



## ORDINANCE 2018-126

### *Amending Ordinance 2017-18*

### **SEMMES NUISANCE ORDINANCE**

**WHEREAS**, the City Council of the City of Semmes, Alabama, desires to adopt certain policies, procedures, rules and regulations to protect property values and curtail certain actions and omissions in the City and its police jurisdiction.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEMMES, ALABAMA, AS FOLLOWS:**

#### **ARTICLE I – TRASH AND GARBAGE DISPOSAL; LITTERING; RIGHT-OF-WAYS**

##### **Sec. 13-1 - Household garbage collection policy.**

- (a) *Containers.* All household garbage shall be placed in heavy-duty plastic cans or heavy-duty plastic bags. All containers shall be tightly closed to prevent animals from scattering the garbage.
- (b) *Prohibited actions.*
  - (1) Do not place trash, other than household garbage in proper containers for scheduled pickup, on any part of the Public Right-of-Way, nor on vacant property, whether residential or commercial.
  - (2) Do not put commercial building material by the curb for pickup.
  - (3) Do not put the debris from a lot-clearing project at the curb for pickup.
  - (4) Do not put treetops and limbs at the curb for pickup unless instructed to do so for a specified time by the City.
  - (5) Do not block the sidewalk with trash.
  - (6) Do not block street gutters, ditches, or any part of the city's drain system with trash, including leaves.
  - (7) Do not put trash in the street.



- (8) Do not create a hazard by leaving trash out for pickup for more than one day.
- (9) Do not place trash next to fire hydrants, signposts, guy wires, power poles, water meters, or fences.
- (10) Do not place trash under power lines, TV cables or low tree limbs.
- (11) Do not burn anything on the Public Right of Way. Do not attempt to burn anything in ditches or other low and damp areas.

**Sec. 13-2 - Interfering with garbage containers or contents.**

It shall be unlawful for any person to remove, handle or to otherwise disturb property owners' garbage containers or contents that have been placed on city right-of-way (ROW) for pickup by garbage collectors.

**Sec. 13-3 – Reserved.**

**Sec. 13-4 - Vehicles hauling garbage, trash and refuse.**

(a) Each truck or other vehicle used in the business of collecting and hauling trash, garbage and refuse for hire, if not a purpose-built garbage truck, shall have solid sides and a tailgate, the sides and tailgate to be not less than four feet in height, and shall further be equipped with a solid top or so rigged that a tarpaulin can be spread tightly over the top of such truck, and shall be further equipped with a tarpaulin. Each truck or vehicle shall have signs painted on both doors of the truck or vehicle indicating the correct name of the hauler and his telephone number.

(b) No such truck shall be used in the business of collecting and hauling trash, garbage and refuse unless there has been a license procured by the operator thereof, and no license shall be issued by the city revenue officer for any such truck until such truck has been examined by the City of Semmes Public Works Department and approved as complying with the provisions of this section. The license number for any such truck shall be prominently displayed and affixed outside of such truck to the left front door of the cab. Every such license shall be subject to revocation for a violation of any of the provisions of this chapter or any



other ordinance of the city pursuant to the provisions for revocation of city licenses set forth in the license code of the city.

**Sec. 13-5 – Loss 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.

(b) Any person clearing litter or junk from private premises and operating a vehicle on a public right-of-way in the city limits or police jurisdiction (PJ) from which any gravel, glass, nails or other sharp objects have spilled which could cause an obstruction or damage a vehicle or endanger travelers on the ROW shall immediately clear said ROW of same and shall pay any costs arising from said spillage. It shall be a violation of this ordinance to fail to comply with this subsection.

**Sec. 13-6 – Reserved.**

**Sec. 13-7 - Owner's responsibility.**

(a) It shall be a violation of this ordinance for any owner of property in the city limits or PJ who generates litter, trash, or junk to fail to ensure that the litter, trash, or junk is managed, stored, and handled in accordance with his community's standards.

(b) Keeping of junk vehicles. It shall be a violation of this ordinance for any person in control of any property within the city or its PJ to allow any junk vehicle to remain on such property. Photographic evidence that a vehicle has remained un-moved for a period exceeding 90 days shall be considered conclusive proof that a vehicle has been abandoned in place and is, for the purposes of this ordinance, junk. The owner of property shown to be harboring junk vehicles shall be assessed a fine at the rate of one dollar per day per vehicle from the first day a vehicle is documented to have been abandoned in place until said junk vehicle is removed, in addition to any other penalties set forth in this ordinance.



