



2010-092

STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL

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Honorable Kim W. Pettway  
City Clerk, City of Creola  
Post Office Box 490  
Creola, Alabama 36525

Sewers -- Mobile Homes -- Rental Property  
-- Municipalities -- Municipal Ordinances -  
- Mobile County

Generally, mobile home parks should be considered general residential areas and be treated like any other residential premises. Thus, mobile homes being used as residential premises that were in existence prior to the passage of Ordinance 08-10-27 are considered general residential areas and are not required to connect to the available sewer system. Preexisting buildings located in mobile home parks where people do not dwell (such as the main office) are not general residential areas and are required to connect to the sewer system by Ordinance 08-10-27. Mobile homes being used as residential premises subsequent to the effective date of Ordinance 08-10-27, or those mobile homes that are considered "preexisting" but are subsequently replaced with a newer or different mobile home, are required to connect to the sewer system.

Dear Ms. Pettway:

This opinion of the Attorney General is issued in response to your request on behalf of the City of Creola.

QUESTIONS

(1) Are preexisting mobile home parks considered businesses or general residential areas?

(2) Are preexisting mobile home parks required to connect to the available sewer system as required by Ordinance 08-10-27?

### FACTS AND ANALYSIS

In your letter of request, you informed this Office that the City of Creola ("Creola") has a contractual agreement with a company to provide sewer services to the municipality and that future and existing premises and developments are required to connect to this sewer system. Your inquiry seeks to know whether preexisting mobile home parks are considered businesses or general residential areas, and whether preexisting mobile home parks should be required to connect to the available sewer system pursuant to Ordinance 08-10-27.

Municipal Ordinance 08-10-27 states, in pertinent part, as follows:

SECTION 4. All existing and any future governmental, commercial, or private premises or development as set forth in Section 3 of this ordinance, *with the exception of any residential premises existing* at the time of the effective date of this ordinance, within the corporate limits of the Town of Creola, Alabama, shall be required to connect a public sanitary sewer system operating by franchise or other agreement with the Town of Creola. Any existing premises covered by this Section shall make the necessary connection to the public sanitary sewer system within ninety (90) days from the date a sanitary sewer line is available for such connection.

Creola, Ala., Ordinance 08-10-27 (May 22, 2008) (emphasis added).

Words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 333-34 (Ala. 2000); *Ex parte T.B.*, 698 So. 2d 127, 130 (Ala. 1997); *State Dep't of Transp. v. McLelland*, 639 So. 2d 1370, 1371 (Ala. 1994). Although not a statute, a municipal ordinance is subject to a plain-language construction.

"Residential" is defined as a place "used, serving, or designed as a residence or for occupation by residents." WEBSTER'S THIRD NEW

INTERNATIONAL DICTIONARY 1931 (2002). "Resident" is defined as "one who resides in a place: one who dwells in a place for a period of some duration." *Id.* Finally, "premises" is "a specified piece or tract of land with structures on it." *Id.* at 1789. Thus, Section 4 creates an exception to the mandatory connection to the sewer system for preexisting residential premises.

Mobile homes used by individuals as their homes are "buildings, or other place[s] where humans reside" or "dwell" according to the plain language of the ordinance. Accordingly, mobile homes that are used as dwellings are residential premises within the meaning of the term used in Section 4 of the ordinance. Buildings, however, within the mobile home park that are not used as dwellings or residences do not meet the definition of residential premises and are not contemplated within the exception provided in Section 4.

An example of a non-dwelling purpose would be the main office of a mobile home park. The individual mobile homes in which people reside are a residential area, whereas the office and maintenance buildings are not. Accordingly, it is the opinion of this Office that residential premises located within a mobile home park that were preexisting at the time of the effective date of Ordinance 08-10-27 are not required to connect to the sewer system. Yet, non-residential premises, future residential dwellings, or the replacement of qualified "preexisting" mobile homes with a newer or different mobile home located within mobile home parks must connect to the sewer system where available. *See, generally, City of Foley v. McLeod*, 709 So. 2d 471 (Ala. 1998).

Section 35-9A-121 of the Code of Alabama provides that owner-occupied residential property and residential rental properties must be treated the same with respect to building codes, health codes, and other general laws. ALA. CODE § 35-9A-121 (2006). This statute states as follows:

Notwithstanding these provisions, a county or municipality may enact and enforce building codes, health codes, and other general laws that affect rental property provided that such codes equally affect similarly situated owner-occupied residential property.

ALA. CODE § 35-9A-121 (2006). Because Ordinance 08-10-27 is a health-related ordinance, the term "residential premises" must cover both owner-occupied and rental residential properties, including those lots in mobile home parks used for residential purposes.

CONCLUSION

Generally, mobile home parks should be considered general residential areas and be treated like any other residential premises. Thus, mobile homes being used as residential premises that were in existence prior to the passage of Ordinance 08-10-27 are considered general residential areas and are not required to connect to the available sewer system. Preexisting buildings located in mobile home parks where people do not dwell (such as the main office) are not general residential areas and are required to connect to the sewer system by Ordinance 08-10-27. Mobile homes being used as residential premises subsequent to the effective date of Ordinance 08-10-27, or those mobile homes that are considered "preexisting" but are subsequently replaced with a newer or different mobile home, are required to connect to the sewer system.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

TROY KING  
Attorney General  
By:



BRENDA F. SMITH  
Chief, Opinions Division

TK/MMG/AJ  
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