

METCALFE FISCAL COURT
ORDINANCE NO. 21-0511

ARTICLE I: GENERAL

SECTION 1 – TITLE {Title of ordinance}

This Ordinance shall be known as the Metcalfe County Illegal Dumping and Litter Control Ordinance.

SECTION 2 – INTENT {Purpose of Ordinance}

It is the expressed intent of the Metcalfe County Fiscal Court and this Ordinance to promote a clean, healthy, safe, and attractive environment in which to live. Further, it is the intent of the Metcalfe County Fiscal Court to cause the Metcalfe County Solid Waste Enforcement Officer [or other appropriate code enforcement officer] to properly notify the property owner(s), or if not the property owner, the person(s) responsible for violating this ordinance. Such notification shall be in writing with a clear explanation of the violation. Such written notification shall also explain options for resolution of the violation and allow adequate time for remediation. The Solid Waste Enforcement Officer [or other appropriate code enforcement officer] shall be made available to work with the individual(s) and use all applicable regulations that may aid in the cleanup of litter and/or the disposal of illegal dumpsites. Upon request, the Metcalfe County Fiscal Court may also grant reasonable extensions for the time required for cleanup.

SECTION 3 – APPLICABILITY

The Ordinance shall apply to and be enforced within the unincorporated [if applicable] boundaries of Metcalfe County.

SECTION 4 – ENFORCEMENT

A. Law enforcement officers of Metcalfe County and the Solid Waste Enforcement Officer [or other code enforcement officer] are hereby empowered to and shall enforce provisions of this ordinance.

B. The Solid Waste Enforcement Officer (SWEO) [or other code enforcement officer] or law enforcement officer of Metcalfe County may initiate an investigation where the officer has sufficient probable cause to believe this ordinance is being violated.

C. If the Solid Waste Enforcement Officer [or other code enforcement officer] or law enforcement officer discovers an article of garbage bearing a person's, corporation's, company's, firm's, business's or institution's name or address on

any public or private property, it shall be presumed that said article of garbage being so discovered is the property of such person whose name appears thereon, and said person placed or caused to be placed such article of garbage; provided, however, that such presumption shall be rebutted by competent evidence. This presumption is based on the intent that all generators of such items are responsible for such items until such time they have been properly disposed of. [Note: in some states, state law stipulates the ability to use such articles as evidence.]

SECTION 5 – DEFINITIONS

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

A. **Bulky Waste.** Stoves, water heaters, washing machines, furniture, household construction debris, and other waste materials.

B. **Hazardous Waste.** Waste in any amount, which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriated State agency by or pursuant to Federal or State law, or waste, in any amount, which is regulated under Federal or State law. For purposes of this ordinance, the term Hazardous Waste shall also include motor oil, gasoline, paint, and appliances containing Freon.

C. **Miscellaneous Non-Vegetative Yard Waste.** Outdoor furniture, wire, plastics, bicycles, toys, grills, or any other outdoor item.

D. **Public Road.** Any road or roadway that is maintained by a City, County, State or Federal government using public funds.

E. **Public Property.** Any and all streets, public rights of way, easements, medians, sidewalks, boulevards, highways, streets, alleys, or other public parks, squares, spaces, grounds, buildings, and infrastructure.

F. **Rubbish.** Nonputrescible solid wastes (excluding ashes) consisting of both combustible and noncombustible wastes. Combustible rubbish includes paper, rags, cartons, wood, furniture, rubber, plastics, yard trimmings, leaves and similar material. Noncombustible rubbish includes glass, crockery, metal cans, metal furniture and like material.

G. **Solid Waste.** All items contained in the definition of garbage, bulky waste, dead animals, construction debris, or commercial waste. (See Commercial Waste)

H. **Solid Waste Enforcement Officer (SWEO)** [or other name for enforcement officer, may be code enforcement officer]. A person appointed by the Metcalfe County Fiscal Court to manage the Metcalfe County Solid Waste Department, to

enforce state laws related to solid waste, and to enforce state laws related to solid waste, and to enforce the provisions of this ordinance.

I. Unserviceable or Derelict Vehicle – Disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors, trailers, as used in this section, means motor vehicles, recreational vehicles, truck bodies, tractors, farm machinery or trailers in such a state of physical or mechanical ruin as to be incapable of population.

