

**AN ORDINANCE
AMENDING THE CODE, CHAPTER 11, ARTICLE IV. – LITTERING, AS AMENDED
ORDINANCE NO. 346**

WHEREAS, it is the express intent of the City Council and of this Ordinance to promote a clean, healthy, safe and attractive environment in which to live.

WHEREAS, the City Council of the City of Troy, Alabama has become aware of increased littering of public and private property in Troy, Alabama, and;

WHEREAS, said littering of public and private property degrades the environment and community, and causes health and safety hazards, and;

WHEREAS, the costs incurred by the City of Troy, Alabama to clean up said litter creates an undue burden upon the taxpayers of Troy, Alabama, and;

WHEREAS, the act of littering and the production of litter should be unlawful, and;

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Troy, Alabama, that the City of Troy Code, Chapter 11, Article IV. - Littering, as amended, is hereby amended as follows:

Section 1. By striking, deleting, and removing Sections 11-41 through 11-51 (attached hereto as Attachment A) and replacing with the following:

Sec. 11-41. - Definitions.

The following terms when used in this article, shall have the meanings ascribed to them:

Citation means a notice specifying a violation of the provisions of this article which directs the violator to appear in the municipal court to answer to the charge or charges.

Commercial premises means any lot or any building, or any 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.

Corrective notice means a written notice informing the recipient thereof of a violation of the provisions of this article, and specifying a period of time in which to correct said violation.

Derelict property means any items such as wrecked or junked property, which have been left abandoned or unprotected from the elements, including but not limited to, wrecked, or partially dismantled motor vehicles, trailers, boats, machinery, refrigerators, washing machines, plumbing fixtures and other articles. Wrecked or partially dismantled motor vehicles shall include any vehicle which does not have lawfully affixed thereto both a license plate or the condition of which is wrecked, dismantled, partially dismantled, inoperable, abandoned or discarded and is not capable of being legally driven upon the public streets within the City of Troy.

Dismantled, junked or abandoned vehicles shall include major parts thereof including bodies, engines, transmissions, rear ends, etc.

Garbage means litter, refuse, and junk collectively as defined in this article.

Garbage and/or rubbish can means a watertight receptacle or container or substantial construction made of reinforced or ribbed plastic, or of galvanized iron or rust proof metal, having a capacity of not less than ten (10) nor more than ninety (90) gallons, with tight fitting lid or cover, with not less than one (1) handle on the lid or cover, and two (2) handles on the receptacle or container by which same may be conveniently lifted or moved.

Junk includes any vehicle or vehicle parts, junked vehicle, rubber tires, appliances, dilapidated furniture, machinery, equipment, building material, derelict property, wrecked or partially dismantled motor vehicles, trailers, boats, machinery, refrigerators, washing machines, plumbing fixtures and other articles or other items which are either in a wholly or partially rusted, wrecked, junked, dismantled or inoperative condition. The term shall also include any abandoned unattended or discarded ice box, refrigerator or other container which has an airtight door or lid, snaplock or other device which might be removed from the inside, washer, dryer, or any other appliance.

Litter means trash, garbage, refuse, junk, debris, rubbish, food waste, yard waste, uncontainerized man-made solid or liquid waste, or other waste, including but not limited to any paper, bottles, cartons, cans, cups, metal, glass, plastics, food wrappers, wrappings, diapers, any unlighted cigarette, cigar, cigarette butts, crockery, scrap metal, construction materials, liquid or granular substances, hazardous materials, rubbish, disposable packages or containers, boxes or cardboard, whether or not it is of value and, further, whether or not the same is perishable or nonperishable, that is thrown, dumped, deposited, or stored as herein prohibited.

Littering means the act that produces litter or causes litter to be produced as herein prohibited.

Litter receptacle is a container constructed and placed for use as a depository for litter of not more than 60-gallon capacity positioned in public places, spaces, and parking areas and maintained by the owner or other person in charge or control of the premises; provided, that garbage containers or other waste containers serving single-family or multi-family residences are not included in this definition.

