby amended by deleting Sections 46.1 through 46.63 and in lieu thereof adding thereto a new Section 46.1 through 46.63 of Chapter 46 – Solid Waste Ordinance to read as follows:

ARTICLE I. IN GENERAL

Sec. 46-1. Purpose of chapter.

The purposes of this chapter are to:

- (1) Protect the public health, safety and well-being of the citizens of the county;
- (2) Protect and enhance the quality of the environment;
- (3) Institute and maintain countywide rules and regulations controlling the spread of litter; and
- (4) Establish rules and regulations concerning solid waste management to ensure that solid waste systems, whether privately or publicly operated, do not adversely affect the health, safety and well-being of the public and do not unduly degrade the quality of the environment. (Ord. Of 2-14-89, art. I)

Sec. 46-2. Definitions.

The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building materials means any material such as lumber, roofing material, brick, concrete block, plaster, gutters, sand, gravel or other substances used in repairs or alterations of existing buildings, construction of new buildings or demolition of existing buildings.

Dumpster means a bulk container used for the collection of garbage, refuse, trash and litter. The use of this term is generic and does not refer to a bulk container manufactured by a specific manufacturer.

Dumpster monitor refers to the person or persons authorized by the commissioner to inspect and patrol the areas where dumpsters are located in the county and the roads or streets of the county, and who are responsible for enforcing this chapter. Dumpster monitors shall be authorized by the commissioner to issue citations to violators of this chapter.

Garbage means the byproduct of animal or vegetable foodstuff resulting from handling, preparation, cooking and consumption of food, or other matter which is subject to decomposition, decay, putrefaction or the generation of noxious or offensive gases or odors, or which during or after decay may serve as breeding or feeding material for flies, insects or animals.

Garbage bag means a plastic, or other similar nonporous material, bag or sack designed specifically to contain garbage or household trash in a secure, airtight manner. Such bags shall also include suitable means of closure to ensure that the material contained therein is not exposed to the outside air.

Hazardous refuse means materials such as poison, acids, caustics, chemicals, infected materials, offal, fecal matter and explosives.

Household trash means every waste accumulation of paper, sweepings, dust, rags, bottles, cans or other matter of any kind, other than garbage, which is usually attendant to housekeeping.

Industrial waste means all waste, including solids, semisolids, sludges and liquids, created by factories, processing plants or other manufacturing enterprises.

Junk vehicle includes any automobile, vehicle, trailer of any kind or type or mechanical contrivance or part thereof which is in an inoperative or junk condition by reason of its having been wrecked, dismantled or partially dismantled, inoperative, and which does not have a valid license plate; or which has been abandoned or discarded according to the definition of "abandoned motor vehicle" set forth in O.C.G.A. § 40-11-1. For the purposes of this chapter, a vehicle is "inoperative" if it is incapable of movement by its own power, or if it remains in place for a period of more than seven days, and in neither case is within a carport or parking way or driveway.

Junkyard includes land on which two or more junk vehicles are parked, standing or allowed to remain.

Landfill means all garbage, refuse, waste materials, sand, gravel, slag, brickbats, rubbish, tin cans, trash, debris, dead animals or any other discarded, used or unconsumed substance which is not handled in accordance with the provisions of this chapter.

Public or private property means the right-of-way of any road, street, or highway; any body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge or conservation or recreation area; and residential or farm properties, timberlands or forests.

Road or street shall be mutually inclusive, and shall like wise be deemed to include any alley, lane, court and other thoroughfare, however described or designated.

Rubbish includes wastepaper, cartons, boxes, wood, tree branches, yard trimmings, furniture, appliances, metal, cans, glass, packing material and similar material.

Scavenge or scavenging means any unauthorized or uncontrolled retrieval of discarded refuse materials.

(Ord. of 2-14-89, § 4.1)

Cross reference-Definitions and rules of construction generally, §1-2.

Sec. 46-3. Garbage collection/pickup vehicles.

Applications for garbage collection/pickup vehicles shall be issued only to vehicles having compaction equipment and capacity. The provisions of this section shall not apply to those firms or vehicles presently operation garbage collection routes within the county. (Ord. of 7-10-78)

Sec. 46-4 – 46-30. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 46-31. Enforcing officers; issuing of citations.

(a) Any peace officer of the state or the commissioner may name, by appropriate resolution, an employee of the county to serve as his designee and to oversee all matters concerning the enforcement of this chapter.

