

**ORDINANCE ESTABLISHING RULES AND REGULATIONS REGARDING LITTER THAT  
MAY BE FOUND WITHIN THE CITY LIMITS OF DIAMONDHEAD**

WHEREAS, the City of Diamondhead was incorporated on January 30, 2012, as a municipality along the Mississippi Gulf Coast in Hancock County, and

WHEREAS, the City of Diamondhead, like the other municipalities along the Mississippi Gulf Coast, has a desire to keep its city clean and beautiful, and

WHEREAS, the Mayor and City Council of the City of Diamondhead, Mississippi, find that a need exists to establish rules and regulations regarding litter that may be found within the municipal boundaries of the City;

WHEREAS, the Mayor and City Council are authorized to establish said rules and regulations pursuant to Mississippi Code Ann. Section 21-19-1, et seq.;

AND WHEREAS, that authority granted by statute to the Mayor and City Council is for the purpose to secure the general health and welfare of the community,

BE IT, THEREFORE, ORDAINED BY THE MAYOR AND CITY COUNCIL

as follows:

**Anti-litter.**

(a) *Definitions.* For the purpose of this ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein:

*Aircraft* means any contrivance now known or hereafter invented, used or designed for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air powered craft and balloons.

*Authorized private receptacle* means a container of water-tight construction with a tight fitting lid or cover capable of preventing the escape of contents within. Such receptacles shall have handles or other means for safe and convenient handling and be of such size or sufficient capacity to hold all litter generated between collection periods and shall be in compliance with the regulations promulgated.

*Construction sites* means any private or public property upon which repairs to existing buildings, construction of new buildings, or demolition of existing structures is taking place.

*Handbill* means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed matter of literature which is not delivered by United States mail, including, but not limited to those which:

- (1) Advertise for sale any merchandise, product, commodity, or thing; or
- (2) Direct attention to any business or merchantable or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or

(3) Direct attention to or advertise any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit.

*Litter* means garbage, refuse, trash, rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

*Loading and unloading dock* means any dock space or area used by any moving vehicle for the purpose of receiving, shipping and transporting goods, ware, commodities and persons located on or adjacent to any stream, river or land.

*Private premises* means all property including, but not limited to, vacant land or any land, building or other structure designed or used for residential, commercial, business, industrial, institutional or religious purposes, together with any yard, grounds, walk, driveway, fence, porch, steps, vestibule, mailbox and other structure appurtenant thereto.

*Public place* means any and all streets, sidewalks, boulevards, alleys or other public ways, lakes, rivers, watercourses or fountains and any and all public parks, squares, spaces, grounds, and buildings.

*Public receptacle* means any receptacles provided by or authorized by the city.

*Trash* shall include all non-putrescible waste, paper, metal cans, plastic or glass containers, grass and leaves, from all public and private establishments and from all residences.

*Vehicle* means every device in, upon or by which any person or property is or may be transported or drawn upon land or water, including devices used exclusively upon stationary rails or tracks.

(b) *Littering prohibited.* No person shall deposit any litter within the city except in public receptacles, in authorized private receptacles for collection or in any duly licensed disposal facility.

(c) *Prevention of scattering.* Persons placing litter in public receptacles or in authorized private receptacles shall do so in such manner as to prevent litter from being carried or deposited by the elements upon any public place or private premises.

(d) *Upsetting or tampering with receptacles.* No person shall upset or tamper with a public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or upon any public place or private premises.

(e) *Sidewalks and alleys to be kept free from litter.* Persons owning, occupying or in control of any public place or private premises shall keep the sidewalks and alleys adjacent thereto free of litter.

(f) *Owner to maintain private premises.*

(1) The owner or person in control of any private premises shall at all times maintain the premises free of litter.

(2) The owner or person in control of private premises shall 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 public place or private premises.

(3) It shall be the duty of every nonresident owner of a vacant lot or other vacant property to appoint a resident agent who shall have responsibility for keeping that lot or other property free of litter.

(g) *Littering from vehicles.*

(1) No person, while the operator of or passenger in a vehicle, shall deposit litter upon any public place or private premises.

(2) No person shall drive or move any loaded or partly loaded truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any part of its load, contents or litter from being blown or deposited upon any public place or private premises.

(3) Investigation and prosecution.

Upon receipt of a complaint from a private citizen wherein he/she states they have personally observed an act of littering on the municipal streets or thoroughfares, and they have provided evidence of the description of the vehicle, including tag number, and a description of the occupant(s), if available; the police department shall conduct an investigation of the complaint. Upon a finding of probable cause that an act of littering has occurred, the police department shall provide written notice by registered mail, restricted delivery, to the registered owner of the vehicle to respond as to whether or not he/she was operating or occupying the vehicle and littering from same on the date of the alleged violation. If this person fails to respond or provide a credible explanation as to the allegation of the violation within a reasonable period of time, as specified in the notice, a designated representative of the police department is authorized to proceed with filing an affidavit in the municipal court on a charge of littering. A show cause summons shall be issued by certified mail, restricted delivery, for the alleged violator to appear in court to respond to the charge. The complaining citizen witness shall be subpoenaed to appear to provide evidence as to the charge. No such charge will be prosecuted unless the complaining witness appears to testify and provide evidence to support the charge.

