

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, REPEALING SECTIONS 215.050 THROUGH 215.190 OF THE OSAGE BEACH CODE OF ORDINANCES AND REENACTING NEW SECTIONS 215.050 THROUGH 215.190 DEALING WITH LITTER AND TRASH IN THE CITY

**WHEREAS**, litter trash and rubbish on the side of the road and along our streets and highways is a public problem and a visual blight on our city; and,

**WHEREAS**, the Board of Aldermen hereby finds and determines that litter trash and rubbish on the side of the road and along our streets and highways impairs the property values of our city and makes the city less attractive place to work, live and play and therefore the Board hereby declares that such litter trash and rubbish on the side of the road and along our streets and highways is a public nuisance; and,

**WHEREAS**, the Board of Aldermen conclude that the following new sections should be adopted into the code of ordinances to give the city and the citizens some new tools to fight the blight of litter trash and:

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF OSAGE BEACH, MISSOURI AS FOLLOWS:

Section 1. That Sections 215.050 through Section 215.190 of the Osage Beach Code of Ordinances be and are hereby repealed.

Section 2. That new Sections 215.050 through Section 215.190 of the Osage Beach Code of Ordinances be and are hereby enacted as follows:

Section 215.050 Definitions.

For the purpose of this Article the following terms, phrases, words, and their derivations shall have the meaning given herein:

**AUTHORIZED PRIVATE RECEPTACLE:**

A container of watertight 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 is of such size or sufficient capacity to hold all litter generated between collection period and shall follow the regulations promulgated.

**CONSTRUCTION SITES:**

Any private or public property upon which repairs to existing buildings, construction of new buildings, or demolition of existing structures is taking place.

**LITTER:**

Garbage, refuse, and 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:**

Any dock space or area used by any moving vehicle for receiving, shipping and transporting goods, wares, commodities and persons located on or adjacent to any stream, river or land.

**PRIVATE PREMISES:**

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:**

All streets, sidewalks, boulevards, alleys or other public ways, lakes, rivers, watercourses or fountains and all public parks, squares, spaces, grounds, and buildings.

**PUBLIC RECEPTACLE:**

Any receptacles provided by or authorized by the City.

**VEHICLE:**

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.

**Section 215.060 Illegal Littering and Dumping of Trash in a Public Place.**

A. Prohibited. No person shall dump or otherwise deposit or cause, permit, suffer or allow the dumping or depositing of any trash, garbage, rubbish, yard waste, litter or any other offensive or disagreeable thing in any public place, public building or market, or on or along any sidewalk, street, alley, boulevard, highway, right-of-way, viaduct, tunnel, park or parkway, or upon any private property or in any refuse container located on private property without the consent of the owner of the property, nor shall any person dump or deposit or cause, permit, suffer or allow the dumping or depositing of garbage or household refuse in any City litter can upon any street.

B. Evidence of Violation. i) Bags, mounds and accumulations of trash. When in any Bags, mounds and accumulations of trash there is evidence showing any three (3) or more items found in any bag, mound of accumulation of such garbage, rubbish, yard waste, litter or refuse to be identifiable or traceable to a specific individual shall constitute prima facie evidence that such garbage, rubbish, yard waste, litter or refuse was under the control of that individual and was so dumped or deposited where subsequently found with that individual's knowledge and consent.

ii) Any item of garbage, rubbish, yard waste, litter or refuse which is identifiable or traceable to a specific individual shall constitute prima facie evidence that such garbage, rubbish, yard waste, litter or refuse was under the control of that individual and was so dumped or deposited where subsequently found with that individual's knowledge and consent.

#### Section 215.070 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.

#### Section 215.080 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.

#### Section 215.090 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.

#### Section 215.100 Duty of business owners to maintain premises free of litter.

A. The owner or person in control of a business shall maintain the property in such a manner that litter which is a result of his business operation will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any other private property. Owners or persons in control of a business shall keep their premises free from litter by picking up the litter at regular intervals and depositing this litter into receptacles. A regular interval shall be whatever period that is necessary to keep litter from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any other property; provided, however, that this section shall not apply to the owner or operator of the business who at reasonable intervals collects and removes the litter which has been carried or deposited by the elements upon a street, sidewalk or other public place or upon private property. Persons owning or occupying places of business within the city shall maintain the sidewalk and the parkway in front of their business free of litter.

B. The owner or person in control of any private premises shall, if public receptacles are unavailable, 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.

