

**ORDINANCE NO. 2018-25  
OF THE  
TOWN OF LOXLEY**

**AN ORDINANCE REGULATING THE COLLECTION AND DISPOSAL OF  
GARBAGE AND TRASH; SETTING OUT EXEMPTIONS FROM THE PAYMENT OF  
GARBAGE AND TRASH COLLECTION FEES; PROVIDING FOR THE  
DISCONNECTION OF UTILITIES FOR NON-PAYMENT OF FEES; AND  
CONTROLLING LITTER**

WHEREAS, the Town of Loxley, Alabama (the "Town"), on January 14, 2002, adopted Ordinance No. 2002-01, as an ordinance regulating the collection and disposal of garbage and rubbish; setting out exemptions from the payment of garbage collection fees; providing for the disconnection of utilities for non-payment of fees; and controlling litter within the corporate limits of the Town of Loxley; and

WHEREAS, the Town deems it necessary for the health, safety and welfare of the inhabitants of its jurisdictional areas to repeal and replace Ordinance No. 2002-01, and to adopt the following as its ordinance regulating the accumulation, collection and disposal of garbage and other wastes; setting out exemptions from the payment of garbage and trash collection fees; controlling litter; and providing for penalties for the violation of this Ordinance.

**NOW, THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE  
TOWN OF LOXLEY, ALABAMA, AS FOLLOWS:**

**SECTION 1. Definitions.**

A. 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, and all other places not classed as residential, producing or accumulating garbage.

B. CONTAINER: An enclosed container usually constructed of metal with a close fitting cover or doors with a capacity in excess of one (1) cubic yard, approved by the Baldwin County Health Department, which is used to store large volumes of waste for collection and is serviced by mechanical equipment.

C. CONTAINER SERVICE: The Town or a licensed waste hauling service company approved by the Town which provides approved waste containers and related waste hauling service.

D. GARBAGE. The term "garbage" shall mean solid wastes, including household and post-consumer waste and putrescible animal and vegetable wastes, resulting from the consumption or use of products or natural resources, or the handling, preparation, cooking, and consumption of

food. It shall not include materials that may be serviced by garbage grinders and handled as household sewage, and shall not include human or animal feces.

E. GARBAGE DISPOSAL SITE. "Garbage Disposal Site" shall mean areas or facilities established for disposal of garbage as designated by the Town.

F. GARBAGE RECEPTACLE. The term "garbage receptacle" shall mean a ninety-six (96) gallon garbage receptacle approved and provided by the Town.

G. PERSON. The term "person" shall mean any person or persons, firm, corporation, or association of any type.

H. RESIDENTIAL UNIT; RESIDENCE. The term "residential unit" or "residence" shall mean any structure or shelter or any part or curtilage thereof used or constructed for use as a residence of one family.

I. TOWN. The Town of Loxley, Alabama, or its designated agent, appointed by the Mayor to oversee enforcement of the terms of this Ordinance.

J. TRASH. The term "trash" shall mean rubbish, trimmings, sidewalk sweepings, leaves, pine straw, grass, weeds, hedge trimmings, small tree trimmings (limbs less than four (4) feet in length and eight (8) inches in diameter), firewood or other refuse originating in yards, on sidewalks, or neutral grounds adjacent to the home or business of the person receiving collection service, excluding the following: junk as herein defined, recyclable materials, trees that have been cut down by contractors or by individuals who have been paid to remove or cut trees.

## **SECTION 2. Fees for Collection and Disposal; Exemptions.**

A. Fees. Every person occupying a residential or commercial building or dwelling unit which generates garbage within the Town's corporate limits, shall be subject to a fee for the collection, hauling and disposal of garbage, trash and rubbish. These fees have been established by Ordinance No. 2015-19 for the collection and disposal of garbage, are adjusted annually pursuant to Ordinance No. 2015-19 and shall be subject to change from time to time pursuant to Ordinance No. 2015-19 and as deemed necessary by the Town Council in order to cover an increased cost of collection and disposal services.

