

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER) ORDINANCE NUMBER 13-04

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF ORDINANCES, DORCHESTER COUNTY, SOUTH CAROLINA, BY AMENDING SECTIONS 34-107, 34-108 AND 34-109 AND ADDING A NEW SECTION 34-110 AND 34-111 TO CHAPTER 34, ARTICLE IV, LITTER CONTROL, PROVIDING FOR LITTER CONTROL IN THE UNINCORPORATED AREAS OF DORCHESTER COUNTY.

WHEREAS, Dorchester County is empowered to adopt ordinances as may appear to be necessary and proper for the security, general welfare and convenience of the public and for preserving health, peace, order and good government; and

WHEREAS, Dorchester County Council has determined there is a need to provide for litter control for the welfare of its citizens;

NOW, THEREFORE, BE IT ORDAINED by the Dorchester County Council, duly assembled, that the Code of Ordinances, Dorchester County, South Carolina, is hereby amended and supplemented by amending Sections 34-107, 34-108, and 34-109, and by adding a new Section 34-110 and 34-111 to Chapter 34, Article IV, as follows:

Sec. 34-107. 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 discarded waste materials including, but not limited to, rubbish, garbage, trash, refuse, sand, gravel, yard clippings, limbs, leaves, slag, paper, plastic, rubber, tires, waste building materials at construction sites, bottles, glass, aluminum cans, cigarette butts, cigarette filters shell fish, dead animals, or other discarded materials of every kind and description.

Litter receptacle means those containers adopted by the county.

Person means an individual, partnership, copartnership, cooperative, firm, company, public or private corporation, political subdivision, agency of the county, trust, estate, joint structure company or any other legal entity or its legal representative, agent or assigns.

Public or private means, but is not limited to, the right-of-way of any road or highway, any body of water or watercourse, park, playground, conservation or recreation area, timberlands, forests, buildings, refuge, and residential or farm properties.

Solid waste means all refuse including, but not limited to, bulk, debris, garbage, recyclable materials, rubbish and trash.

Vehicles means every device capable of being moved upon a public highway, body of water, or public property and in, upon, or by which any person's property is or may be transported or drawn upon a public highway, body of water, or public property.

Sec. 34-108. Litter, loose materials, and solid waste to be covered to prevent escape during transportation, penalties.

- (a) No vehicle which transports litter, loose materials, or solid waste shall be driven or moved on any highway, body of water, or public property unless the litter, loose material, or solid waste is secured by means of a covering which is fastened securely so as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping from the vehicle.
- (b) A person violating the provision of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than \$100.00 nor more than \$500.00 or imprisoned for not more than 30 days for each offense, or both. The court may further impose one of the following:
 - (1) In the sound discretion of the 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, loose material, or solid waste the person has deposited and any and all litter, loose material, or solid waste deposited thereon by anyone else prior to the date of execution of sentence; or
 - (2) In the sound discretion of the court in which conviction was obtained, the person may be directed to perform other forms of public service as may be ordered due to physical or other incapacities, which shall be under the supervision of the court.

Sec. 34-109. Prima facie evidence; inferred presumption.

- (a) Whenever litter, loose materials, or solid waste are thrown, dropped, deposited, dumped, sifted, leaked, or otherwise escape from any motor vehicle, boat, airplane or other conveyance in violation of section 34-108, it shall be prima facie evidence that the operator of the conveyance has committed a violation of this article.
- (b) 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 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 such person, it shall be inferred that such person has violated this article.

Sec. 34-110. Littering on public or private property or waters prohibited; exceptions;

responsibility for removal; penalties.

