

AN ORDINANCE PROHIBITING THE THROWING OR DEPOSITING OF LITTER IN PUBLIC PLACES IN THE CITY OF CLEVELAND, MISSISSIPPI, REGULATING THE DISTRIBUTION OF COMMERCIAL AND NON-COMMERCIAL HANDBILLS, CONTROLLING THE DEPOSITING OF LITTER ON PRIVATE PREMISES, PROVIDING A LIEN FOR CITY CLEARANCE, AND PRESCRIBING PENALTIES FOR THE VIOLATION OF THESE PROVISIONS IN ORDER TO PROMOTE AND PRESERVE THE GENERAL PUBLIC HEALTH, SAFETY, AND WELFARE.

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CLEVELAND, MISSISSIPPI, AS FOLLOWS:

SECTION 1. SHORT TITLE.

This Ordinance shall be known and may be cited as the “City of Cleveland, Mississippi, Anti-Litter Ordinance.”

SECTION 2. DEFINITIONS.

For the purposes of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

1. AIRCRAFT is any contrivance now known or hereafter invented, used, or designated for navigation or for flight in the air. The word “aircraft” shall include helicopters and lighter-than-air dirigibles and balloons.
2. AUTHORIZED PRIVATE RECEPTACLE is a litter storage and collection receptacle as required and authorized by the ordinances of the City of Cleveland.
3. CITY is the City of Cleveland, Mississippi.
4. COMMERCIAL HANDBILL is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature;
  - a. Which advertises for sale any merchandise, product, commodity, or thing; or
  - b. Which 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; or
  - c. Which 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 the clause shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance,

exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; PROVIDED, that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this State, or under any ordinance of this City; or

- d. Which, while containing reading matter other than advertising matter is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.
5. GARBAGE is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
6. LITTER is garbage, refuse, and rubbish as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, and welfare.
7. NEWSPAPER is any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with Federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law, and in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.
8. NON-COMMERCIAL HANDBILL is any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.
9. PARK is a park, reservation, playground, beach, recreation center or any other public area in the City, owned or used by the City and devoted to active or passive recreation.
10. PERSON is any person, firm, partnership, association, corporation, company, or organization of any kind.
11. PRIVATE PREMISES is any dwelling, house, building, or other structures, designed or used whether wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

12. PUBLIC PLACE is any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds, and buildings.
13. REFUSE is all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.
14. RUBBISH is nonputrescible solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.
15. VEHICLE is every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

### SECTION 3. LITTER IN PUBLIC PLACES.

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the City except in public receptacles, in authorized private receptacles for collection, or in official City dumps.

### SECTION 4. PLACEMENT OF LITTER IN RECEPTACLES SO AS TO PREVENT SCATTERING.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

### SECTION 5. SWEEPING LITTER INTO GUTTERS PROHIBITED.

No person shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

### SECTION 6. MERCHANTS DUTY TO KEEP SIDEWALKS FREE OF LITTER.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the City shall keep the sidewalk in front of their business premises free of litter.

### SECTION 7. LITTER THROWN BY PERSONS IN VEHICLES.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the City or upon private property.

### SECTION 8. TRUCK LOADS CAUSING LITTER.

No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or

deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

#### SECTION 9. LITTER IN PARKS.

No person shall throw or deposit litter in any park within the City except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

#### SECTION 10. LITTER IN LAKES AND FOUNTAINS.

- a. Unlawful acts. No person or persons, firm, or corporation shall throw, place, or deposit litter in any fountain, pond, lake, stream, bay, or other body of water in a park or elsewhere within the City.
- b. Unlawful acts. No person or persons, firm, or corporation, shall throw or place any refuse, paper, trash, glass, nails, tacks, wire, bottles, cans, yard trash, concrete, earthen fill, garbage, containers, litter, or other debris or abandoned material of any nature in any ditch, stream, river, or retention basin that regularly or periodically carries surface water runoff.
- c. Unlawful acts. No person or persons, firm, or corporation, shall deliberately or unintentionally place or dispose of grass clippings, brush, fill, trash, debris, obstructions, or other unwanted or abandoned material of any nature onto the public street, roadway, or sidewalks, or into the gutters or storm sewers or within or along the banks of man-made or natural water course or in adjacent floodplain areas which may wash into the streams and storm sewers.
- d. Unlawful acts. No person or persons, firm, or corporation shall start, perform, carry out, or complete any new construction or additions to existing construction without providing adequate measures to control or prevent building or construction debris or soil erosion from getting into any portion of the drainage system.
- e. Violation. Any such person or party who violates these provisions (Section 10.a, 10.b, 10.c, or 10.d) is and shall be guilty of a misdemeanor, punishable as provided by law and hereinafter. Each occurrence or day of such occurrence continuing shall be a separate offense.
- f. Enforcement. The Director of Public Works, any building or other inspector, or any law enforcement officer, may enforce these provisions as provided by law.
- g. Remedies cumulative. These provisions cumulative and are in addition to any statutory or other lawful provisions and remedies. In the event the Mayor and Board of Aldermen deem it necessary to bring any civil action to enforce the terms of these provisions, the

violator shall be responsible for all court costs and legal fees and expenses incurred by the City therefore.

