

**BARTOW COUNTY
ENVIRONMENTAL COMPLIANCE ORDINANCE**

AN ORDINANCE OF THE COUNTY COMMISSIONER OF BARTOW COUNTY SITTING FOR COUNTY PURPOSES FOR THE PURPOSE OF ENACTING A COMPREHENSIVE ENVIRONMENTAL COMPLIANCE ORDINANCE, PROHIBITING UNAUTHORIZED DISPOSAL OF LITTER AND WASTE, REGULATING THE STORAGE AND DISPOSAL OF TIRES; REGULATING CERTAIN OUTDOOR BURNING; PROVIDING FOR DEFINITIONS OF RELEVANT TERMS; PROVIDING FOR PENALTIES AND ENFORCEMENT PROVISIONS, AND FOR OTHER PURPOSES AT THE REGULAR MEETING OF THE COMMISSIONER OF BARTOW COUNTY HELD ON THE 6th DAY OF AUGUST, 2003.

WHEREAS, the preservation of natural beauty and a clean environment and the prevention of littering and other unlawful disposal of waste, trash and garbage, are proper goals for the County Government, and are proper purposes for a County Ordinance; and

WHEREAS, the Georgia Environmental Protection Division has adopted rules and regulations governing the storage and disposal of tires, and governing certain outdoor burning, and the adoption of such regulations as a County Ordinance would serve the public health, safety and welfare, and protect the environment; and

WHEREAS, the Commissioner of Bartow County has determined that there exists a need and necessity to enact a comprehensive Ordinance provide for rules and regulations regarding environmental regulations; and

WHEREAS, the Commissioner of Bartow County deems the implementation of a well-planned Ordinance for environmental control is in the best interests of health, safety and welfare of the citizens of Bartow County, and is authorized pursuant to O.C.G.A. § 16-7-48 and other statutes and laws;

NOW THEREFORE BE IT ORDAINED, AND IT IS HEREBY ORDAINED, by virtue of the authority vested in the Commissioner by law, as follows:

**ARTICLE I
PURPOSE AND APPLICABILITY**

SECTION 101 PURPOSE

The purpose of this Ordinance is to protect the health, safety, environment, and general welfare through the regulation and prevention of litter, waste, tire disposal and burning. The objectives of this Ordinance are as follows: to provide for uniform prohibition throughout Bartow County of any and all litter on public or private property; to prevent any reduction in the quality of life or aesthetic beauty of Bartow County; to prevent environmental harm to the waters of this County; to preserve air quality of Bartow County; to prevent health risks associated with used tires and scrap tires; and to provide a clean and well-kept environment for the citizens of the County. Litter is a nuisance that decreases property values and contributes to the decline of neighborhoods and property value, and should be eliminated. The open burning of certain material emits numerous toxins into the atmosphere and environment that end up being

consumed by animals and humans, to the detriment of the public health and welfare, and must be prohibited.

SECTION 102 APPLICABILITY; CONFLICTS WITH OTHER LAWS

- A. Application. This Ordinance shall apply to all public and private property within Bartow County.
- B. Conflicts. This Ordinance is not intended to interfere with, abrogate, or annul any other Ordinance of Bartow County. Where this Ordinance conflicts with another Ordinance of Bartow County, including but not limited to, the Zoning Ordinance or the Nuisance Ordinance, the stricter or more restrictive Ordinance shall control.

**ARTICLE II
DEFINITIONS**

SECTION 201 DEFINITIONS

- A. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.
 - 1. **“Biomedical waste”** means pathological waste, biological waste cultures and stocks of infectious agents and associated biologicals, contaminated animal carcasses (body parts, their bedding, and other wastes from such animals), sharps, chemotherapy waste, discarded medical equipment and parts, not including expendable supplies and materials which have not been decontaminated, as further defined in Rule 391-3-4-.15 of the Department of Natural Resources, and other such waste materials, in any amount.
 - 2. **“Commercial purpose”** means for the purpose of economic gain.
 - 3. **“Discarded Materials”** includes, without limitation, organic or inorganic garbage, rubbish, refuse, or trash; discarded debris, hulls, peelings, grass, weeds, ashes, sand, gravel, or slag; discarded boxes, papers, bottles, tin cans, metal containers, plastic containers, or glass containers; dead animals; discarded tobacco products, tires, appliances, tools, machinery, steel, mechanical equipment or parts; discarded building materials, construction materials, lumber or wood; discarded or abandoned motor vehicles, motor vehicle parts, vessels, and aircraft equipment; waste oil; discarded antifreeze, chemicals and fluids; sludge from a waste-water treatment facility, water supply treatment plant, or air pollution control facility; air contaminants from any source or facility; and any other discarded material or substance of every kind and description resulting from domestic, industrial, commercial, mining, or governmental operations.
 - 4. **“Dump”** means to throw, discard, place, deposit, discharge, burn, or dispose of a substance.
 - 5. **“EPD”** means the Georgia Department of Natural Resources, Environmental Protection Division.

