

AN ORDINANCE TO AMEND ARTICLE II OF CHAPTER 25 OF THE
MOBILE CITY CODE

Sponsored by: Ricardo A. Woods, City Attorney

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

Article II of Chapter 25 of the Mobile City Code is hereby amended in its entirety to read:

Sec. 25-31. - Definitions.

As used in this article, the following terms are defined as follows:

Bulk container is any dumpster, roll off container, or stationary storage facility placed for the temporary containerization of solid waste at a place of business, multiple dwelling complex, industrial or construction site tightly covered or constructed to eliminate wind-driven debris and unsightly litter on and about the premises.

Cigarette litter receptacle is a container for the disposal of cigarette litter including cigarettes and cigarette butts.

City is the City of Mobile.

City limits are the corporate boundaries of the city.

Commercial premises is any lot or any building, or part thereof, used in connection with or for the carrying on of any business, trade, occupation or profession for which a license is required by the city. These premises include all unimproved real property not zoned for single-family residential use.

Commercial solid waste is man-made solid waste generated at any commercial premises.

Corrective notice is a written notice or warning informing the recipient of a violation of the ordinance and specifying a period of time in which to correct the violation.

Garbage is discarded animal and vegetable matter, as from a kitchen.

Garbage can is a watertight receptacle or container for temporary storage of putrescible and nonputrescible waste, constructed of substantial metal, plastic or

rubber, and having a capacity of not less than ten (10) gallons nor more than thirty (30) gallons, with a tight-fitting lid or cover and with a handle on the lid and two (2) handles on the receptacle by which same may be conveniently lifted or moved.

Garbage cart is a sixty-four- or ninety-six-gallon container provided by the city for use with its automated garbage collection system. Where the city collects garbage through its automated garbage collection system, the garbage cart is the only permissible container.

Household solid waste is garbage and man-made solid waste generated on residential premises.

Junk includes any vehicle or vehicle parts, junked vehicle, rubber tires, appliances, dilapidated furniture, machinery, equipment, building material or other items which are either in a wholly or partially rusted, wrecked, junked, dismantled or inoperative condition.

Junk vehicle is a vehicle with one or more of the following characteristics: it is non-operating, abandoned, wrecked, or partially dismantled; or it has flat tires, or a missing engine, door(s), hood, windows or other missing body parts.

Knowingly means a person acts knowingly with respect to conduct or to a circumstance described by an ordinance or a statute defining an offense when he is aware that his conduct is of that nature or that the circumstance exists.

Litter is any garbage, refuse, noncontainerized man-made solid waste, including but not limited to paper, plastic, diapers, cigarette butts, bottles, cans, glass, crockery, scrap metal, construction materials, rubbish, disposable packages or containers.

Litter receptacle is a container constructed and placed for use as a depository for litter.

Municipal offense ticket is a citation specifying a violation of a city ordinance issued by a city employee designated as an enforcement officer that directs the violator to either pay a fine and court costs or to appear in municipal court to answer the charge(s).

Occupant is the owner, tenant or person in possession or charge of any house, building, store, shop, lot or premises.

Owner is any person, agent, firm or corporation having legal title to real property, including any mortgage foreclosure bank, company, institution, individual or other entity of record, which has foreclosed on the property, or the estate of a deceased owner, or the last recorded owner in the property tax records of the Mobile County Revenue Commissioner.

Person means an individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, department, bureau, agency, business or any entity recognized by law.

Places of Assembly are places, including buildings, structures or portions of a building or structure used for the gathering of persons for purposes such as civic, social or religious functions, recreation, food or drink consumption or for awaiting transportation.

Premises are any buildings or real property.

Private property is property owned by any person as defined herein.

Public nuisance is any growth of weeds, scrub (wild) bushes, and grass exceeding community standards, normally ten (10) inches in height, and/or nonorganic debris that presents a fire hazard, a health hazard, a safety hazard or otherwise endangers surrounding areas.

