

ORDINANCE 2018 - 608 - ADM

**AN ORDINANCE REPEALING ARTICLE III, SECTION 38-56 THROUGH SECTION 38-67 AND ARTICLE IV, SECTION 38-91 THROUGH SECTION 38-92 OF CHAPTER 38 AND REPEALING SECTION 86-276 THROUGH SECTION 86-282 OF THE CITY OF TRUSSVILLE CODE OF ORDINANCES AND CREATING NEW ARTICLES DEFINING STRUCTURAL NUISANCES, WEEDS AND OVERGROWN VEGETATION NUISANCES, DEBRIS, OTHER NUISANCES, AND ABANDONED AND INOPERABLE MOTOR VEHICLES AS A NUISANCE AND PROVIDING A PROCEDURE TO ABATE NUISANCES.**

**WHEREAS,** Ala. Code § 11-45-1 (1975) authorizes municipalities to adopt ordinances that provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of its inhabitants; and

**WHEREAS,** Ala. Code § 11-45-1 (1975) further authorizes the municipality to “enforce obedience to such ordinances;” and

**WHEREAS,** Ala. Code § 11-67-60 (1975) empowers municipalities to declare an abundance of overgrown grass or weeds that is injurious to the general public health, safety, and general welfare a nuisance; and

**WHEREAS,** there presently exists and may come to exist on real property certain structures, weeds and overgrown vegetation, and debris that is unsafe, hazardous, noxious, unpleasant, unsightly, decrease property values, or otherwise violates the citizens’ right to their health, safety, and prosperity; and

**WHEREAS,** Ala. Code § 11-53B-1-et seq. (1975) empowers a municipality within the state to declare certain structures on real property a nuisance and order the nuisance abated through demolition or repair; and

**WHEREAS,** Ala. Code § 32-13-1 et seq. (1975) provides for the removal and towing of any abandoned or inoperable motor vehicle located on any property; and

**WHEREAS,** the City wishes to further clarify and define the procedures and time frames for the property owners notice to abate, the time for property owners to abate nuisances, and the procedure that shall be followed in determining the existence of nuisances and ordering the abatement of same.

**NOW THEREFORE,** in accordance with the authority cited above granted to the City of Trussville, Alabama, the following sections are repealed in their entirety, and new articles and sections are created.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRUSSVILLE, ALABAMA, AS FOLLOWS:**

Section 38-56 through Section 38-92, Article III and Article IV, in Chapter 38 and Section 86-276 through Section 86-282 of the Code of Ordinances of the City of Trussville, Alabama, are hereby repealed in their entirety.

**BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRUSSVILLE, ALABAMA, AS FOLLOWS:**

The following articles, which shall be appropriately codified, are hereby created in Chapter 38 that state the following:

**ARTICLE I. PUBLIC NUISANCES- GENERALLY.**

**Section 1. Purpose and Construction.**

(a) This Chapter shall be construed to secure its expressed intent, which is to ensure public health, safety, and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises not in compliance with these provisions shall be altered or repaired to provide a minimum level of health and safety as required with the Code of Ordinances.

(b) This article shall be construed to contain all power granted to municipalities under the Code of Alabama providing for controlling nuisances, sanitation and good public health and safety conditions, including, but not limited to Code of Alabama 1975, §§ 11-40-10, 11-47-117, 11-47-118, 11-47-131 and 11-47-140, as amended.

**Section 2. Scope.**

The provisions of this Article shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment, and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators, and occupants; the occupancy of existing structures and premises, and for administration, enforcement, and penalties.

**Section 3. Definitions.**

Unless otherwise expressly stated, the following terms shall, for the purposes of this Ordinance, have the meanings shown in this Ordinance. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

(a) Abandoned Motor Vehicle. Any motor-driven vehicle, regardless of size, which is left unattended on real property not owned by the vehicle owner for a period exceeding seventy-two (72) hours without consent of such property owner.

(b) Abatement. Any repair, rehabilitation, demolition, or removal, as shall be determined by the enforcing official as the proper remedy for any nuisance declared under this Ordinance.

(c) Anchored. Secured in a manner that provides positive connection.

(d) Approved. Approved by the Authorized City Official.

