

CITY OF CREOLA, ALABAMA

ORDINANCE NO. 2022-001

GARBAGE COLLECTION ORDINANCE

An Ordinance amending Ordinance No. 2019-031 to read as follows:

**WHEREAS**, the Mayor and the City Council of the City of Creola, Alabama desire to promote the health, welfare, and safety of the residents of the City of Creola, Alabama; and

**WHEREAS**, it is in the best interests of the Citizens of Creola that the City Council of the City of Creola amend the previously established ordinance for the orderly, effective, and systematic collection of garbage in the City of Creola, Alabama, and to establish the rules, regulations, and conditions which shall regulate the accumulation, removal, and disposal of garbage and other wastes; to provide definitions and receptacle requirements; to define prohibited acts; and to provide penalties for the violation hereof within the City of Creola, Alabama and its police jurisdiction; and

**WHEREAS**, these procedures should include prohibitions against the accumulation and/or unauthorized disposal and/or burning of Garbage within the City limits and Police Jurisdiction, so as to protect the Citizens of Creola.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CREOLA, ALABAMA, that Ordinance number 2019-031, previously adopted by the City Council of the City of Creola, is hereby amended to read as follows:**

**SECTION I. DEFINITIONS**

For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, the words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directive.

A. Garbage. The term “garbage” shall mean putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food, including wastes from markets, storage facilities, the handling and sale of produce and other food products, and excepting such materials that may be serviced by garbage grinder and handled as household sewage without limiting the destination of garbage, the term shall mean all solid waste containing, in whole or in part, organic matter (including all animal matter) capable of being decomposed by microorganisms and of such a character as to be capable of attracting or providing food for vectors, including birds and mammals, and insects, or rodents, or other vermin.

B. Commercial Establishments. The term “commercial establishment” shall mean and refer to all commercial establishments, including, but not being limited to, apartments, motels, and hotels maintaining centralized locations for garbage, laundries, and cleaning establishments, industrial establishments, retail or wholesale establishments, and all other places not classed as residential, producing or accumulating garbage.

C. Residential Unit. The term “residential unit” shall mean any structure or shelter, or any part or curtilage thereof used or constructed for use as a residence of one or more persons or families.

D. Garbage Receptacle. The term “garbage receptacle” shall mean a container that is commercially available for use as a garbage container which is (a) not greater than 35-gallon capacity or less than 30 gallon capacity, or (b) a 96 gallon semi-automated garbage cart, as approved by the City of Creola or a designated waste disposal provider or contractor licensed by the City of Creola to carry on business in the City of Creola. The receptacle shall be free of jagged or sharp edges and shall be watertight and of impervious material, provided with a tight-fitting cover suitable to protect the contents from flies, insects, rats, and other animals, and which shall not have any inside structures, such as inside bands or reinforcing angles or anything within that would prevent the free discharge of the contents. In no event shall metal drums be used as garbage receptacles.

E. Person. The term “person” shall mean any person or persons, firm, corporation, or association of any type.

F. Contractor. The term “Contractor” or “Waste Disposal provider” shall mean any person, firm, or corporation to whom the City of Creola has granted a franchise for the right to collect garbage within the City of Creola, Alabama, or who may otherwise be licensed to engage in the business of providing authorized waste disposal services in the City of Creola or the Police Jurisdiction thereof.

G. Owner. The term “Owner” shall mean person or persons, firm, corporation, or association who shall accumulate or cause to accumulate garbage for pickup and disposal by a Contractor, or who illegally burns or disposes of garbage.

H. Code Enforcement Officer. The Code Enforcement Officer of the City of Creola or a duly authorized representative of the City appointed by the Mayor to oversee enforcement of the terms of this Ordinance.

I. Garbage Disposal Site. “Garbage Disposal Site” shall mean areas or facilities established for disposal of garbage as designated by the Code Enforcement Officer or other lawful authority.

J. Occupant. The term “Occupant” shall mean any person or persons, firm or corporation, or association occupying any real property who shall accumulate garbage for pickup and disposal by a Contractor, or who illegally burns or disposes of garbage, including but not limited to tenants.

## **SECTION II. TERRITORIAL APPLICATION OF THIS ORDINANCE**

The Provisions of this Ordinance shall apply to all territory which presently lies within the city limits or police jurisdiction, or which may be hereinafter annexed to the City of Creola.

## **SECTION III. REQUIREMENTS FOR GARBAGE REMOVAL**

A. Residential. All residents and occupants of residential units within the City of Creola, Alabama or its police jurisdiction shall be required to have accumulations of garbage removed and disposed of by a contractor or waste disposal provider to whom the City of Creola has granted a franchise by contract.