### **B. Exemptions.**

1. The fees and payment provisions set out in this Section shall be inapplicable to:

a. Any person exempt from the payment of garbage collection fees pursuant to Resolution 2000-4 as the same may be amended from time to time.

b. Any person, household, business, industry, or owner who stores, hauls and disposes of his own waste on his land or in an approved landfill and whose application for an exemption has been approved as set out herein.



c. Any business operated on a premises on which is also located the residence of a paying customer; provided, however, that waste shall be limited to 2 garbage receptacles.

2. Applications for exemptions shall be made on such forms as may be approved by the Town Clerk. An application for an exemption under subsection (b) shall be accompanied by a hauling and disposing plan which sets out the proposed method of storing, hauling and disposal of waste so as to comply with applicable state and federal regulations and so as not to create a public nuisance or hazard to public health, which plan shall have been approved by the Town.

3. The Mayor shall approve or disapprove applications for exemptions and shall provide a report thereof to the Council on a quarterly basis.

### **SECTION 3. Requirements for Garbage Removal.**

A. Garbage Receptacle Required. The Town shall provide one (1) ninety-six (96) gallon garbage receptacle for each residential unit and two (2) for each commercial establishment. Additional garbage receptacles may be obtained for a fee set forth on the approved fee schedule. All other receptacles shall be deemed inappropriate and garbage placed in them will not be collected. The owner or occupant of the property shall be responsible for the safekeeping of the receptacle. Garbage receptacles provided by the Town remain the property of the Town and shall not be removed from their assigned property. The Town shall be responsible for all normal wear and tear upon the receptacle but any damage done as a result of an act of or through neglect or omission of the owner or occupant of the property shall be repaired or replaced by the Town and the cost of such repair or replacement shall be added to their next bill.

B. Accumulation and Disposal. The owner or occupant of the property may place only garbage in the receptacle for collection. Receptacles containing items other than garbage will not be collected until such items have been removed. The lid or cover must be kept closed at all times so that flies and other insects or animals may not have access to its contents. All residents and occupants of residential units and all occupants of premises used for commercial purposes in the Town shall be required to have accumulations of garbage removed and disposed of by: (1) the Town or a contractor to whom the Town has granted a franchise, (2) transporting to approved bulk containers or approved disposal sites, or (3) obtaining a permit from the County Health Department to transport to a landfill. Any un-containerized accumulation of refuse, waste, recyclables or unsanitary materials on any premises not placed in an approved receptacle is hereby declared to be a nuisance and is prohibited.

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 garbage shall be stored, transported, and disposed of in a manner approved by the Town and in compliance with the requirements of this Ordinance and any amendments thereto.



D. Placement of Receptacles.

1. All garbage must be placed in receptacles at ground level at the curbside within six (6) feet of the roadway before 7:00 a.m. on the day scheduled for pick up and shall not be placed on Town, County or public property or neighboring property not in the ownership or tenancy of the person by whom the garbage was accumulated, whether such neighboring property be vacant or improved except that it may be kept on the Town right-of-way if within six feet of the roadway. No garbage shall be placed at the curbside more than twenty four (24) hours prior to the day scheduled for pick up. Receptacles shall be removed from the curbside within twelve (12) hours after collection has occurred.

2. Garbage shall be neatly placed so as to allow convenient passage of persons and vehicles on the roadway. At no time shall a receptacle or garbage be placed in a street, drainage ditch, storm drain, or gutter, nor should it be placed near trees, power lines, street signs, or near utility, cable, or telephone equipment. If garbage is placed near service equipment and damage occurs to said equipment due to collection efforts, the property owner shall be responsible for all necessary repairs or replacements. Ownership of and responsibility for garbage material shall remain with the producer until collected.