**Sec. 13-8 - Areas surrounding commercial premises, multi-family residential premises, or places of assembly.**

(a) It shall be the duty of each owner of any commercial premises including institution and multi-family residential premises, or places of assembly in the city limits and PJ of the City of Semmes to, and each such owner shall, keep the adjacent and surrounding areas clear and free of litter, trash, junk, high grass and weeds, as defined under "public nuisance," section 13-50. These areas include grounds, parking lots, roads, driveways, right-of-ways, 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 or PJ of the City of Semmes may grant permission to any person to dispose of litter, garbage, trash or junk on his property, provided however, that compostable materials such as leaves may, by mutual agreement, be accepted for that purpose.

(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, roads, or into storm drains or waterways. Spillage and overflow around such bulk containers shall be cleaned up immediately.

**Sec. 13-9 - Residential premises.**

It shall be the duty of each owner of private residential property to, and each such owner shall, keep their premises free and clear of litter, garbage, trash, junk, as well as high grass and weeds as defined under "public nuisance" in section 13-50. It shall be the responsibility of the owner of living quarters on said property to maintain said property in safe and livable condition, especially in regard to doors of ingress and egress in case of fire or rescue event. Residential premises include areas surrounding a residence, driveways, right-of-ways, sidewalks, and unimproved vacant lots.



### **Sec. 13-10 - Sidewalks and right-of-ways.**

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 ways between the street and their property line mowed and free of litter, trash, junk, signs, displays, merchandise, or their customer's property.

### **Sec. 13-11 – No Sweeping of litter into street.**

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

### **Sec. 13-12 - Proper disposal of litter, trash, or junk.**

(a) 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 longer than 24 hours prior to scheduled collection.

(2) Loose trash such as leaves and grass clippings must be held in tightly sealed, sufficiently heavy duty plastic bags.

(3) Scrap, lumber, plaster, roofing, concrete, or brick, resulting from any work on any building shall be promptly removed by the owner or his contractor.

### **Sec. 13-13 - Cleaning litter, trash, or junk from private premises.**

(a) Any city employee designated as an enforcement officer or other law enforcement officer is hereby authorized to notify the owner of any vacant or unoccupied private property within the city or its police jurisdiction to properly dispose of litter, garbage, junk or trash located on that property. The notice must be in writing and delivered in hand 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 of any property owner so notified to properly dispose of litter, trash, garbage or junk within 30 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, or wall to provide a visual buffer, and who comply with the city's ordinances shall not be subject to the provisions of this section.

**Sec. 13-14 – Reserved.**

**Sec. 13-15 - Littering from a vehicle.**

(a) It shall be a violation of this ordinance for any person in a vehicle to deposit or dispose of litter, garbage, trash or junk on any property or ROW within the city or its PJ except in receptacles provided for public use that comply with the requirements of this ordinance or in an area designated by the state department of environmental management as a permitted disposal site.

(b) The owner of a motor vehicle shall be held responsible for the actions of any person in their vehicle.

**Sec. 13-16 - Dumping of litter, trash, or junk.**

It shall be a violation of this ordinance 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 state department of environmental management as a permitted disposal site.

**Sec. 13-17 - Reserved.**

**Sec. 13-18 – Disabled vehicles.**

One of the primary purposes of the road shoulders portion of Right-of-Ways is to provide emergency parking off the road for disabled vehicles in order to keep the



road clear for both normal and emergency traffic. However, the said disabled vehicle must be removed as soon as possible as it does, in itself, create a hazard when so parked. As such, the City reserves the right to have such vehicles towed to the nearest impound with costs assessed to the vehicle's owner of record, after four hours have transpired, or, immediately, if in the sole judgment of police officers on the scene, a critically hazardous condition prevails.

**Sec.13-19-30 – Reserved.**

**ARTICLE II - LOT MAINTENANCE**

**Sec. 13-31 - Title and purpose.**

In order to serve public health, safety and welfare, the declared purpose of this article is to prohibit certain public nuisances within the city, which are defined by this article and ordinance.