Party litter means litter as defined herein that is thrown, dumped, deposited, or improperly stored as herein prohibited after or during a party, event or social gathering.

Person means any person, firm, partnership, corporation, association, company, business, or organization, of any kind.

Plastic bag means a plastic bag or holder of sufficient thickness and strength to be lifted and loaded without tearing or leaking and capable of being securely closed or tied shut.

Premises means any building or real property and shall include public or private property, city streets, public highways, roads, and all public rights of way.

Public place means any area that is used or held out for use by the public whether owned or operated by public or private interests, including but not limited to any and all streets, sidewalks, parking lots open to the public, parking areas open to the public, alleys and other public ways, and any and all public parks, fishing areas, squares, spaces, grounds, public buildings, and other public recreation sites.

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

Public property shall include property owned by the City, county, state, or federal government and all streets, public highways, roads, and all public rights of way within the City.

Recycling means any process by which material which would otherwise become solid waste are collected, separated, transformed, remanufactured, or processed and reused or returned to use in the form of raw materials or finished products for use other than landfill disposal or incineration.

Recycling center means facility for receiving, processing, and/or marketing recyclable materials.

Refuse means all solid wastes including but not limited to rubbish, ashes, trash, construction debris, and street cleanings and; animal, vegetables and/or other matter that results from the preparation, processing, consumption, dealing in, handling, or decomposition of meats, fish, birds, fruits, grains, or other animal or vegetable matter, including, but by no way limited to, used tin cans and other food containers, all putrescible or easily decomposable waste; animals and vegetable matter which is likely to attract flies, insects or animals.

Rubbish means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as abandoned circulars, leaflets, pamphlets, wrappers, handbills, newspapers and all and any other printed or nonprinted paper material, cigarettes, cardboard, tin cans, yard waste, yard clippings, leaves, tree limbs, discarded shrubbery and plant matter, wood, glass and other similar materials.

Solid waste includes garbage, trash and rubbish as defined herein, dead animals, and any other material or substance, regardless of definition, presently picked up and handled by the sanitation department of the city, the city's contractor, or a commercial service.

Solid waste container means a proper and suitable container or receptacle used for the temporary storage of solid waste as defined herein and any other material or substance, regardless of definition, to be picked up and handled by the sanitation department of the city, the city's contractor, or a commercial service.

Trash means litter, garbage, refuse, junk, debris, rubbish, food waste, yard waste, uncontainerized man-made solid or liquid waste, or other waste, including but not limited to any paper, cartons, cans, metal, glass, plastics, wrappings, diapers, any unlighted cigarette, cigar, cigarette butts, crockery, scrap metal, construction materials, liquid or granular substances, hazardous materials, rubbish, disposable packages or containers, boxes or cardboard, whether or not it is of value and, further, whether or not the same is perishable or nonperishable.

Vehicle legally or physically incapable of being operated shall include a vehicle which does not have attached a current license tag, according to law, or which lacks the equipment to be in good operating condition as required by law.

Yard Waste means the leaves, grass cuttings, weeds, garden waste, tree limbs, and other vegetative wastes generated at residential, commercial, institutional, governmental, or industrial properties.

Sec. 11-42. - Maintenance of premises or lot.

- A. *Accumulation of trash, litter, or debris prohibited.* It shall be unlawful for the owner / occupant or other person in charge or control of a structure, building, house, lot, open porch, patio, stoop, carport or other premises to allow the accumulation of garbage, trash, **litter**, debris, refuse, rags, paper, derelict property, rubbish or waste.
- B. *Accumulation of junk, furniture, tires and appliances.* It shall be unlawful for the owner / occupant or other person in charge or control of a structure, building, house, lot, open porch, patio, stoop, carport or other premises to allow the accumulation or open storage of junk, salvage materials, household furniture, derelict property, used motor vehicle tires, kitchen or other household appliances unless the owner is lawfully operating a junkyard, recycling center, landfill or similar licensed business pursuant to all zoning, licensing, environmental and related regulations and laws and stores such materials as herein defined and regulated.
- C. *Placement of litter, junk, trash or other waste material.* It shall be unlawful for the owner / occupant of any store, shop, house, structure, building, or other premises or for any other person to place any trash, litter, junk, garbage, solid waste or other waste material on the premises outside of such premises except it be in a suitable solid waste container as defined herein (except for collection purposes on regularly scheduled collection days and in a manner as authorized). It shall be the duty of the owner / occupant or other person in charge or control of store, shop, house, structure,