ARTICLE II:

CONTAINERIZATION, CONTROL AND TRANSPORT OF SOLID WASTE {Description of solid waste storage and transport requirements for all property types to avoid litter, responsible parties}

SECTION 1 – CONTAINERIZATION OF LITTER AND SOLID WASTES IN RECEPTACLES FOR GARBAGE COLLECTION {Description of storage requirements, responsibilities of owner, lessee of property}

A. It is unlawful for any person to deposit any materials in receptacles placed for public use as a depository for litter, recyclables, or solid wastes other than that specifically designated for that container.

B. All persons that place their solid waste in containers for collection are responsible for unsightly garbage in and about the property owned, operated or controlled by said persons. Spillage and overflow of wastes around containers shall be promptly cleaned and properly disposed of within 24 hours.

C. It shall be the responsibility of each person to keep his or her own property clean and free of garbage and any resulting litter. Any non-contained and uncontrolled accumulation of garbage on any public or private property is a violation of this ordinance.

D. Persons owning or occupying property shall keep right-of-way areas in front of their premises (and behind, if alleys are present) free of solid waste of all types.

E. It shall be the responsibility of the resident or the owner or manager of a commercial or multi-family residential establishment to utilize a storage system that will include containers of adequate size and strength and in sufficient numbers up to the limit permissible to contain all solid waste that the residence or other establishment generates in the period of time between collections. The owner or, if leased, the lessee of the storage containers shall be jointly and severally responsible for compliance with this requirement.

F. Any solid waste resulting from construction, repair, or alteration of any building in Metcalfe County shall be contained and removed in a timely manner by the

generator and/or its contractor. All tree, tree limbs, and brush cut by a contractor or any person performing such task or any other yard wastes collected from the property shall either be managed on-site in accordance with state law or should be removed and properly disposed. These materials shall be placed in containers such that they will not be scattered by the elements.

G. Residents and commercial entities shall set out solid waste and recyclable materials only in approved containers, as described in the Metcalfe County solid waste management ordinance.

H. Waste spilled due to improper bagging or because the bag was not protected from animals shall be cleaned up by the resident or commercial entity within 24 hours.

I. Residents and commercial entities shall set out solid waste and recyclables such that they cannot become scattered by the elements. All garbage and other small, loose items for disposal shall be bagged before being placed in the approved container. Recyclables shall be placed in a lidded cart or set out such that heavier items are on top to avoid materials becoming scattered by the elements.

J. Placing solid waste in someone else's container, public or private, constitutes theft of services, and is a violation of this Ordinance.

SECTION 2 – SOLID WASTE TRANSPORTATION

A. Any solid waste materials being transported by vehicle shall be secured in such a manner to prevent the materials from blowing, spilling, or falling from the vehicle.

B. Any driver or 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 be cited and fined in accordance with this ordinance and the laws of the State of Kentucky.

SECTION 3 – PENALTIES

Waste spilled because of improper bagging or because the bag was not protected from animals must be cleaned up and re-bagged by the owner within 24 hours. Any person who fails to properly bag garbage, secure loads properly for transport, or to clean up spilled garbage is in violation of this ordinance and is guilty of a misdemeanor and subject to a fine of \$25.00 for the first occurrence, \$50.00 for the second occurrence and upon the third and subsequent occurrences, \$100 plus a minimum of five (5) hours of community service work to

be devoted to matters pertaining to beautification programs within Metcalfe County.

ARTICLE III:

PREVENTION OF LITTERING {Description of the crime of littering, activities prohibited, penalties, and includes salvage operations}

SECTION 1 – LITTERING PROHIBITED {Describes the unlawfulness of all acts of littering in the jurisdiction}

A. It is unlawful for any person to throw, discard, or deposit litter, as defined herein, in any manner or amount in or upon any private or public property, highway, street, right-of-way, body of water, or park in Metcalfe County, except in public receptacles, in authorized private receptacles, or in accordance with regulations and requirements set forth by Metcalfe County and its agent for collection.

B. It is unlawful for any person, while a driver or passenger in a vehicle, to throw or deposit litter upon any street or other public place within Metcalfe County upon private property.

C. It is unlawful for any person to throw or deposit litter in any public place within Metcalfe County except to make deposits in public receptacles specifically provided for solid waste, recycling, and cigarette butts. Where public receptacles are not provided, all such litter shall be carried away from the public place by the person responsible for its presence and properly disposed of elsewhere as provided herein.