B. Commercial. All occupants of premises used for commercial purposes shall be required to have accumulations of garbage removed and disposed of by: (1) a licensed, franchised Contractor or other Contractor or waste disposal provider licensed by and in the City of Creola, Alabama, or (2) transporting in vehicles approved by the Code Enforcement Officer to approved disposal sites in accordance with applicable laws and regulations governing the transport of waste; or (3) obtaining a permit from the Health Department to transport to a landfill approved by the appropriate regulatory authority with jurisdiction thereof.

C. Evidence of Accumulation. The fact that any residence or any place of business is occupied shall be prima facie evidence that garbage is being produced and accumulated upon such premises, and by the occupant and/or owner thereof, and garbage shall be stored, transported, and disposed of in a manner approved by the Code Enforcement Officer and in compliance with the requirements of this Ordinance and any amendments thereto.

D. Placement. All garbage must be placed at the curbside within six (6) feet of the street or roadway before 7:00 a.m. on the day scheduled for pick up. No garbage shall be placed at the curbside more than twenty-four (24) hours prior to the day scheduled for pick up. If trash and garbage are scheduled for collection on the same day, materials should be neatly placed in separate areas of the curbside. Garbage containers shall be removed from the curbside within twelve (12) hours after collection has occurred.

E. Sanitary Nuisance. Accumulation of garbage at any residential unit or any commercial unit for more than five (5) consecutive days shall be prima facie evidence of a sanitary nuisance. The Code Enforcement Officer shall, upon finding a nuisance as described above, issue a municipal offense ticket pursuant to this ordinance or other applicable ordinance, and may pursue

all legal remedies available to the City under law, including, but not limited to, taking any action necessary to abate the nuisance.

#### **SECTION IV. PREPARATION AND RECEPTACLE REQUIREMENTS**

- A. Preparation Requirements. All garbage must be placed in bags and placed in a garbage receptacle as defined herein. Red-colored bags will not be collected, as red is the universal color for medical waste. All garbage, cans, and bottles shall be drained of all liquids prior to deposit in the required receptacles. Receptacles shall comply with requirements of the definition of same as established herein and shall be kept tightly covered at all times except when it is necessary to lift the cover to deposit garbage.
- B. Location of Receptacles; Residential. Garbage receptacles shall be placed at ground level, within six feet from the roadway on the property of the residential unit or commercial establishment which has accumulated the garbage, and shall not be kept upon city, county, or public property or neighboring property not within or inclusive of the ownership or tenancy of the person by whom the garbage is accumulated, whether such neighboring property be vacant or improved, except that it may be kept on the City right-of-way. Such placement of garbage receptacles shall be easily accessible to the Code Enforcement Officer for inspection and to employees of the Contractors for collection.
- C. Minimum Receptacle Specifications.
- (1) Receptacles Required. All garbage must be placed in bags and the bags placed in garbage receptacles as defined herein. Such receptacles shall be in sufficient number to hold all garbage produced between regular collections.
  - (2) Commercial Receptacle Exceptions. Garbage from commercial establishments may be stored or collected in a container designed for mechanical pickup provided that such container and the location of such container have been approved by the Code Enforcement Officer.
  - (3) Improper Receptacles. Any container used for the collection or storage of garbage failing to meet the requirements of this section shall be clearly marked or identified by an agent of the Contractor or Code Enforcement Officer, which marking, or identification shall legibly specify in what manner the container fails to meet the requirements of garbage receptacles. Any container so tagged must be replaced with an acceptable container within five (5) days after notification by the Code Enforcement Officer. The Contractor will not be responsible for removing garbage that is not properly prepared and placed in approved receptacles.

## **SECTION V. FREQUENCY OF COLLECTION**

Garbage shall be picked up by any Contractor from each location once per week. All collection schedules are subject to change due to legal holidays and/or weather conditions.

## **SECTION VI. FEES FOR COLLECTION AND DISPOSAL**

Every person or persons occupying or owning or being in possession of a residential building or dwelling unit which generates garbage within the City limits of the City of Creola, Alabama, (or the coverage area of the City's designated contractor) shall be subject to a fee to be determined by the designated City Contractor or licensed waste disposal provider in accordance with the applicable contract with the City.

