

OFFICE OF THE ATTORNEY GENERAL



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JIMMY EVANS
ATTORNEY GENERAL
STATE OF ALABAMA

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ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (205) 242-7300

Honorable Steven F. Schmitt
Attorney, City of Tallassee
Schmitt & Harper
213 Barnett Blvd.
Tallassee, AL 36078

Municipalities - Solid Waste
Disposal - Private Property -
Easements

City vehicles may travel on
privately owned street or
driveway to pick up garbage
from said owner.

Dear Mr. Schmitt:

This opinion is issued in response to your request for
an opinion from the Attorney General.

QUESTION

May city-owned and operated vehicles
travel onto, across and through privately
owned roads or driveways in order to pick
up garbage from the owner or lessee of
such roads or driveways?

FACTS, LAW AND ANALYSIS

The collection, hauling and disposal of garbage is a
governmental function delegated by the legislature to cities
and towns under the provisions of §§ 11-47-135 and
22-27-2, et seq., Code of Alabama 1975. Ivory v. City of
Montgomery, 51 So.2d 559 (1951).

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The governing body is authorized to provide house-to-house service, § 22-27-3(a)(1), Code, and, by implication, door-to-door collection, § 22-27-3(a)(8), Code. It is reasonable to infer that such service requires that the collecting agency cross private property. There is an implicit license to traverse private property granted by the owner thereof when refuse is placed such that it can only be accessed for collection by going onto private property.

Accordingly, it is the opinion of this office that when an owner or lessee of property places garbage for collection in such a place that it can only be accessed by operating vehicles on privately owned roads or driveways, such owner or lessee implicitly grants permission for such operation. Of course, the city could, by regulation, require the placement of garbage and trash in proper receptacles on or near public rights-of-way.

CONCLUSION

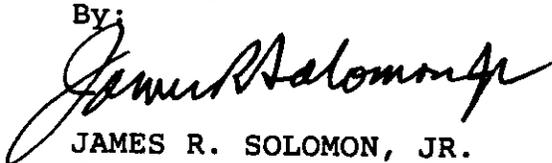
Your question is answered in the affirmative. City-owned and operated vehicles may travel onto, across and through privately owned roads or driveways in order to pick up garbage from the owner or lessee of such roads or driveways.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General

By:



JAMES R. SOLOMON, JR.
Chief, Opinions Division

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