(e) Authorized City Official. The "Authorized City Official" shall be so designated by the Mayor to enforce this Ordinance. Generally, the Code Enforcement Officer shall be responsible for enforcing Article IV below, and the Superintendent of Engineering and Inspections shall be responsible for enforcing Article II and Article III below. The Mayor may designate another City agent or employee to serve as the Authorized City Official. Nothing in this Ordinance shall be read to expressly prohibit one or more City agents or employees from enforcing this Ordinance. In all cases, if multiple City agents or employees are involved, each shall work in conjunction with the other to enforce and ensure compliance with this Ordinance. The Authorized City Official shall have the authority to enter upon private property in order to perform his or her duty as provided in this Chapter.

(f) Code Enforcement Officer. The Mayor shall designate the appropriate City official(s) who shall be responsible for the enforcement of this Ordinance. Generally, this will be the Code Enforcement Officer who will issue non-traffic warnings, non-traffic citations, or obtain summonses through the municipal court for violations of this Ordinance. The Code Enforcement Officer shall be responsible for the enforcement of Article IV below as well as initiating any criminal prosecution in the Municipal Court of the City of Trussville. The Code Enforcement Officer, or his or her designee(s), shall have authority to enter upon private property in order to perform his or her duty as provided in this Chapter.

(g) Condemn. To adjudge unfit for occupancy as prescribed in state law.

(h) Detached. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

(i) Deterioration. To weaken, disintegrate, corrode, rust, decay, and lose effectiveness.

(j) Dwelling Unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(k) Easement. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

(l) **Equipment Support.** Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers, or saddles, that transmit gravity load, lateral load, and operating load between the equipment and the structure.

(m) **Exterior Property.** The open space on the premises and on adjoining property under the control of owners or operators of such premises.

(n) **Garbage.** The animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

(o) **Habitable Space.** Space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility rooms or spaces, cellars, porches, breezeways, garages, attic spaces which do not comply with building/zoning code requirements and similar areas are not habitable rooms, areas, or spaces.

(p) **Historic Building.** Any building or structure that is one or more of the following:

i. Listed or certified as eligible for listing, by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, in the National Register of Historic Places;

ii. Designated as historic under an applicable state or local law; or

iii. Certified as a contributing resource within a National Register or state or locally designated historic district.

(q) **Imminent Danger.** A condition which could cause serious or life-threatening injury or death at any time.

(r) **Infestation.** The presence, within or contiguous to, a structure or premises of insects, rats, vermin, or other pests.

(s) **Inoperable Motor Vehicle.** Any motor-driven vehicle, regardless of size, which is incapable of being self-propelled upon the public streets of the City or which does not meet the requirements for operation upon the public streets of the City, including a current motor vehicle license. A motor vehicle shall be considered abandoned or disabled if it is in a state of evident disuse, neglect, or abandonment. Evidence of disuse, neglect, or abandonment may include, without limitation, factors such as: the vehicle being wrecked or inoperable; the vehicle being partially dismantled, having no engine, transmission, or other major or necessary parts; the vehicle having no valid license tag; there being vegetation underneath the vehicle as high as the vehicle body or frame; there being refuse

or debris collected under the vehicle; the vehicle being used solely for storage purposes; or the vehicle being in any physical state rendering it inoperable or unsightly to the neighborhood.

(t) Neglect. The lack of proper maintenance of a building or structure.

(u) Nuisance. Nuisance means:

(i) Anything that unlawfully causes hurt, inconvenience, or damage;

(ii) A class of wrongs arising from the unreasonable, unwarrantable, or unlawful use by a person of such person's own property, either real or personal, or from such person's own improper, indecent, unsightly, or unlawful personal conduct, working an obstruction of or injury to the right of another or of the public, and producing material annoyance, inconvenience, discomfort, or hurt to another person or to the general public;

(iii) Anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of real property, so as to interfere with the comfortable enjoyment of life or property of another; or

(iv) All buildings, structures, or conditions which are:

(a) Unsafe, unsanitary, or unfit human habitation;

(b) Not provided with adequate egress;

(c) Which constitute a fire hazard;

(d) Are otherwise dangerous to human life; or

(e) Which in relation to existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, abandonment, or accumulation of garbage, rubbish, or debris.

(v) Occupancy. The purpose for which a building or portion thereof is utilized or occupied.

(w) Occupant. Any individual living or sleeping in a building, or having possession of a space within a building.

(x) Operator. Any person who has charge, care, or control of a structure or premises which is let or offered for occupancy, or any person who has charge, care, or control of any motor vehicle.