building, or other premises to store all such trash, litter, junk, garbage, solid waste or other waste material so that it cannot become scattered by wind, rain, animals, or otherwise.

- D. *Community aesthetics to be protected.* It shall be unlawful for the owner / occupant or other person in charge or control of a structure, building, house, lot, open porch, patio, stoop, carport or other premises to allow the accumulation of materials which generate substantial obnoxious odors or which substantially offend the aesthetics of the community and thereby cause a diminution in the value of other property nearby.
- E. *Sidewalks, curbs and rights-of-way.* It shall be the duty of any person, owner or occupant whose property abuts any public right-of-way to keep any sidewalks, curbs and public right-of-way between the street and their property line mowed and free of litter, trash, junk, and high grasses and weeds (except for collection purposes on regularly scheduled collection days and in a manner as authorized).
- F. *Occupant's responsibility.* It shall be unlawful for any 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 article. This requirement applies not only to removal of loose litter, trash or junk, but to materials that already are, or become, trapped at such locations as fence and wall bases, grassy and planted areas, borders, embankments and other lodging points.
- G. *Public property.* It shall be unlawful for any person to throw, dump, sweep, deposit or discharge any garbage, trash, wood, cans, tires or **litter** of any kind on any public property, public streets, public places, or public ways (except for collection purposes on regularly scheduled collection days and in a manner as authorized).

Sec. 11-43. - Areas surrounding commercial/industrial premises.

- A. It shall be the duty of every owner / occupant of any commercial/industrial premises in the City limits to keep the adjacent and surrounding area clear and free of litter, high grass and weeds. This requirement applies not only to removal of loose litter, trash or junk, but to materials that already are, or become, trapped at such locations as fence and wall bases, grassy and planted areas, borders, embankments and other lodging points.
- B. All persons performing construction and demolition work, or occupants of commercial/industrial 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, rain, animals or otherwise if such materials are not otherwise properly disposed of on a daily basis.
- C. No owner / occupant of commercial/industrial 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 / occupants of commercial/industrial premises shall store their litter, trash, and solid waste in proper solid waste containers and shall maintain their premises to

be clean, neat and sanitary. Spillage and overflow around the containers shall immediately be cleaned up as it occurs.

- E. Work and storage areas of all licensed junk dealers, tire dealers, recycling centers, auto repair businesses, body shops, or commercial premises used for the repair, rebuilding, reconditioning, salvaging, or storage of goods, recyclable materials, abandoned, discarded, unused, unusable, or inoperative vehicles, appliances, furniture, tires, equipment, derelict property, or material shall be screened from public view by a privacy fence, hedge, wall, door, or similar device of sufficient height to provide a visual buffer.
- F. It shall be a violation of this article to fail to comply with any of the requirements of this section.

Sec. 11-44. - Removal of litter from litter receptacles.

- A. The removal of litter, trash, or solid waste from receptacles placed at public places 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 solid waste containers placed on private property which are used by the public on commercial premises shall be the duty of the occupant/owner of those premises.

Sec. 11-45. - Spilling vehicle loads; litter thrown from vehicles.