6. **“Hazardous substance”** means any substance listed as a hazardous constituent in regulations promulgated pursuant to the federal act by the administrator of the United States Environmental Protection Agency which are in force and effect on February 1, 1992, codified as Appendix VIII to 40 C.F.R. Part 261-- Identification and Listing of Hazardous Waste.
7. **“Hazardous waste”** means any discarded materials which have been defined as hazardous waste in regulations promulgated by the administrator of the United States Environmental Protection Agency pursuant to the federal act which are in force and effect on February 1, 1996, codified as 40 C.F.R. Section 261.3 and any designated hazardous waste.
8. **“Litter”** means any discarded materials which do not exceed ten pounds in weight or 15 cubic feet in volume, or which are not otherwise defined as “Waste.”
9. **“Open burning”** means any outdoor fire from which the products of combustion are emitted directly into the open air.
10. **“Person”** includes all individuals, corporations, partnerships, and other legal entities.
11. **“Petroleum products”** means flammable, toxic, or corrosive products obtained from distilling and processing of crude oil, unfinished oils, natural gas liquids, blend stocks and other miscellaneous hydrocarbon compounds, including oil, gasoline, diesel fuel, kerosene, and similar products. Lighter fluid properly used to ignite charcoal in a grill or barbeque is not included.
12. **“Plastics”** means a synthetic material made from a wide range of organic polymers such as polyethylene, PVC, nylon, etc.
13. **“Public or Private Property”** means the right of way of any road or highway; any body of water or watercourse or the shores thereof; any park, playground, building, refuge, or conservation or recreation area; timberlands or forests; and residential, commercial, industrial or farm properties.
14. **“Rubber”** includes natural and synthetic rubber and means a natural or synthetic elastic polymer (elastomer) with physical properties similar to those of natural rubber
15. **“Treated wood”** means wood treated by the impregnation or application of chemical solutions or chemical mixtures for the purpose of retarding or preventing deterioration or destruction caused by fire, insects, fungi, bacteria, or other wood-destroying organisms.
16. **“Waste”** means the following:
 - (a) all discarded materials exceeding ten pounds in weight or 15 cubic feet in volume; or

(b) any weight or volume of biomedical waste, hazardous waste, or hazardous substance; or

(c) any amount of discarded material dumped for commercial purposes.

17. **“Waters in Bartow County”** means any lake, river, stream, pond, creek or other body of public or private water located partially or fully within the jurisdictional boundaries of Bartow County, Georgia.

ARTICLE III REGULATED AND PROHIBITED ACTIVITIES

SECTION 301 LITTERING; ILLEGAL DUMPING

A. Littering. It shall be unlawful for any person or persons, 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 Bartow County (including one’s own property) or any waters in Bartow County, unless the property is an authorized landfill, and the person disposing of litter is authorized by applicable regulations; or unless the litter is placed into a litter receptacle or container installed on such property.

B. Illegal Dumping of Waste. Dumping, throwing, discarding, discharging, or burning waste, or more than 10 pounds or 15 cubic feet of litter at one time in one location, shall constitute unlawful waste dumping, and shall subject any person convicted to fines pursuant to Section 402, except that the listed fine shall be doubled, to a maximum of \$1,200.00 per violation, per day.

C. Improper Loading. No person shall operate any motor vehicle with a load on or in such vehicle unless the load on or in such vehicle is secured to prevent the dropping or shifting of such materials onto the roadway, including but not limited to, loads of waste or litter.

D. Covering Waste. Any person transporting litter or waste shall enclose or cover the litter or waste to prevent spillage and infiltration of rainwater. Tarpaulins must be used to cover compactor box openings, roll-off tops, or other openings. Tarpaulins used for such purposes must be kept in good repair at all times.

E. Littering or Dumping from Vehicle. Whenever litter or waste is thrown, deposited, dropped, or dumped, whether intentionally or unintentionally, from any motor vehicle, boat, airplane or other conveyance onto any public or private property in Bartow County or any waters in Bartow County, unless the property is an authorized landfill, and the person disposing of the litter or waste is authorized by applicable regulations, it shall constitute prima-facie evidence that the operator of the conveyance has violated this Ordinance. Any spillage of waste or litter shall be immediately cleaned and removed by the person spilling the waste or litter.

F. Identifiable Litter or Waste. Whenever any litter or waste is dumped, deposited, thrown, or left on public or private property is discovered to contain any documents which display the name of a person thereon in such a way as to indicate that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this Ordinance.