(b) The commissioner may name, by appropriate resolution, such persons as he feels necessary to be dumpster monitors. Such dumpster monitors shall be under the supervision of the designee described in subsection (a) of this section and shall patrol, inspect and monitor dumpster sites to ensure compliance with this chapter, and shall monitor all areas of the county for violations of this chapter.

(c) The designee of the commissioner, as the dumpster monitor, shall be authorized to issue citations to violators of any provision of this chapter or to the owner or any other person who may be in possession of any property upon which any condition exists which constitutes a violation of any provision of this chapter. Such citations shall be on a form approved by the commissioner and shall state the time and place at which the accused is to appear for trial, shall identify the offense with which the accused is charged, shall indicate the identity of the accused and the date of service and shall be signed by the representative of the county who completes and serves it.

(Ord. of 2-14-89, § 9.0)

(d) 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 rebuttal presumption that such person has violated this ordinance.

Sec. 46.32. Penalty.

(a) Any person violating this chapter or any provision hereof shall, upon conviction, be punished as provided in section 1-12, or 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 Cherokee County for the reasonable cost of removing the litter when the litter is or is ordered removed by the (jurisdiction); and
 - (3) In the sound discretion of a court in which conviction is obtained, 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 deposited thereon by anyone else prior to the date of the execution of sentence; or
 - (4) In the sound discretion of the judge of a court in which conviction is obtained, the person may be directed to pick up and remove from any public beach, public park, private right- of-way or with the 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, any and all litter deposited thereon by anyone prior to the date of execution of sentence.
 - (5) The court may publish the names of persons convicted of violating this ordinance.
- (b) Records of convictions for violation of this chapter shall be a matter of public record.
- (c) No person accused of violating this chapter shall be arrested prior to trial, but any defendant who fails to appear for trial shall be arrested thereafter on the warrant of the magistrate and required to post a bond for his future appearance. (Ord. of 2-14-89, § 9.1)

Sec. 46-33. Court proceedings.

- (a) Violations of this chapter shall be tried upon citations or accusations as described in section 46-31(c) of this chapter and may be tried with or without a prosecuting attorney as well as upon accusations. The county attorney or another attorney designated by the commissioner shall serve as prosecuting attorney.
- (b) Violations of this chapter shall be tried in the magistrate court of the county.
- (c) Nothing in this section shall prevent the commissioner from bringing any civil action for injunction, mandamus or other proceedings to present, correct or abate any violation of this chapter. No sanction, penalty or remedy prescribed herein shall be considered exclusive of any other remedy, but shall be available in addition to any other sanction, penalty or remedy by law.
- (d) Each violation of this chapter shall constitute a separate offense. (Ord. of 2-14-89, § 9.2)

Sec. 46-34 – 46-60. Reserved.

ARTICLE III. LITTER CONTROL

Sec. 46-61. Dumping and accumulation of litter.

(a) *Generally.* It shall be unlawful for any person to dump, deposit, throw or leave or cause or permit the dumping, depositing, placing, throwing or leaving of litter on any road or street or any public or private property in the county, unless:

- (1) The property is designated by the state or county or by any of their agencies for the disposal of litter and the person is authorized by the proper public authority to use such property;
- (2) The litter is placed into a litter receptacle, container or dumpster installed on such property and designated for the disposal of litter; 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.

(b) *Public streets and private property.* No person shall place any accumulations of litter or house hold trash in any street, median strip, alley or other public place of travel, nor upon any private property except with the written consent of the owner thereof, and then only in accordance with the provisions of this chapter.

(c) *Blockage of drainage.* No person shall place any refuse, trash, refuse receptacles or containers on, over or near any storm drain or drainage ditch, or so close thereto as to cause such material to interfere in any way with such drainage.

(d) *Unauthorized storage.* Any accumulation of litter or rubbish items on any lot, property, premises, Public Street, alley or other public or private place not permitted by this chapter is hereby declared to be nuisance. Failure of the owner or occupant to remove and correct any such accumulation of refuse after appropriate notice from the board of commissioners or its designee shall raise the presumption that such person intended to violate this chapter.

(e) *Appliances.* It shall be unlawful for any person to leave outside any building in a place accessible to children any appliance, refrigerator or other container which has an airtight snap lock or similar device without first removing therefrom the lock or door. This section shall not apply to any appliances, refrigerators or container which has been placed on or adjacent to the rear of the building and which has been crated, strapped or locked so that it will be impossible for a child to obtain access to any compartment thereof.

