City of Foley, AL

407 E. Laurel Avenue
Foley, AL 36535

Signature Copy

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BALDWIN COUNTY, ALABAMA
TIM RUSSELL PROBATE JUDGE
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An Ordinance Approving Solid Waste Ordinance Amendments

WHEREAS, the City of Foley, Alabama adopted Ordinance No. 1186-11 on 19th day of December, 2011, providing for the Control, Collection, and Disposal of Refuse; and

WHEREAS, the City of Foley, Alabama repeals Ordinance 1186-11 to provide for the modification for refuse control, collection, and disposal.

NOW, THEREFORE, BE IT ORDAINED that the aforementioned Ordinance be stricken and replaced to read as follows:

Section 1: Title and Purpose

This article shall be known and may be cited as the "Ordinance for Control, Collection and Disposal of Refuse." In order to serve the public health, safety and welfare, the declared purpose of this article is to prohibit and order the abatement of certain public nuisances within the city that are defined in this article.

Section 2: Definitions

The following words and terms when used in this ordinance shall have the meanings respectively ascribed to them by this section, unless the context clearly indicates otherwise.

(a) "Bulk Waste" shall mean furniture, appliances (white goods), and other large items not of a typical household daily garbage.

(b) "City" shall mean the City of Foley, an Alabama municipal corporation.

(c) "City limits" shall mean the corporate boundaries of the city.

(d) "Collector" shall mean the City or its collection contractor engaged in the transportation or collection of solid waste.

(e) "Commercial premises" shall mean any lot or any building, or part thereof, used in connection with or for the carrying on or any business, trade, occupation or profession for which a license is required by the city.

(f) "Construction and demolition debris" shall mean materials that are not water soluble and non hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt, roofing materials, pipe, gypsum wallboard, and lumber, from a construction or demolition project and including rocks, soils, trees and tree debris, and other vegetative matter which normally results from land clearing operations associated with construction.

(g) "Construction Debris Container" shall mean containers, bins, dumpsters, or enclosed areas by fencing used to store construction scrap and debris until removal.

(h) "Contractor" shall mean a business that is required to be licensed by the City of Foley for landscaping and tree services.

(i) "Curbside" shall mean the area within five feet of the edge of the traveled portion of any public or private street affording reasonable access to waste collection vehicles, but only such portion thereof as lies on the roadway side of any drainage ditch.

(j) "Customer" shall mean any person, persons, firm or corporation who shall place garbage, rubbish, residential or commercial waste or yard trash for pickup and disposal by the collector.

(k) "Garbage" shall mean materials resulting from the preparation, cooking, and serving of food, market wastes, trimmings and other discarded matter from meat or produce, including packaging materials and containers and other refuse as defined as putrescible waste.

(l) "Garbage Container" shall mean a City issued container used for temporary storage of residential or commercial waste.

(m) "Hazardous Waste" shall mean solid waste, or a combination of solid wastes, which, 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 may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed and including any materials specifically designated by state or federal agencies.

(n) "Household Hazardous Waste" shall mean hazardous waste generated solely by a residential household. This shall include but is not limited to tires, batteries, used oil, paints and paint thinners, antifreeze, fertilizers, pesticides, herbicides, and chemicals.

(o) "Household Waste" shall mean any combination of garbage and rubbish common to housekeeping and generated solely by residents in an ordinary course of residential occupancy of a premises, excluding major appliances furniture, automobile bodies and parts, tires, and any other bulky items not conducive to confinement in the garbage container.

(p) "Litter" shall mean all garbage, refuse, uncontainerized man-made solid waste, including but not limited to, paper, plastic, diapers, cigarette butts, bottles, cans, glass, scrap metal, construction materials, rubbish, disposal packages or containers.

(q) "Occupant," as applied to any house, building, store, shop, room, lot or premises; the owner, tenant or other person who for the time being is in possession or is in charge or control thereof, whether for such person's self or for another, or as agent, officer or employee of a corporation.

(r) "Premises" shall mean any residential, commercial, or industrial lot or parcel of land which is improved for occupancy.

(s) "Recyclable Materials" shall mean solid waste items that can be transformed into new products where the original products lose their identity. The City shall designate the materials to be recycled, separation procedures, and provide recyclable containers for this purpose.

(t) "Rubbish" shall mean waste materials which are not water soluble, not putrescent,

non hazardous, not biological waste, and are likely to retain most physical and chemical properties under the conditions of disposal, and do not threaten ground or surface waters. Rubbish includes but is not limited to paper, glass, cardboard, cloth, and similar materials. Rubbish does not include yard waste.

(u) "Solid Waste" shall mean refuse such as garbage, rubbish, yard waste, bulk waste, construction and demolition waste or other discarded materials.

(v) "Yard Waste" shall mean material resulting from performing landscape maintenance on premises, including but not limited to grass clippings, leaves, twigs, small tress (six inch diameter or less) and other materials not resulting from lot or land clearing operations.