(y) Owner. Any person, agent, operator, firm, or corporation having a legal or equitable interest in the property, either real or personal property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court. "Property" may be either real property or personal property (as in an automobile).

(z) Person. An individual, corporation, partnership, or any other group acting as a unit.

(aa) Pest Elimination. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.

(ab) Pooled Water. Small body of non-flowing standing water or standing water found in containers, tires or ornamental fixtures that is in a condition conducive to the harboring of mosquito larvae.

(ac) Premises. A lot, plot, or parcel of land, easement, or public way including any structures thereon.

(ad) Rubbish. Combustible and noncombustible waste materials; the term shall include the residue from the burning of wood, coal, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials. Also useless or rejected objects or junk. Rubbish also includes items or things commonly referred to as trash.

(ae) Structure. That which is built or constructed or a portion thereof.

(af) Superintendent of Engineering and Inspections. The "Superintendent of Engineering and Inspections" is an employee of the City of Trussville. The Superintendent of Engineering and Inspections shall, generally speaking, be responsible for enforcing Article II and Article III below. The Superintendent of Engineering and Inspections, or his or her designee(s), shall be the first to respond to any complaints alleging violations of this Ordinance. Nothing in this definition shall prohibit the involvement of other City agents or employees from assisting the Superintendent of Engineering and Inspections if so requested.

(ag) Tenant. A person, corporation, partnership, or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

(ah) Unsafe Structure. An unsafe structure is a structure found to be a nuisance or dangerous to the life, health, property, or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn the occupants in the event of fire, or because such structure is so decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is

possible. Additionally, any structure with no active service of natural gas (if applicable), water, and/or power shall also be deemed to be unsafe. No structure may be boarded up for more than six (6) months. An unsafe structure includes any structure boarded up for more than six (6) months unless granted a waiver by the Authorized City Official.

(ai) Vehicle. A device normally required to be licensed and intending to transport persons or property and which is drawn, driven, or otherwise transported on land, air or water.

(aj) Workmanlike. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged, and without marring adjacent work.

(ak) Yard. An open space on the same lot with a structure

#### **Section 4. Nuisances Declared Unlawful; Continuing Violation.**

(a) It shall be unlawful for any person to permit or maintain the existence of any nuisance on any property, and it shall be unlawful to permit any dangerous building, structure, or condition to remain or to continue in existence in any place after receiving an order from the Authorized City Official to abate it by repair, rehabilitation, demolition, or removal. It shall be unlawful to occupy any building or structure or permit it to be occupied while it is or remains a nuisance.

(b) In all cases the person whose duty it is to abate any nuisance shall be liable for separate and distinct offenses for each day the nuisance is allowed to remain after it has become such person's duty by notice of the Authorized City Official to abate it.

#### **Section 5. Punishment for violation.**

(a) Should an owner, operator, occupant, or tenant be found guilty of or plead guilty to violating this Ordinance before the Municipal Court of the City of Trussville, he or she shall be punished as provided in § 1-5 of this Code of Ordinances which provides that any person found to be in violation of any provision contained in this Code of Ordinances shall be punished by a fine of not less than \$1.00 nor more than \$500.00 and/or may be imprisoned or sentenced to hard labor for the City for a period not exceeding six months at the discretion of the court trying the case. Any corporation found guilty of violating this Code of Ordinance may, upon conviction, be sentenced to a fine of not less than \$1.00 nor more than \$500.00 at the discretion of the court trying the case. Any conviction shall not be deemed in any way to limit the authority or right of the City to pursue abatement or any other remedy that may be available to the City at law or in equity.

(b) Should an owner, operator, occupant, or tenant be found not to have abated the nuisance when ordered to do so by the Code Enforcement Officer, Superintendent of Engineering and Inspections, and/or the City Council, he or she shall be subject to an administrative fee which, in addition to any lien, levy, or special assessment made against the property as ordered by the Authorized City Official and/or the City Council, or prescribed at law, the owner, operator, occupant, or tenant shall be ordered to pay an amount not greater than fifty percent (50%) of the cost the City would have born in abating the nuisance. This administrative fee shall not be deemed to limit in any way

the authority or right of the City to pursue any criminal prosecution as prescribed in this Code of Ordinances, or any other remedy that may be available to it at law or in equity.

