

Ordinance #353

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF MONTEZUMA, GEORGIA TO AMEND THE CODE OF THE CITY OF MONTEZUMA, CHAPTER 15, NUISANCES BY DELETING CHAPER 15 IN ITS ENTIRETY AND CREATING A NEW CHAPTER 15 TO BE KNOWN AS "NUISANCE, DEBRIS AND WASTE CONTROL"

BE IT ORDAINED by the Mayor and Council of the City of Montezuma, Georgia and it is hereby ordained by authority of same that the Code of Ordinances of the City of Montezuma, Georgia, be amended by deleting Chapter 15 in its entirety and creating a new Chapter 15, as follows:

Sec. 15.1 Title.

This chapter shall be known and cited as "Nuisance, Debris and Waste Control Ordinance".

Sec. 15.2 Definitions.

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

Common continuing nuisance means a wrong that arises from the unreasonable, unhealthy, unwarranted or unlawful use by a person of his property, either real or personal, or from his improper, indecent or unlawful personal conduct, working an obstruction of or injury to the rights of the public, and producing material annoyance, inconvenience, discomfort or hurt to the public continuously or at frequent intervals.

Dump means to throw, discard, place, deposit, discharge, burn or dispose of a substance.

Handbill means any printed or written matter, any sample or device, any dodger, circular, leaflet, pamphlet, paper or booklet, or any other printed or otherwise reproduced original or copies of any matter of literature which:

- (1) Advertises for sale any merchandise, products, commodity, service or thing;
- (2) 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;
- (3) 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 subsection shall not apply where an admission fee is charged, collected or taken up for the purpose of defraying the expenses incident to such event held, given or taking place in connection with the dissemination of information which is not restricted under the ordinary laws of obscenity, public peace, safety and good order; provided nothing contained in this subsection shall be deemed to authorize the holding, giving, or taking place of any meeting, theatrical performance, exhibition or event of any kind without license where such license is or may be required by any law of this state or under any ordinance of the city; or

- (4) While containing reading matter other than advertising matter, is predominately and essentially any advertisement, and it distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

Hazardous waste means any solid waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the United States Environmental Protection Agency pursuant to the federal act which are in force and effect on February 1, 1998, codified as C.F.R. § 261.3, and any designated hazardous waste.

Litter means all discarded substances and materials, including without limitation all sand, gravel, slag, brickbats, rubbish, waste material(s), tin cans, refuse, garbage, trash, debris, dead animals, building or construction materials, demolition debris, mechanical equipment or parts, scrap tires, or any all other material or substance of any kind and description resulting from domestic, industrial, commercial or mining operations.

Litter receptacle means those containers acceptable to the city and which may be standardized as to size, shape, capacity and color, as well as any other receptacles suitable for the depositing of litter.

Person means any natural person, corporation, partnership, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary or representative or group of persons or entities of any kind.

Private property means any dwelling, house, building, or other structure, whether inhabited to be used permanently or temporarily, or continuously uninhabited or vacant, which is one hundred (100) percent privately owned, and shall include any yard, grounds, walk, parking area, driveway, porch, steps, vestibule or mailbox belonging or pertinent to such dwelling, house, building or other structure.

Public place means any area that is used or held out for use by the public, whether owned or operated by public or private interests, including but not

limited to streets, parking lots, parking garages, sidewalks, rights-of-way, parks, campgrounds, highways, alleys and other public ways.

Vehicle includes every device capable of being moved upon a public highway and in, upon or by which any person or property may be transported or drawn upon a public highway, including devices moved by human power or used exclusively upon stationary rails or tracks.

Sec. 15.3 Purpose.

This chapter is adopted pursuant to O.C.G.A. 16-7-48 and for the authority and need to protect and preserve the public health, safety, morality, order, property values, and welfare of the citizens of Montezuma, Georgia, as well as to maintain a healthful, clean and beautiful environment. This chapter is intended to supplement and to coordinate existing litter control and removal efforts, and not terminate existing efforts nor, except as specifically stated, to repeal or effect any other ordinance governing or prohibiting litter or the control and disposition of waste.

Sec. 15.4 Nuisances prohibited generally.

- (a) It shall be unlawful for any person to create, carry on or maintain any nuisance which hurts or inconveniences any person or persons within the city.
- (b) It shall be unlawful for any person to create, carry on or maintain any nuisance which tends to injure or does injure or jeopardize the health of any of the people of the city.
- (c) It shall be unlawful for any person to create, carry on or maintain any nuisance within the city which shall damage property located within the city.
- (d) No person shall keep or maintain on his premises any nuisance to the annoyance of his neighbor.

