

**TOWN OF MITCHELL  
WASTE COLLECTION AND DISPOSAL ORDINANCE  
ORDINANCE NO. 2009-001**

To adopt regulations relating to municipal garbage and refuse collection and disposal; to impose penalties on violators subject to the jurisdiction of the Town of Mitchell; to provide for enforcement; to repeal conflicting ordinances; to provide an effective date; and for other purposes.

WHEREAS, the duly elected governing authority of the Town of Mitchell, Georgia is authorized under Article 9, Section 2, Paragraph 3 of the Constitution of the State of Georgia to adopt reasonable ordinances to protect and improve the public health, safety, and welfare of the citizens of the Town of Mitchell, Georgia;

WHEREAS, the duly elected governing authority of the Town of Mitchell, Georgia is the Mayor and council thereof;

WHEREAS, Official Code of Georgia Annotated (O.C.G.A.) Section 36-35-3 provides cities the power to adopt clearly reasonable ordinances, resolutions or regulations relating to the cities' property and affairs, for which no general law has been provided;

WHEREAS, Section 1.13(10) and Section 1.13(32) of the Charter of the Town of Mitchell provide the Town with the power to provide for the collection and disposal of garbage, rubbish, and refuse; to regulate the collection and disposal by others; and to levy, fix, assess, and collect a garbage, refuse, and trash collection and disposal and other sanitary charge or fee as may be necessary in the operation of the Town from all individuals, firms, and corporations residing in or doing business in the Town benefiting from such services;

WHEREAS, the governing authority desires to adopt regulations under their police and other powers to regulate garbage and refuse collection and disposal activities undertaken within

the Town of Mitchell (hereinafter "Town") and to further establish minimum requirements for waste disposal.

**IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE  
TOWN OF MITCHELL, GEORGIA:**

**Section 1.0 Short Title**

This Ordinance shall be cited as "Waste Collection and Disposal Ordinance" of the Town of Mitchell, Georgia.

**Section 2.0 Definitions**

As used in this Ordinance, the following terms shall have the respective meanings ascribed to them:

Ashes: means and includes the waste products from coal, wood and other fuels used for cooking and heating from private residences.

Building Refuse: means waste material resulting from construction, remodeling, repairs and demolition operations on houses, buildings and other structures, including driveways and walks, and comprises waste and rejected matter such as excavated earth, stones, bricks, plaster, wallpaper, sheetrock and lathes, lumber, shingles, tile, concrete and waste parts occasioned by the installation or replacement of plumbing, heating systems, electrical work and roofing. (Also commonly referred to as: C & D materials).

Container: means a sturdy receptacle for solid waste with a capacity of no more than fifty (50) gallons, constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting, and having a tight fitting lid capable of preventing entrance into the receptacle by vectors.

Commercial Premises: means all non-Residential Premises, public or private, requiring solid waste collection within the incorporated area of the Town, including commercial, institutional, and government premises.

Commercial Solid Waste: means all Garbage, Rubbish, and other acceptable waste generated by a Commercial Premises, excluding Hazardous Waste.

Garbage: means all putrescible vegetable and animal waste materials resulting from the handling, preparation, cooking and consumption of food, including waste materials from markets, storage facilities, handling and sale of produce and other farm products.

Hazardous Waste: means any solid or liquid waste material resulting from the manufacture or use of chemicals, pesticides and drugs (other than normal household use);

pathological waste; highly flammable, explosive waste; toxic waste; sewer sludge and other waste materials that are identified or listed as a hazardous waste by any agency of the State of Georgia or the administrator of the U.S. Environmental Protection Agency pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 72 U.S.C. § 6901, *et seq.*, as amended, including any future amendments thereto.

Industrial Refuse: means waste materials from factories, processing plants, wholesale establishments, assembling plants, food processing wastes, cinders and ashes, sawdust, shavings, floor sweepings, metal scrap and shavings, and any other waste products from industrial and manufacturing processes.

Plastic Bag: means a polyethylene or other heavy-duty plastic bag meeting the National Sanitation Foundation Standard of one and one-half (1.5) mils and not exceeding a thirty-gallon capacity; with securing twist tie or plastic pull tie.

Residential Premises: means a dwelling within the incorporated area of the Town occupied by a person or group of persons, including single family homes, duplexes, triplexes, quadraplexes, and mobile homes whether such mobile homes are registered as vehicles or assessed as real property.

Residential Solid Waste: means all Garbage and Rubbish generated by a Residential Premises, excluding automobile parts, tires, C & D materials, Yard Waste, large appliances, large furniture, Hazardous Waste, or other unacceptable materials.

Rubbish: means non-putrescible household waste consisting of paper, rags, plastics, cartons, boxes, broken glass bottles and jars, crockery, wood, metal cans, rubber, discarded clothing and similar materials.

