

ORDINANCE NO. 2016- 06
FRANKLIN COUNTY, FLORIDA

ORDINANCE PROHIBITING THE LITTERING, DUMPING, LEAVING, PLACING, OR DISPOSING OF TRASH, DEBRIS, OFFAL, CHEMICAL, HOUSE, CONSTRUCTION OR REPAIR MATERIALS OR PRODUCTS OF CLEAN-UP; THE WASTE, SPOILAGE OR BY-PRODUCTS OF SEAFOOD PROCESSING, OR ANY MANUFACTURING PROCESS; AND RELATED OFFENSES; ADDING AND CHANGING CURRENT DEFINITIONS; REPEALING ALL PRIOR FRANKLIN COUNTY ORDINANCES INCONSISTENT HEREWITH; PROVIDING PENALTIES; PROVIDING SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Board of County Commissioners of Franklin County, Florida that:

SECTION 1. Purpose.

- a. It is hereby declared that the uncontrolled and unsanitary disposal of solid wastes in the incorporated and unincorporated areas of Franklin County and the failure to maintain clean and sanitary conditions on property in the county, threaten the health, safety and welfare of the citizens of this county because of the potential for breeding disease, blight of the landscape and waterways, degradation of the county's natural resources, and increased taxpayer burdens.
- b. It is the intent of this ordinance to keep Franklin County a clean, safe and beautiful place to live and visit; to provide direction to the people in Franklin County for the proper disposal of waste; and to provide county officials and law enforcement personnel and county personnel with the means to enforce the regulation of this ordinance.

SECTION 2. Definitions.

- a. Aircraft: means a motor vehicle or other vehicle that is used or designed to fly but does not include a parachute or any other device used primarily as safety equipment.
- b. Beach: means that area of unconsolidated material that extends landward from the mean low-water line of the shoreline of Franklin County to the frontal dune, or to where there is no frontal dune, to the line of permanent vegetation or construction, whichever is more seaward.
- c. Board: The Board of County Commissioners of Franklin County, Florida.

- c. Commercial purpose: means for the purpose of economic gain.
- d. Commercial vehicle: means a vehicle that is owned or used by a business, corporation, association, partnership, or sole proprietorship or any other entity conducting business for a commercial purpose.
- e. Dump: Means to dump, throw, discard, place, deposit or dispose of.
- f. Enforcement officer: means any employee of the county or municipal department designated by the department head as an enforcement officer.
- g. Law enforcement officer: means any officer of the Florida Highway Patrol, the Franklin County Sheriff's Department, the Florida Marine Patrol, a municipal law enforcement department, a law enforcement department of any other political subdivision, or the Fish and Wildlife Conservation Commission. In addition, and solely for the purposes of this section, "law enforcement officer" means any employee of a county or municipal park or recreation department designated by the department head as a litter enforcement officer.
- h. Litter: means any garbage, rubbish, trash, refuse, can, bottle, box, container, paper, tobacco product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, electronics , televisions, tires, outboard motors, vessel, aircraft, farm machinery or equipment, sludge for a waste treatment facility, water supply treatment plant or air pollution control facility, or substance in any form resulting from domestic, industrial, commercial, mining, seafood, agricultural, or governmental operations, or any similar substance.
- i. Motor vehicle: means an automobile, motorcycle, truck, trailer, semitrailer truck tractor, semitrailer combination or any other vehicle that is powered by a motor.
- j. Person: means any individual, firm, sole proprietorship, partnership, corporation, or unincorporated association.

- k. Solid Wastes: means trash, debris, offal, chemical, house, construction or repair materials or products of clean; the waste, spoilable or by-products of seafood processing or any manufacturing process and related similar offenses.
- l. Vessel: means a boat, barge, or airboat or any other vehicle used for transportation on water.
- m. Yard Trash and Yard Debris: tree trimmings, bushes, leaves, grass clippings, pine straw and similar yard debris on residential properties.

SECTION 3. Responsibility of Board of County Commissioners.

The Board of County Commissioners shall determine the training and qualifications of any employee of the county designated to enforce the provisions of this section if the designated employee is not a regular law enforcement officer. The governing body of a municipality shall determine the training and qualifications of any employee of the municipality designated to enforce the provisions of this section if the designated employee is not a regular law enforcement officer.

SECTION 4. Dumping Litter Prohibited.

