



City Council Meeting - Final

August 21, 2023
7:00 PM

E. ORD2023-011 Approval of Ordinance ORD2023-011 for the amendment to Part II – Code of Ordinances – Chapter 86 – Solid Waste – article IV. Litter and authorize the Mayor to sign and execute all related documents.



City of Smyrna

Issue Sheet

A Max Bacon
City Hall
2800 King Street
Smyrna, GA 30080

File Number: ORD2023-011

Agenda Date: 8/21/2023

In Control: City Council

File Type: Ordinance

Agenda Section:
Formal Business

Agenda Number: E.

Department: Engineering

Agenda Title:

Approval of Ordinance ORD2023-011 for the amendment to Part II – Code of Ordinances – Chapter 86 – Solid Waste – article IV. Litter and authorize the Mayor to sign and execute all related documents.

Citywide

ISSUE AND BACKGROUND:

The Metropolitan North Georgia Water Planning District (Metro Water District) has implemented a comprehensive water management plan for water supply and conservation, watershed protection, wastewater management, and public education across 15 counties in the Atlanta metro area. The Georgia Environmental Protection Division (EPD) conducts regular audits on counties and cities in the Metro Water District to ensure compliance with the plan and model ordinances. Compliance is required in order for cities and counties to modify or obtain new water withdrawal permits, stormwater permits, or obtain loans for water and wastewater projects.

The proposed changes to the City's Litter Ordinance are a result of the Georgia EPD review for compliance with the Metro Water District plan and model ordinance. The proposed changes include updating ordinance language regarding evidence and the addition of civil penalties and enforcement responsibilities.

RECOMMENDATION / REQUESTED ACTION:

The Engineering Department recommends approval of Ordinance ORD2023-011 for the amendment to Part II – Code of Ordinances – Chapter 86 – Solid Waste – article IV. Litter and authorize the Mayor to sign and execute all related documents.

ARTICLE IV. LITTER

Sec. 86-81. Declaration of intent.

It is the intention of the mayor and council to prohibit all littering on public or private property, and to curb thereby the desecration of the beauty of the city and harm to the health, welfare and safety of its citizens caused by individuals who litter.

(Code 1977, § 11-27)

Sec. 86-82. Definitions.

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

Litter means all sand, gravel, slag, brickbats, rubbish, waste material, metal cans, refuse, garbage, trash, debris, dead animals or discarded materials of every kind and description, including loose or scattered handbills, newspapers, posters and other such items which may be carried by the wind or water.

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

(Code 1977, § 11-28)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 86-83. Unlawful activities.

- (a) It shall be unlawful for any person to dump, deposit, place, throw or leave, or to cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property in the city, unless:
 - (1) Such property is designated by the city for the disposal of such litter, and such person is authorized by the proper public authority to use such property;
 - (2) Such litter is placed into a closed litter receptacle or container installed on such property; and
 - (3) Such 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 so that the litter may not be scattered or carried by wind or water, and otherwise consistent with the public welfare.
- (b) It shall be unlawful for any person to place solid waste or refuse into a private or commercial container or on any property or location different from where the solid waste or refuse was generated, except:
 - (1) When such container has been approved by the proper authority of the city, as designated by the mayor and council; and

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- (2) Such container is designated and intended for use by the location where the solid waste or refuse was generated.
- (c) It shall be presumed that solid waste or refuse containing matter identifying the owner was under the possession and control and belonged to such owner at the time it was discarded, and, therefore, that such owner discarded the solid waste or refuse in the manner such solid waste or refuse shall be found, until otherwise proven.
- (d) No person shall operate any motor vehicle with a load on or in such vehicle unless the load on or in such vehicle is adequately secured to prevent the dropping or shifting of materials from such load onto the roadway.
- ~~(d) The city administrator is hereby authorized, but not required, to pay \$50.00 as a reward to any person, except a city employee, for information leading to a conviction of any person violating the provisions of this section.~~
- (e) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. Any person who has violated or continues to violate the provisions of this article, may be subject to the enforcement actions outlined in this article or may be restrained by injunction or otherwise sentenced in a manner provided by law.

~~Violations of this section shall be punishable as a misdemeanor as provided in this Code.~~

(Code 1977, § 11-29)

Sec. 86-84. Evidence.~~Prima facie evidence.~~

- (a) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane, or other conveyance in violation of this article, it shall be prima facie evidence that the operator of the conveyance has violated this article.
- (b) Except as provided in subsection (a), whenever any litter which is dumped, deposited, thrown or left on public or private property in violation of this article 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 rebuttable presumption that such person has violated this article.

~~Whenever litter is thrown, deposited, placed, dropped or dumped from any motor vehicle, boat, airplane or other conveyance in violation of section 86-83, it shall be prima facie evidence that the operator of the conveyance is the person who disposed of the litter.~~

Sec. 86-85. Penalties.

Any person who violates this article shall be guilty of a violation and, upon conviction thereof, shall be punished as follows:

- (a) By a fine of not less than \$200 and not more than \$1,200; and
- (b) In addition to the fine set out in subsection (a) above, the violator shall reimburse the City of Smyrna for the reasonable cost of removing the litter when the litter is or is ordered removed by the City of Smyrna; and
- (c)

(1) In the sound discretion of the court, 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 he has deposited and any and all litter deposited thereon by anyone else prior to the date of execution of sentence; or

(2) 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 he 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 article.

Sec. 86-86. Enforcement.

All law enforcement agencies, officers and officials of this state or any political subdivision thereof, or any enforcement agency, officer or any official of any commission of this state or any political subdivision thereof, are hereby authorized, empowered and directed to enforce compliance with this article.

(Code 1977, § 11-30)

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