

**ORDINANCE NO. 2017 – 4778**

**AN ORDINANCE PROVIDING FOR AND REGULATING THE COLLECTION AND DISPOSAL OF RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL GARBAGE, RUBBISH, AND SOLID WASTE IN THE CITY OF PELL CITY, ALABAMA**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PELL CITY, ALABAMA, as follows:**

**Section 1. Findings.**

The City Council has ascertained and does find, determine, and declare as follows:

1. That the removal, storage, transportation, and disposal of solid waste are matters of serious public concern affecting the public health and welfare; and,
2. That the health, safety and welfare of the people of the city require efficient waste removal and disposal service; and,
3. That as a result of the growth of the city, the density of its population, environmental considerations and other factors, it has become increasingly difficult to find suitable areas within reasonable proximity to the city for the location of landfills or other similar facilities for the storage and disposal of solid waste; and,
4. That it is wise, prudent, and in the best interest of the citizens of the city, that the city provide for the collection and disposal of garbage and solid waste by contracting with a private firm for said services; and,
5. That the city has the power under existing law (including, without limitation, §§ 22-27-1, *et seq.*, Ala. Code 1975) to regulate the storage, removal, collection, transportation and disposal of solid waste as provided in this article; and,
6. That in order to provide a substantially uniform and compulsory system for the removal, transportation, and disposal of solid waste and thereby protect the public health, safety and welfare of the people of the city and its environs, to prevent obstructions in the streets, to promote the economic welfare of the city by maintaining a healthy and aesthetically pleasing environment, and to assure that the public streets, avenues, alleys and other public ways of the city are used by licensed private haulers for the purpose of removal or transporting solid

waste in a manner consistent with these objectives, it is necessary generally to provide comprehensively for the storage, removal, transportation, disposal and regulation of solid waste generated, occurring or accumulating within the city and specifically to require all acceptable waste that occurs or accumulates or is generated in the city to be collected and disposed of in accordance with the provisions of this article.

## **Section 2. Adoption of the Solid Wastes and Recyclable Materials Management Act.**

The city hereby adopts, authorizes, and implements all applicable provisions, authorities, duties, and requirements provided by the Solid Wastes and Recyclable Materials Management Act (“the Act”), codified as § 22-27-1, *et seq.*, Ala. Code 1975.

## **Section 3. Definitions.**

For purposes of this article, the terms provided herein shall have the meanings as set forth in the Act.

## **Section 4. Collection and disposal service; Service provided through city contract.**

1. The city shall provide via contractor all collection and disposal services to every person, household, business, industry, or property owner within the city pursuant to the conditions and requirements of the Act. Provided, however, nothing contained herein shall require the city to provide for the collection of garbage or waste products not accepted by the city’s contractor.
2. Residential and commercial collection and disposal of solid waste, recyclables, rubbish, illegal dumps remediation, non-containerized bulk waste, and related system of services allowed by the Act shall be provided through and in accordance with contracts with providers, as may be adopted from time to time by the City Council, according to law. Any such contract, service, or franchise currently in existence is hereby ratified and subject to this article.

## **Section 5. Required use of service.**

Every person, household, business, industry, or property owner generating solid wastes shall participate in and subscribe to the city’s system of services, pursuant to and in accordance with the Act, to include, without limitation, the collection and

disposal of solid waste and rubbish as defined by the Act, except as expressly exempted by the Act.

### **Section 6. Compliance with rules of service provider.**

Every household, business, industry, or person using the city trash collection and disposal service shall comply with all rules of the city's contract service provider with regard to the content of the garbage and solid waste permitted to be collected, the packaging of authorized garbage and solid waste permitted to be collected, and the placement of said garbage and solid waste for collection.

### **Section 7. Segregation of acceptable garbage from other unacceptable waste.**

It shall be the responsibility of the customer to segregate unacceptable and uncollectible material from acceptable garbage, rubbish, and other permitted household and commercial solid waste. It shall be unlawful for any person to deposit or knowingly permit to be deposited waste unacceptable for collection in any approved container provided or intended for acceptable waste.