**Section 6. Notice to Abate Nuisance.**

(a) In all instances where the Authorized City Official has a reasonable basis to believe a nuisance exists, and the Authorized City Official seeks to have the nuisance abated as prescribed in this Article, the Authorized City Official shall provide written notice, in the form prescribed below, that shall be issued to the owner, operator, occupant, and/or tenant.

(b) Should the Authorized City Official seek to prosecute a(an) owner(s), operator(s), occupant(s), or tenant(s) for violating this Ordinance, the Authorized City Official shall follow the Alabama Rules of Criminal Procedure and the Rules and Orders of the Municipal Court of the City of Trussville, Alabama.

(c) Should the Authorized City Official decide to provide to the owner, operator, occupant, and/or tenant, written notice, the written notice provided shall, at minimum, contain the following items:

i. A sufficient identification, such as the street address, of the real property upon which the nuisance exists;

ii. A statement of the items the Authorized City Official determined were a nuisance;

iii. The number of days, as stated within this Ordinance, the owner, operator, occupant, and/or tenant has to abate the nuisance and bring the property into compliance with the Code of Ordinances;

iv. Inform the property owner, operator, occupant, and tenant that his or her failure to abate the nuisance and bring the property into compliance with the Code of Ordinances may result in a lien, special assessment, and/or administrative fee being placed against the property in addition to the City exercising any other right it may have at law or in equity; and

v. Inform the property owner, operator, occupant, and tenant of his or her right to appeal to the City Council the Authorized City Official's determination that a nuisance exists, and that failure to comply with the Ordinance may result in criminal prosecution and/or abatement proceedings as prescribed by law at the Authorized City Official's discretion.

(d) Such notice shall be deemed to be properly served if a copy thereof is:

i. Delivered personally to the owner or occupant by Authorized City Official or his or her designee; or



ii. Sent by certified mail to the property owner's last known address as determined by the records of the county tax assessor, or if mailed to the occupant of the property, the property address.

iii. In all cases, a copy of the written notice shall be posted on the property in a conspicuous place on or about the structure for at least five (5) calendar days.

**Section 7. Procedure After Service of Notice- Generally.**

(a) Following service of the Authorized City Official notice, the owner, operator, occupant, and/or tenant shall have the specified number of days to abate the nuisance and bring the property into compliance with the Code of Ordinances. The number of days for abatement correspond to the type of nuisance and are identified in Articles II, III, and IV of this Ordinance.

(b) After service of the notice of abatement and the specified number of days having elapsed allowing the owner, operator, occupant, and/or tenant to abate or repair the nuisance and bring the property into compliance with this Code of Ordinances, the Authorized City Official shall proceed to the City Council who shall, in accordance with its rules and procedure, affirm or overturn the Authorized City Official's finding that a nuisance does exist. If the Council finds a nuisance does exist, it shall order its abatement forthwith as prescribed by law.

(c) Following the abatement of the nuisance, the Authorized City Official shall submit to the City Council a resolution, along with documentation which the Council may require to substantiate the costs of abatement plus the administrative fee, assessing the cost of the abatement against the property plus the administrative fee as prescribed in § 5(b).

**Section 8. Appeal.**

(a) In all cases, the property owner and/or occupant maintains a right to appeal any decision of the City Council to the circuit court of the county in which the property is located as permitted under law.

(b) Any conviction in the Municipal Court may be appealed as provided under state law.

**Section 9. Recovery of City Costs; levy of special assessment.**

(a) In the event the City elects to abate the public nuisance, upon completion of the work ordered by the Council, the Authorized City Official shall compute the actual expense including, but not limited to, total wages paid, value of the use of equipment, advertising expenses, postage, materials purchased, which was incurred by the City as a result of such work. In addition to the actual cost of to abate the nuisance, an administrative fee of fifty percent (50%) of the actual expense may also be assessed against the property. An itemized statement of such expenses shall be mailed by the Authorized City Official as prescribed in § 6(d).

(b) If the owner, agent, occupant, or tenant shall fail or refuse for a period of thirty (30) calendar days to pay off and discharge the expenses, Authorized City Official shall report such failure to

the City Council at the next regular meeting following the expiration of the thirty (30) calendar day period.

