

ORDINANCE NUMBER 23-02

**AMENDED LITTER CONTROL
ORDINANCE FOR THE CITY OF
EUPORA, MISSISSIPPI**

WHEREAS, the Board of Aldermen of the City of Eupora has become aware of increased littering of public and private property and city roadways in Eupora, Mississippi and;

WHEREAS, said littering of public and private property in city roadways degrades the environment and community, and causes health and safety hazards; and;

WHEREAS, the cost incurred by City of Eupora to clean up said litter creates an undue burden upon the taxpayers of Eupora, and;

WHEREAS, pursuant to Miss. Code Ann. 21-17-1, and Miss. Code Ann 17-17-5, and Miss. Code Ann. 17-17-17, the Board of Aldermen of the City of Eupora, Mississippi has the authority to enact such ordinances as necessary and in the best interest of the public to establish and maintain a system of the disposal of refuse, garbage, and derelict property, and;

WHEREAS, pursuant to Miss Code Ann. 21-19-2 the Board of Aldermen of the City of Eupora have the authority to enter into a contract for service and shall establish a garbage and/or rubbish collection and/or disposal system and may assess and collect fees or charges to defray the cost of such services. The governing authority may assess and collect the fees or charges from each residential customer or residential generator of garbage or rubbish.

NOW THEREFORE, be it resolved by the Board of Aldermen of the City of Eupora, Mississippi, that for the reasons set forth above and pursuant to the authority granted therein, the following Ordinance is hereby enacted:

1. Short Title

This ordinance shall be known as the "City of Eupora Litter Ordinance."

2. Intent

It is the express intent of the Board of Aldermen and of this Ordinance to promote a clean, healthy, safe, and attractive environment in which to live.

3. Applicability

This Ordinance shall apply to and be enforced within the incorporated boundaries of the City of Eupora, Mississippi.

4. Definitions

The following words, phrases, or terms, as used in this Ordinance, unless context indicates otherwise, shall have the following meanings:

- a. Authorized Receptacle: A litter storage and collection container as required and authorized by this Ordinance.
- b. Compostable Trash: Every waste accumulation of lawn grass, tree trimmings, shrubbery, or dry leaf raking, that is free of dirt, rocks, non-compostable trash, and bulky waste.
- c. Container: The receptacle which shall be provided by the owner or occupant responsible, shall be a receptacle with the appropriate capacities as required by the city or its agent retained for the purpose of collecting and disposing of garbage. Said container shall be constructed of plastic, metal, or fiberglass and be designed and constructed in a manner appropriate for the depositing, holding and collecting of garbage. Said container shall meet the specifications, terms and conditions of the city and its agents retained to collect and dispose of its contents. These specifications, terms and conditions are subject to change upon proper notice.
- d. Cover: Any device, equipment, container, close-fitting tarpaulin, chain, rope, wire, or line used on vehicles to prevent any part of a vehicle load to shift, blow, leak, fall, or escape in any manner from the vehicle.
- e. Garbage: Litter and refuse collectively as defined in this ordinance.
- f. Litter: All trash, including that which is unsightly and/or excessive in accumulation, including but not limited to paper, bottles, cans, glass, crockery, plastic, rubber, waste, building materials, and disposable packages and containers, white goods, water heaters, abandoned automobiles, small automobile parts, tires, furniture, non-compostable trash, or any other matter which tends to create a hazard to public health, safety, and welfare.
- g. Person: Any person, owner or lessee, firm, business, partnership, sole proprietorship, association, corporation, company, or organization of any kind.
- h. Private Property: Any dwelling, house, building, or other structure designed, or used for private, commercial, or residential purpose and shall include any yard, grounds, acreage, vacant lots, walk, driveway, porch, steps, parking areas, vestibule, or mailbox belonging to such dwelling, house, building, or other structure.
- i. Public Property: Any and all streets, public right-of-way, easements, medians, sidewalks, boulevards, highways, streets, alleys, or other public parks, squares, spaces, grounds, and buildings.
- j. Rubbish: means all waste wood, wood products, tree trimmings and parts, containerized dead plants, weeds, bagged leaves that are not Fall Season leaves, branches, chips, shavings, saw dust, printed matter, paper, pasteboard, rags, straw, used or discarded clothing, used and discarded shoes and boots, combustible waste and other products such as used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any other similar waste materials.