D. It is unlawful for any person to throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a public place or elsewhere within Metcalfe County.

E. It is unlawful for any person to throw or deposit any commercial or noncommercial handbill in or upon any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

F. It is unlawful for any person to throw or deposit any commercial or noncommercial handbill or telephone books in or upon any private premises which are temporarily or continuously uninhabited or vacant.

G. It is the duty of the owner, lessee, tenant, occupant, or person in charge, to keep and cause to be kept the sidewalk and gutter areas (twenty four inches from curb into street) free from obstruction or nuisances of every kind, and to

keep sidewalks, gutter areas, archways, backyards, courts and alleys free from litter and other offensive materials.

H. Temporary signs which advertise the sale, rental, lease or improvement of the property on which is located provided such signs do not exceed six square feet in any residential zone, 20 square feet in commercial zones, and 30 square feet in industrial zones. Signs advertising pending improvements shall not be in place more than 60 days prior to commencement of such improvements. Temporary signs shall be removed within ten days after completion of the activity advertised. Such signs shall not be lighted nor internally illuminated. Election signs shall be considered temporary signs and shall comply with the above requirements.

SECTION 2 – PENALTIES FOR LITTERING {Description of penalties associated with littering violations}

Any person found to be in violation of any provisions of this ordinance and shall be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Fifty Dollars (\$250.00). In addition to, or in lieu of, the fine imposed hereunder, the person so convicted may be ordered to pick up litter for not less than five (5), nor more than 50 (50) hours. [See text box about penalties for more considerations].

ARTICLE IV:

PREVENTION OF ILLEGAL DUMPING {Description of illegal dumping violations, penalties, and ability to require clean up}

SECTION 1 – ILLEGAL DUMPING PROHIBITED {Description of illegal dumping violations}

A. It shall be unlawful for any person to cause, create, or allow an illegal dump on any private or public property. Illegal dumps shall be eliminated by removal and proper, legal management of the dumped material. Solid waste from the illegal dump site will be disposed in an approved and permitted landfill and/or recycling facility.

B. Not more than one unregistered and uninspected vehicle shall be stored or parked outdoors in any residential zone. Storage or abandonment of unserviceable or derelict vehicles is prohibited in any residential zone.

C. Illegal Dumping (Misdemeanor). Any person found to be in violation of any provisions of this ordinance is guilty of a misdemeanor and shall be subject to a fine of not more than Five Hundred Dollars (\$500.00) or in lieu of, the fine imposed hereunder, the person so convicted may be ordered to pick up litter for not less than five (5), nor more than 100 (100), hours.

ARTICLE V:

OTHER PROVISIONS

SECTION 1 – CONFLICT

It is not intended that this Ordinance repeal, abrogate, annul, impair, or interfere with any existing provisions of any other ordinances or laws. However, if the requirements of any other lawfully adopted rules, regulations, or ordinances of Metcalfe County conflict with this Ordinance, the more restrictive or that imposing the higher standards will govern.

SECTION 2 – SEVERABILITY

Severability is intended throughout and within the provisions of this Illegal Dumping and Litter Control Ordinance. If any provision, including any exception, part, phrase or term or the application thereof to any person or circumstances is held invalid by a Court of appropriate jurisdiction, the application to other persons or circumstances shall not be affected thereby, and the validity of the Illegal Dumping and Litter Control Ordinance in any and all other respects shall not be affected thereby. The Metcalfe Fiscal Court of Metcalfe County does not intend a result that is absurd, impossible to execute, or unreasonable. It is intended that this Illegal Dumping and 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.

SECTION 3 – ORDINANCE CUMULATIVE


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

SECTION 4 – NON-EXCLUSIVE REMEDY

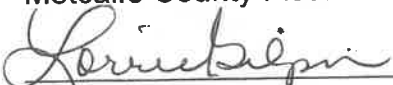
The standards and procedures set forth in this ordinance are non-exclusive and therefore citizens and Metcalfe County may simultaneously proceed under one or more Article(s) as to any single condition as deemed appropriate.

1st Reading: 5/11/21

2nd Reading: 5/25/21



HAROLD STILTS, JUDGE
Metcalfe County Judge Executive
Metcalfe County Fiscal Court



Clerk of Fiscal Court