G. Clean Premises. Any person owning or occupying any private property, including of a commercial, industrial or residential nature, shall be required to keep such property free of litter and waste, and to insure all litter and waste is placed in proper litter or waste containers or

receptacles. Persons owning businesses shall be required to keep the sidewalks, service alleys and parking areas of their businesses free from litter and waste.

H. Multiple Violators. Every person involved in illegal littering or illegal dumping of waste shall be subject to citation under this Ordinance, including persons operating vehicles, and persons actively disposing of or dumping litter or waste.

SECTION 302 SCRAP TIRES

A. The most current provisions of the Georgia Department of Natural Resources, Environmental Protection Divisions, Rules and Regulations Chapter 391-3-4-.19, relating to Scrap Tire Management, as amended from time to time, are incorporated herein by reference as if said provisions were set forth herein in their entirety. Violations of said provisions shall be prosecutable under the provisions of this Ordinance, and shall be assessed fines pursuant to the schedule in Section 402, to a maximum fine of \$1,000.00 per violation, per day.

B. In addition to the proceeding state regulations incorporated by reference, Bartow County also adopts the following requirements, that shall replace and/or supplement any corresponding requirements in the EPD regulations:

1. All scrap tires, used tires and new tires shall be required to be stored in an enclosed building or garage. Outdoor storage is prohibited, as is storage under a tarpaulin or open-sided shelter.

SECTION 303 OPEN BURNING

A. Open Burning Prohibited. No person shall cause, suffer, allow, or permit open burning of the following materials in any area of the County:

1. Treated wood;
2. Plastics;
3. Rubber (including tires);
4. Petroleum products; and
5. Any products, items or things containing any of the above materials.

**ARTICLE IV
VIOLATIONS, ENFORCEMENT AND PENALTIES**

SECTION 401 VIOLATIONS AND INSPECTIONS

A. Violations. It shall be unlawful for any person to violate any provisions or fail to comply with any of the requirements of this Ordinance. Any person who has violated or continues to violate the provisions of this Ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise sentenced in a manner provided by law.

B. Inspections. Any authorized official, including code enforcement officers and law enforcement personnel, shall have the power to conduct such investigations as may be reasonably deemed necessary to carry out the duties as prescribed in this Ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of open burning. No person shall refuse entry or access to any authorized official

who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

B. Citations. Any authorized official, including code enforcement officers and law enforcement personnel, are authorized to issue citations and otherwise enforce this Ordinance. Citations shall be heard in the magistrate court. Citations for violation of this Ordinance shall be commenced by the completion, signing, and service of a citation, which shall cite the provision of this Ordinance that has been violated. The original of the citation shall be personally served upon the violator, his or her authorized representative or, if a corporation or other legal entity, an officer or representative of the entity. Upon conviction, fines shall be assessed at the amounts specified in Section 402 below.

C. Stop-Work Order. In the event ongoing construction is taking place under a building permit or land disturbance permit, violation of this Ordinance shall authorize issuance of stop work order in conjunction with the citation and fine, preventing further work or development until said violation is corrected or overturned.

D. Multiple Violations. Each day a violation exists shall be a new violation, subjecting the offender to a new citation. Each separate action or occurrence of any specific provision of this Ordinance shall be a separate violation, subjecting the offender to a separate citation. Any offender may be cited with a maximum of ten citations per day.

SECTION 402 FINES

A. Fines. Fines for violations of this Ordinance shall be assessed according to the following schedule. As a deterrent to violation, second and subsequent violations by the same offender of any provision of this Ordinance, whether violations of the same or different provisions of this Ordinance as the initial violation, shall increase the fine owing. However, repeated citations for the same violation on a second and subsequent days shall not count as a subsequent violation, but shall rather be assessed at the same rate as the initial violation. Multiple violations on the same day shall also be assessed at the same level:

1. First Violation: For the first violation of any provision of this Ordinance by any violator (whether an individual or corporation), the fine shall be a minimum of \$200.
2. Second Violation: For the second violation of any provision of this Ordinance (whether the same or different as the first violation) by the same violator (whether an individual or corporation), the fine shall be a minimum of \$400.
3. Third and Subsequent Violations: For the third and subsequent violation of any provision of this Ordinance (whether the same or different as the prior two violations) by the same violator (whether an individual or corporation), the fine shall be a minimum of \$600.
4. Aggravating Circumstances: If in the judgment of the officer issuing the citation, the violation is severe, or other aggravating circumstances exist, such as multiple violations of numerous provisions of this Ordinance on the same property, the citation may indicate "Aggravating Circumstances Exist," and state those circumstances. The fine shall be doubled in such cases (to a maximum of \$1,200 for violations of Section 301, to a maximum of \$1,000 for other violations), if the determination of aggravating circumstances is upheld. The court may also impose this determination, after hearing

the evidence, and increase the fine accordingly.