**Sec. 13-32 - Standards for maintenance of residential property and vacant lots.**

(a) It shall be the duty of each property owner to maintain any living quarters on their property in safe condition for occupancy, with at least two operating doors for regular or emergency ingress/egress. Structures found to be dilapidated, dangerous, fire hazards, or attractive nuisances may come under condemnation proceedings by the City.

(b) It shall be unlawful for a property owner or occupant of any residential property or vacant lot, whether improved or unimproved, to allow the property to be utilized for the open storage of any of the following:

- (1) Abandoned, dilapidated, or wrecked motor vehicles;
- (2) Ice boxes, refrigerators, or stoves;
- (3) Rubbish, litter, or refuse;
- (4) Broken glass, abandoned building materials, building debris or rubbish, or abandoned household furniture or fixtures;
- (5) Un-mounted tires;



- (b) Any material that catches and retains mosquito-breeding water.
- (c) Property kept or maintained in violation of this article shall be considered a public nuisance.

**Sec. 13-33 - Nuisance prevention standards.**

Every residential property owner shall, whether their property is self-occupied or not, keep the property clean and remove from the property all such abandoned items as listed in section 13-32, in addition to, weeds or grass with a growth higher than one foot, fallen dead trees, garbage, etc.

**Sec. 13-34 - Exempt properties.**

A lot or premises of more than five (5) acres shall be considered farm property and exempt from cutting or mowing.

**Sec. 13-35-40 - Reserved.**

**ARTICLE III. - ENFORCEMENT**

**Sec. 13- 41 Enforcement procedures.**

(a) A city employee designated as an enforcement officer or other law enforcement officer may issue a MOT, UNTCC or UTTC, as applicable, for a violation of all or any part of this ordinance. The person charged with a violation must, within the time period specified on the MOT, UNTCC or UTTC, or within 24 hours before the court date shown on the MOT, UNTCC or UTTC:

(1) Appear in person before a magistrate, sign the plea of guilty waiver of rights on the MOT, UNTCC or UTTC 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, UNTCC or UTTC and mail or hand deliver to the clerk of the court with jurisdiction 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, UNTCC or UTTC and agree to appear in court on the date and at the time shown on the ticket to protest the charges. If the defendant fails to appear, the court may, in its discretion, issue further notice or a supplemental summons or warrant of arrest.

(b) Employees of the city, designated as enforcement officers or other law enforcement officers who observe violations of this ordinance are further authorized to appear before a magistrate, swear out a complaint and request a summons or warrant to be issued pursuant to Rule 3.1 of the Alabama Rules of Criminal Procedure.

(c) An employee of the city designated as an enforcement officer or other law 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, UNTCC or UTTC, as applicable.

(d) Notwithstanding sub-sections (a)(1) and (a)(2) of this section, offenders charged with violations in which restitution and/or corrective action is requested or required shall appear in court in order for restitution and/or corrective action to be determined by the judge.

**Sec. 13-42 – Reserved.**

**Sec. 13-43 - Failure to comply with corrective notices.**

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



### **Sec. 13-44. - Penalties.**

- (a) It shall be unlawful for any person to violate any provision of this ordinance.
- (b) First violation of ordinance. For a first violation of this ordinance the fine shall be \$100.00, or imprisonment for up to thirty days, or a combination thereof, plus court costs. If an offender pleads guilty pursuant to Sec. 13-41(a)(1) or (a)(2) of this article on a first violation, the fine shall be \$100.00, plus court costs and any other applicable fees, with no provision for imprisonment.
- (c) Subsequent violations of ordinance. For all second or subsequent violations of this ordinance committed within one (1) year of a first violation, the fine shall be \$250.00, or imprisonment for up to three months, or a combination thereof, plus court costs. If an offender pleads guilty pursuant to Sec. 13-41(a)(1) or (a)(2) of this article on a second or subsequent violation, the fine shall be \$250.00, plus court costs and any other applicable fees, with no provision for imprisonment.
- (d) Each day a violation of this ordinance is committed or permitted to continue shall constitute a separate offense for which a separate MOT, UNTCC or UTTC, as applicable, may be issued.
- (e) In addition to the foregoing fines, fees and costs, any person who appears in court and is found guilty of a violation of this ordinance may, in the discretion of the court, be subject to any lawful order including without limitation, restitution, community service or corrective/remedial action, including but not limited to picking up litter.
- (f) A schedule of fines for violations of this ordinance shall be published in the court magistrate's fine schedule.
- (g) The maximum combined fine and assessment of fees pursuant to this ordinance shall not exceed \$500.00, exclusive of court costs, restitution and costs of corrective/remedial action.