### **Section 8. Pricing, fees, and charges.**

1. Every person, household, business, industry, or property owner otherwise subject to the provisions of this article shall be subject to and responsible for the established fees and costs associated with the established system of services approved by the City Council from time to time and set forth in the city fee schedule.
2. In accordance with the Act, a qualifying household may receive an exemption from the payment of any fees required under this article, provided the household meets the standards and complies with the procedures set forth in the Act.
3. The Mayor, City Manager, and designated city employees shall have all necessary authority and approval to effectuate and fully carry out the actions and functions so authorized herein.

### **Section 9. Administration; enforcement.**

1. The administration, management, maintenance, and enforcement of the programs and authorities authorized and approved hereby shall be fulfilled and implemented by those city departments, personnel, and professionals so designated from time to time by the Mayor or the City Manager.

2. The city shall utilize any available enforcement mechanism, procedures, and protocols as set forth and authorized by the Act to include, without limitation, those provisions of sections 22-27-3(a)(2) and 22-27-7 of the Act, and any person, firm, or corporation found to not have been issued an exemption, and which utilizes the solid waste disposal system of the city and which fails to pay the fee, rate, or charge established by the city therefor shall be guilty of a misdemeanor and penalized as provided in the Act as so determined by the municipal court.

### **Section 10. Income exemption policy.**

As provided in the Act, any household whose sole source of income is Social Security benefits shall be granted an exemption from the payment of any fees required under this article, provided the household seeking to claim the exemption shall present proof of income to the county health officer no later than the first billing date of any year in which the exemption is desired. The county health officer or his or her designee shall forward the exemption request and proof of income to the city upon receipt. The exemption shall 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.

### **Section 11. Certificate of exception policy.**

1. A person, household, business, industry, or any property owner may store, haul, and dispose of his or her own solid wastes on his or her land or otherwise, provided such storage, haulage, or disposal is accomplished pursuant to a certificate of exception as provided by the city in accordance with the provisions of §22-27-3(g) of the Act.
2. A certificate of exception granted under this authority shall be valid for a period not to exceed one year.
3. The county health officer or his or her designee or the Alabama Department of Environmental Management shall notify the city in writing of the intention to grant a certificate of exception and no such certificate of exception shall be granted for an individual household without prior written approval of the City Council.

### **Section 12. Billing; payment; delinquency.**

1. All fees for services provided under this article shall be payable monthly and said charges shall be designated on the utility bills delivered by the city. Each

bill shall be payable when rendered and shall be delinquent if not paid by the fifteenth (15<sup>th</sup>) of each month.

2. Where the person liable for the fees and charges herein prescribed does not have utility service furnished by the city, the garbage fee herein provided for shall be paid at City Hall, once each month in accordance with the rates herein provided, such payments to be due and payable on the first day of each month and become delinquent after the fifteenth of each month.
3. Any person paying after the delinquent date and prior to being cited to appear in court shall pay a late penalty of ten percent (10%) of garbage collection fee.
4. Failure to pay said garbage collection fee constitutes a misdemeanor and subjects the delinquent person to a fine as provided herein.
5. If the fees, charges, or rates for the services furnished by the city or its contractor shall not be paid within 30 days after they become due and payable, the city may, at the expiration of such 30-day period, suspend services or, pursuant to resolution, proceed to recover the amount of any delinquency with interest in a civil action, or both.

### **Section 13. Errors in charges; discontinuance of service.**

(a) It shall be the responsibility of the person in charge of a commercial, industrial or residential establishment to report to the city any error on the garbage charge if the garbage service is billed by the city, or to the city's contractor, if the garbage service is billed by the city's contractor. All requests for billing correction shall be made in writing to the city or to the city's contractor, as applicable. No adjustment of any such charge because of a determination by the city that an incorrect charge has been made shall be made with respect to any period more than three months prior to the month during which such determination is made.

(b) Residential customers may request a suspension of garbage services for a minimum period of three months in cases where residents are out of town, rental property is vacant, or vacant property is currently being marketed for sale. Requests for suspension of garbage service shall be made in writing to the city at least five working days prior to the affected period. No requests for suspension of garbage service will be accepted in arrears. The City Manager or his or her designee shall develop procedures for the proper implementation of this provision.

