

ORDINANCE NO: 506

ORDINANCE FOR LITTER ABATEMENT ENFORCEMENT AND CONTROL

BE IT ORDAINED by the City Council of the City of Rainbow City, Alabama, as follows:

WHEREAS, the City Council of Rainbow City, Alabama recognizes the need for enactment of such Ordinances and Penalties relating to enforcement of litter provisions to protect the welfare of its citizenry and visitors;

WHEREAS, the City Council of Rainbow City, Alabama elects and adopts the following Ordinances and Penalties it is hereby fixed and provided that:

SECTION 1. Definitions

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

Authorized private receptacle means a litter storage and collection receptacle as required and authorized in this chapter.

Garbage means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.

Handbill means any printed or written matter, and sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, or booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the definition of newspaper.

Litter means any object or substance which tends to create a danger to public health, safety, or welfare or which by sight or smell creates or contributes to unsightly or unsanitary conditions.

Newspaper means any newspaper of general circulation as defined by law of this state, including, but not limited to, any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

Park means a park, reservation, playground, beach, recreation center, tennis center, field, or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

Private premises means any dwelling, house, building or other structure designed or used either 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, entranceway, passageway, parking area, storage area, steps, vestibule, mailbox, or recreation facility belonging or appurtenant to such dwelling, house, building or other structure.

Public place means any street, sidewalk, road, alley or other public way and any public square, park, space, ground or building.

Refuse means putrescible and nonputrescible solid wastes (except body and animal wastes), including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes.

Rubbish means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, shrub clippings, leaves, tree prunings, cut grass and weeds, pine straw, rocks, wood, glass, bed springs, mattresses, crockery, discarded appliances and similar materials.

Vehicle means any device in, upon or by which any person or property is or may be transported or drawn upon a street, road, or alley, including any device used exclusively upon stationary rails or tracks.

SECTION 2. Enforcement of the provisions of this Ordinance

(a) Only sworn police officers are authorized to enforce litter violations of this Ordinance involving moving vehicles.

(b) The police department shall be primarily responsible for enforcement of nuisance violations of this Code involving litter, accumulations of debris and rubbish, and litter involving machinery or vehicles.

(c) The mayor and city council by resolution may designate additional city employees as persons responsible for the enforcement of the provisions of this Ordinance.

(d) All of persons designated this Section may enforce the specified violations by citations issued to the violator. The person so named may plead guilty to such offense by signing the citation form and returning the minimum penalty to the municipal magistrate without the necessity of appearing before the municipal judge.

SECTION 3. Penalties

(a) All violations of the provisions of this Ordinance, except subsection (b), shall be punishable as follows:

(1) For the first offense, a minimum fine of \$500.00 and a minimum of 8 hours of community service collecting litter.

(2) For the second offense committed within 12 months of the preceding violation, a minimum fine of \$500.00 and a minimum of 24 hours of community service collecting litter.

(3) For the third offense committed within 12 months of the preceding violation, a minimum fine of \$500.00 and no less than 3 days and no more than 6 months in jail.

(b) All violations for failure to remove a receptacle or container shall first be provided a warning notice or citation; thereafter the minimum fine for the first violation shall be \$150.00, \$250.00 for the second violation and \$500.00 for the third violation within 12 months of the preceding violation.

(c) The provisions of subsections (a) and (b) provide a minimum fine and/or punishment only. The municipal court retains jurisdiction to assess the maximum fine and/or punishment as provided within its jurisdictional and enforcement mandate.

SECTION 4. Duty of abutting property owners to keep sidewalks and alleys free of litter

(a) Persons owning or occupying property shall keep the sidewalk in front of their premises and the strip between the street and the sidewalk free of litter. Persons whose property abuts a city alley shall keep the alley free of litter.

(b) Persons owning, managing or employed by a commercial establishment or institution within the city shall keep the sidewalk in front of their premises free of litter. No person owning, managing or employed by a commercial establishment or institution shall deposit solid waste therefrom in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians.

SECTION 5. Depositing litter in water body

No person shall throw or deposit litter in any fountain, pond, lake, stream, creek, branch, river, bay, or other body of water in a park or elsewhere within the city.

SECTION 6. Depositing litter in stormwater drainage canal or ditch

It shall be unlawful within the city to throw any trash, garbage, foreign substance or refuse of any kind into any stormwater drainage canal or ditch.

SECTION 7. Depositing and throwing litter from vehicle

It is unlawful for any person to throw or deposit litter from a vehicle onto public or private property or for the driver and/or owner (if present in the vehicle) to allow litter from the vehicle to be thrown or deposited onto public or private property. 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. The fact that litter comes from a vehicle shall create a presumption that the driver and/or owner failed to take reasonable measures to prevent such action. For the purposes of this section, the "owner" of a rented or leased vehicle shall be the person who has rented or leased it.

SECTION 8. Placing handbills on vehicles

No person shall place or deposit any handbill in or upon any vehicle, except in a manner that will prevent it from being blown about or scattered by the elements.