E. Frequency of Collection. Garbage shall be picked up by the Town from each location once per week. All collection schedules are subject to change due to legal holidays and/or weather conditions.

F. Sanitary Nuisance. Accumulation of garbage at any residence or any commercial unit for more than seven (7) days shall be prima facie evidence of a sanitary nuisance. The Town shall, upon finding a nuisance as described above, issue a notice of violation and may pursue all legal remedies available to the Town under the law, including but not limited to taking any action necessary to abate the nuisance.

**SECTION 4. Preparation and Receptacle Requirements.**

A. Preparation Requirements. All garbage must be placed in tightly closed bags and placed in a garbage receptacle. 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 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. Improper Receptacles. Any receptacle or container used for the collection or storage of garbage failing to meet the requirements of this section shall be clearly marked or identified by the Town or its agent. Any receptacle or container so tagged must be replaced with an acceptable receptacle or container within five (5) days after notification by the Town. The Town will not be responsible for removing garbage that is not properly prepared and placed in approved receptacles.



## **SECTION 5. Prohibited Acts.**

A. The Town does not collect or dispose of, and it shall be unlawful for any person to place or cause to be placed in receptacles, any of the following:

a. Hazardous waste which is a waste that, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed, and includes but is not limited to, medical waste, contagious disease refuse consisting of clothing, bedding, or other waste from homes or other places where highly infectious or contagious diseases have prevailed, flammable or explosive refuse or materials.

b. Building debris or construction and demolition waste, which is generally considered to be not water-soluble and non-hazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt, roofing material, pipe, gypsum wallboard, and lumber, from a construction or demolition project and including rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing.

c. Yard materials, including but not limited to, dirt, stumps, or tree trunks.

d. Junk, which includes but is not limited to, vehicles or vehicle parts, rubber tires, automotive batteries, paint or paint containers, oil, gasoline, items containing hazardous or flammable material, chemicals, asphalt, cement or concrete, machinery, equipment, building or construction material, or other items which are either in a wholly or partially rusted, wrecked, junked, dismantled or inoperative condition.

e. Dead animals in excess of fifty (50) pounds. Dead animals less than fifty (50) pounds may be collected upon request to the Town. In the event the dead animal must be disposed of on a day other than the regular designated collection day, the Town shall be notified. Such animals must be deposited in appropriate closed containers or plastic bags, separate and apart from other garbage, debris and trash and placed in the collection service area. It is hereby declared a nuisance and health hazard and in violation of this chapter for a dead animal, regardless of size, to remain undisposed of on any premises within the Town for a period of longer than twelve (12) hours duration.

B. Unlawful Disposal. It shall be unlawful for any person to dump or bury any garbage on public or private property not owned by him or her unless permission has been obtained from the respective property owner or owners and such disposal has been authorized by the Town. 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 Town, such information presented in a statement signed by the Town 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 on private property, with



owner's 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. 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.

#### **Section 6. Trash and Heavy Appliance Collection.**

A. The Town will provide trash collection as provided herein. Trash, which means any yard materials or waste including tree, hedge, plant or shrubs, including any limbs, parts or trimmings from any of these, will be collected by the Town if it is cut to four foot lengths or reduced to a size and weight that two employees can easily lift and load on a flatbed truck. Trash collection shall be done by the Town on an as-available basis. The Town shall not pick up trash that has been cut by a commercial tree service; the tree service or the owner or occupant shall have the responsibility of disposing of such trash. The owner or occupant shall keep trash prepared for the Town pickup in such a manner that it does not become a hazard or nuisance while awaiting Town pickup.

B. The Town will provide heavy appliance collection as provided herein. Heavy appliances, which includes appliances such as refrigerators, stoves, washers, dryers, household or other furniture or furnishings, and other similar items which will not fit in the Town-issued garbage receptacle, will be collected upon request for a fee set forth on the approved fee schedule. The Town will not collect tires.