Residential premises are premises used as single- or multiple-family dwellings, townhouses, apartments and condominiums, both privately and publicly owned.

Trash is nonputrescible solid wastes consisting of yard clippings, leaves, wood, tree limbs and trunks, bedding, appliances, paper and cardboard, plastics, wood, wrappings, cans and similar materials.

UNTCC is a Uniform Non-traffic Citation and Complaint as set out in Rule 20 of the Alabama Rules of Judicial Administration.

UTCC is a Uniform Traffic Citation and Complaint as set out in Rule 20 of the Alabama Rules of Judicial Administration.

Vehicle is any device capable of being moved upon a public highway, street or waterway and in, upon or by which any person or property may be transported or drawn upon a public highway, street or waterway. This shall include any watercraft, boat, ship, vessel, barge or other floating craft. This excludes devices moved by human power or used exclusively for agricultural purposes and not licensed pursuant to state law which is not operated on any public highway for purposes other than crossing such public highways or along such highways between two (2) tracts of the owner's land.

(Ord. No. 24-019, Art. I, § 2, 2-2-86; Ord. No. 24-032, § 1, 5-17-94; Ord. No. 25-054-2006, 11-28-06)

Sec. 25-32. - Enforcement procedures.

- (a) A city police officer may choose to cite and release defendant for a violation of this article. The UNTCC shall serve as the charging instrument and shall

be issued in accordance with Rule 20 of the Alabama Rules of Judicial Administration.

- (b) A city employee designated as an enforcement officer may issue a municipal offense ticket ("MOT") for a violation of this article. The person charged with a violation must, within the time period specified on the MOT, or within 72 hours before the court date shown on the MOT:
 - (1) Appear in person before a magistrate, sign the plea of guilty waiver of rights on the MOT, and pay the fine and applicable court costs. The magistrate shall retain a copy of the ticket; or
 - (2) Sign the plea of guilty waiver of rights provision on the MOT and mail or hand deliver to the clerk of the municipal court the signed page and payment for the amount of the fine and applicable court costs. Remittance by mail or hand delivery of the fine and costs constitutes a guilty plea and waiver of trial, even if the "plea of guilty waiver of rights" provision on the ticket has not been signed by the defendant. If the amount sent is insufficient, then the money received by the clerk shall be considered to be a partial payment of the penalty, and it shall be applied by the clerk to the fine and costs, and shall be deposited as required by law. The clerk may give notice of the insufficiency, and a supplemental summons or warrant of arrest shall be issued for the defendant's arrest, and a judgment shall be entered by the magistrate for the balance due; or
 - (3) Sign the MOT and agree to appear in court on the date and at the time shown on the MOT to protest the charges. If the defendant fails to appear, the municipal court may, in its discretion, issue further notice or a supplemental summons or warrant of arrest.
- (c) Employees of the city, designated as enforcement officers who observe violations of this ordinance are further authorized to appear before a magistrate and request a summons or warrant to be issued pursuant to Rule 3.1 of the Alabama Rules of Criminal Procedure.
- (d) An employee of the city designated as an enforcement officer may issue corrective notices to owners or occupants found to be in violation of any of the provisions of this ordinance. The issuance of a corrective notice is not required prior to the issuance of an MOT or UNTCC.

(Ord. No. 24-019, Art. II, § 1, 2-2-88; Ord. No. 25-063, 10-19-99; Ord. No. 25-063, 10-19-99; Ord. No. 25-054-2006, 11-28-06)

Sec. 25-33. - Failure to comply with corrective notices.

It shall be a violation of this article for any owner or occupant of property in the city limits who receives a corrective notice to fail or refuse to complete the corrective action within the time permitted..

(Ord. No. 24-019, Art. II, § 2, 2-2-88; Ord. No. 25-054-2006, 11-28-06)

Sec. 25-34. - Penalties.