#### Section 215.110 Littering from Vehicles

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

B. No person shall drive or move any 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.

C. Any person, whether or not such person is a citizen of the city, who shall witness the throwing, dumping or depositing of litter from a motor vehicle onto any public highway, street or road, onto another's property without the owner's permission, onto public park recreation lands, or onto any other public property, except such as is designated for the throwing, dumping or depositing of litter, may report the date and time of day of the littering and the license plate registration number and state of registration to any local law enforcement authority. The license plate registration number as recorded shall constitute prima facie evidence that the littering was done by the person to whom such motor vehicle is registered. Any person so reporting a violation shall be required to appear as a witness in any prosecutions resulting therefrom.

#### Section 215.120 Litter in Parks.

No person shall deposit litter in any park within the City except in 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 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.

#### Section 215.130 Sweeping litter into gutters.

No person shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway.

#### Section 215.140 Posting Notices Prohibited.

No person shall post or affix any notice, poster or other paper or device, calculated to attract the 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 such notice on private property, without the permission of the owner or tenant.

#### Section 215.150 Construction Sites

A. 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.

#### Section 215.160 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 always maintain the dock area free of litter in such manner that litter will be prevented from being carried or deposited by the elements upon any public place or private premises.

#### Section 215.170 Depositing litter on property of another.

A person shall not throw, dump, deposit or cause to be thrown, dumped or deposited litter on property owned by another person, without the permission of the owner or occupant of such property. If an object of litter is discovered on another person's property and permission was not given to use the property for such purpose, then it shall be presumed that the person whose name appears on the object threw, dumped, deposited or caused it to be thrown, dumped or deposited there. If the throwing, dumping or depositing of litter was done from a motor vehicle, except public transportation for hire while carrying passengers, it shall be presumed that the throwing, dumping or depositing was done by the driver of the motor vehicle. Presumptions in this section may be overcome by proof that the person identified from the litter caused the litter to be collected and transported for disposal at an approved site by a person licensed by the city to collect and dispose of solid waste.

#### Section 215.180 Clearing of Litter from Open Private Property by City.

The procedure for the removal of litter from private premises and the charging of expense thereof as a lien upon such property to be collected shall be in accordance with the State Statutes. The Chief of Police shall be responsible for the implementation of this enforcement program.

#### Section 215.190 Penalty.

A. Any person, firm or corporation violating any provision of this Article shall be punished pursuant to the general penalty Section 100.190 of this code. Every day any violation of this Chapter or any other ordinance or any such rule, regulation, notice or order shall continue shall constitute a separate offense.

### Section 3. Severability

The chapters, sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be

declared unconstitutional or otherwise invalid by the valid judgment or degree of any Court of any competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance since the same would have been enacted by the Board of Aldermen without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Section 4. Repeal of Ordinances not to affect liabilities, etc.

Whenever any part of this ordinance shall be repealed or modified, either expressly or by implication, by a subsequent ordinance, that part of the ordinance thus repealed or modified shall continue in force until the subsequent ordinance repealing or modifying the ordinance shall go into effect unless therein otherwise expressly provided; but no suit, prosecution, proceeding, right, fine or penalty instituted, created, given, secured or accrued under this ordinance previous to its repeal shall not be affected, released or discharged but may be prosecuted, enjoined and recovered as fully as if this ordinance or provisions had continued in force, unless it shall be therein otherwise expressly provided.

Section 5. That this Ordinance shall be in full force and effect from and after the date of passage and approval of the Mayor.

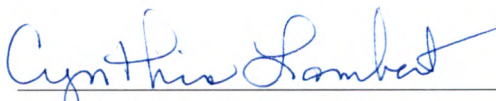
READ FIRST TIME: August 2, 2018      READ SECOND TIME: August 16, 2018

I hereby certify that Ordinance No.18.41 was duly passed on August 16, 2018 by the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:

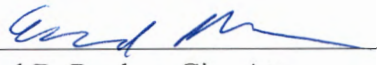
Ayes:	6	Nays:	0
Abstentions:	0	Absent:	0

This Ordinance is hereby transmitted to the Mayor for his signature.

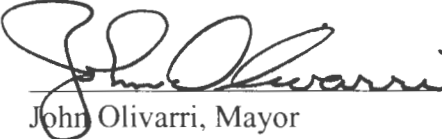
August 17, 2018  
Date

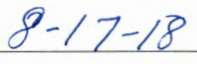
  
Cynthia Lambert, City Clerk

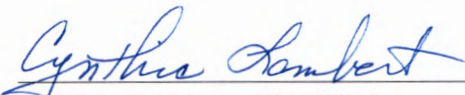
Approved as to form:

  
Edward B. Rucker, City Attorney

I hereby approve Ordinance No.18.41.

  
John Olivarri, Mayor

  
Date

  
Cynthia Lambert, City Clerk