

ORDINANCE NO. 2008 – 183

AN ORDINANCE TO AMEND THE CODE OF CLAYTON COUNTY, GEORGIA, AS AMENDED, SPECIFICALLY, CODE OF CLAYTON COUNTY, GEORGIA, PART II, CHAPTER 62, OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE I, GENERAL, TO DELETE THE EXISTING CODE SECTION 62-30 "DUMPING, DEPOSITING, ETC., LITTER ON PUBLIC OR PRIVATE PROPERTY OR WATERS" AND TO SUBSTITUTE IN LIEU THEREOF A NEW LITTER CONTROL CODE TO CONSIST OF SEVEN CODE SECTIONS TO BE NUMBERED AND TITLED AS FOLLOWS: CODE SECTION 62-30 "PURPOSE AND TITLE", CODE SECTION 62-30.1 "LITTERING ON PUBLIC OR PRIVATE PROPERTY OR WATERS", CODE SECTION 62-30.2 "VEHICLE LOADS CAUSING LITTER", CODE SECTION 62-30.3 "PRIMA FACIE EVIDENCE, REBUTTABLE PRESUMPTION", CODE SECTION 62-30.4 "ENFORCEMENT", CODE SECTION 62-30.5 "ENFORCEMENT OF OTHER LAWS, RULES, OR REGULATIONS NOT LIMITED", AND CODE SECTION 62-30.6 "VIOLATIONS"; TO REPEAL CONFLICTING LAWS, ORDINANCES, AND RESOLUTIONS; TO PROVIDE SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF CLAYTON COUNTY AND IT IS HEREBY ORDAINED:

Section 1. The CODE OF CLAYTON COUNTY, GEORGIA, as amended, is hereby further amended by amending, CODE OF CLAYTON COUNTY, GEORGIA, Part II, Chapter 62, Offenses and Miscellaneous Provisions, Article I, General, to delete the existing Code Section 62-30, "Dumping, depositing, etc., litter on public or private property or waters" and subsections there under and substituting in lieu thereof a new Litter Control Code to be numbered and titled as follows: Section 62-30 "Purpose and title", Section 62-30.1 "Littering on public or private property or waters", Section 62-30.2

"Vehicle loads causing litter", Section 62-30.3 "Prima facie evidence, rebuttable presumption", Section 62-30.4 "Enforcement", Section 62-30.5 "Enforcement of other laws, rules, or regulations not limited", and Section 62-30.6 "Violations". The Litter Control Code with its sections and subsections shall read as follows:

**"Sec. 62-30. Purpose and title.**

(a) Purpose. Pursuant to O.C.G.A. § 36-1-20(a), the governing authority may provide for the regulation and control of litter. The Board of Commissioners hereby enacts the following provisions in an effort to regulate and control litter in the unincorporated areas of the county for the purpose of protecting and preserving the public health, safety and welfare of its citizens.

(b) Title. Code sections 62-30 through and including 62-30.6 shall be know as and may be cited as the Litter Control Code.

(c) Objectives. The objectives of this litter control code are:

1. Provide for uniform prohibition throughout unincorporated Clayton County of any and all littering on public or private property; and
2. Prevent the desecration of the beauty and quality of life of the county and prevent harm to the public health, safety, environment, and general welfare, including the degradation of water and aquatic resources caused by litter.

(d) Applicability. This litter control code shall apply to all public and private property within unincorporated Clayton County.

(e) Compatibility with other regulations. This litter control code 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 litter control code should be considered minimum requirements, and where any provision of this litter control code imposes restrictions different from those imposed by any other litter control code, 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.

(f) Severability. If the provisions of any article, section, subsection, paragraph, subdivision or clause of this litter control code shall be judged invalid by a court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this litter control code.

(g) Litter defined. As used in this litter control code, "litter" means any discarded or abandoned refuse, rubbish, junk, liquid or other waste material or any dead animals that are not subject to the provisions of O.C.G.A. § 4-5-4.

**Sec. 62-30.1. Littering on public or private property or waters.**

(a) It shall be unlawful for any person or persons to dump, deposit, throw or leave

litter or to cause or permit the dumping, depositing, placing or throwing, or leaving of litter on any public or private property or waters in the unincorporated areas of the county, unless:

- (1) The property is designated by the state or county for the disposal of such litter, and such person is authorized by the proper public authority to use such property;
- (2) The litter is placed into a litter receptacle or container installed on such property in such a manner as to prevent it from being carried and deposited by the elements upon any public or private 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 public welfare.

(b) Public property as used in this litter control code shall mean any sidewalk, road, state or county highway or interstate highway including I-675, or the right-of-way thereof; 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 any property within unincorporated Clayton County that is owned, leased or operated by Clayton County, the State of Georgia or any municipal government.

(c) Private property as used in this litter control code shall mean any residential or farm land, or any body of water or watercourse or the shores or beaches thereof or any commercial or business property open to the general public.

#### **Sec. 62-30.2. Vehicle loads causing litter.**

(a) It shall be unlawful for any person to operate any motor vehicle with a load on or in such vehicle unless the load on or in such vehicle is adequately covered and secured to prevent the dropping or shifting of materials from such load onto the roadway, or within the public or private property.