- (a) It shall be unlawful for any person to violate any provision of this chapter.
- (b) Knowing Violation of Litter Ordinance. For any violation of this chapter that is committed knowingly, the fine shall be \$250.00, or imprisonment for up to three months, or a combination thereof.
- (c) Other Violations of Litter Ordinance. For all violations of this chapter that are not subject to paragraph (b) above, the fine shall be \$100.00, or imprisonment for up to 30 days, or a combination thereof.
- (d) Each day a violation of this ordinance is committed or permitted to continue shall constitute a separate offense.
- (e) Any person who appears in municipal court and is found guilty of a violation of this chapter may, in the discretion of the Court, be punished by a fine of up to \$250.00, or imprisonment of up to three months, or a combination thereof; or, in the alternative, may be subject to any lawful order, including without limitation, community service or remedial action, including but not limited to picking up litter.
- (f) A Schedule of Fines for violations of this Article shall be published in the municipal court magistrate's fine schedule which appears at section 1-32 of the City Code.

Section	Name	Fine	Court Cost	Total (Fine and Court Cost)
25-34(b)	Knowing Violation of Litter Ordinance, Chapter 25 Article II	\$250	As applicable	\$250 plus court cost
25-34(c)	Other Violations of Litter Ordinance, Chapter 25, Article II	\$100	As applicable	\$100 plus court cost

(Ord. No. 24-019, Art. II, § 4, 2-2-88; Ord. No. 25-054-2006, 11-28-06)

Sec. 25-35. - Owner or occupant's responsibility.

- (a) It shall be a violation of this ordinance for any owner or occupant of property in the city limits who generates litter, trash or junk to fail to insure that the litter, trash or junk is managed, stored and handled in accordance with the provisions of this ordinance.
- (b) Keeping of Junk Vehicles.

It shall be a violation of this ordinance for any person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee, or otherwise, to allow any junk vehicle to remain on such property.

(Ord. No. 24-019, Art. II, § 3, 2-2-88; Ord. No. 25-054-2006, 11-28-06)

Sec. 25-36. - Areas surrounding commercial premises, multi-family residential premises, or places of assembly.

- (a) It shall be the duty of each owner, occupant, tenant or lessee of any commercial premises, including business, industry, institution, multi-family residential premises, or places of assembly in the city limits to keep the adjacent and surrounding areas clear and free of litter, trash, junk and high grass and weeds, as defined under "public nuisance," section 25-31. These areas include grounds, parking lots, roads, driveways, rights-of-way, loading and unloading areas, vacant lots and unimproved real property.
- (b) All persons performing construction and demolition work, or owners or occupants of commercial premises shall provide on-site receptacles for loose debris, paper, building materials waste, scrap building materials and other litter products to prevent scattering of such materials by wind or rain if such materials are not otherwise properly disposed of on a daily basis.
- (c) No owner or occupant of commercial premises in the city limits may grant permission to any person to dispose of litter, garbage, trash or junk on his property.
- (d) All owners or occupants of commercial premises shall: store their trash, garbage or litter in bulk containers; maintain their premises to be clean, neat and sanitary; and shall prevent litter from blowing or washing onto adjacent property, thoroughfares, or into storm drains or waterways. Spillage and overflow around the bulk containers shall immediately be cleaned up as it occurs.
- (e) All dumpsters shall be affixed with an identification decal, which is legible and waterproof, that includes the following information:
 - (a) The name of the entity or business using the dumpster;

(b) If the business is also the owner of the property, the name, address, and telephone number of the person who is authorized to accept legal service for the owner; and,

(c) If the business is a tenant on the property, the name, address and telephone number of the person who is authorized to accept legal service for the tenant.

(f) Any owner or occupant of commercial premises that has a dumpster located thereon who pleads guilty to a violation of this section, or is found by a court of competent jurisdiction to be guilty of violating this section, may, on a first offense, be allowed the option to either pay the applicable fine and costs, or, alternatively, to enclose the dumpster or secure the dumpster with an automatic lock release in accordance with the requirements of this section within the 60-day period following the guilty plea or adjudication. Upon a second violation of this section, the occupant shall be required to enclose the dumpster or secure the dumpster with an automatic lock release in accordance with the requirements of this section in addition to all other fines, penalties, and costs that may be imposed. For purposes of this section, failure by the defendant to either pay a fine or appear in court as required by a properly served charging document shall be considered the same as pleading guilty to violating this section.