- (a) No person may dump, throw, drop, deposit, discard or otherwise dispose of litter or other solid waste upon any public or private property or waters in the county whether from a vehicle or otherwise, including, but not limited to, a public highway, public park, campground, forest land, recreational area, road, street or alley except as follows:
 - (1) When the property is designated by the state or county or any of its agencies or political subdivisions for the disposal of litter and other solid waste and it is authorized by the proper public authority to use the property for that purpose;
 - (2) Placed into a litter receptacle or container installed on such property, and is placed in a manner that the litter is prevented from being carried away by the elements upon a part of the private or public property or waters.
- (b) No person or persons may dump, throw, discard, drop, otherwise dispose or leave any litter or other solid waste other than household garbage or recyclables as specified at county waste and recycling centers, or leave such specified items after the center has closed.
- (c) Responsibility for the removal of litter or other solid waste from public or private property or receptacles is upon the person convicted under this section. However, if there is no conviction, the responsibility is upon the owner of the property or upon the owner of the property where the receptacle is located. If there is no conviction and, in the discretion of the county administrator or his designee, an undue hardship is created for the owner of the property, assistance in removing the litter or other solid waste may be provided by the county.
- (d) A person who violates the provisions of this section in an amount less than fifteen (15) pounds in weight or twenty-seven (27) cubic feet in volume is guilty of a misdemeanor and upon conviction must be fined not less than \$100.00 dollars nor more than \$200.00 or imprisoned for not more than thirty days for each offense, or both. In addition to a fine and for each offense under the provisions of this section, the court shall also impose a minimum of five hour litter and other solid waste gathering labor or other form of public service as the court may order because of physical or other incapacities, which shall be under the supervision of the court.
- (e) The fine for deposit of a collection of litter or other solid waste in an area or facility not intended for public deposit of litter or other solid waste is \$200.00. The provisions of this item apply to a deposit of litter or other solid waste in an area or facility not intended for public deposit of litter or other solid waste, but this does not prohibit a private property owner from depositing litter or other solid waste as an enhancement to their property if the depositing does not violate applicable state and local health and safety regulations. In addition to a fine and for each offense under the provisions of this section, the court may also impose a minimum five hours litter and other solid waste gathering labor, or other public service as the court may order due to physical or other incapacities, which labor or public service shall be under the supervision of the court.
- (f) The court, in lieu of payment of the monetary fine imposed for a violation of this section, may direct the substitution of additional litter or other solid waste gathering labor, or other form of public service as it shall order due to physical or other incapacities, which labor or

public service shall be under the supervision of the court, not to exceed one hour for each \$5.00 dollars of fine imposed.

- (g) For the second and subsequent convictions under subsections (d) or (e) of this section, a minimum of twenty hours of community service shall be imposed in addition to a fine.
- (h) In addition to other punishment authorized by this section, in the discretion of the court in which conviction is obtained, the person so convicted may be directed by the court to pick up and remove from any public place or any private property, with permission of the owner upon which it is established by competent evidence that the convicted person has deposited litter or other solid waste, all such litter or other solid waste deposited on the place or property by anyone before the date of execution of sentence.
- (i) Magistrates and municipal courts have jurisdiction to try violations of this article, and at the discretion of the court may publish the names of those persons convicted for violations of this article and require those persons to wear an orange safety vest labeled, "LITTERBUG", during litter or other solid waste gathering labor.
- (j) Any person who violates the provisions of this section in an amount exceeding fifteen (15) pounds in weight or twenty-seven (27) cubic feet in volume, but not exceeding five hundred (500) pounds or one hundred (100) cubic feet, is guilty of a misdemeanor and upon conviction, must be fined not less than \$200.00 nor more than \$500.00 or imprisoned for not more than ninety days, or both. In addition, the court shall require the violator to pick up litter or other solid waste, or perform other community service commensurate with the offense committed.
- (k) Any person who violates the provisions of this section in an amount exceeding five hundred (500) pounds in weight or one hundred (100) cubic feet in volume is guilty of a misdemeanor and upon conviction, must be fined not less than \$500.00 nor more than \$1,000.00, or imprisoned not more than one year, or both. In addition, the court may order the violator to:
 - (1) Remove or render harmless the litter or other solid waste dumped in violation of this subsection;
 - (2) Repair or restore property damaged by, or pay damages for damage arising out of, the dumping of litter or other solid waste in violation of this section; and/or
 - (3) Perform community public service relating to the removal of litter or solid waste dumped in violation of this section or relating to the restoration of an area polluted by litter or solid waste dumped in violation of this section by the person so convicted or others.
- (l) A court may enjoin a violation of this article.
- (m) A motor vehicle, vessel, aircraft, container, crane, winch or machine involved in the disposal of more than five hundred (500) pounds in weight or more than one hundred (100) cubic feet in volume of litter or other solid waste in violation of this section is declared contraband and is subject to seizure and summary forfeiture to the county.
- (n) If a person sustains damages arising out of a violation of this section that is punishable as a felony, a court, in a civil action for such damages, shall order the person to pay the injured party threefold the actual damages or \$200.00, whichever is greater. In addition, the court shall order the person to pay the injured parties' attorney's fees.

(o) No part of a fine imposed pursuant to this section may be suspended.

Sec. 34-111. Severability; effective date.

Should any section, paragraph, or provision of this section be adjudged invalid or held unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of this Section as a whole or any part or provisions thereof, other than the part or provisions so decided to be invalid or unconstitutional.

This article, as amended, shall take effect upon favorable Third Reading by Dorchester County Council.

Approved and adopted on this 4th day of March, 2013.



William R. Hearn, Jr., Chairman
Dorchester County Council

First Reading: 1-22-13
Second Reading: 2-19-13
Public Hearing: 2-19-13
Third Reading: 3-4-13

ATTEST:


Sandy Lawley, Clerk of Council