(c) The City Council shall hold a public hearing before causing the actual expense of the abatement plus an administrative fee of fifty percent (50%) of the actual expense of abatement to be levied as a special assessment against the property. Notice of the public hearing shall be served as prescribed in § 6(d). The itemized statement under subsection (a) of this section shall also give notice of the time and place of the public hearing. After the public hearing the council may by resolution assess the actual expense plus the administrative fee of fifty percent (50%) of the cost of the actual expense against the property.

(d) Any assessment against property under this section shall not be final until seven (7) calendar days after adoption by the City Council. Once the assessment has become final, the City Clerk shall have such resolution recorded in the office of the judge of probate of the county in which the property is located.

(e) If the owner, agent, occupant, or tenant shall file or refuse to discharge the assessment levied pursuant to this Article after a period of thirty (30) calendar days from the date the assessment was approved by the City Council, the City may commence an action in any court of competent jurisdiction to recover the expense.

(f) In all cases unless otherwise prohibited, when any structure has been ordered demolished and removed, the City shall have the right to sell any salvageable or valuable materials at the highest price obtainable. The net proceeds of such sale after deducting the expenses of such demolition and removal, if any, shall be remitted along with a report of such sale or transaction for the person or entity who is entitled to receive said proceeds. If such a surplus does not remain to be turned over, the report shall so state. In the event the proceeds are not claimed within the time provided at law, the funds shall be distributed as required under the Uniform Disposition of Unclaimed Property Act codified at § 35-12-70 et seq., Code of Alabama (1975).

(g) Nothing in this Article shall be deemed to limit, restrict, waive, or otherwise dissolve any other remedy the City may have at law or in equity.

## **ARTICLE II. NUISANCE STRUCTURES.**

### **Section 1. Generally.**

(a) Article I shall be fully set out herein.

(b) Nothing in this Article shall be construed to prohibit the City from prosecuting a property owner, occupant, operator, and/or tenant for violating this ordinance.

### **Section 2. Nuisance Structures- before Council.**

(a) In addition to Art. I, §§ 6 and 7 above if the nuisance sought to be abated is a structure, this section shall apply.

(b) Subject to the conditions provided herein, the Authorized City Official may order the owner of any structure which is/has:

- (i) Dangerous, unsafe, unsanitary, or otherwise unfit for human habitation or occupancy such that it is unreasonable or cost prohibitive to repair the structure;
- (ii) A public nuisance;
- (iii) Vacant or abandoned for more than six (6) months;
- (iv) Boarded up for more than six (6) months;
- (v) Under construction where there has been a cessation of normal construction activity for a period of more than six (6) months (without prior approval from the Authorized City Official);
- (vi) In violation of the provisions of this Ordinance for more than six (6) months;
- (vii) Has no active service of natural gas (if applicable), water, and/or power; or
- (vii) More than seventy-five percent (75%) of the structure is demolished.

To demolish and remove such structure includes, but is not limited to, the removal of the concrete foundations and components, porches, steps, walkways, and curbs; or if such structure is capable of being made safe by repairs, to repair, and to make safe, make sanitary, and to bring the structure into compliance with this Code of Ordinances, or, at the owner's option, to demolish or remove the structure. Demolition of a structure shall proceed as prescribed by law.

(c) Whenever the Authorized City Official finds a building or structure is unsafe to the extent it is a public nuisance, the official shall give the owner and all mortgagees of record notice to remedy the dangerous or unsafe condition or to demolish the same within a reasonable time set out in the notice, which time shall not be less than thirty (30) days or subject the building or structure to be demolished by the City and the cost thereof assessed against the property. The notice should at minimum comply the requirements set forth under Article I, § 6 of this Ordinance.

(d) The owner of the building or structure within the time specified in the notice, but not more than thirty (30) days from the date the notice is given, shall file a written request for a hearing before the City Council, together with objections to the finding by the Authorized City Official. The City Council shall hold the public hearing not less than seven (7) nor more than thirty (30) calendar days after the request for such hearing.

(e) Following thirty (30) calendar days after the Authorized City Official serves the notice of abatement to the property owner, operator, occupant, and/or tenant, the Authorized City Official shall bring the matter before the City Council to make the following determinations: (1) that the building or structure is unsafe to the extent it constitutes a public nuisance as defined within this

Ordinance and (2) order the abatement of the nuisance through repair of the structure or the structure's demolition. If demolition is ordered, the City may demolish the structure by using City manpower and resources, or the City may provide for the demolition by contract to a third-party.