(b) No person shall drive or move any vehicle within the county unless such vehicles are so constructed or loaded as to prevent any load, contents or litter contained therein from being blown or deposited upon any street, alley or other public place.

(c) No person shall drive or move any loaded truck or vehicle upon any county road with direct ingress and egress to any solid waste disposal facility or site operated by the county unless such vehicle and the load therein is covered by canvas or other material providing complete coverage, properly secured, so as to prevent any load, contents or litter from becoming loose, detached or blown from the vehicle, or from dropping or escaping from the vehicle during the movement thereof.

#### **Sec. 62-30.3. Prima facie evidence, rebuttable presumption.**

(a) Whenever litter is thrown, deposited or dumped from any motor vehicle, boat, airplane or other conveyance in violation of this litter control code, it shall be prima facie evidence that the operator of the conveyance has violated this litter control

code.

(b) Whenever litter dumped, deposited, thrown or left on public or private property in violation of this litter control code is discovered to contain any article or articles, including but not limited to letters, bills, publications or other writings, which display the name of a 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 litter control code.

**Sec. 62-30.4. Enforcement.**

Any county peace officer, code enforcement officer of the police department, and any employee of community development, transportation and development, or refuse control who has been adequately trained and designated by his or her director, are authorized to enforce the provisions of this litter control code and may issue a summons to any violator to appear before the Magistrate Court of Clayton County when there is probable cause to believe that a violation of the litter control code has occurred.

**Sec. 62-30.5. Enforcement of other laws, rules, or regulations not limited.**

Nothing in this litter control code shall limit the authority of any state or local agency to enforce any other laws, rules, regulations or ordinances relating to litter or waste.

**Sec. 62-30.6 Violations**

(a) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of the litter control code. Any person who has violated or continues to violate the provisions of the litter control code, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided for in Section 1-12 of the Code of Clayton County.

(b) In addition to the punishment provided for in Section 1-12 of the Code of Clayton County, the Court in its discretion may order the violator to reimburse the county for the reasonable cost of removing the litter.

(c) Upon conviction, the Court in its discretion may order the violator to pick up and remove from any public right-of-way for a distance not to exceed one mile any litter the person has deposited thereon by anyone: and/or repair or restore property damaged by such littering prior to the date of execution of sentence; or In the sound discretion of the 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 the violator 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,

(d) The court may publish the names of persons convicted of violating this litter control code."

Section 2. All laws, ordinances and resolutions, or parts thereof, which conflict with the provisions of this Ordinance are hereby repealed.

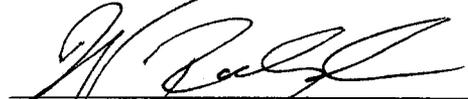
Section 3. If any part of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect the remainder of this enactment, and such remainder shall remain in full force and effect.

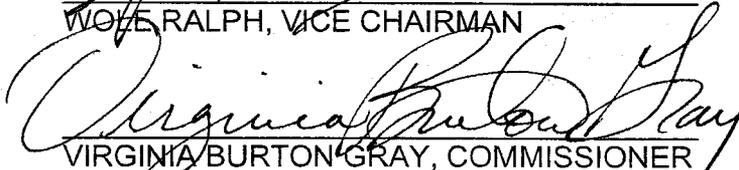
Section 4. This Ordinance shall become effective upon its approval by the Board of Commissioners.

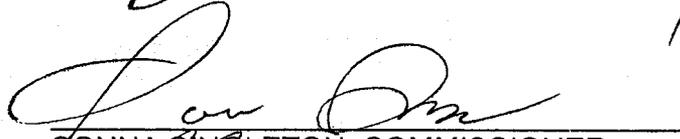
SO ORDAINED, this the 31<sup>st</sup> day of October, 2008.

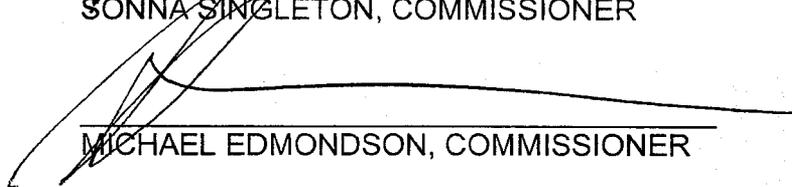
CLAYTON COUNTY BOARD OF COMMISSIONERS

  
ELDRIN BELL, CHAIRMAN

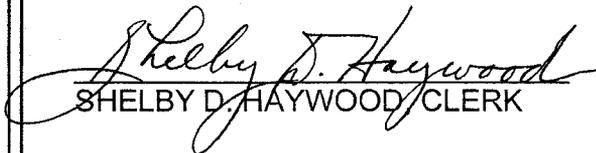
  
WOLE RALPH, VICE CHAIRMAN

  
VIRGINIA BURTON GRAY, COMMISSIONER

  
SONNA SINGLETON, COMMISSIONER

  
MICHAEL EDMONDSON, COMMISSIONER

ATTEST:

  
SHELBY D. HAYWOOD, CLERK