

1 STATE OF GEORGIA

2 CITY OF LITHONIA

3 ORDINANCE NO. 2021-02-01

4 AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF LITHONIA,  
5 GEORGIA, BY ADDING SECTION 3 (LITTER CONTROL); TO PROVIDE FOR  
6 SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE AN ADOPTION AND  
7 EFFECTIVE DATE; AND FOR OTHER LAWFUL PURPOSES.

8 WHEREAS, the duly elected governing authority of the City of Lithonia, Georgia (the  
9 “City”) is the Mayor and Council thereof; and

10 WHEREAS, the City of Lithonia is authorized by O.C.G.A. §36-35-3 to adopt ordinances  
11 relating to its property, affairs, and local government; and

12 WHEREAS, the City’s Code of Ordinances should be amended and updated in order to  
13 provide for the proper regulation of land and water, in order to comply with current Georgia law,  
14 and

15 WHEREAS, the Mayor and City Council have determined that it is appropriate to amend  
16 said sections of the Code of Ordinances of the City of Lithonia to be consistent with state law and  
17 to further protect the public health, safety, and welfare of the citizens of the City.

18 NOW THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR  
19 AND COUNCIL OF THE CITY OF LITHONIA, GEORGIA and by the authority thereof:

20 Section 1. The City of Lithonia, Georgia’s Code of Ordinances is amended by adding Sec.  
21 3 (Litter Control), to read as follows:

22 SECTION 3. GENERAL PROVISIONS

23 A. Purpose and Intent

24 The purpose of this ordinance is to protect the public health, safety, environment, and general  
25 welfare through the regulation and prevention of litter. The objectives of this ordinance are:

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- 27 (1) Provide for uniform prohibition throughout the **(jurisdiction)** of any and all littering  
28 on public or private property; and,
  - 29 (2) Prevent the desecration of the beauty and quality of life of the **(jurisdiction)** and  
30 prevent harm to the public health, safety, environment, and general welfare, including  
31 the degradation of water and aquatic resources caused by litter.

32 **B. Applicability**

33 This ordinance shall apply to all public and private property within the (jurisdiction).

34 **C. Compatibility with Other Regulations**

35 This ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule  
36 or regulation, statute, or other provision of law. The requirements of this ordinance should be  
37 considered minimum requirements, and where any provision of this ordinance imposes  
38 restrictions different from those imposed by any other ordinance, rule or regulation, or other  
39 provision of law, whichever provisions are more restrictive or impose higher protective  
40 standards for human health or the environment shall be considered to take precedence.

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42 **D. Severability**

43 If the provisions of any article, section, subsection, paragraph, subdivision or clause of this  
44 ordinance shall be judged invalid by a court of competent jurisdiction, such order of  
45 judgment shall not affect or invalidate the remainder of any article, section, subsection,  
46 paragraph, subdivision or clause of this ordinance.

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48 **SECTION 3.1 DEFINITIONS**

49 **“Litter”** means any organic or inorganic waste material, rubbish, refuse, garbage, trash, hulls,  
50 peelings, debris, grass, weeds, ashes, sand, gravel, slag, brickbats, metal, plastic, and glass  
51 containers, broken glass, dead animals or intentionally or unintentionally discarded materials of  
52 every kind and description which are not "waste" as such term is defined in O.C.G.A., §16-7-  
53 51, paragraph 6.

54

55 **“Public or private property”** means the right of way of any road or highway; any body of  
56 water or watercourse or the shores or beaches thereof; any park, playground, building, refuge, or  
57 conservation or recreation area; timberlands or forests; and residential, commercial, industrial,  
58 or farm properties.

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60 **SECTION 3.2 PROHIBITION AGAINST LITTERING PUBLIC OR PRIVATE**  
61 **PROPERTY OR WATERS**

62 It shall be unlawful for any person or persons to dump, deposit, throw or leave or to cause or

63 permit the dumping, depositing, placing, throwing or leaving of litter on any public or private  
64 property in this (jurisdiction) or any waters in this (jurisdiction) unless:

- 65
- 66 (1) The property is designated by the State or by any of its agencies or political  
67 subdivisions for the disposal of such litter, and such person is authorized by the  
68 proper public authority to use such property;
  - 69 (2) The litter is placed into a receptacle or container installed on such property; or,
  - 70 (3) The person is the owner or tenant in lawful possession of such property, or has first  
71 obtained consent of the owner or tenant in lawful possession, or unless the act is done  
72 under the personal direction of the owner or tenant, all in a manner consistent with the  
73 public welfare.
- 74

### 75 **SECTION 3.4 VEHICLE LOADS CAUSING LITTER**

76 No person shall operate any motor vehicle with a load on or in such vehicle unless the load  
77 on or in such vehicle is adequately secured to prevent the dropping or shifting of materials  
78 from such load onto the roadway.