- k. Refuse: All solid waste including rubbish, ashes, trash, construction debris, and street cleanings, and animal, vegetable, and/or other matter that results from the preparation, processing, consumption, dealing in handling, or decomposition of meats, fish, birds, fruits, grains, or other animal or vegetable matter, including, but by no way limited to, used tin cans and other food containers, all putrescible, or easily decomposable waste, animals and vegetable matter which is likely to attract flies, insects, or animals.
- l. Unauthorized Dump: Any collection of solid wastes either dumped, or caused to be dumped, or placed on any property either public or private, whether or not regularly used, an abandoned automobile, large appliance, or similar large item of solid waste, shall be considered as forming an unauthorized dump within the meaning of Mississippi Code Ann. 17-17-1 et, seq. but not the careless scattered littering of smaller individual items such as tires, bottles, cans, and the like. An unauthorized dump shall also mean solid waste disposal site which does not meet the regulatory provisions of Mississippi Code Ann. 17-17-1 et, seq.
- m. Wheeled Container: Shall mean a ninety-six (96) gallon plastic covered container permanently attached to wheels provided by the city or purchased by the resident to be used by residential units for storage of trash and rubbish.
- n. White Goods: Shall mean all household appliances, excluding those governed by the Federal Clean Air Act, unless certified for disposal in accordance with said Act.

5. Control of Litter

- 1. **Littering Prohibited:** It is unlawful for any person to throw, discard, or deposit garbage or compostable trash in any manner or amount in or upon any public property, or private property, highway, street, right-of-way, body of water, or park in the city, except in the public receptacles in authorized private receptacles or in accordance with regulations and requirements set forth by the city and its agent for collection.
 - a. Loads of vehicles:
 - (1) Any materials such as garbage or compostable trash being transported by vehicle shall be secured in such a manner to prevent it from blowing or falling off the vehicle.
 - (2) Any driver or other person in direct control of any vehicle from which any materials or objects have fallen, blown, leaked, shifted, or otherwise escaped, shall immediately cause said materials or objects to be cleaned up at their own expense or cited and fined in accordance with the ordinance and laws of the State of Mississippi.
 - b. Unauthorized dumps are declared to be a public nuisance per se and shall be eliminated by removal or onsite burial.

2. Placement of Litter in Receptacles Required:

- a. The city will provide a wheeled container for each residential unit, except in certain areas of multi-dwelling commercial property type situations where the garbage, refuse, etc., is presently or may hereafter be handled by use of large containers contracted separately with a service provider. The resident shall be responsible for proper care and maintenance of the wheeled container. All garbage and related trash which will readily fit in the containers will only be disposed of by the city or its contracted agent through the use of the containers. An occupant of the dwelling shall push to the curb, but not into the street, the wheeled container on the day designated for garbage pickups in the particular area involved. Wheeled containers shall be placed at the curb no sooner than 7:00pm the day before pickup and no later than 7:00am on the pickup day. Time of collection shall be between the hours of 7:00am and 6:00pm on the pickup day and wheeled containers shall be removed from the curb and wheeled back to the home no later than 8:00pm on the pickup day, if the sanitation truck has picked up the contents. It shall be unlawful for any person to allow or permit his residential garbage container to be or remain at the curb or on city property or city rights-of-way on days other than the regularly scheduled garbage and trash collection days established for that residence.
- b. It is unlawful for any person to deposit any materials in receptacles placed for public use as a depository for litter or refuse other than that specifically designated for that container.
- c. All persons shall store their garbage in leak-free, enclosed containers, so as to eliminate wind-driven debris and unsightly garbage in and about the property owned, operated, or controlled by them. Spillage and overflow around container shall immediately be cleaned up as it occurs.
- d. The borrower of a wheeled container who damages the cart beyond repair, excepting reasonable wear and tear, may be responsible for purchasing a replacement cart. If a wheeled cart is stolen the resident will be asked to provide a police report noting the incident and then up to one (1) replacement cart may be provided. After the first replacement cart the resident shall be responsible for the purchase of any additional carts. If a wheeled container is damaged beyond repair up to one (1) replacement container may be provided. Any additional container after damage and after one (1) has been provided will be at the expense of the resident.
- e. No person shall disturb the contents of any wheeled container or the container itself, or adjacent containerized trash which has been set at the curb for collection and removal by the city or its contracted agent.
- f. Every garbage or trash container required by this article shall be maintained by the user in as sanitary condition as possible in the view of the use to which it is put and shall be thoroughly cleansed as needed, by washing, sterilizing or otherwise.
- g. If no member of the household to which a container has been assigned is capable of moving the wheeled container as required, he or she shall notify the City of Eupora in writing of the existence of such disability. In this event the disabled resident shall furnish a physician's certificate confirming the disability,

and upon failure of the alleged disabled person to furnish the certificate within ten (10) days after required, the alleged disabled person shall be deemed physically able to comply with all provisions of this ordinance.