### **Section 14. Presumption.**

If an article of garbage, rubbish, solid waste, or like material bearing a person's name is discovered on any public property not designated for the throwing, dumping or depositing of said material, including public streets, sidewalks, gutters, alleys, bodies of water, drainage ditches, storm sewers, sanitary sewers, or other property over or with respect to which the city has an easement, or on private property of another without such person's permission, a rebuttable, prima facie presumption shall arise that the person whose name appears on the article threw, dumped, attached, placed, deposited or otherwise caused the article to be thrown, dumped, attached, placed or deposited at the place where it was found; however, this presumption, if unrebutted at trial, shall not serve as a basis for a conviction for violation of any provision of this chapter in the absence of other evidence of such nature and degree as required by law.

### **Section 15. Maintenance of premises.**

It shall be unlawful for the owner or person in control of any private property within the city to fail to maintain the premises free of any garbage, rubbish, solid waste, or like material that would tend to attract children and endanger their lives and health, spread disease, invite plundering, attract vagrants, and create fire hazards, or other safety or health hazards.

### **Section 16. Garbage and dumping.**

1. It shall be unlawful for any person to throw, dump, place, leave or deposit garbage, refuse, solid waste, paper, rubbish, debris, brush, litter, tree removal debris, boxes, tools, scrap iron, machinery, construction or demolition waste, scrap or waste material, or other trash or debris on public property, including, but not limited to, a city right-of-way, road or other public thoroughfare, or on private property within the city, irrespective of whether such private property is owned by such person; however, the owner or person in control of such private property may utilize authorized private containers in such a manner that such material will be prevented from being carried or deposited by the elements onto any street, sidewalk or other public place or private property; however, such material shall be permitted on such public or private property when it is properly placed for collection, as provided by this article.
2. It shall be unlawful for the owner or person in control of any private property within the city to fail to maintain the premises free of garbage, rubbish, solid waste, or like material.
3. It shall be the duty of all persons owning or occupying a building or lot within any business district of the city to sweep or clean the sidewalks and alleys

adjacent to such building or lot to remove all garbage, rubbish, solid waste or filth and to maintain the cleanliness of the premises.

4. It shall be unlawful for any person to throw, dump, place, leave, deposit or dispose of any garbage, rubbish, solid waste, or like material at any site other than at a facility permitted by the Alabama Department of Environmental Management to accept the type of waste being offered for disposal, or to store, collect, transport, process, dispose of, sell or offer for sale solid waste or salvage materials so as to create a nuisance or unless properly licensed to perform this type of work.

#### **Section 17. Depositing solid waste in streets or gutters.**

It shall be unlawful for any person to sweep or deposit into the public streets, sidewalks, gutters or alleys in the city, or other property in the city over or with respect to which the city or the public has an easement, any garbage, rubbish, solid waste, or any other material or article that would tend to impede the flow of water in such gutters or along such streets, sidewalks, alleys or other property; to clog the storm drainage system; or to be an obstruction to traffic or pedestrians.

#### **Section 18. Depositing solid waste in ditches or sewers.**

It shall be unlawful for any person to throw, sweep, dump or otherwise deposit in or around the public drainage ditches, storm sewers or sanitary sewers of the city any garbage, rubbish, solid waste, or any other article or material that would tend to impede the flow of water or that would tend to clog such ditches, storm sewers or sanitary sewers.

#### **Section 19. Depositing solid waste in bodies of water.**

(a) It shall be unlawful for any person to throw, sweep, dump, or otherwise deposit in or around any public lake, stream, or body of water in the city any garbage, rubbish, solid waste, or any other article or material that would tend either to impede the flow of water or clog such bodies of water or otherwise detract from the environmental quality or aesthetics of the area.

(b) It shall be unlawful for any person to throw, drop, dump or deposit any garbage, rubbish, solid waste or any foreign material in any fountain, pond, lake, stream, bay or any other body of water in or adjacent to a public park or elsewhere within the city.

#### **Section 20. Demolition and construction waste.**

(a) It shall be unlawful for any construction or demolition contractor to fail to provide on-site containers for loose debris, paper, building material waste, scrap building material, and other trash produced by those working on the site. The City Manager, or his designee, shall have the authority to determine the number of containers necessary to provide proper containerization.