(f) Any party aggrieved by the decision may appeal within fourteen (14) calendar days of the order to the circuit court of the county in which the property is located.

### **Section 3. Order of Abatement.**

(a) If the City Council orders the nuisance abated, the order shall take effect following the stated appeal time.

(b) If demolition is ordered, the City may demolish the structure by using City manpower and resources, or the City may provide for the demolition by contract to a third-party.

### **Section 4. Assessment of Costs; Lien.**

(a) Upon completion of the work ordered by the City Council the Authorized City Official shall compute the actual expense including, but not limited to, total wages paid, value of the use of equipment, advertising expenses, postage, materials purchased, and any other expense incurred by the City as a result of abating the nuisance. An itemized statement of such expenses shall be mailed to the last known address of the owner, operator, occupant, or tenant of the property.

(b) If the owner, operator, occupant, or tenant shall fail or refuse for a period of thirty (30) days to pay off and discharge the expenses, the enforcing official shall report such failure to the City Council at the next regular meeting following the expiration of the thirty (30) day period.

(c) Before causing the actual expense of the work plus any administrative fee to be levied as a lien or special assessment against the property, the City Council shall hold a public hearing. Notice of the public hearing shall be given as stated in Article I, section 6(d). The itemized statement under subsection (a) of this section shall also give notice of the time and place of the public hearing. After the public hearing the City Council may, by resolution, assess all or part of such expense against the property.

(d) Any assessment against property under this section shall not be final until seven (7) calendar days after adoption by the City Council. Once the assessment has become final, the City Clerk shall have such resolution recorded in the office of the judge of probate in the county in which the property is located.

### **Section 5. Emergency Measures/ Imminent Danger.**

(a) When, in the opinion of the Authorized City Official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of

defective or dangerous equipment, the Authorized City Official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Authorized City Official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Authorized City Official."

(b) It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or demolishing the same, and it shall be unlawful for any person to tamper with the notice or placard placed on the structure indicating the structure is unsafe and any occupancy is prohibited.

(c) Notwithstanding other provisions of this Ordinance, whenever, in the opinion of the Authorized City Official, there is imminent danger due to an unsafe condition, the Authorized City Official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted and shall cause such other action to be taken as the Authorized City Official deems necessary to meet such emergency.

(d) When necessary for public safety, the Authorized City Official shall temporarily close structures and close sidewalks, streets, public ways, and places adjacent to unsafe structures, and prohibit the same from being utilized.

(e) To the extent authorized under law, the City may, in the Authorized City Official's discretion, choose to make emergency repairs to the property instead of demolishing the structure.

(f) Costs incurred in the performance of emergency work shall be paid by the City. The City may exercise whatever rights it has under law to receive compensation for what is expended to demolish the structure or make the repairs.

(g) Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person may thereafter, upon petition directed to the City Council, be afforded a hearing as prescribed in this Ordinance.

#### **Section 6. Stop Work Order.**

(a) Whenever the Authorized City Official finds any work regulated by this Ordinance being performed in a manner contrary the provisions of this Ordinance or in a dangerous or unsafe manner, the Authorized City Official is authorized to issue a stop work order as soon as is practicable.

(b) A stop work order shall be in writing and shall be given to the owner of the property, to the owner's agent, or to the person performing the work, if different than the owner of the property or his or her agent as soon as is practicable. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

(c) Where an emergency exists, the Authorized City Official shall not be required to give a written notice prior to stopping the work. In the event a stop work order is issued, the Authorized City

Official shall notify in writing the Mayor and the City Clerk that a stop work order has issued and the reason for its issuance.

(d) Any person who shall continue to perform work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, may be prosecuted in the Municipal Court of the City of Trussville.

### **Section 7. Appeals.**

(a) In all cases, the property owner and/or occupant maintains a right to appeal any decision of the City Council to the circuit court of the county in which the property is located as permitted under law.

(b) Any conviction in the Municipal Court may be appealed as provided under state law.

## **ARTICLE III. WEEDS, TIRES, DEBRIS, POOLED WATER, AND OTHER NUISANCES**

### **Section 1. Generally.**

(a) Article I shall be fully set out herein

(b) Nothing in this Article shall be construed to prohibit the City from prosecuting a property owner, occupant, operator, and/or tenant for violating this ordinance.

### **Section 2. Debris, Rodent Harborage, Weeds, and Other Nuisances.**

(a) All premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve inches (12"). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided. This term, however, shall not include cultivated flowers and gardens.