- h. Persons owning or occupying property shall keep sidewalks and right-of-way areas in front of their premises free of garbage and compostable trash.
- i. It shall be the responsibility of each person to keep his or her own property clean and free of garbage.
- j. It shall be the duty of every person in possession, charge of, or in control of, any place, public, or private, where garbage in compostable trash is accumulated or generated, to use wheeled containers that have been provided or provide adequate and suitable receptacles and/or containers capable of holding such materials until proper final disposal is accomplished, and at all times to keep said garbage in these receptacles and/or containers.
- k. Any non-contained and uncontrolled accumulation of garbage and compostable trash on any public or private property is a violation of this ordinance.

6. Garbage Disposal Regulation

- a. It shall be required that all garbage or compostable trash resulting from construction, repair, or alteration of any building in the City, shall be contained and removed in a timely manner at the expense of the licensed contractor, or contracting homeowner, or occupant of such building. All trees, tree limbs, and brush cut by a contractor shall be removed at the contractor's or persons occupying the property expense. All trees cut by any other means shall be removed by the person performing such a task.
- b. It shall be unlawful to dispose of any hazardous waste except in the manner specifically authorized by statute and shall not be disposed of as part of garbage or compostable trash.

7. City Garbage Collection

Pursuant to MS Code Annotated 21-19-1 the city or its Agent shall provide a method for collection of household garbage that has been prepared and contained in covered receptacles or wheeled containers. The city or its Agent will maintain regular collection routes on particular days at particular times and will make known to the public the routes, days, and times of regular collections. The city or its agents shall also be responsible for billing related to garbage and or rubbish removal and residents. Fees for garbage and/or rubbish collection or disposal shall be assessed jointly and severally against the generator of the garbage and/or rubbish and against the owner of the property furnished the service. The City or its Agent, with the approval of the Board of Aldermen, shall notify the public of any variation of changes in the regular collection schedule.

8. Excluded Wastes

The City of Eupora and its contracted agent shall only be responsible for the collection and disposal of residential refuse as defined herein and specifically excludes hazardous waste, white goods, rubbish, construction debris, furniture, or unacceptable solid waste collected for disposal. Liability for excluded waste shall remain with the producer/generator or property owner who shall be responsible for any and all damages, penalties, fines, and liabilities resulting from or arising out of such excluded waste.

9. Certain acts declared unlawful.

It shall be unlawful for any person:

- a. To place or deposit or cause to be placed or deposited upon the streets, roads, and right-of-ways in the City garbage unless prepared and contained as required in this ordinance;
- b. To throw, or deposit, or to cause to be thrown, or deposited litter, or garbage compostable trash on roads, rights-of-way, and adjacent public and private properties;
- c. To deposit or cause to be deposited in any ditch, creek, watercourse, gutter, or drain within the city any garbage or compostable trash; and
- d. To allow an unauthorized deposit on any individuals private property.