Section 3: Occupant's Responsibility

It shall be a violation of this ordinance for any occupant of property in the city limits who generates litter or solid waste to fail to insure that the litter or solid waste is managed, stored and handled in accordance with the provisions of this ordinance.

Section 4: Required Service

A. Except as provided in Subsection C of Section 4 below, every person, household, business or industry generating solid waste in the corporate limits of the City of Foley, and every owner of rental or lease property whose occupants generate solid waste in the City of Foley shall subscribe to a garbage collection program offered by the city or its contractor.

B. All mobile home parks, as defined by the City of Foley Zoning Ordinance, and apartment complexes over four dwelling units shall be required to obtain garbage collection by dumpster services through the City of Foley Revenue Department. Exceptions may be granted by the City Public Works Department when requested in writing based upon space limitations.

C. It shall be unlawful for any person to transport, haul or carry garbage or solid waste as herein defined, within the ways, streets or alleys within the corporate limits of the city, without first there being placed on file with the city clerk a copy of a valid permit issued by a county health department showing the right of the person to use a sanitary landfill provided in the county of that department, and if such permit is presented the vehicle or container in which the same is to be carried or hauled must not permit any leaking, spilling, or blowing of the waste and must be adequately secured and covered in a manner approved by the city and the county health department.

Section 5: Fees

Monthly charges for various types and frequency of waste collections shall be set by the City, and may be amended by the City as needed by resolution, and shall be charged to the customer on the monthly utility bill. Fee exemptions exist for customers whose sole household income is social security benefits or total household income is less than fifty-five hundred dollars per year. Exemptions shall be verified through the Foley City Clerk.

Section 6: Household Waste Containerization and Removal

Household waste shall be regulated under the following conditions:

(a) Household waste shall be placed in garbage containers provided by the City and shall be sufficient in number to containerize the waste generated by the premises between collections.

The customer shall immediately retrieve and containerize any and all waste spilled from garbage containers.

(b) All garbage containers for household waste shall be placed on curbside no sooner than twenty-four (24) hours prior to the designated day for collection. Garbage containers shall be removed from curbside within 24 hours of pickup.

(c) Household waste shall be collected at least once a week as scheduled by the Sanitation Department.

(d) It shall be a violation of this article for any owner or occupant of private property to fail to keep their premises free and clear of litter, garbage, trash, junk, high grass and weeds that constitute a public nuisance.

(e) It shall be a violation of this article to blow, sweep or push litter, junk or trash, including yard clippings, leaves or grass, onto city streets, alleys, stormwater structures or ditches. All litter and trash shall be deposited into a garbage container that is tightly covered and secured to prevent scattering before pickup.

Section 7: Yard Waste

Yard waste shall be regulated under the following conditions:

(a) Yard waste shall be kept separate and apart from household rubbish and garbage for City solid waste collection. Yard waste shall not be collected by the Sanitation Department if rubbish and garbage are combined and not containerized.

(b) Residential and commercial yard debris from lawn maintenance or landscaping that occurs on premises that are occupied and have City garbage service shall be collected by the City. Yard waste shall be limited to six (6) cubic yards per weekly pickup. Excessive yard waste will be charged thirty dollars ($30.00) per four (4) cubic yard increments over the initial pickup.

(c) Tree cuttings in the form of logs generated by a contractor shall be removed by the contractor.

(d) Yard waste shall be placed on curbside for collection. The yard waste shall be piled adjacent to the garbage container. Yard waste such as leaves or lawn clippings may be placed in trash bags which should then be placed adjacent to the garbage container.

(e) Yard waste may include grass clippings, leaves, trees or parts of trees not more than six inches in diameter and cut to less than six feet in length. Yard waste shall not include tree stumps.

Section 8: Recyclable Waste

Recyclable materials included in the City service are newspapers, tin and aluminum cans, plastic jugs such as milk and soda containers, broken down cardboard, and office paper. Recyclable materials shall be placed in the provided receptacle. Recyclables are collected once a week as scheduled by the Sanitation Department or its designee.

Section 9: Bulk Waste

Bulk waste generated by the customer shall be scheduled for pickup through the Sanitation Department prior to placement on curbside. Bulk waste shall include furniture, appliances, and other large items not of typical household garbage. No items shall be placed earlier than three days before the scheduled pickup. Multi family residential units and mobile home parks with City dumpster service may pay a monthly fee of twenty-five dollars ($25.00) for bulk pickups.

Section 10 : Special Pick Up

All commercial, residential, rental, and lease properties that require a special pick up of garbage or yard waste shall be charged a fee of sixty dollars ($60.00) per hour plus associated landfill charges for the disposal.

Section 11: Construction and Demolition Debris

Premises under construction or demolition through a licensed contractor permitted by the City shall be required to obtain a licensed independent contractor permitted in the collection and transportation of construction and demolition debris. The Building Official or his designee shall be allowed to enter and inspect the premises for compliance. The contractor shall be responsible for the following:

(a) Construction and demolition debris shall be contained in a construction debris container so as to prohibit the migration of the debris off of the premises.