Waste: means unwanted or discarded material, including but not limited to, ashes, Building Refuse, Garbage, Hazardous Waste, Industrial Refuse, recyclable waste, Rubbish, solid waste and Yard Waste.

Yard Waste: means tree limbs, branches, stumps and logs, twigs, grass and shrub trimmings and clippings, bushes, brush, weeds, leaves, and general yard and garden waste materials, and includes stone and dirt rakings and similar waste materials resulting from an occupant or owners maintenance of yards, lawns and landscaping.

### **Section 3.0    Waste Collection**

(a)    The Town, through its agents and designees, in order to protect the health and safety of the people of this Town, are authorized, by implementing and enforcing the provisions of this Ordinance, to control the storage, collection, and disposal of refuse and waste within the Town; to provide a public refuse collection and refuse disposal service from designated sites and/or premises within the Town so that the type and usual quantity of waste can be safely and expeditiously handled by such public refuse collection and disposal service; and to approve and

regulate the establishment, maintenance, and operation of private waste collection systems and refuse disposal methods and sites.

(b) No other person or entity shall engage in the business of waste collection or disposal for compensation in the Town without having first obtained a permit from the Town in accordance with Section 3.1 below. Any person violating this provision shall be subject to a fine not exceeding one thousand dollars (\$1,000.00) and/or imprisonment for a period of one hundred eighty (180) days.

### **Section 3.1 Exclusive Collection; Permits for Collectors**

(a) The Town has elected to enter into a contract, with an independent contractor, for the collection of all residential and commercial Garbage, Rubbish and refuse generated within the Town limits. The independent contractor, selected by Town through the competitive bidding process, will be issued an exclusive franchise to engage in the business of waste collection and disposal for compensation in the Town limits.

(b) Only in the event that the Town elects not to enter into a franchise contract for the collection and disposal of Garbage, Rubbish, and refuse will permits for the collection of residential and commercial Garbage, Rubbish, and refuse be issued. It shall be unlawful for any person or entity that does not possess a permit from the Town to engage in the business of waste collection or disposal for compensation in the City. If applicable, the Town Council shall issue permits for such applicants; provided, that such permits shall be limited to persons having proper equipment and personnel to collect and dispose of waste in accordance with the provisions of this Ordinance.

(c) Subject to Section 3.1(b) above, any person desiring to engage in the collection and/or disposal of waste shall make written application to the Town, setting forth the name of such person, the residence address thereof or the address of the place of business, a description of the equipment to be used in the collection and/or disposal of such waste, the place and method of disposal to be practiced. Upon approval of this application, the Town shall issue a permit to the applicant. The permit fee as fixed from time to time by the Mayor and Town Council, shall be payable in advance to the Town.

(d) Any person whose application for a permit has been denied may request, and shall be granted, a hearing before the Mayor and Town Council.

(e) Any permit issued pursuant to this Ordinance, except those franchises authorized under Section 3.1(a), shall expire on December 31<sup>st</sup> of the year issued. Permits shall be renewable annually, in the same manner and upon payment of the same annual fee as provided in Section 3.1 (c) of this Ordinance.

(f) It shall be unlawful to transfer permits from one person and/or entity to another, for the purpose of operating a waste collection or disposal operation, unless the transfer has been approved in writing by the Town.

(g) Notwithstanding the provisions of Section 3.1(a) above, private contractors may provide "roll-off" container service for the collection of Industrial Refuse and Building Refuse with the Town limits. A permit shall not be required for "roll-off" container service.

### **Section 3.2 Collection System for Residences**

(a) **Customer's Responsibility.** The person having authority to control the disposal of Garbage and Rubbish in any household shall cause all Garbage and Rubbish collected therein to be placed in a Container and placed at the curb on scheduled collection days. All Garbage and Rubbish must be placed in a Plastic Bag prior to being placed in a Container.

(b) **Weight/Bag Limitations.** The weight of each Plastic Bag and its contents shall not exceed 50 pounds and the Container shall not be filled to overflowing. In no event shall the number of Plastic Bags per location exceed four (4) per pick-up.

(c) **Identification.** Where more than one family occupies a dwelling or apartment, the Container may be marked by the Town so as to indicate the family using the particular Container. The Container may be identified by putting the house number thereon or the name of the household. When Containers are so identified, such Containers may be used only by the person whose name or other identification is shown thereon.

(d) **Lost, stolen or damaged Containers.** Any residential Container which becomes lost, stolen, or damaged shall be replaced by the owner and the cost of such replacement shall be borne by the property owner. Containers which are damaged through normal usage shall be repaired or replaced by the owner or occupant.