SECTION 9. Depositing handbills on vacant premises

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

SECTION 10. Depositing handbills on premises where notice is posted or contrary to request of occupant

No person shall throw, deposit or distribute any handbill upon any private premises if requested by anyone thereon not to do so, or if there is placed on such

premises in a conspicuous position near the entrance thereof a sign bearing the words "No Trespassing," "No Solicitors," "No Advertisement," or any similar notice, indicating in any manner that the occupants of such premises do not desire to have their right to privacy disturbed or to have any such handbills left upon such premises.

SECTION 11. Distributing handbills at inhabited private premises

No person shall throw, deposit or distribute any handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, agent, occupant or lessee then present in or upon such private premises; provided that, in the case of inhabited private premises which are not posted as provided in SECTION 10 of 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 so as to secure or prevent such handbill from being blown or drifting about such premises or sidewalks, streets or other public places. Mailboxes shall not be used for placement or deposit of handbills when prohibited by federal law or regulation. 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 premises 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 of another.

SECTION 12. Posting notices

No person shall post or affix any notice, poster, sign or other paper or device calculated to attract the attention of the public to any lamp post, light post, utility pole, tree, fence, temporary pole, or stake or upon any public structure, building, park, right-of-way or other public place in the city, except as may be authorized or required by law.

SECTION 13. Depositing litter on vacant lot

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 14. Vehicle wheels or tires depositing dirt or litter

No person shall drive or move any vehicle 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. The duty and responsibility imposed by this section shall be applicable to the owner of the vehicle, the operator of the vehicle, and the person from whose residence or establishment the load or contents originated. This Section is in addition and supplementing with the provisions of Code of Ala. 1975, § 32-5-76 and Code of Ala. 1975, § 22-27-3(f)

SECTION 15. Depositing 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 16. Certain establishments to maintain receptacles for public use

To facilitate proper disposal of litter by pedestrians and motorists, such publicly patronized or used establishments and institutions as may be designated by the director of public works shall provide, regularly empty and maintain in good condition adequate receptacles that meet standards prescribed by the director of public works. This requirement shall be applicable to, but not limited to, fast food outlets, shopping centers, convenience stores, supermarkets, service stations, commercial parking lots, mobile canteens, motels, hospitals, schools and colleges.

SECTION 17. Duty of owner or occupant to maintain property free of litter

The owner, agent, occupant or lessee of any private property shall at all times maintain the premises free of litter, provided that this shall not prohibit the storage of litter in authorized private receptacles for collection. This requirement applies not only to removal of loose litter, but to materials that already are, or become, trapped at such locations as fence and wall bases, grassy and planted areas, borders, embankments and other lodging points. Owners, agents, occupants or lessees whose property abuts municipal sidewalks and strips between sidewalks and streets shall be responsible for keeping those sidewalks and strips free of litter. Owners, agents, occupants or lessees whose property abuts municipal alleys shall be responsible for keeping the alley free of litter. It shall be the duty of every nonresident owner of a vacant lot or other vacant property to appoint an agent residing in the city to be responsible for keeping that lot or other property free of litter.

SECTION 18. Donation collection box

- (a) A donation collection box is a container used to temporarily store donated items, typically operated by a charitable organization.
- (b) The operator of the box is the individual or organization owning the box and placing it for the public to use for the donation of used clothing, material and equipment.
- (c) No owner or operator of any premises shall maintain or permit to be maintained at or on the exterior property areas of such premises any donation collection box unless and until the following criteria have been met:
 - (1) File an application with the city department of public works for the placement of a donation collection box on specific premises prior to such placement, stating the name, location and contact information for the organization.
 - (2) Place no more than one donation collection box on any one specific premises in the city.
 - (3) Place the single donation collection box at or behind the setback line of the minimum yard areas of the premises at all times.
 - (4) The size of the donation collection box shall not exceed 78 inches in height or 76 inches in width.

- (5) The operator presents a certificate evidencing a public liability insurance policy of a minimum of \$100,000.00 because of bodily injury or property damage, providing notice to the city at least ten days prior to any change or termination of coverage.
 - (6) The donation collection box is equipped with locked, tight-fitting closing device which shall be closed except when the box is being unloaded.
 - (7) The donation collection box is entry-proof and is designed to avoid the entrapment of children.
 - (8) The donation collection box is placed on a surface which is hard, level and weather resistant.
 - (9) The donation collection box is placed in an area that is highly accessible, visible with sufficient lighting during the night, and does not interfere with the flow of traffic or pedestrians.
- (d) The operator will make regular visits to each box to collect and remove the material placed in the box. The visits shall be at least twice per week or as often as the boxes become filled. If a more frequent collection is necessary on a regular basis, the department of public works will inform the operator. The operator will inform the public works department of its schedule for collection of materials from each box and will update that when there are any changes, but the operator may make additional collections without first informing the public works department.
 - (e) If material is placed around a donation collection box because it lacks sufficient capacity for the material or the material is of such a size or configuration that it cannot be placed in the box, the public works department shall notify the operator to empty the box and remove the materials surrounding it within twenty-four hours. If this has not been accomplished within that time, the public works department is authorized to remove the box, its contents and the surrounding material and dispose of it in the same manner as other solid waste collected by the city. The box will be retained by the public works department for the operator for one week and will then be disposed of as solid waste unless retrieved by the operator within that time.
 - (f) It is the responsibility of the operator to maintain the area around the box in a neat, clean and attractive manner that deters cluttering and littering in the area. The operator shall post appropriate signs warning against dumping in or around the box, advising what material is acceptable and what is not acceptable for deposit in the box, and providing a telephone contact number if a person has items to donate that will not fit in the box and desires that the operator collect them from another location.