(f) *Use of streets.* It shall be unlawful for any vehicle transporting loose materials on any road or street to transport the materials without suitable covers securely fastened to the vehicle, provided that the transported materials present a danger of falling from the vehicle. This section shall not apply to the transportation of poultry, livestock, silage or other feed grain used in the feeding of poultry of livestock.

(g) *Used tires.* No person shall accumulate used vehicle tires in such a manner as to pose a danger to the public health, safety and welfare.

(h) *Failure to remove.* Upon the failure, neglect, or refusal of any owner, or occupant so notified to remove such junk vehicles, liter or accumulated tires within the designated time period, the county marshal is hereby authorized and empowered to arrange for the removal of such material by the county or by a private individual firm through contract with the county.

(i) *Cost of removal.* The actual cost of such removal shall be assessed against the property owner from whose premises the junk vehicles, liter or accumulated tires are removed, and, in the event the bill for such charges remains unpaid for 30 days after it has been rendered, the same shall become a lien upon the premises enforceable in the same manner as provided for the collection of unpaid taxes.

(Ord. of 2-14-89, § 5.0; Ord. No. 91-8, § 2, 7-26-91; Ord. No. 2001-017, 8-28-01)

Sec. 46-62. Public dumpsters

(a) *Location.* The commissioner shall designate areas in the county where dumpsters intended to be for public use may be located and maintained. These dumpsters shall be located on public property, along the right-of-way of public roads or streets, or on private property with the express written consent of the owner and tenant in legal possession of the property, and shall be located in such a manner that there is a minimum danger of the spread of noxious odors and the detrimental effect on the environment is minimal.

(b) *Use by county residents only.* It shall be unlawful for any person or persons of the county to place or deposit any garbage, refuse, litter, household trash or other material of any kind not generated within the boundaries of the county in these dumpsters unless they are specifically designated for such use by the commissioner or his designee.

(c) *Industrial waste.* It shall be unlawful to place or deposit industrial waste or building materials or commercially collected garbage in the dumpsters unless they are specifically designated for such use by the commissioner or his designee.

(d) *Hazardous refuse.* It shall be unlawful to place or deposit any hazardous refuse of any kind in the dumpsters.

(e) *Hospitals and health care units.* All used hypodermic needles should not be recapped, purposely bent or broken by hand, removed from disposable syringes or otherwise manipulated by hand. Once used, hypodermic needles should be put into a puncture resistant container for disposal by the onsite incinerator at R.T. Jones Memorial Hospital.

(f) *Ashes.* Ashes deposited in the dumpsters must be wetted and cool to the touch prior to being placed or deposited in the dumpsters.

(g) *Combustible liquids.* No highly combustible liquid shall be placed or deposited in the dumpsters.

(h) *Toxic materials.* No material or substance governed or regulated as a noxious or toxic material by any governmental agency or which would pose a hazard to the health, safety and well-being of the collection personnel or residents of the county or which would pose a danger to the wildlife of the county shall be placed or deposited in the dumpsters.

(i) *Garbage bags.* It shall be unlawful to place or deposit any garbage or house hold trash in the dumpsters without first placing and securing such in a garbage bag of suitable strength and thickness. Objects which could puncture the garbage bag in the course of the ordinary and intended use thereof shall be wrapped or protected so that the bag shall remain intact.

(j) *Depositing trash outside of dumpster.* It shall be unlawful to place or deposit garbage or house hold trash on the ground adjacent to the dumpsters or in any location other than the dumpsters. Any person using the dumpsters shall clean up any spills caused by his use of the dumpsters and shall not drop or discard any garbage or household trash in the area surrounding the dumpsters.

(k) *Dead animals.* Dead animals shall not be placed or deposited in the dumpsters.

((l) *Limit on amount of trash.* It shall be unlawful for a person to place more than two cubic yards of rubbish in the dumpsters in any seven-day period. It shall be unlawful to deposit rubbish in any dumpster which is already filled.
(Ord. of 2-14-89, § 5.1)

Sec. 46-63. Scavenging.

It shall be unlawful for any person to scavenge, disturb or in any way interfere with the contents of any public dumpster or any public landfill or public waste disposal area.
(Ord. of 2-14-89, § 5.2)

Enacted this _____ day of _____, 2005.

Cherokee County Board of Commissioners

J. Michael Byrd, Chairman

Attest:

Sheila R. Corbin, County Clerk