B. Maximum Fines. The maximum permissible fine for violations shall be \$1,000, except for violations of Section 301. The maximum permissible fine for violation of Section 301 shall be \$1,200 per offense. Furthermore, violations of Section 301(B) "Illegal Dumping of Waste" shall be fined at double the above-listed amount, to a maximum of \$1,200 (i.e., first violation is \$400, second is \$800, third and subsequent is \$1,200).

SECTION 403 OTHER RELIEF

A. Superior Court. In addition to or in lieu of any other remedy, any authorized official, appropriate authority, or any person who is or would be damaged by such violation, may seek injunctive, mandamus or other appropriate relief in superior court to enjoin or prevent a violation of any provision of this Ordinance. Such action may also seek civil fines at the rates specified in Section 402 for violation of this Ordinance, and may additionally seek the costs of restitution, costs of clean up, attorney's fees and costs, and any other costs associated with the action to enjoin or prevent any violation of any provision of this Ordinance. The County shall be entitled to its reasonable attorney's fees and costs for bringing an action in superior court against any violator wherein any relief is granted or fine assessed.

B. Restitution. In addition to the fine set out in Section 402, the violator shall reimburse Bartow County for the reasonable cost of removing the litter, or other costs incurred by Bartow County to mitigate the actions of the violator. Such amount shall be assessed by the magistrate court in addition to any required fine.

C. Community Service. In the sound discretion of the court, a person convicted of violating Section 301 of this Ordinance may be required to clean up litter as community service. Such person may be directed to pick up and remove from any public right-of-way (for a distance not to exceed one mile) any litter located thereon. In the alternative, such person may be directed to pick up and remove any litter located on the public or private property (with the owner's permission) upon which he has unlawfully dumped litter. In either case, removal of "any litter" shall include all litter dumped thereon by anyone prior to the date of execution of the sentence, and not just the litter dumped by the violator.

ARTICLE V LEGAL STATUS PROVISIONS

SECTION 501 SEVERABILITY

If any provision of this Ordinance is found to be void, invalid or unconstitutional by a court of competent jurisdiction, such order or judgment shall not affect nor invalidate the remaining provisions of this Ordinance, which shall remain in force and effect.

SECTION 502 REPEALER

All other Ordinances and Resolutions, or parts of said Ordinances or resolutions, in conflict herewith are hereby repealed, except to the extent said Ordinances are more restrictive than this Ordinance.

SO ADOPTED this 6th day of August 2003, to be effective immediately, the public health, safety, and general welfare demanding.

ATTEST:

BARTOW COUNTY, GEORGIA

Lane McMillan, Clerk

Clarence Brown, Commissioner

AN ORDINANCE OF THE COMMISSIONER OF BARTOW COUNTY, GEORGIA SITTING FOR THE PURPOSE OF **AMENDING THE ENVIRONMENTAL COMPLIANCE ORDINANCE, PROHIBITING UNAUTHORIZED DISPOSAL OF LITTER AND WASTE INTO OTHER PEOPLES' CONTAINERS**, AND FOR OTHER PURPOSES AT THE REGULAR MEETING OF THE BARTOW COUNTY COMMISSIONER HELD ON THE 4TH DAY OF AUGUST, 2004.

WHEREAS, the Commissioner of Bartow County has determined that there exists a need and necessity to enact a comprehensive Ordinance provide for rules and regulations regarding environmental regulations; and

WHEREAS, the Commissioner of Bartow County has previously adopted an Environmental Compliance Ordinance, on August 6, 2003, which is in need of a minor revision;

NOW THEREFORE BE IT ORDAINED, AND IT IS HEREBY ORDAINED, by virtue of the authority vested in the Commissioner by law, as follows:

Section 301 (A) of the Bartow County Environmental Compliance Ordinance is amended by adding the underlined text to the end of the paragraph, as follows:

SECTION 301 LITTERING; ILLEGAL DUMPING

A. Littering. It shall be unlawful for any person or persons, 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 Bartow County (including one's own property) or any waters of Bartow County, unless the property is an authorized landfill, and the person disposing of litter is authorized by applicable regulations; or unless the litter is placed into a litter receptacle or container installed on such property. It shall also be a violation of this Ordinance to dispose of litter or waste into a litter receptacle or container without permission of the owner, renter or lessor of the receptacle or container (e.g., disposing of waste into someone else's dumpster or trash can without their permission).

SO ADOPTED this 4th day of August, 2004, to be effective immediately, the public health, safety, and general welfare demanding.

ATTEST:

BARTOW COUNTY, GEORGIA

County Clerk

Clarence Brown, Commissioner