- (g) The operator will maintain the appearance of each donation collection box, painting it at least once every two years and informing the public works department when it has done so.
- (h) The operator will properly dispose in a licensed solid waste landfill of any material which is deposited in a donation collection box and is not used for the benefit of the organization.
- (i) If an operator fails to satisfy the requirements of this ordinance for the maintenance of a donation collection box, including regular collection and cleaning the area surrounding a box, the director of public works may remove a box from a particular location, after notice to the operator.
- (j) If an operator habitually fails to satisfy the requirements of this ordinance for the maintenance of a donation collection box, the director of public works may remove all boxes of that operator within the city, after notice to the operator. The operator will not be permitted to place a donation collection box in the city for one year thereafter and must satisfy the requirements of this ordinance for each future location.
- (k) The provisions of this section do not apply to a donation collection box located on the premises of the operator of the box, but the number of boxes located there may not exceed four and the areas around the boxes must be maintained to the standards of this section.

SECTION 19. Commercial waste containerization and removal

All commercial establishments and institutions that generate litter for collection by a private collector shall have sufficient container capacity to accommodate the normal volume that accumulates between collections. The director of public works may require a baling unit or compactor to bale commercial litter. It shall be the duty of the establishment or institution to break down and containerize all cardboard boxes, crates, etc. All loose materials such as packing paper, paper, plastic bags and other materials that are subject to being windblown and that are normally placed in a container will be contained in a plastic trash bag or bundled and tied securely before being placed in the container. Any container that does not conform to prescribed standards or that has defects likely to hamper collection or injure the person collecting the contents thereof or the public generally shall be replaced promptly by the owner or user of the container upon receipt of written notice of such defects from the director of public works. Failure to replace the container within seven days of such notification shall constitute a violation of this section.

SECTION 20. Waste resulting from loading and unloading operations

Any owner or occupant of an establishment or institution at which litter is attendant to the packing, unpacking, loading or unloading of materials at exterior locations shall provide suitable receptacles there for the disposal and storage of such litter and shall make appropriate arrangements for the collection thereof. It shall be the duty of any owner or occupant to break down and containerize boxes, crates, etc. It shall be the duty of the owner or occupant to remove at the end of each working day any litter that has not been containerized at these locations. All loose materials such as

packing paper, paper, plastic bags and other materials that are subject to being windblown and which are normally placed in a receptacle will be contained in a plastic trash bag or bundled and tied securely before being placed in the receptacle. The owner or occupant must provide a receptacle approved by the director of public works for collection by a private collector.

SECTION 21. Construction and demolition debris

It shall be unlawful for the owner, agent or contractor in charge of any construction or demolition project to cause, maintain, permit or allow to be caused, maintained or permitted the accumulation of any construction and demolition debris on the site of the project before, during or after its completion. It shall be the duty of the owner, agent and contractor to have on the site adequate receptacles for the disposal of construction and demolition debris to make appropriate arrangements for the collection thereof or for transport by such person personally to an appropriate facility for final disposition. The owner, agent and contractor will be responsible for breaking down and containerizing all shipping containers, boxes or crates. All loose materials, such as packing paper, paper, plastic bags and other materials that are subject to being windblown and which are normally placed in a receptacle, will be contained in a plastic trash bag or bundled and tied securely before being placed in the receptacle. The owner, agent and contractor will be required at such time to show proof of appropriate collection or if transported by such person personally of a final disposition at an appropriate facility. The receptacles used on the site must be approved by the director of public works. A private collector shall collect the trash.

ADOPTED AND APPROVED by the City Council of the City of Rainbow City, on this the _____ day of _____, 2014.

TERRY JOHN CALHOUN, Mayor
City of Rainbow City

Tim Ramsey, Place 3

Anita Bedwell, Place 1

Larry Keenum, Place 4

Robert "Bobby" McCartney Jr., Place 2

Rick Hill, Place 5

Attest: _____
Barbara T. Wester, City Clerk

I, Barbara T. Wester, City Clerk/Treasurer of the City of Rainbow City, Alabama, do hereby certify that the foregoing Ordinance No. 506 was duly posted at Rainbow City Municipal Building, Local Joe's, Winn Dixie and rbcAlabama.com.

Barbara T. Wester, City Clerk/Treasurer