- A. It shall be a unlawful for any person in a vehicle, which shall include any motor vehicle attached to or pulling a trailer, to drop, deposit, discard, throw, allow to fall 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, alleys, thoroughfares, sidewalk, park, vacant or occupied lot, body of water, except in litter receptacles, or in an area designated by the department of environmental management as a permitted disposal site. The owner of the motor vehicle shall also be responsible in the event that any person commits any such preceding unlawful act while occupying and/or operating said owner's motor vehicle, which shall include any motor vehicle attached to or pulling a trailer, whether it is moving or at rest.
- B. It shall be unlawful for any person; to drive, operate, or permit to be operated, any vehicle or trailer upon the public streets or other public ways of the City or its police jurisdiction, when such vehicle is so constructed, maintained, or loaded, that gravel, cement, liquid, asphalt, petroleum products, tar, trash, paper, debris, trash, or litter of any kind is permitted to be thrown from, blow, allow to fall, or spill from such vehicle or trailer upon public or private property.
- C. It shall be unlawful for any person to haul garbage, paper, trash, or litter, as defined hereinabove, unless the truck, vehicle, or trailer is covered, secured, or sealed to the extent that there will be no loss or spillage during haulage to cause littering of streets highways or cause a nuisance or hazard to the public health.

- D. Neither subsection (A), (B), or (C) of this section shall apply to the deposit of sand or other substances on the streets of the City for the purpose of increasing traction, street repair or maintenance of utilities or the use of water or other substances in cleaning or maintaining public streets or public ways, when such acts are performed by the City or contractor conducting such actions pursuant to a valid contract with the City.
- E. Any person operating, or permitting to be operated, a vehicle or trailer in violation of subsection (A), (B), or (C) of this section, shall immediately cause the public place or property to be cleared of such objects and shall bear the costs thereof.

Sec. 11-46. – Solid waste storage and removal.

- A. Residential Solid Waste Storage and Removal as regulated Section 13.153 of this code.
 - 1. Each person shall have sufficient solid waste container capacity to accommodate their normal volume of solid waste between weekly disposals.
 - 2. Solid waste containers shall be water, insect and rodent proof. They shall be provided with a tight fitting lid and be kept securely covered at all times.
 - 3. All items too large to fit into said container, such as, but not limited to furniture, mattresses and construction/demolition materials, shall not be stored in public view and shall be placed at the curbside not more than 24 hours before and not later than 7:00 a.m. on scheduled garbage pick-up days and not be allowed to become a nuisance.
 - 4. It is unlawful for any person to deposit household solid waste in any other private or commercial solid waste container without authorization.
- B. Commercial Solid Waste Storage and Removal as regulated Section 13.154 of this code.
 - 1. Solid waste shall be stored in water, insect and rodent proof containers, provided with tight fitting lids. Containers shall be kept securely covered at all times. Drain plugs shall be in place at all times except during cleaning.
 - 2. Solid waste containers shall be cleaned at a frequency to prevent insect and rodent attraction.
 - 3. Collected solid waste shall be disposed of at least once per week and more frequently if the amount and type of solid waste warrant such frequency.
 - 4. There shall be a sufficient number of solid waste containers to hold all the solid waste that accumulates between disposal intervals.
 - 5. It is unlawful for any owner, manager, or employee of a commercial establishment or institution to deposit solid waste from that establishment or

institution in any other private or commercial solid waste container without authorization or any residential solid waste container as regulated by Section 13.153 of this code.

- C. It shall be unlawful for any person in charge or control of any premises to allow or permit garbage, trash, and/or solid waste containers to be open or uncovered, and it shall be unlawful for any such person to permit or allow an accumulation of garbage, trash, junk or litter in the vicinity of any garbage, trash, and/or solid waste container serving such premises.

Sec. 11-47. - Unlawful posting of handbills, signs, notices, and advertisements.