Exemption. Notwithstanding anything herein to the contrary, any household whose sole source of income is Social Security benefits shall be granted an exemption from the payment of any fees required by the contract to be awarded, provided that the household seeking to claim the exemption shall present proof of income to the City no later than the first billing date of any calendar year in which the exemption is desired. The exemption shall, if approved, apply only so long as the household's sole source of income is social security, and shall be requested each year in which the exemption is desired in a similar manner and prior to the first billing date of the year of the requested exemption. If such an exemption is granted, contractor shall be notified by the City and the Contractor shall provide services referenced herein without charge to that household until such time as the exemption is removed. If the household income improves, the individual must notify the city of such. Alabama Criminal Code 13A-9-3 states that it is a Class C felony to falsely complete a written instrument required by a public official.

## **SECTION VII. PROHIBITED ACTS**

A. Accumulation of Garbage. It shall be unlawful for any person to accumulate or to cause, permit, or allow to be accumulated any garbage upon his or her property or premises except during regular intervals between collections by the Contractor and subject to being placed in appropriate bags and containers as set forth herein.

B. Unlawful Disposal. It shall be unlawful for any person to dump or bury any garbage on public or private property, including property owned by any such person, unless written permission has been obtained from the respective property owner or owners and such disposal has been authorized by the Code Enforcement Officer. If any garbage is found on public or private property or roadway and its origin is traced to a commercial establishment or residential unit by identification such as mail, statements, checks, etc., and such person or owners are not receiving disposal service by the franchised Contractor, such information presented in a statement signed by the Code Enforcement Officer, shall be prima facie evidence that such garbage came from that commercial establishment or residential unit and such person or owner is in violation of this

Ordinance. The provisions of this section do not apply to dumping and burying on private property, with owner's written permission, of sand, dirt, broken brick, blocks, broken pavement, or other material suitable for use as fill material to raise the elevation of land.

C. Contagious Disease Refuse. Refuse consisting of clothing, bedding, or other waste from homes or other places where highly infectious or contagious diseases have prevailed shall not be placed in containers for regular collection. Removal of such materials shall be performed under the supervision and direction of the Code Enforcement Officer.

D. Flammable or Explosive Refuse. Highly flammable or explosive materials shall not

be placed in containers for regular collection but shall be disposed of as directed by the Code Enforcement Officer at the expense of the owner or possessor thereof.

E. Other hazardous Materials. No person shall place or cause to be placed in receptacles such materials as unwrapped razor blades and glass, acid, (or items containing acid), and other like materials which have caused or may cause personal injury to employees of the Contractor or waste disposal provider. Such material shall not be collected unless wrapped, rendered harmless.

F. Dead Animals. The disposal of all dead animals on private property shall be the responsibility of the property owner. Disposal shall be as required by the Code Enforcement Officer. Any such animal must be appropriately buried.

G. Scattering Garbage. It shall be unlawful to molest, disturb, scatter, or spread about or cause to be molested, disturbed, scattered, or spread about any contents of receptacles set out or intended to be collected and removed.

H. Medical Waste. The City of Creola Solid Waste Department shall not collect any medical waste. The disposal of medical waste shall be the responsibility of the property owner, and shall be collected by a private, licensed Contractor in accordance with all federal, state and local laws.

I. Burning. It shall be unlawful for any person, including, but not limited to, any occupant, owner, or person in possession of any real property (including any authorized agent) to burn garbage within the City Limits or Police Jurisdiction of the City of Creola, Alabama.

## **SECTION VIII. PENALTIES**

Any person who violates or fails or refuses to obey or comply with any provision of this Ordinance, shall be subject to the charges assessed by the Contractor, and in addition may be charged with a misdemeanor, and upon conviction of same, be punished by a fine of not less than fifty dollars(\$50.00) nor more than five hundred dollars(\$500.00). In addition, any person

violating any provision of this Ordinance may be sentenced up to six months in the City Jail for every such offense. Court costs shall be added by the Court. In addition, the Code Enforcement Officer may, but is not required to, issue written warnings or orders to abate any nuisance created by same. Each day that an offense occurs shall be an additional offense and may be punished separately as set forth above. All citations to violators of this Ordinance shall be served by any lawful officer or by the Code Enforcement Officer.

**SECTION IX. SEVERABILITY**

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion hereof.

**SECTION X. EFFECTIVE DATE**

This ordinance shall take effect and be in force upon adoption thereof and following publication as required by law.

**APPROVED AND ADOPTED BY THE CITY COUNCIL THE CITY OF CREOLA,  
ALABAMA THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.**

\_\_\_\_\_  
Nelson, Mayor

**ATTEST:**

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Marcy Brown, City Clerk