### **Sec. 13-45 – Reservation of Rights.**

In addition to any of the rights and remedies of the City as set forth in this ordinance, the City reserves all rights to enforce any state laws applicable to the subject matter of this ordinance, including, but not limited to Code of Alabama



Sections 11-40-30, et seq., 11-47-131, et seq., 11-53B-1, et seq., 11-67-20, et seq., 11-67-60, et seq., and 32-13-1, et seq.

**Sec. 13-46-49 - Reserved.**

**ARTICLE IV - DEFINITIONS**

**Sec. 13-50 – Definitions.**

As used herein:

*Excluded properties* will consist of heavily wooded areas, areas in their natural state (i.e., not previously developed in any manner), property under current construction and farm properties (except as designated elsewhere in this ordinance).

*Liability* means responsibility for any damages that may occur during cutting and/or debris removal upon or from private property.

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

*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.

*City* is the City of Semmes.

*City limits* are the corporate boundaries of the city. See also: *Police Jurisdiction*.

*A 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.

*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 this 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 non-putrescible waste, constructed of substantial metal, plastic, or rubber and having a capacity of approximately 30 gallons with a tight-fitting lid or cover and with a handle on the lid and two handles on the receptacle by which same may be conveniently lifted or moved.

*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 that 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.

*Litter* is any garbage, refuse, non-containerized 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.

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

*Police Jurisdiction* (PJ) is the area extending 1.5 miles beyond the city limits of the City of Semmes within which the City collects sales taxes at half the rate within city limits.

*Premises* are any buildings or real property.

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

*Private contractors* means individuals or groups of individuals maintaining a current business license from the city for lawn and garden care.

*Private property* means property owned by any individual, partnership, association, syndicate, company, firm, trust, corporation, business or any entity recognized by law.

*Property 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 that 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.

*Public access* means that the property to be cut/cleaned must have access to subject property from public road, right-of-way or easement without removing any fence or other surrounding structure. Access to subject property may be obtained via adjoining non-involved property pursuant to Code of Alabama, Section 11-67-20, et seq.



*Public nuisance* means any growth of weeds, scrub bushes and grass exceeding community standards, or in any case no more than one foot in height, and/or debris that presents a fire hazard, a health hazard, a safety hazard or otherwise endangers surrounding areas, which depreciates the value of adjacent properties and detracts from the quality of life of the neighbors.

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

*Trash* is non-putrescible 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.

*UTC* is a uniform traffic ticket and complaint as set out in Rule 19 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 boat or watercraft. This excludes devices moved by human power or used exclusively for agricultural purposes and not licensed pursuant to state law.

## **ARTICLE V - MISCELLANEOUS**

### **Sec. 13-51 - Codification.**

Upon the Codification of City of Semmes Ordinances, authority is hereby granted to reassign the Section Number of this Ordinance as may be found to be appropriate at such time, this Ordinance to remain in full force in effect under such newly assigned number as though assigned herein.

### **Sec. 13-52 – Public Notice; Effective Area.**



This Ordinance shall become effective within the City limits and Police Jurisdiction of the City upon publication pursuant to applicable law for thirty consecutive (30) days.

**Sec. 13-53 – Conflicts.**

This ordinance shall be cumulative in its effect and shall not amend, repeal or replace any existing ordinances, with the exception that this ordinance amends and replaces City of Semmes Ordinance 2017-18 adopted October 3, 2017.

**Sec. 13-54 – Severability.**

If any article, section, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional by a declaration of any court of competent jurisdiction, such declaration shall not affect the validity of the remaining portions of this ordinance.

**Adopted and approved this 7th day of August, 2018.**

**/S/ David Baker - Mayor**

**ATTEST:**

**/s/ Debra A. Hanbury, MMC - City Clerk**