No person whether or not a licensed bill poster, shall paste, post, paint, print or in any way fasten any handbill, sign, notice, garage sale sign, advertisement of any kind or character, (to include political posters) on public property, city right-of-ways, utility poles, any curb, sidewalk, street, or any bridge or any structure within the limits of any street in the City and no person shall paste, post, paint, print or in any way fasten any handbill, sign, notice or advertisement of any kind or character upon any private wall, window, door, gate, fence, advertising board or upon any other private structure or building unless such person is the owner or otherwise legally in possession thereof, without the consent of the owner or the owner's authorized agent in writing. Nothing herein contained shall be construed to apply to the posting of legal notices by public officers and attorneys in the manner and places prescribed by law, nor to the circulation and distribution by any merchant or advertisement of such merchant's own private business or of articles for sale exclusively by such merchant.

Sec. 11-48. - Wrecked, abandoned, nonoperating vehicles—Generally.

- A. It shall be unlawful for any person to leave any partially dismantled, abandoned, nonoperating, wrecked, or junked vehicle on any street, highway, alley, thoroughfare, public right-of-way, or any other public way within the City of Troy or its police jurisdiction.
- B. It shall be unlawful for any person in charge or control of any real property within the City, whether as owner, tenant, occupant, lessee, or otherwise, to allow any partially dismantled, nonoperating, abandoned, wrecked, junked, or discarded vehicle to remain on such real property longer than forty-eight (48) hours; except that section shall not apply with regard to a vehicle in an enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner and in compliance with the provisions of this article, when necessary to the operation of such business enterprise; or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City.
- C. The owner of any vehicle described in this section shall remove the same within seven (7) days after being ordered to do so in writing by the owner, lessee or occupant of the premises where the vehicle shall be found. If the owner of such

vehicle is not known or cannot readily be ascertained, notice to remove may be given by attaching such notice to the vehicle.

- D. If the owner of such vehicle is also the owner, or occupant of the premises, notice to remove shall be given by the litter control officer.
- E. If such vehicle is on a city street, highway, alley, thoroughfare, public right-of-way, or other public way, forty-eight (48) hour notice to remove the same shall be given by the litter control officer, and the owner thereof shall remove the same as soon as possible within the forty-eight (48) hour timeframe.
- F. If such vehicle constitutes a present hazard, or is obstructing traffic, or is obstructing ingress to or egress from public or private property, the litter control officer shall have said vehicle removed immediately therefrom and the owner thereof shall be responsible for and shall pay to the City all costs for such removal.
- G. Any such vehicle on premises not owned or occupied by the owner of the vehicle, which is present without the owner or occupants consent, may be deemed to be abandoned.

Sec. 11-49. - Enforcement.

- A. *Litter control officers designated.* The following are hereby designated as litter control officers:
 - 1. All police officers of the City.
 - 2. All employees of the Building & Inspection Department of the City.
 - 3. The Planning & Zoning Administrator of the City and his/her designee.
 - 4. The Environmental Services Director of the City.
 - 5. Any employee of the City as the Mayor may direct.
- B. *Procedures.*
 - 1. *Corrective notice of violation.* Whenever there is a violation of this article the litter control officer may give a corrective notice of violation in writing to the person owning, residing on, or having charge or control thereof, that such litter, trash, debris, junk, derelict property, or wrecked, abandoned, nonoperating vehicle as regulated in Section 11-48 of this article must be removed within stated period of time specified in such notice. The failure, neglect or refusal of any person so notified to properly dispose of litter, trash, garbage or junk within stated period of time specified in such notice shall constitute a violation of this article. Said notice shall:

- a. be served in person or by first class registered or certified mail, return receipt requested, 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, or if the owner of the premises is not a resident of the city and no person resides thereon, or has charge or control of the premises or vacant lot, and the address of the owner or person having control thereof is unknown and cannot by reasonable diligence be ascertained, the notice shall be served by posting a copy thereof on the premises in a conspicuous place;
- b. also be served in person or by first class mail addressed to the occupant or the person, residing on, or having charge or control thereof at his/her last known address, if known, or by posting on the premises in a conspicuous place;
- c. describe the nature of the violation;
- d. specify a definite period of time in which to correct the violation.
 - i. The following shall be used a guide for the litter control officer to use when determining said period of time in which to correct the violation:
 - 1) *Party Litter*. Party litter violations shall be corrected as soon as possible within twenty-four (24) hours of the notice.
 - 2) *Wrecked, abandoned, nonoperating vehicles*. Partially dismantled, abandoned, nonoperating, wrecked, or junked vehicles shall be removed as soon as possible within forty-eight (48) hours of the notice as regulated in Section 11-48 of this article.
 - 3) *Slightly Littered*. Litter which is obvious and could be prone to scattered by wind, rain, and animals and which can be collected quickly by one to two individuals shall be corrected as soon as possible within forty-eight (48) hours of the notice.
 - 4) *Moderately Littered*. Litter which is obvious and which can be collected with an effort by one to two individuals shall be corrected as soon as possible within five (5) days of the notice.
 - 5) *Significantly Littered*. Litter which constitutes an incessant amount of litter, creates a strong impression of a lack of concern about litter, and which may require an organized effort or equipment for removal shall be corrected as soon as possible within fourteen (14) days of the notice.
 - 6) *Grossly Littered*. Litter which constitutes an extensive amount of litter or unlawful open storage or accumulation of junk, salvage materials, household furniture, derelict property, and/or debris which will require an organized effort or may require equipment for removal shall be corrected as soon as possible within thirty (30) days of the notice.

- ii. An extension of time may be requested by making a written request to the City Council within the correction period stated in the notice. The grant of such extension of time shall be in the sole and absolute discretion of the City Council, which shall not be subject to review.
2. *Issuance of citation.* When any police officer of the City, observes any person in the act of violating of the provisions of this Article, such police officer may issue, on forms provided by the City, a citation and deliver it to the person claimed to be in violation of this article. Said citation shall specify the violation or violations observed, and shall further direct the person to whom the citation is issued to appear in the municipal court of the City at a time and on a date specified in the citation, to answer the charge or charges specified in the citation. Said citation is not an arrest, and the recipient of the citation shall not be detained except pursuant to a lawful arrest made by a police officer. In the event the person so cited fails to appear in the municipal court on the date and time specified in the notice, then the officer shall obtain a warrant for the arrest of the person so cited, and the warrant will be processed through the municipal court in the same manner as any other warrant returnable to the municipal court.
3. Upon the failure to comply with the corrective notice of violation, litter control officer, is hereby 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 charging persons or corporations with violations of this Article, whether or not a citation for such violation has been issued.
4. In lieu of appearing in court to answer to the citation, any person may, after signing a waiver of trial and guilty plea, pay a fine or fines in accordance with the Code of the City of Troy and the orders and rules of the municipal court.

Sec. 11-50. - Penalty.

Any person who shall fail to comply with any of the provisions of this article, shall be guilty of a misdemeanor and upon conviction thereof shall be punished as follows:

- A. *First offense:* Not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00).
- B. *Second offense:* Not less than two hundred dollars (\$200.00) nor more than four hundred dollars (\$400.00).
- C. *Third or subsequent offense:* Not less than three hundred dollars (\$300.00) nor more than five hundred dollars (\$500.00).
- D. Each day on which a violation of this article occurs shall be a separate and distinct violation and shall constitute a separate and distinct offense.

Section 2. It is the intention of the City Council that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the City Council that if any provision of this ordinance be declared invalid or unconstitutional, all other provisions thereof shall remain valid and enforceable.

Section 3. All ordinances or parts of ordinances in conflict herewith, are to the extent of such conflict hereby repealed.

Section 4. This ordinance shall become effective upon its approval and publication as provided by law.

ADOPTED AND APPROVED this 24th day of June, 2014.

/s/ John H. Witherington
Presiding Officer

ATTEST:

/s/ Alton E. Starling

APPROVED this the 24th day of June, 2014.

/s/ Jason A. Reeves
Mayor

ATTEST:

/s/ Alton E. Starling
City Clerk

Passed and Approved this 24th day of June,
2014.

/s/ Alton E. Starling
City Clerk