(g) In the event that an owner or occupant of commercial premises elects to enclose a dumpster or secure the dumpster with an automatic lock release in accordance with subsection (f), or is required to do so as provided in subsection (f), then said owner or operator shall either:

(1) enclose the dumpster within a wooden or brick enclosure of at least the height of the dumpster which is being enclosed, but in no case to exceed eight (8) feet in height. The dumpster enclosure may also be equipped with a door or gate constructed of wood or other opaque material that opens outward and which remains closed unless the dumpster is being filled or emptied. The dumpster enclosure must be of sufficient size to allow for placement and removal of the dumpster without causing damage to the enclosure, and must be kept in good repair and condition; or, in the alternative,

(2) secure the dumpster by an automatic lock release (sometimes called a gravity lock release or similar such product) which will cause the lid of the dumpster to be securely closed and sealed whenever the dumpster is not being unloaded.

(h) It shall be a violation of this ordinance to fail to comply with any of the requirements of this section.

(Ord. No. 24-019, Art. IV, § 1, 2-2-88; Ord. No. 24-032, § 2, 5-17-94; Ord. No. 25-054-2006, 11-28-06)

Sec. 25-37. - Residential premises.

It shall be the duty of each owner, occupant, tenant or lessee of private, residential property to keep their premises free and clear of litter, garbage, trash, junk and high grass and weeds, as defined under "public nuisance" in section 25-31. Residential premises include areas surrounding a residence, driveways, rights-of-way, sidewalks, and unimproved, vacant, residentially-zoned lots.

(Ord. No. 24-019, Art. IV, § 2, 2-2-88; Ord. No. 24-032, § 2, 5-17-94; Ord. No. 25-054-2006, 11-28-06)

Sec. 25-38. - Sidewalks and rights-of-way.

It shall be the responsibility of any owner or occupant whose property abuts a city right-of-way to keep any sidewalks and city right-of-way between the street and their property line mowed and free of litter, trash and junk.

(Ord. No. 24-019, Art. IV, § 3, 2-2-88; Ord. No. 25-054-2006, 11-28-06)

Cross reference— Sidewalks to be kept free of grass, weeds and other obstructions, § 57-71.

Sec. 25-39. - Sweeping litter into street.

It shall be a violation of this article to blow, sweep or push litter, junk or trash, including yard clippings, leaves or grass or cigarette butts, onto the city streets, alleys, storm water structures, ditches or waterways. All litter and trash shall be deposited into a garbage cart, garbage can, bag or box, cigarette litter receptacle, or litter receptacle tightly covered and secured to prevent scattering before pickup.

(Ord. No. 24-019, Art. IV, § 4, 2-2-88; Ord. No. 25-054-2006, 11-28-06)

Sec. 25-40. - Proper disposal of litter, trash, or junk.

- (a) Disposal of household solid waste. In all areas of the city in which the city collects garbage and litter through its automated garbage collection system, a garbage cart is the only permitted container for litter and garbage. In those parts of the city where the city does not provide automated garbage collection, litter and garbage shall be placed in a garbage can. All household solid waste shall be stored in tightly closed metal, rubber or plastic cans, in heavy duty plastic garbage bags, or in recycling containers, constructed so as to prevent such material scattering of garbage by wind, water, traffic or scavenging animals.
- (b) Disposal of trash in residential areas.

- (1) All trash shall be placed for collection at curbside no sooner than forty-eight (48) hours prior to the designated day for collection.
 - (2) Loose trash such as leaves and grass clippings must be containerized in tightly sealed plastic bags or cardboard boxes.
 - (3) Scrap, lumber, plaster, roofing, concrete, brick and sanding dust, resulting from the construction, repair, remodeling, removal or demolition of any building on private property will not be removed by city employees. All such materials shall be removed by the owner or occupant or the person responsible for the accumulation of same before, during or after construction.
- (c) It shall be a violation of this article to fail to comply with the requirements of this section.