Sec. 15.5 Deposit of litter in public places.

No person shall throw, drop or in any way deposit litter on any public property except in authorized and identified litter receptacles.

Sec. 15.6 Property maintenance; storage of refuse generally.

- (a) Duty of property owner. Each owner of private or public property in the city shall keep the property free and clear of any litter or other refuse which may constitute a threat or detriment to public safety, welfare, property values, morality or good order.
- (b) Removal of litter and other refuse. Each person who owns private property in the city shall at such time as the city may prescribe,

remove to a prescribed and approved location or permit the city employees to enter and remove from such property any and all litter and other substances which might endanger the health, safety or welfare of residents of this city. A failure to remove such litter or other substances may result, whenever the code enforcement officer or police chief, or their designees deem necessary, and after reasonable notice, in the removal of such litter or other substances which might endanger the health, safety or welfare of residents of this city, in which event the costs and/or expense thereof shall be chargeable to and paid by the owners of such property and may be collected in the manner provided in this chapter.

- (c) *Cutting of grass and weeds.* Any person who owns a vacant, developed or undeveloped property shall cut the grass, weeds, and other foreign growth on such property or any property thereof and remove all litter from it at such time as the city enforcement official shall prescribe so that the public health, safety, welfare, morality, and good order are served. A failure to abide by this requirement may result, whenever the city deems it necessary and after reasonable notice, in having such grass, weeds, or other foreign growth cut by agents or employees of the city, in which event the costs and expenses thereof shall be chargeable to and paid by the person who owns such property and may be collected by the city in the manner provided in this chapter.
- (d) *Adequate receptacles required.* It shall be the duty of every tenant, lessee or occupant of any residence or establishment where people reside, congregate or are employed to provide sufficient garbage containers or receptacles to effectively handle the accumulation of garbage, waste, litter and debris during the intervals between collections and to maintain the property free and clear from litter and debris which may constitute a threat or detriment to public safety, welfare, property values, morality or good order of the area.
- (e) *Removal of furniture, appliances and other oversized items.* In reference to any discarded furniture, appliances, machinery or other oversized litter or trash. Arrangements must be made by the property owner, at his expense, for removal and disposal. Under no circumstance shall a discarded refrigerator, icebox, freezer, washer, dryer or stove or other appliances capable of entrapping a child be left in an area accessible to children while awaiting removal. Any such items left outside on private property for a period of seven (7) days or more, unless part of an authorized business operation, will be presumed discarded and after reasonable notice, be removed by the city at the property owner's expense.
- (f) *Standards for receptacles and other containers.* All litter receptacles, plastic bags, and single-use paper or cardboard boxes shall be kept clean and free of accumulated waste and shall be treated with an effective insecticide if necessary to prevent

nuisance. The capacity of the individual receptacle, if used, shall not exceed ninety (90) pounds total weight; provided that special receptacles of other capacities may be used with the written permission of the code enforcement officer for multi-family residences or businesses.

- (g) *Maintenance of nuisance or hazard prohibited.* Under no circumstances shall any private property owner be permitted to store, accumulate, or otherwise maintain any litter, debris or other refuse on the premises in such quantities as to constitute a nuisance or be harmful to the health or safety of the public; nor shall the burial of any litter, debris, or other refuse be allowed on private property, except where a special use permit has been issued for use as an inert landfill or sanitary landfill by the Environmental Protection Division.

Sec. 15.7. Dumping; use of private refuse container without permission from owner.

- (a) No person shall dump or otherwise dispose of litter, any waste containing hazardous substances, or other refuse or unsightly matter on any public or private property unless said property is specifically approved by the city or state for dumping.
- (b) It is a violation of this chapter to dump any domestic, industrial, commercial or mining waste or litter, or refuse into any private dumpster, container or private collection system without permission from the owner.
- (c) The dumping of any litter or waste materials into any container specifically designated as a recycling container is prohibited unless the materials discarded are properly separated and sorted into categories which are deposited into the containers specifically approved for the same type of recyclable waste and not mixed with any other debris or refuse.

Sec. 15.8. Throwing litter from vehicle.

It shall be unlawful to throw, drop or otherwise deposit or dispose of litter or any other refuse from any moving vehicle.

Sec. 15.9. Allowing escape of load material.