(b) Demolition and construction waste, excavation byproducts, and other debris or like material, whether located upon public or private property, shall be removed on a continuing basis as produced on the premises or in relation to a demolition or construction project; and in no case, shall such waste remain on or near the premises or in relation to a demolition or construction project for a period longer than 30 days. Construction sites, and demolition and construction materials and wastes on such sites, shall be kept in a clean, litter-free and orderly condition at all times. The occupant of each premises or the contractor of a construction or demolition project shall collect and remove or arrange for the collection and removal of all demolition and construction waste produced on such premises or in relation to a demolition or construction project. In cases where the occupant or contractor arranges for collection and removal of demolition and construction work, such collection and removal must be conducted by a solid waste collector using a solid waste collection vehicle licensed by the city for such collection. Such demolition and construction waste shall be disposed of at a facility permitted by the Alabama Department of Environmental Management to accept the type of waste being offered for disposal. The solid waste collector contracted by the city shall be utilized for the purpose of collecting and disposing of demolition and construction waste as required by this article.

(c) No person shall transfer responsibility or financial liability for disposal of demolition or construction waste by depositing the waste upon any public street, other public place or private parcel, lot premises, litter receptacle or refuse receptacle, except as expressly provided by this article. Any permit granted for construction/demolition may be subject to a stop work order at any time for failure to comply with the requirements of this article. No certificate of occupancy shall be issued for multi-family, commercial or industrial development until these materials are removed by the owner or contractor.

## **Section 21. Commercial and industrial bulk rubbish collection.**

It shall be the duty of every person in possession, charge or control of any commercial or industrial place of business where the volume of combustible garbage, rubbish, or solid waste makes the use of curbside collection impracticable to utilize approved receptacles designed for the storage and collection of such rubbish as provided by the city's solid waste contractor.

**Section 22. Wastes from businesses and residences not to be placed in city containers.**

It shall be unlawful for any person operating a place of business, or any employee of such person, to place or deposit, in any waste container that is furnished and maintained upon a public street or sidewalk by the city for the convenience of the walking public, garbage, rubbish or other waste material accumulated at such place of business, except in such cases where the city provides a container for specific use by a particular business. It shall also be unlawful for any residential household refuse accumulated at such household to be placed in said city waste containers.

**Section 23. Leaves, grass clippings, and similarly-sized materials.**

Leaves, grass clippings, and similarly-sized yard materials shall be containerized, or placed in tied, closed, or sealed bags, and placed for pickup on the customer's collection day as determined by the city's solid waste contractor. Said materials shall be placed on that portion of the street right-of-way normally used by vehicles and in a location and manner so as to not obstruct the flow of storm drainage runoff in gutters and ditches. Provided, however, that nothing contained herein shall prohibit leaves, grass clippings, and similarly-sized yard materials from being either mulched or composted for use by the residential occupant.

**Section 24. Cardboard or pasteboard boxes.**

Cardboard or pasteboard boxes or other similar containers may be placed out for noncontainerized collection if because of their size or quantity they would be impractical to contain. Cardboard or pasteboard boxes or other similar containers shall be prepared in a manner so as not to create a litter problem, stacked in a manner that permits convenient removal, and placed in a location designated by the city's solid waste contractor for collection on the day determined by said contractor.

**Section 25. Bulk waste and loose yard material.**

(a) All bulk waste, shrubbery clippings, or loose yard waste to be removed from private residences shall be placed either between the sidewalk and curb or in an accessible place approved by the city's solid waste contractor. Tree limbs or shrubbery clippings shall be cut in lengths not exceeding five feet in length, with protruding branches trimmed. All such waste shall be placed in an orderly, neat manner adjacent to that portion of the street right-of-way normally used by vehicles so as not to obstruct sidewalks or the flow of traffic or water. All bulky waste and loose yard waste shall be collected in accordance with the schedule of the city's solid waste

contractor. All such waste not removed by the city's contractor must be delivered by the owner to an authorized receiving facility.

(b) It shall be unlawful for any tree removal contractor or landscaper, licensed or otherwise, to leave or deposit tree or limb removal debris at curbside for the city to remove. All contractors doing business in the city shall collect and remove or arrange for the collection and removal of tree or limb removal debris to a facility permitted by the Alabama Department of Environmental Management to accept this type of waste.

6. It shall be unlawful to place for removal bulk waste, shrubbery clippings, or loose yard waste between utility poles and utility pole support cables, under trees, under low utility wires; around, adjacent to, or on top of fire hydrants; or adjacent to fences or buildings.