(Ord. No. 24-019, Art. V, §§ 1, 2, 2-2-88; Ord. No. 25-054-2006, 11-28-06)

Sec. 25-41. - Cleaning litter, trash or junk from private premises.

- (a) Any city employee designated as an enforcement officer is hereby authorized to notify the owner of any vacant or unoccupied private property within the city to properly dispose of litter, garbage, junk or trash located on that property. The notice may be delivered in person or by certified mail, with return receipt addressed to the owner at his last known address or to the address that appears in the records in the office of the revenue commissioner. The failure, neglect or refusal of any owner so notified to properly dispose of litter, trash, garbage or junk within ten (10) days after receipt of the notice shall constitute a violation of this ordinance.
- (b) Licensed junk dealers or commercial premises used for the repair, rebuilding, reconditioning or salvaging of goods whose work area is screened from public view by a fence, hedge, wall or similar device of sufficient height to provide a visual buffer, and who complies with the city's junk and zoning ordinances shall not be subject to the provisions of this section.

(Ord. No. 24-019, Art. IV, § 5, 2-2-88; Ord. No. 25-054-2006, 11-28-06)

Sec. 25-42. - Litter receptacles.

- (a) It shall be a violation of this article to deposit any item except litter into a litter receptacle.
- (b) Every owner or occupant of commercial premises shall, at his own expense, provide, place and regularly maintain litter receptacles, including cigarette litter receptacles, at entrances, employee smoking areas and common pedestrian transition points, adequate to contain litter generated at those

premises; provided, however, that this section does not apply to the Downtown Development District.

- (c) Litter receptacles on any premises shall meet the following minimum standards:
 - (1) Constructed of such quality as to maintain the receptacle's original shape when kept in an outdoor location, and reasonably resistant to rust and corrosion.
 - (2) Constructed and designed or covered in such a manner as to prevent or preclude litter from escaping from the receptacle.
 - (3) Serviced with such frequency as necessary to prevent spillage from overflow and to prevent offensive odor.
- (d) It shall be a violation of this article to fail to comply with the provisions of this section.

(Ord. No. 24-019, Art. VI, §§ 1—3, 2-2-88; Ord. No. 25-054-2006, 11-28-06)

Sec. 25-43. - Littering from a vehicle.

- (a) It shall be a violation of this article for any person in a vehicle to drop, deposit, discard or otherwise dispose of litter in or upon any public or private property within the city including but not restricted to, any street, median, right-of-way, sidewalk, park, vacant or occupied lot, body of water, except in litter receptacles, or in an area designated by the Alabama Department of Environmental Management as a permitted disposal site.
- (b) The owner of the motor vehicle shall be responsible in the event that any person commits the following unlawful acts while in a motor vehicle, whether it is moving or at rest.

(Ord. No. 24-019, Art. III, § 1, 2-2-88; Ord. No. 24-121, § 1, 12-13-88; Ord. No. 25-054-2006, 11-28-06)

Cross reference— Trash in streets, § 57-36.

Sec. 25-44. - Escape of load from uncovered vehicles.

- (a) It shall be a violation of this ordinance for any person, hauler, firm or business to haul garbage, paper, trash, sand, gravel, wet cement, construction materials, other loose materials or waste unless the truck or used vehicle is properly covered, secured or sealed to prevent any loss or spillage during hauling, or the littering of streets and highways or nuisances or hazards to the public health. The deposit of sand or other substance to increase traction, or of water or other substance applied on a street or roadway in the cleaning or maintenance of such street or roadway by the

responsible government agency having such responsibilities, is excepted from the foregoing provisions. Any person charged with a violation of this section shall be required to appear before a municipal judge. Any person charged with a violation of this section shall be issued a UNTCC or UTCC and shall be required to appear before a municipal judge.