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80  *Section 4 adapted from O.C.G.A. § 40-6-254.*

### 81 **SECTION 3.5. VIOLATIONS, ENFORCEMENT AND PENALTIES**

#### 82 **A. Violations**

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

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#### 89 **B. Evidence**

- 90 (1) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle,  
91 boat, airplane, or other conveyance in violation of this ordinance, it shall be prima  
92 facie evidence that the operator of the conveyance has violated this ordinance.
- 93 (2) Except as provided in subsection (1), whenever any litter which is dumped, deposited,  
94 thrown or left on public or private property in violation of this ordinance is discovered  
95 to contain any article or articles, including but not limited to letters, bills, publications  
96 or other writing which display the name of the person thereon in such a manner as to  
97 indicate that the article belongs or belonged to such person, it shall be a rebuttable  
98 presumption that such person has violated this ordinance.

#### 99 **C. Penalties**

100 Any person who violates this ordinance shall be guilty of a violation and, upon conviction  
101 thereof, shall be punished as follows:

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- 103 (1) By a fine of not less than \$200 and not more than \$1,200; and
- 104 (2) In addition to the fine set out in subsection 1 above, the violator shall reimburse the
- 105 **(jurisdiction)** for the reasonable cost of removing the litter when the litter is or is
- 106 ordered removed by the **(jurisdiction)**; and
- 107 (3) (A) In the sound discretion of the court, the person may be directed to pick up and
- 108 remove from any public street or highway or public right-of-way for a distance
- 109 not to exceed one mile any litter he has deposited and any and all litter
- 110 deposited thereon by anyone else prior to the date of execution of sentence; or
- 111 (B) In the sound discretion of the court, the person may be directed to pick up and
- 112 remove any and all litter from any public property, private right-of-way, or with
- 113 prior permission of the legal owner or tenant in lawful possession of such
- 114 property, any private property upon which it can be established by competent
- 115 evidence that he has deposited litter. Pick up and removal shall include any and
- 116 all litter deposited thereon by anyone prior to the date of execution of sentence;
- 117 and,
- 118 (4) The court may publish the names of persons convicted of violating this ordinance.

119 **D. Enforcement**

120 All law enforcement agencies, officers and officials of this state or any political subdivision  
121 thereof, or any enforcement agency, officer or any official of any commission of this state or any  
122 political subdivision thereof, are hereby authorized, empowered and directed to enforce  
123 compliance with this article.

124 ☞ *Official Code of Georgia § 16-7-43(d) provides procedures for local governments to appoint*  
125 *individuals, in addition to traditional law enforcement officials, to enforce the provisions of this*  
126 *ordinance. The District encourages the use of this procedure to appoint individuals involved in*  
127 *public works, code enforcement (including local environmental code enforcement officers) or*  
128 *building inspection to carry out this important function.*

129 **Section 2.** The preamble of this Ordinance shall be considered to be and is hereby  
130 incorporated by reference as if fully set out herein.

131 **Section 3.** (a) It is hereby declared to be the intent of the Mayor and Council that all  
132 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their  
133 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

134 (b) It is hereby declared to be the intent of the Mayor and Council that, to the greatest extent  
135 allowed by law, each and every section, paragraph, sentence, clause, or phrase of this Ordinance  
136 is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It  
137 is hereby further declared to be the intent of the Mayor and Council that, to the greatest extent

138 allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually  
139 dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.


140 (c) In the event that any phrase, clause, sentence, paragraph, or section of this Ordinance  
141 shall, for any reason whatsoever, be declared invalid, unconstitutional, or otherwise unenforceable  
142 by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of  
143 the Mayor and Council that such invalidity, unconstitutionality, or unenforceability shall, to the  
144 greatest extent allowed by law, not render invalid, unconstitutional, or otherwise unenforceable  
145 any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinance and that,  
146 to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and  
147 sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and  
148 effect.

149 **Section 4.** All ordinances and parts of ordinances in conflict herewith are hereby expressly  
150 repealed.

151 **Section 5.** The effective date of this Ordinance shall be the date of adoption unless  
152 otherwise specified herein.

153 SO ORDAINED this 15<sup>th</sup> day of February, 2021.  
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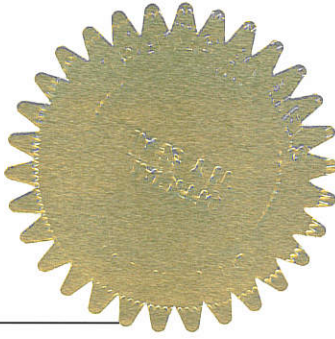
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157 CITY OF LITHONIA, GEORGIA

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163 Shameka Reynolds, Mayor  
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169 **ATTEST:**

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174 **Robinette Blount, City Clerk**



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177 **APPROVED AS TO FORM BY:**

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City Attorney