#### **SECTION 7. Littering.**

A. It shall be unlawful for any person to dump, or cause to be dumped, any garbage, trash or rubbish upon any property within the corporate limits or police jurisdiction of the Town of Loxley.

B. It shall be unlawful for any owner, occupant, or person in possession, charge of or control of any residential unit or commercial establishment to keep, cause to be kept, or allow the keeping on any premises within the Town's corporate limits or police jurisdiction any garbage or rubbish, in such manner that it will become offensive or deleterious to health or likely to cause disease. The Town and its designated agents are hereby authorized to inspect any premises in the Town's corporate limits or police jurisdiction for the purpose of determining whether the requirements of this Ordinance are being complied with, and it shall be unlawful for any person to resist or interfere with such officers or their designated agents in the performance of such inspection.

C. It shall be unlawful for any person to sweep, throw or otherwise deposit or cause to be swept, thrown or otherwise deposited any garbage, trash or rubbish into or on any public street, alley, sidewalk, park or property in possession of or owned by another person within the Town's corporate limits or police jurisdiction, or to permit any garbage, trash or rubbish to accumulate in



such manner that it may be carried and deposited into or on any of the above places by action of rain, wind, or snow.

D. It shall be unlawful for any person to sweep, throw or otherwise deposit or cause to be swept, thrown or otherwise deposited into or on any canal, stream, public water drain, sewer or receiving basin within the corporate limits or police jurisdiction of the Town of Loxley any garbage, trash or rubbish, or to permit same to accumulate in such a manner that it may be carried and deposited into or on any of the above places by action of rain, wind or snow.

E. It shall be unlawful for any person to throw, cast or otherwise deposit or cause to be thrown, cast or otherwise deposited any paper, garbage, trash or rubbish, containers (either glass, metal or paper) or any other substance of any kind in or upon any curb, gutter, street, avenue, highway, tunnel, sidewalk, park, parkway or lot, vacate or occupied within the Town's corporate limits or police jurisdiction.

F. It shall be unlawful for any person to remove or cause to be removed from any street, sidewalk, right-of-way or public property any receptacle furnished by the Town of Loxley for the deposit of garbage. It shall be unlawful for any person to sit upon or deface any such receptacle or to cause it to be used in any way so as it render it inaccessible for the receipt of garbage.

G. It shall be unlawful for any person to remove any garbage or other like material from any garbage receptacle or container within the Town's corporate limits or police jurisdiction after it has been placed therein except under the direction of an officer, agent, or employee of the Town or by some other person removing same for disposal.

#### **SECTION 8. Penalties.**

Any person violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and punished by a fine for a misdemeanor of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00). Each day any violation of this Ordinance continues shall constitute a separate offense.

#### **SECTION 9. Territorial Application of This Ordinance.**

The provisions of this Ordinance shall apply to the territory within the Town's corporate limits, except that the provisions of Section 7, Littering, shall apply in Town's corporate limits and its police jurisdiction.

#### **SECTION 10. 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 11. Repealer.**

Ordinance No. 2002-01 is hereby repealed in its entirety and other ordinance(s), parts of ordinance(s), or resolutions(s) conflicting with the provisions of this Ordinance are hereby repealed insofar as they conflict.

**SECTION 12. Effective Date.**

This ordinance shall be effective upon its due adoption by the Town Council and publication as required by law.

**APPROVED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXLEY, ALABAMA this 10 day of December, 2018.**

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Billy Middleton  
Mayor

Attest:

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Melissa Lawrence  
Town Clerk/Treasurer

**CERTIFICATION OF POSTING**

I, Melissa Lawrence, Town Clerk/Treasurer of the Town of Loxley, Alabama, hereby certify that the above noted ordinance was published by posting copies thereof in the Loxley Post Office, Loxley Police Station and Loxley Town Hall beginning December 11, 2018, and took effect five (5) days thereafter.

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Melissa Lawrence  
Town Clerk/Treasurer