### **Section 26. Service not provided by city.**

The city does not provide service for the removal or collection, from any premises, of:

(1) Construction and demolition waste or materials resulting from the construction, demolition or renovation of buildings or structures which is not containerized as provided in this article, which materials shall be properly disposed by the owner or occupant in compliance with all applicable regulations;

(2) Materials resulting from commercial-related activities, work performed by a contractor, or work requiring a building permit;

(3) Tree limbs and trimmings resulting from land clearing or from tree service contractors or other commercial workers;

(4) Loose rubbish;

(5) Rocks, dirt and other debris resulting from a commercial landscaping or construction effort;

(6) Hazardous wastes or other wastes that are determined by the City to be hazardous to the health or safety of collection personnel;

7. Animal or fowl excrement, dead animals or fowl or their parts thereof; or;

8. Any other items prohibited by the city's solid waste contractor.

It shall be the duty of the person in possession, charge or control of the premises to provide for the removal of solid waste in those instances specified above and to deliver such waste to an authorized receiving facility.

**Section 27. Container placement location.**

It shall be unlawful to place garbage cans or containers for collection of garbage, refuse or other waste at any place other than immediately adjacent to the curb (or the edge of the roadway on non-curb streets) in front of the premises where such waste was accumulated unless prior approval is, upon a showing of need, obtained from the city or its solid waste contractor for placement at some other location. Where collections are authorized to be made from private alleys and access ways, approaches shall be maintained in such a manner as not to be a hazard to the collection personnel or equipment (it being understood that tree limbs, parked cars and holes in such alleys or access ways shall, without limiting the generality of the foregoing, be considered as hazards to such personnel). Failure to comply with these provisions after notification by the city or its contractor will cause service to be discontinued until correction has been made. At no time will collection personnel enter houses, buildings or fences for the purpose of the collection of garbage, refuse or other waste; however, the city shall promulgate rules pertaining to special off-street service for persons with disabilities who are without assistance and cannot place containers at the curb, but no outbuilding or fence shall be entered without permission.

**Section 28. Container placement time.**

It shall be unlawful to place or permit the placement of garbage cans or containers immediately adjacent to the curb (or the edge of the roadway on non-curb streets) before sundown on the day preceding the days designated by the city for collection, or to leave such cans or containers on the placement site for longer than 24 hours after the time of collection. Containers must be properly placed for collection prior to the beginning of the scheduled work day for the customer's sanitation collection.

**Section 29. Medical supplies and laboratory waste disposal.**

It shall be the duty of any person disposing of needles, glass, vials, plaster casts and laboratory wastes or other medical supplies to package disposed-of items in such a manner as not to be a hazard to collection and disposal personnel. If a hazard is determined to exist by the city or its contractor, collection service will be discontinued until correction has been made.

**Section 30. Penalties; Each violation a separate offense.**

Any person violating any provision of this article or any rule or regulation made pursuant to this article shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$50.00 nor more than \$200.00, and, if the violation or failure or refusal to obey or comply with such provision of this article or such rule or regulation is a continuing one, each day's violation shall constitute a separate offense and shall be punished accordingly.

**Section 31. Severability.**

All sections of this ordinance are hereby declared to be severable; and if any word, phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional or invalid by the judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs, and sections of this ordinance.

**Section 32. Repeal of conflicting ordinances.**

Ordinance No. 72-352 and any other Ordinances, or any provisions thereof, in conflict with this Ordinance shall be and are hereby repealed on the effective date of this Ordinance.

**Section 33. Effective date.**

This Ordinance shall become effective upon approval, passage and publication as required by law.

**ADOPTED AND APPROVED** this 24<sup>th</sup> day of July, 2017.

/s/ James McGowan - Council President

ATTEST:

/s/ Penny Isbell - City Clerk

**APPROVED** this 24<sup>th</sup> day of July, 2017.

/s/ William T. Pruitt, IV - Mayor

ATTEST:

/s/ Penny Isbell - City Clerk

**CERTIFICATION**

I, Penny Isbell, City Clerk of the City of Pell City, do hereby certify that the above and foregoing is a true and correct copy of that Ordinance which was duly adopted by the City Council of the City of Pell City at a regular meeting held on the 24<sup>th</sup> day of July, 2017, and that same has been published in accordance with law in the *St. Clair News Aegis* on the 27<sup>th</sup> day of July, 2017.

/s/ Penny Isbell