No vehicle shall be driven or moved on any street, highway or other public road within the city unless such vehicle is constructed or loaded to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom; provided, however, that sand or any substance for increasing traction, or water or other substance may be sprinkled on a roadway and the cleaning or maintaining of such roadway may be undertaken by the governmental agency having that

responsibility. Any person operating a vehicle from which any glass, litter or other object has fallen or escaped which constitutes an obstruction or could damage a vehicle or otherwise endanger travel on such street, highway or other public road shall immediately cause the street, highway or public road to be cleaned of all glass objects and shall pay any costs for such removal. No provision of this section shall apply to any motor vehicle which is used exclusively for agricultural purposes and which is not operated on or over any public highway for any other purpose than the purpose of operating it across the highway or along the highway from one (1) point of the owner's land to another part thereof, irrespective of whether or not the tracts adjoin or the purpose of taking the vehicle to a repair shop.

Sec. 15.10. Refuse collection and transport.

- (a) Proper collection and disposal of accumulated litter and other refuse is required, and such collection and disposal may not be conducted in a manner contrary to the public health, order, morality, safety or welfare.
- (b) All equipment used for the collection and transportation of litter and other refuse shall be so designed as to prevent its escape therefrom in accordance with section 15.9. This equipment shall be provided with a watertight body designed so as to prevent the escape of any fluid. All surfaces of collection and transportation equipment coming in contact with garbage or organic commercial waste shall be smooth, nonabsorbent and in good repair. Only equipment approved by the public works superintendent may be used in the collection and transportation of litter and other refuse.
- (c) All equipment used in the collection and transportation of litter and other refuse shall be thoroughly washed and treated with an approved insecticide as often as the Public Works Chief shall deem necessary to prevent fly breeding and nuisances.
- (d) All litter and other refuse spilled during collection or transportation shall be promptly removed by the refuse collector.
- (e) At each location, all litter and other refuse in the refuse receptacle shall be removed and the receptacle covered.
- (f) Hazardous waste and dead animals shall be removed in a manner approved by the Macon County Health Department and subject to any other federal, state, or local ordinances, laws, rules, statutes or regulations as may apply. Any fee for burying dead animals shall be paid at time of burial.
- (g) The city has arranged for the collection of litter and other refuse from private and public property; property owners shall be responsible for such reasonable charges as may from time to time be set for the regular removal of litter or other refuse.

Sec. 15.11. Litter receptacles for parking lots.

All parking lots, public or private, in shopping centers, outdoor theatres, restaurants, gasoline service stations, trailer parks, camping places, overnight stopping areas adjacent to highways and businesses catering to the traveling public, shall provide litter receptacles distributed within the parking area. Such receptacles shall be weighted or attached to the ground as necessary to prevent spillage. It shall be the responsibility of the owner or manager of the property to collect the refuse and trash deposited and to provide for collection or disposal of such refuse and trash.

Sec. 15.12. Storage of junk vehicles; removal by city.

- (a) It shall be unlawful for any person to keep, except within a fully enclosed building or structure or otherwise shielded or screened from public view, on any property unless properly zoned or permitted, any motor vehicle, trailer or semi-trailer which is inoperative. As used in this chapter, the term "inoperative motor vehicle" means any motor vehicle which is not in operating condition; or which for a period of ninety (90) days or longer has been partially or totally disassembled by the removal of tires, wheels, engine or other essential parts required for the operation of the vehicle.
- (b) The provisions of subsection (a) of this section shall not apply to a licensed business which is regularly engaged as an automobile dealer, salvage dealer or scrap processor.
- (c) If any person fails to remove from private property such inoperative motor vehicle, trailer or semi-trailer when in violation of this chapter, then after reasonable notice, the city through its agents or employees, may remove any such inoperative motor vehicle, and the cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the city as taxes and levies collected.

Sec. 15-13. Construction and demolition sites.

- (a) All construction and demolition contractors, building permit holders, and/or property owners shall adhere to all provisions of this section.
- (b) On-site refuse receptacles to effectively and securely handle the accumulation of all debris, paper, building material waste, scrap building materials and other trash and litter produced by those working on the site will be installed and maintained. All construction and demolition sites shall be kept in a litter-free condition. Under no circumstances shall the accumulation of litter become a threat to the public safety or to the public health, welfare, property, morality or good order of the city or portion thereof.