**SECTION 11. THROWING OR DISTRIBUTING COMMERCIAL HANDBILLES IN PUBLIC PLACES.**

No person shall throw or deposit any commercial or non-commercial handbill in or upon any sidewalk, street or other public place within the City. Nor shall any person hand out or distribute or sell any commercial handbill in any public place. Provided, however that it shall not be unlawful on any sidewalk, street, or other public place within the City for any person to hand out or distribute, without charge to the receiver thereof, any non-commercial handbill to any person willing to accept it.

**SECTION 12. PLACING COMMERCIAL AND NON-COMMERCIAL HANBILLS ON VEHICLES.**

No person shall throw or deposit any commercial or non-commercial handbill in or upon any vehicle. Provided, however, that is shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a non-commercial handbill to any occupant of a vehicle who is willing to accept it.

**SECTION 13. DEPOSITING COMMERCIAL AND NON-COMMERCIAL HANDBILLS ON UNINHABITED OR VACANT PREMISES.**

No person shall throw or deposit any commercial or non-commercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

**SECTION 14. PROHIBITING DISTRIBUTION OF HANDBILLS WHERE PROPERTY POSTED.**

No personal shall throw, deposit or distribute any commercial or non-commercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing", "No Peddlers or Agents", "No Advertisement" or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbill left upon such premises.

**SECTION 15. DISTRIBUTING COMMERCIAL AND NON-COMMERCIAL HANDBILLS AT INHABITED PRIVATE PREMISES.**

No person shall throw, deposit or distribute any commercial or non-commercial handbill in or upon private premises which are inhabited, except by handling or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises. Provided, however, in case of inhabited private premises which are not posted, as provided in this Ordinance, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or present such handbill from being blown or drifted about such premises or sidewalks, street, or other public places, and except that mailboxes may not be so used when so prohibited by Federal Postal law or regulations.

**EXCEPTION FOR MAIL AND NEWSPAPERS.** The provisions of this Section shall not apply to the distributions of mail by the United States, nor to newspapers (as defined herein) 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 place or upon private property.

**SECTION 16. DROPPING LITTER FROM AIRCRAFT.**

No person in an aircraft shall throw out, drop or deposit within the City any litter, handbill or any other object.

**SECTION 17. POSTING NOTICES PROHIBITED.**

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamp post, public utility pole or shade tree, or upon any public structures or building, except as may be authorized or required by law.

**SECTION 18. LITTER ON OCCUPIED PRIVATE PROPERTY.**

No person shall throw or deposit litter on any occupied private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

**SECTION 19. OWNER TO MAINTAIN PREMISES FREE OF LITTER.**

The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this Section shall not prohibit the storage of litter in authorized private receptacles for collection.

**SECTION 20. LITTER ON VACANT LOTS.**

No person shall throw or deposit litter on any open or vacant private property within the City whether owned by such person or not.

**SECTION 21. REMOVAL OF RUBBISH.**

The City may proceed to have weeds cut and cisterns sealed or filled with earth, remove rubbish, litter, dilapidated fences, and outside toilets, and to drain cesspools and standing water from any property located within the municipality upon notice and proceedings by the Mayor or City Inspector as provided in Section 3374-171 of the Mississippi Code of 1942 as amended, taxing costs as therein provided.

**SECTION 22. PERMITS.**

It shall be unlawful for any person to distribute any handbill without a permit therefor, and any person desiring to distribute handbills or objects herein defined as such shall make application to a committee for a hearing thereon. At said hearing said committee shall determine what bond shall be required of the applicant to defray, the expense of clearing and cleaning up and removing from streets, sidewalks, or public or private property the debris and litter caused by the proposed distribution and to indemnify said City from any and all claim of damages that may be caused by the throwing of said handbills or objects upon the sidewalk, streets, or private

or public property of said City. In making the determination for the permit and bond, the committee shall take into consideration the size and volume of said handbills or objects, the nature of the materials thereof, the number of people that would be adversely affected thereby, and any and all other questions of fact necessary to determine that said permit shall be issued or refused and the amount of the bond to be required for said distribution. If said applicant is aggrieved by the action of said Mayor and Board upon said application he shall appeal to the County or Circuit Court of the Second Judicial District of Bolivar County, Mississippi, making said City a proper party therein as provided by law in similar cases.

**SECTION 23. PENALTIES.**

Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction therefore shall be fined in an amount not exceeding one hundred dollars (\$100.00) or be imprisoned for a period not exceeding thirty (30) days or be both so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense and be punishable as such hereunder.

**SECTION 24. SEPARABILITY.**

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 25. ORDINANCE REPEALED.**

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

The foregoing ordinance was first reduced to writing and duly introduced and its adoption moved by Alderman West; it was then read and considered, and upon being duly seconded by Alderman Felts it was voted on section by section and then put to vote on final passage as a whole. In each instance it was adopted unanimously by all Aldermen present voting "Aye", as follows: Alderman Homer L. Sledge, Jolly, Nevin Sledge, West and Felts. Aldermen Hutchinson and Hayles were absent and not voting.

Thereupon, the Mayor declared said ordinance duly, legally and unanimously adopted, and approved and signed same in open session this September 11, 1962.

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Wattie Bishop, Mayor

(seal)

Attest:

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Dorothy N. Bacon, Clerk