(e) **Maintenance of Container.** It shall be the responsibility of the owner or occupant to maintain all Containers serving his property in a clean and sanitary manner, free of obnoxious odors, maggots, insects, and rodents, or any other conditions which may render them unhealthy to the occupants of the dwelling unit or the neighboring properties. Containers shall be maintained in compliance with state and county health code requirements.

(f) **Location of Container.** Containers shall be placed in the area between the sidewalk and curb or in an accessible place approved by the Town. All Containers must be placed at curbside by 7:00 a.m. on the designated collection day. Exceptions to this requirement may be granted by the Town for persons with physical limitations which prevent placement of Containers at the curb, provided such person submits a written request and appropriate medical documentation for such exception.

(g) **Use of System.** Residential waste will not be picked up where a Container is not in use. Plastic Bags placed at curbside, outside of a Container, will not be picked up.

(h) **Commercial Customers.** The Town or its designee shall collect Garbage and Rubbish from each Commercial Premises. All commercial customers shall be subject to the provisions of Section 3.2 above.

### **Section 3.3 Waste Acceptable for Collection by the Town**

The following waste shall be considered to be acceptable for collection by the Town or its designee:

- (a) Garbage;
- (b) Rubbish.

### **Section 3.4 Waste Not Acceptable for Collection by the Town**

Except as provided herein, it shall be a violation of this Ordinance to place or cause to be placed in any Container for routine collection any of the following:

- (a) Hazardous Materials;
- (b) Building Refuse or C & D Materials;
- (c) Materials which have not been prepared for collection in accordance with this Ordinance;
- (d) Dead animals;
- (e) Bulky Items. Those items of furniture and appliances, such as sofas, chairs, tables, carpets, refrigerators, ranges, washers, water heaters and other large items, which cannot reasonably be placed in a Container;
- (f) Industrial Refuse;
- (g) Yard Waste;
- (h) Ashes. The residue from the burning of wood, coal, coke or other combustible materials.

All such waste shall be disposed of in accordance with state and federal statutes and regulations.

### **Section 3.5 Waste Storage**

(a) All Commercial Solid Waste and Residential Solid Waste shall be stored in Containers. Garbage and Rubbish shall be placed in Plastic Bags prior to being placed in a Container.

(b) It shall be unlawful to permit Waste to accumulate on any premises except in Containers, in accordance with the specifications contained in this Ordinance.

- (c) Ashes containing hot embers shall not be placed in Containers.
- (d) It shall be unlawful for any person to tamper with, remove covers, overturn, or otherwise damage waste Containers, thereby creating litter or health concerns.
- (e) In all cases, Waste shall be properly stored in Containers provided by the property owner or occupant. No person who owns or occupies any premises in the Town shall permit garbage, trash or other waste to be scattered from such premises into the streets of the Town or on to neighboring property.

### **Section 3.6 Frequency of Solid Waste Collection**

The Mayor and Town Council shall make known to the customers the day, or days when pick-up will be provided. Any major changes to the above schedule will be made at least two (2) weeks in advance of the proposed change or changes.

### **Section 3.7 Collection of Bulky Items**

The Town will not provide collection of bulky items (furniture and appliances, such as sofas, chairs, tables, carpets, refrigerators, ranges, washers, water heaters and other large items, which cannot reasonably be placed in a Container).

### **Section 4.0 Waste Disposal**

(a) All disposal of Waste shall be by a method or methods in accordance with requirements of state and local law, and shall include the maximum practicable rodent, insect, and nuisance control at the place or places of disposal.

(b) There shall be no burning of Waste at any site within the Town, and any fires which have been started accidentally, intentionally or by spontaneous combustion will be extinguished immediately.

(c) Carcasses of dead animals shall be buried or cremated as directed by an authorized representative of the Glascock County Health Department.

### **Section 4.1 Collection and Hauling Equipment**

(a) All public or private vehicles used for the collection or disposal of waste shall be of such a design that waste cannot escape when the vehicle is in motion. Provision and use of a tarpaulin or canvas cover to enclose open bodies of collection vehicles is permitted.

(b) Vehicles used for the collection or disposal of Garbage or Refuse shall be cleaned at sufficient frequency to prevent nuisance or insect breeding, and shall be maintained in good repair.

### **Section 4.2 Inspection**

Representatives of the Town, or their designees, after identifying themselves, shall have the power to enter at reasonable times upon private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of the provisions of this Ordinance.

#### **Section 5.0 Mandatory Collection and Disposal Fee Assessed**

(a) A mandatory monthly collection and disposal fee is hereby assessed against the owner and occupant of every Residential Premises and Commercial Premises within the Town limits for which the occupant or owner shall be liable for payment. Should any such occupant fail to pay the monthly disposal and collection fee, the owner of the property shall be secondarily liable for payment thereof.