- (c) All dirt, mud, silt, or any other earth deposited upon any public or private property, including streets and roads, as a result of construction and/or demolition shall be immediately removed by the permit holder as to prevent any detectable amount of accumulation which may tend to cause a threat to the public safety, property values, both real and personal, or good order of the city or environment. Any construction supplies or materials, landscaping supplies or materials, or any other material deposited on a public road or right-of-way shall be removed on a daily basis, or immediately if the presence of such materials constitutes a threat to the public health or safety. In addition to all of the remedies and relief provided in section 15-17 of this chapter for violations of this section, the police chief of Montezuma, Georgia, or the building inspector of Montezuma, Georgia, or those agents as either may designate, employ, or assign, may immediately cause to cease all work being performed at the site by the issuance of a stop work order. No further work will resume at the site until the violation is corrected and inspected by the authority which issued the stop work order and all re-inspection fees that are assessed are paid in full.
- (d) Under no circumstances shall any litter, waste or debris, including, but not limited to brush, limbs, stumps, roots and other by-products of the construction or demolition process be buried on any property not expressly and properly permitted for such activity.
- (e) No burning of brush, trash, waste or debris may be conducted on any property unless the proper permit and/or notification is secured from the Montezuma Fire Department in accordance with Chapter 8 of this Code.

Sec. 15-14. Distribution of handbills and advertising matter.

- (a) It shall be unlawful to place in or on any automobile in the city any handbill, circular, pamphlet, poster, postcard or other literature, except with the express permission of the owner of the automobile.
- (b) It shall be unlawful for any person to place or drop on any private property any handbill, circular, pamphlet, poster, postcard or other literature, except with the express permission of the owner of the property or intended recipient. The provisions of this section shall not apply to the distribution of mail by the United States Postal Service, nor to newspapers, 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 or private property.

Sec. 15-15. Posting of notices on utility poles or other public structures.

No person shall post or affix any notice, poster or other paper or device calculated to attract the attention of the public to any public utility pole or other public lamppost or structure unless expressly authorized.

Sec. 15-16. Scavenging.

No person other than the owner thereof, or an agent or employee of the city, shall interfere with any container placed for the purpose of storing refuse pending collection, or remove or take any of the contents thereof, or remove any such container from the location where the container has been placed by the owner thereof.

Sec. 15-17 Enforcement; collection costs.

- (a) Except as otherwise provided in this subsection, unless the nature of the violation of this chapter is such that an immediate threat to safety or health is evident, the phrase, "reasonable notice", as used in this chapter, shall mean fifteen (15) days from such time as a written notice of the violation if posted on the property on which the violation has occurred and/or mailed to the owner of the property as reflected by the current property tax records of the city. Unless the nature of the violation of this chapter is such that an immediate threat to the safety or health is evident, with respect to the second or subsequent violations of this chapter by the same property owner within a twenty-four-month period of time, the phrase "reasonable notice", as used in this article, shall mean five (5) days from such time as a written notice of violation is posted on the property and/or mailed to the owner of the property as reflected by the current property tax records of the city.
- (b) In addition to authorizing the removal of litter or other refuse by city employees at the property owners' expense, the failure to cure or eliminate a violation of this chapter as to which notice has been provided within the time period set forth in subsection (a) of this section shall result in the issuance of a citation, returnable to the municipal court of the city, to the property owner or his agent, for violation thereof.
- (c) To the extent that any property owner in the city becomes obligated to repay or pay to the city any of the costs imposed in this chapter, the city shall have the right to collect such costs by way of all available legal process, included but not limited to suit in magistrate, state, or superior court, and the right to pursue all available and lawful post-judgment remedies. A judgment is obtained against a person under this chapter becomes a lien against the person's property in the manner provided by law. Interest on any such costs owed by any person to the city shall run at the maximum rate per year allowed under state law for

judgments from the date of completion of the work by the city until judgment or collection, whichever shall first occur, and at the legal rate of interest per year from judgment until collection.

- (d) Nothing in this section shall preclude the city from enforcing the terms of this chapter by way of immediate issuance of a citation for any violation thereof.
- (e) Nothing in this section shall preclude the city from seeking appropriate injunctive relief to halt continuing violations of this chapter or to halt a nuisance.
- (f) The city employees primarily responsible for enforcement of this chapter shall be the police chief and the building inspector of Montezuma, Georgia, and either of such officials designates.

Sec. 15-18. Penalties.

A violation of any section in this chapter shall subject the violator to the maximum punishment provided under the City Charter. A separate offense shall be deemed committed on each day during which a violation occurs or continues to occur.

ENACTED AND ADOPTED this _____ day of _____, 2006

By: _____
Willie J. Larry, Mayor

Attest: _____
Joyce H. Hardy, City Clerk