10. Enforcement

1. Enforcement Procedures:

- a. The City Code Enforcement Officer and any uniformed police officer of the city are hereby empowered to issue corrective written notices or citations to persons in violation of any of the provisions of this ordinance. Further, any citizen of the City of Eupora may file a sworn affidavit in Municipal Court to be taken against any party in violation of this ordinance.
- b. Prosecution for violation of this ordinance shall be initiated by the code enforcement officer or uniformed police officer of the city who has sufficient probable cause to believe this ordinance is being violated. If the Code Enforcement Officer or uniformed officer discovers an article of garbage bearing a person, corporation, company, firm, business, or institution's name or address, or any public property, it shall be presumed that said article of garbage so discovered is the property of such person whose name or address appears thereon, and said person placed or caused to be placed upon such article of garbage, provided however, that such presumption shall be rebuttal by competent evidence. This presumption is based on the tenant that all generators of such items are responsible for such items until such time it has been properly disposed of.
- c. Corrective written notices may be issued to violators of this ordinance to correct an offense in lieu of citation or arrest. The notice shall state the date and time issued, nature of the offense committed, corrective measures to be taken, and the date and time such correction shall be made. All such notices issued shall be maintained by the issuing authority for public inspections during normal office hours. Notices mailed by certified Mail, return receipt requested, mailed to the violator's last known place of residence shall be deemed personal service upon the person for the purpose of this ordinance.
- d. Failure to pay fees and assessments – Pursuant to MS Code Annotated 21-19-1 the governing authority of the municipality shall provide for the collection of fees or charges and said fees shall be assessed jointly and severally against the generator of the garbage and/or rubbish and against the owner of the property furnished the service. Billing for solid waste services shall be included jointly with water and wastewater services and failure to pay said fees may result in the disconnection of municipal water service. Partial payments shall not be

accepted.

2. Failure to Comply with a Notice

Any person who has served such notice in accordance with the provisions of this Ordinance and who shall neglect, or shall refuse, or shall fail to fully comply with the corrective notices so ordered and/or within the time frame so ordered therein, shall be in violation of this Ordinance.

3. Penalties

Any person found to be in violation of any provisions of this ordinance may be given a written Citation with permanent record held at Municipal Court plus a minimum fine of two hundred (\$200) dollars. The second offense will mandate a minimum fine of two hundred (\$200) dollars and a maximum fine of five hundred (\$500) dollars. Further violation will lead to fine, community service, and/or jail sentence to be determined by the judge with a minimum fine of two hundred (\$200) dollars and a maximum fine of five hundred (\$500) dollars. In situations where residential or business owners deliberately litter or refuse to clean up their property and pursuant to MS Code Annotated 21-19-11, fines will be assessed to include the cost for cleanup and/or restoration of property.

4. Cleaning of Private Property

Upon the failure, neglect, or refusal of any person so notified to properly dispose of garbage and compostable trash from their property within thirty (30) days after issuance of proper corrective notice, the City may demand the removal of said garbage and compostable trash and charge the owner of such property for said removal pursuant to Miss. Code Ann. §21-19-11 and such assessment shall be a lien against the property.

11. Conflict

Any other ordinances of Eupora, Mississippi, which are conflicting or inconsistent with this ordinance, are hereby repealed to the extent of any inconsistencies of the conflicts.

12. Severability

Severability is intended throughout and within the provisions of this Litter Ordinance. If any provision, including any exception, part, phrase, or term, or the application thereof, to any person or circumstance is held invalid by a Court of appropriate jurisdiction, the application to the other person's circumstances shall not be affected thereby, and validity of the Litter Ordinance in any and all other respects shall not be affected thereby, the Board of Aldermen of the City of Eupora, Mississippi do not intend a result that is absurd, impossible to execute or unreasonable. It is intended that the Litter Ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional as Constitutionally permitted construction is intended and shall be given. The Board of Aldermen of the City of Eupora, Mississippi does not intend to violate any provisions of the Constitution of the United States of America or the Constitution of the State of Mississippi.

13. Ordinance Cumulative

This ordinance shall be cumulative in addition to any other laws in force.

14. Effective Date

This Ordinance shall be in effect thirty (30) days from and after its date of passage and the Clerk is directed to publish notice accordingly.

The foregoing amended Ordinance was first reduced to writing and read and considered by Sections and by the Whole at the recessed meeting of the Mayor and Board of Aldermen on October 16, 2023. After a full and complete discussion of the above Ordinance, Alderman _____ moved to adopt the amended Litter Ordinance for the City of Eupora, Mississippi, Alderman _____ seconded and the same being put to a roll call vote, the results were as follows:

- Alderman Shaw voted _____
- Alderman Tabb voted _____
- Alderman Newton voted _____
- Alderman Gibbs voted _____
- Alderman Gary voted _____ (M a y o r P r o T e m p o r e)

WHEREAS, the Mayor and Board of Aldermen declared the amended Litter Ordinance passed and adopted at a Regular Meeting of the Mayor and Board of Aldermen on this the _____ day of _____, 2023.

SIGNED: _____
 GERALD GARY – MAYOR PRO-TEMPORE

ATTEST: _____
 GAIL NEWTON - CITY CLERK