(b) Bonafide charitable or nonprofit organizations recognized as such by the Internal Revenue Service will be exempt from the monthly collection and disposal fee.

#### **Section 5.1 Collection and Disposal Fees**

(a) Collection and disposal fees within the Town, for the purpose of financing the establishment, maintenance and operation of waste collection systems and waste disposal methods, are hereby charged in such amounts as fixed from time to time by the Mayor and Town Council. The Town Clerk shall maintain a list of all Residential and Commercial collection and disposal fees. Said list shall be available for public inspection.

(b) Collection and disposal fees, as provided by this Ordinance, shall be payable monthly, by separate billing in conjunction with the Town's water bill. Such collection and disposal fees shall be collected by the Town.

#### **Section 5.2 Penalty Assessed for Late Payment; Discontinuation of Service**

Should any person liable for payment of the fees and charges hereby fixed and imposed fail to pay the same by the 20<sup>th</sup> day of the month following the service month, a late penalty of \$10.00 will be assessed to the account. In the event any person liable for payment of fees and charges hereunder fails to pay the same within sixty (60) days of the due date, service may be discontinued by the Town. Additionally, the Town may pursue any other collection methods authorized by law.

#### **Section 6.0 Exemption**

All processors of raw materials or manufactured items, manufacturer and/or assembly plants are hereby exempted from payment of the fees provided for in this Ordinance; and no collection service is to be furnished to such establishments except upon request, oral or written,

which collection shall be made by the Town, or its designee, upon an estimated cost basis to be agreed upon by the industry and the Town. This exemption shall not apply to Commercial Premises.

### **Section 7.0 Scavenging Prohibited**

It shall be deemed a violation of this Ordinance for any person, other than the owner, the Town, or the Town's designee, to remove, collect, salvage or otherwise interfere with any Waste in a curbside container placed for collection.

### **Section 8.0 Administration and Enforcement**

(a) The Mayor and Town Council, or their authorized designee, shall be responsible for the administration and enforcement of the provisions of this Ordinance. The Mayor and Town Council may call upon the Glascock County Sheriff's Department for assistance in its enforcement.

(b) Upon determining that a violation of this Ordinance exists, the Town Clerk, at the direction of the Town Council, shall cause written notice of such violation to be issued to the owner or occupant of the subject premises, setting forth the violation of this Ordinance and granting such owner or occupant a reasonable time, not to exceed ten (10) days, for the owner or occupant to correct said condition or violation.

(c) Upon determining that the owner or occupant has failed or refused to correct the condition or violation within the time prescribed in the Town Clerk's notice, the Glascock County Sheriff's Department, at the direction of Town Council, shall cause a notice to be issued directing the owner or occupant of said premises to appear in Magistrate Court to answer the charge of violation of this Ordinance.

### **Section 9.0 Penalties for Violation of Ordinance**

Any person convicted of violating any of the provisions of this Ordinance shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) and/or imprisonment for a period of one hundred eighty (180) days.

### **Section 10.0 Preamble**

The preamble and recitals to this Ordinance are hereby incorporated into this Ordinance as if set out fully herein.

### **Section 11.0 Severability**

(a) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause, or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of

this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause, or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause, or phrase of this Ordinance.

(b) In the event that any phrase, clause, sentence, paragraph, or section of this Ordinance is, for any reason whatsoever, declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality, or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional, or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs, and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

#### **Section 12.0 Conflict between Specific and General Provisions**

Where there is an apparent conflict in this Ordinance between specific and general provisions, it is the intention hereof that the specific shall control.

#### **Section 13.0 Repealer**

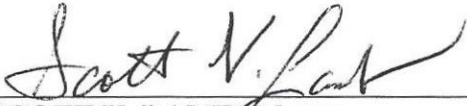
All ordinances, resolutions, policies or prior practices, in conflict herewith are hereby expressly repealed.

#### **Section 14.0 Effective date**

This Ordinance shall become effective on the 9<sup>th</sup> day of November, 2009, 2009.

Read, passed and adopted this 9<sup>th</sup> day of November,  
2009.

MAYOR AND COUNCIL OF THE TOWN OF MITCHELL, GEORGIA:

  
SCOTT V. LAMB, Mayor

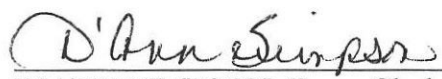
  
LEWIS BERRY, Council Member

DEWAYNE FAGLIER, Council Member

  
W.A. RALEY, SR., Council Member

  
AMY BORTON, Council Member

  
LYNN PULLIAM, Council Member

Attested By:   
D'ANN SIMPSON, Town Clerk

First Reading: October 12, 2009

Second Reading: November 9, 2009