(4) Littering—Violation of statute.

The fact that litter is thrown or deposited from a vehicle which is registered in a person's name shall be prima facie proof that such person as the operator of the vehicle has violated the statute on littering or has allowed a passenger to violate same. This provision shall not prevent the registered owner from proving he/she did not operate or occupy the vehicle at the time of the violation. This section shall not apply unless the city's designated representative has issued a certified letter, restricted delivery, to the registered owner requesting the owner of the vehicle to respond to the allegation of littering and no response or credible explanation has been received from the registered owner before the affidavit for this violation has been filed.

(h) *Littering from aircraft.* No person in any aircraft shall throw out, drop or deposit within the city any litter.

(i) *Litter in parks.* No person shall deposit litter in any park within the city except in public receptacles or authorized private receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon

any other public place or private premises. Where public receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner.

(j) *Handbills.*

(1) *Public places.* No person shall deposit or place any handbill in or upon any public place provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute without charge to the receiver, any handbill to any person willing to accept it.

(2) *Private premises.*

a. No person shall deposit or unlawfully distribute any handbill in or upon private premises, except by handing or transmitting any such handbill directly to the occupant of such private premises.

b. *Placing handbills on vehicles.* No person shall deposit any handbill in or upon any vehicle.

(3) *Cleanup.* It shall be the responsibility of any person distributing handbills to maintain the area which they are utilizing free of any litter caused by or related to said handbill distribution.

(k) *Posting notices prohibited.* No person shall post or affix any notice, sign, poster or other paper or device, calculated to attract attention of the public upon any public place, except as may be authorized or required by law. No person except the owner or tenant shall post any authorized notice, sign, poster or other paper or device on private property, without the permission of the owner or tenant.

(l) *Construction sites.*

(1) Each contractor shall be responsible for the job site so that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

(2) Litter or other debris, including dirt and mud, deposited as the result of normal construction process upon any public place or private premises, shall be removed by the general contractor.

(m) *Loading and unloading docks.* The person owning, operating or in control of a loading or unloading dock shall maintain private receptacles for collection of litter, and shall at all times maintain the dock area free of litter in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

(n) *Parking lots.* The owner operating or in control of a parking lot shall at all times maintain the parking area free of litter in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

(o) *Duty of owner to remove litter from private property.* The owner or occupant of any building, house, structure or land shall cause to be removed all accumulated litter which is located, owned, or deposited on the property. The existence of litter on the property shall be prima facie evidence that such owner or occupant failed to remove, as provided in this section,

at his own expense, the litter so located thereon. Removal of the litter by the owner or occupant at his/her own expense is required within seven days of written notice mailed first class United States mail by the city manager, the code enforcement officer, or other designated city agent or employee at owner or occupant's expense. Failure of the owner or occupant to remove the litter within the designated time shall result in removal of the items by the city or its authorized agent. The cost for said removal shall be assessed against the owner or occupant.

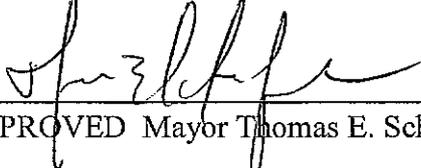
(p) *Penalty.* Upon notification by any person or as the result of an inspection by a city official or agent of a violation of this section, the city manager, code enforcement officer, or any designated city agent shall sign and complete an affidavit describing said violation with the City Court of the City of Diamondhead stating that the owner or occupant of a specified premises has violated the terms of this ordinance and shall be punished in accordance therewith. Said affidavit shall contain the name of the alleged violator, the address of the premises where the alleged violation occurred, and shall describe the alleged violation. Any person, firm, or corporation violating any provision of this section shall be fined not less than \$50.00 nor more than \$500.00 for each offense, and may be also ordered to perform not less than five hours community service consisting of litter pickup throughout the city. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

In accordance with Mississippi Code of 1972, § 21-13-11, this ordinance becomes effective thirty days from date of passage with a single publication of the ordinance prior to the effective date.

MOTION was made by Council Member Rech to adopt the forgoing Ordinance and SECONDED by Council Member LaFontaine and having been reduced to writing, was submitted to a Roll Call Vote.

	Aye	Nay	Absent
Councilmember Lopez	<u>✓</u>	_____	
Councilmember LaFontaine	<u>✓</u>	_____	
Councilmember Sislow	_____	_____	<u>✓</u>
Councilmember Rech	<u>✓</u>	_____	
Councilmember Knobloch	<u>✓</u>	_____	
Mayor Schafer	<u>✓</u>	_____	

WHEREUPON THE MAYOR DECLARED THE ORDINANCE CARRIED AND ADOPTED

  
 \_\_\_\_\_  
 APPROVED Mayor Thomas E. Schafer, IV

SEAL

ATTEST   
DEPUTY CITY CLERK LOLITA MCSWAIN