(b) Construction debris shall be regularly collected by the collector. Construction debris containers shall be safely accessible to facilitate removal. Construction debris containers that have been filled to capacity shall be removed within one week.

(c) Construction debris shall not accumulate in work areas, passageways, stairs in and around buildings, and drainage ways.

(d) Construction and demolition debris shall not be mixed with garbage. Separate garbage containers shall be used for the disposal of the garbage.

(e) Hazardous waste and materials contaminated by hazardous waste shall not be disposed in construction debris container. Contractor shall ensure proper disposal as required by state and federal regulations. Hazardous waste generated shall be stored in a covered container until disposal. Storage of these materials shall not be located in a drainage way.

(f) Disposal of construction and demolition debris, including clearing debris, by burning shall comply with local fire department, state, and federal regulations.

Section 12: Dead Animal Disposal

Dead animals located in the corporate limits of the City right-of-way, not in excess of fifty pounds in weight will be picked up by the Sanitation Department. The Sanitation Department shall not remove dead animals from places of business making a business of treating, handling, or disposing of animals. In no event shall any person having a dead animal on the premises occupied or under control of such person allow it to remain indisposed of for a period of longer than twelve hours. In the event the dead animals must be disposed of on a

day other than the regularly designated collection day, the Sanitation Department shall be notified promptly. All dead animals over fifty pounds in weight must be disposed of within twelve hours by the owner.

Section 13: Vehicle Littering

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 department of environmental management as a permitted disposal site. 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.

B. It shall be an unlawful 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 the extent that there will be nothing to prevent any loss or spillage during haulage, any 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 provision. Any person charged with a violation of this section shall be required to appear before a municipal judge.

C. 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.

Section 14: Dumping of Litter

A. It shall be an unlawful 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 requirement of this ordinance or in an area designated by the state department of environmental management as a permitted disposal site.

B. 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 code enforcement officer of the city, the code enforcement officer 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.

Section 15: Prohibited Acts and Practices

The following acts and practices are expressly prohibited by this ordinance.

(a) It shall be unlawful to dispose of any hazardous material including household hazardous waste, into a garbage container. These items include but are not limited to batteries, paint, pesticides, oils, chemicals and fertilizers. Household hazardous waste may be taken to the Magnolia Landfill for disposal.

(b) It shall be unlawful to bury, burn, or dispose of solid waste except in accordance with the provisions of this Ordinance, or as permitted by the Alabama Department of Environmental Management and the Baldwin County Health Department.

(c) It shall be unlawful for any person to remove waste from containers placed for removal, except the collector.

(d) It shall be unlawful to dispose of wastes resulting from industrial processes except as provided by local, state, and federal regulations.

(e) It shall be unlawful to dispose of any infectious biohazardous waste except as provided by local, state, and federal regulations.

(f) It shall be unlawful to dispose of tires in garbage containers, bulk waste, yard waste, or placed on curbside. Tires may be taken to the Magnolia Landfill for disposal by the resident.

Section 16 : Applicability of Ordinance

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

Section 17: Enforcement and Violations

A. The Sanitation Department Superintendent or their designee shall be authorized to enforce the provisions of this Ordinance as reasonably necessary. Any person, firm, or corporation that violates any provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one dollar ($1.00) nor more than five hundred dollars ($500.00), or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment all as set forth in the Code of Alabama Section

11-45-9 (1975) and by Section 1-8 of the Code of Ordinances of the City of Foley, Alabama. Each day such owner shall allow a violation to continue, after having received ten (10) days notice from the code enforcement officer to correct or abate same, shall constitute a separate offense.

B. Failure to pay garbage collection rates is a violation of this Ordinance. After 90 days of the account falling into the arrears, the City of Foley may pursue collection through civil action in the court system.

Section 18: Saving Clause

Nothing in this article shall impair the right of the city to maintain a civil or criminal action to abate or assess the costs of abatement of the public nuisances defined by this article. In the event that any section, subsection, sentence, clause or phrase of this ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this ordinance, which shall remain in full force and effect, as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof.

Section 19: Severability Clause

The terms and provisions of this ordinance are severable. If any part or portion of this ordinance is declared invalid, void, or unconstitutional, that portion shall be deemed severed, and the remaining portions of the ordinance shall reremain in full force and effect."

Section 20: Repeal Clause

All ordinances or parts of ordinances, in any manner conflicting herewith are hereby repealed.

Section 21: Effective Date

This ordinance shall become effective upon the first day of October, 2013.

PASSED, APPROVED AND ADOPTED this 1st day of July, 2013.

CITY OF FOLEY CORPORATE SEAL FOLEY, ALABAMA

President's Signature _____ **Date** _____

Attest by City Clerk Victoria Southerns **Date** 7-2-2013

Mayor's Signature _____ Date 7/2/13

"I certify that the foregoing Ordinance was published in the Foley Onlooker, a newspaper of general circulation in the City of Foley in its issue of Friday, JUly 5, 2013."

Victoria Southern

Victoria Southern, CMC
City Clerk