Unless otherwise authorized by law or permit, it is prohibited for any person to dump litter or solid waste in any manner or amount; to wit:

- a. In or on any beach, public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands: except in containers or areas lawfully provided therefor. When any litter is thrown or discarded from a motor vehicle, the operator or owner of the motor vehicle or both shall be deemed in violation of this section.
- b. In or on any freshwater lake, river or stream or tidal or coastal water of the county, including any bay or gulf contiguous to the shoreline of Franklin County, Florida. When any litter is thrown or discarded from a vessel; the operator or owner of the vessel, or both, shall be deemed in violation of this section;

- c. In or on any private property, unless prior consent of the owner has been given and unless the dumping of such litter will not cause a public nuisance or health hazard or be in violation of any other state or local law, rule, or regulation.
- d. Yard Trash and Yard Debris are not litter within the meaning of this ordinance, provided that said trash and debris are placed by the landowner on the land from which the said trash and debris originate.

SECTION 5. Penalty and Enforcement.

- a. Any person responsible for enforcing this ordinance may, but is not required to, provide notification to the person responsible for dumping litter in violation of this ordinance to remove and legally dispose of said litter within three business days. If such litter has not been timely removed and legally disposed of within such three day period, such person(s) shall be deemed in violation of the ordinance and subject to its penalties under SECTION 5.
- b. Any person who violates any provision of this ordinance for the first time is guilty of a noncriminal infraction, punishable by a fine of \$100.00, plus court costs,
- c. Any person who violates any provision of this ordinance a second time is guilty of a noncriminal infraction, punishable by a fine of \$250.00, plus court costs,
- d. Any person who violates any provision of this ordinance a third time is guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 775.082 or 775.083.
- e. Any person who violates any provision of this ordinance a fourth time is guilty of a misdemeanor of the first degree, punishable as provided in F.S. §§ 775.082 or 775.083.
- f. A person who violates any provision of this ordinance a fifth, or subsequent, time is guilty of a third degree felony, punishable as provided in F.S. §§ 775.082 or 775.083.

- g. In addition to any other penalty provided herein, or in lieu thereof, a person who violates any provision of this ordinance may, in addition to any other penalty, be required by the court to (1) remove or render harmless the litter that they dumped in violation of this ordinance and properly dispose of it at an approved land-fill, or other authorized repository; (2) repair or restore property damaged by, or pay damages for any damage arising out of his or her dumping litter in violation of this ordinance; (3) perform community service relating to the removal of litter dumped in violation of this ordinance or to the restoration of an area polluted by litter dumped in violation of this ordinance.
- h. A court may enjoin a violation of this ordinance.
- i. If a person, including a political subdivision or municipality, sustains damages arising out of a violation of this ordinance, a court, in a civil action for such damages, shall order the person causing such damage to pay the injured party three fold the actual damages or \$200, whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney fees.
- j. Notwithstanding any other provision of this ordinance, any person who dumps raw human waste from a commercial vehicle or who dumps litter weighing more than 500 pounds in weight or 200 cubic feet shall be guilty of a third degree felony, punishable as provided in F.S. §§ 775.082 or 775.083.
- k. In the criminal trial of a person charged with violating this section, the county does not have the burden of proving that the person did not have the right or authority to dump the litter or raw human waste or that litter or raw human waste dumped on private property causes a public nuisance or health hazard. The defendant has the burden of proving that he had authority to dump the litter or raw human waste and that the litter or raw human waste dumped does not cause a public nuisance or health hazard.

- l. It shall be the duty of all law enforcement officers to enforce the provisions of this section.
- m. The penalties provided by this ordinance are cumulative.
- n. All civil penalties shall be equally divided between Franklin County and the Clerk of Court.

SECTION 6. Enforcement of Other Regulations.

This section does not limit the authority of any state or local agency to enforce other laws, rules or ordinances relating to litter or solid waste management.

SECTION 7. Reference to Related Ordinances.

This ordinance shall repeal all prior Franklin County ordinances inconsistent herewith

SECTION 8. Severability

If any part of this ordinance is for any reason held invalid, such part shall be deemed a separate and distinct provision and shall not affect the validity of the remaining portion of this ordinance.

SECTION 9. Effective Date:

This ordinance shall take effect when notice of receipt of a certified copy of same is returned from the Secretary of State.

This ordinance adopted in open regular session this 5th day of July, 2016, after notice of intent to consider the same has been made and kept in the Ordinance Book of the Clerk of the Board for at least 10 days exclusive of Sundays and legal holidays, and the title and substance hereof published according to law..

FRANKLIN COUNTY, a political subdivision
Of the State of Florida

By: William Massey
William Massey, Its Chairman

Attest:

Marcia M. Johnson
Marcia M. Johnson, Clerk of Courts

Approved By:

Thomas M. Shuler
Thomas M. Shuler, County Attorney