- (b) Any person cleaning litter or junk from a private premises and operating a vehicle on a public right-of-way in the city limits from which any glass, nails or other sharp objects have fallen or escaped which could cause an obstruction or damage a vehicle or otherwise endanger travelers on such public property shall immediately cause the public property to be cleared of such objects and shall pay any costs thereof. It shall be a violation of this article to fail to comply with this subsection.

(Ord. No. 24-019, Art. III, § 2, 2-2-88; Ord. No. 25-054-2006, 11-28-06)

Sec. 25-45. - Dumping of litter, trash, or junk.

It shall be a violation of this article for any person to discard or dump any litter, garbage, trash or junk on any private or public property unless disposed of in receptacles provided for public use that comply with the requirements of this ordinance or in an area designated by the Alabama Department of Environmental Management as a permitted disposal site.

For the purposes of this section, items found in an accumulation of garbage, trash, or other discarded material including, but not limited to, bank statements, utility bills, bank card bills, and other financial documents, clearly bearing the name of a person shall constitute a rebuttable presumption that the person whose name appears thereon knowingly deposited the litter. Advertising, marketing, and campaign materials and campaign literature shall not be sufficient to constitute a rebuttable presumption under this section. No prosecution for violation of this section based on evidence that creates a rebuttable presumption shall be brought against a person unless he or she has been given written notice by a designee of the city that items found in an accumulation of garbage, trash, or other discarded materials contain his or her name, and that, under this section, there is a rebuttable presumption that he or she knowingly deposited the litter. The notice shall advise the person of the penalty for violating this section, and shall provide that, unless the person can present satisfactory information or evidence to rebut the presumption to the designee of the city within fifteen (15) days of the date of the notice, an action under this section may be filed against him or her in municipal court. If the person responds to the notice and presents information or evidence to the designee of the city, the designee shall review the information or evidence presented and make a determination as to whether or not an action should be brought against the person for violating this section. The designee shall provide written notice to the person of the determination, and if the intent is to proceed with an action under this section, the notice shall be sent before an MOT or UNTCC is issued.

(Ord. No. 24-019, Art. IV, § 5a, 2-2-88; Ord. No. 25-063, 10-19-99; Ord. No. 25-054-2006, 11-28-06)

Sec. 25-46. - Removal of litter from litter receptacles.

- (a) The removal of litter from receptacles placed at public parks, beaches, fishing areas and other public recreation sites shall be the responsibility of those state and local agencies now responsible for the maintenance of these sites.
- (b) The removal of litter from garbage cans, litter receptacles or bulk containers placed on private property which are used by the public commercial premises shall be the duty of the owner or occupant of those premises. It shall be a violation of this ordinance for an owner or occupant to fail to remove or provide for the removal of litter as required by this subsection.

(Ord. No. 24-019, Art. VI, § 4, 2-2-88; Ord. No. 25-054-2006, 11-28-06)

Sec. 25-47. -Yard, garage sale or other unauthorized temporary signs

It shall be a violation of this ordinance to place yard, garage sale, campaign or other signs for services or items for sale on public property, city rights-of-way, or utility poles, except for special event directional signs. It shall be a violation of this ordinance to place any signs on trees or utility poles in the city rights-of-way, without exception.

Secs. 25-48. - Applicability of ordinance.

Except where otherwise provided, the provisions of this article apply throughout the city limits.


(Ord. No. 25-054-2006, 11-28-06)

SECTION TWO: All ordinances and laws, or parts thereof, that are in conflict with the provisions of this Ordinance, are hereby repealed.

SECTION THREE: The provisions of this Ordinance are severable. If any part of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, that declaration shall not affect the part of parts that remain.

SECTION FOUR: This Ordinance shall be in full force and effect from and after its adoption and publication as required by law.

Adopted: May 12, 2015:



Lisa C. Lambert, City Clerk