(b) All structures and exterior property shall be kept free from rodent harborage, infestation and the pooling of water. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation. Where pooled water is found, such water shall be removed so as to prohibit any further health or disease risk.

### **Section 3. Notice.**

(a) The City shall notify in writing the owner, operator, occupant, or tenant of any lot, place, or area within the City to cut, destroy, or remove any weeds, grass, trash, rubbish, garbage, rodent harborage, infestations, pooled water, or noxious matter found growing, lying or located on such owner or occupant's property or upon the sidewalk or street right-of-way abutting the property; or otherwise abate, destroy, or remove the nuisance(s) on the property cited in the notice, and that

upon the failure of the owner or agent or occupant to do so the City will cause such weeds, grass, rubbish garbage, or noxious matter to be cut, destroyed or removed.

(b) Such notice shall be made in accordance with Article I, section 6 above.

#### **Section 4. Clearing by City.**

Upon failure, neglect, or refusal of any owner, agent, or occupant notified as provided in this Ordinance to cut, destroy, or remove weeds, grass, garbage, trash, rubbish, rodent harborage, infestation, pooled water, or noxious matter growing, lying or located upon such owner or occupant's property or upon the sidewalk, street, or any right-of-way abutting property, within seven (7) calendar days of posting on the property as provided for in this Ordinance, the City may, in addition to any other penalties provided for in this Ordinance, pay for the cutting, destroying or removing of such weeds, grass, garbage, trash, rubbish, or noxious matter or effect the removal by the City.

#### **Section 5. Costs of Abatement/Expenses.**

(a) Upon completion of the work ordered by the City Council the Authorized City Official shall compute the actual expense including, but not limited to, total wages paid, value of the use of equipment, advertising expenses, postage, materials purchased, and any other expense incurred by the City as a result of abating the nuisance. An itemized statement of such expenses shall be mailed to the last known address of the owner, operator, occupant, or tenant of the property.

(b) If the owner, operator, occupant, or tenant shall fail or refuse for a period of thirty (30) days to pay off and discharge the expenses, the enforcing official shall report such failure to the City Council at the next regular meeting following the expiration of that period.

(c) The City Council shall hold a public hearing before causing the actual expense of the work to be levied as a special assessment against the property in addition to an administrative fee of fifty percent (50%) of the cost of the abatement. Notice of the public hearing shall be served as prescribed in Article I, section 6. The itemized statement under subsection (a) of this section shall also give notice of the time and place of the public hearing. After the public hearing the City Council may, by resolution, assess all or part of such expense against the property.

(d) Any assessment against property under this section shall not be final until seven (7) calendar days after adoption by the City Council. Once the assessment has become final, the City Clerk shall have such resolution recorded in the office of the judge of probate in the county in which the property is located.

#### **Section 6. Appeals.**

(a) In all cases, the property owner and/or occupant maintains a right to appeal any decision of the City Council to the circuit court of the county in which the property is located as permitted under law.

(b) Any conviction in the Municipal Court may be appealed as provided under state law.

#### **ARTICLE IV. ABANDONED AND INOPERABLE MOTOR VEHICLES AS NUISANCES**

##### **Section 1. Generally.**

(a) Article I shall be fully set out herein.

(b) Nothing in this Article shall be construed to prohibit the City from prosecuting a property owner, occupant, operator, and/or tenant for violating this ordinance.

##### **Section 2. Abandoned And Inoperable Motor Vehicles Declared Nuisance.**

(a) Except as provided for in other regulations, no more than one (1) inoperable, wrecked, abandoned, or unregistered motor vehicle shall be parked, kept, or stored on any premises. No vehicle shall at any time be in a state of partial or substantial disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth. All such vehicles shall be screened from view from all public or private street rights-of-way by virtue of storage within an enclosed building or being screened by privacy fencing, topography, and/or vegetation.

Exceptions:

(i) A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes; and

(ii) Commercial property properly zoned for automobile repairs (i.e., body shops).

(b) No person shall park or cause to be parked any motor vehicle, recreational vehicle, trailer, ATV, motorcycle, boat, motorized equipment, golf cart, or any other item deemed in violation by the City's Authorized City Official or his designated agent upon any surface other than an improved surface as defined in the City's Subdivision Regulations. Further, all recreational vehicles or boats must be parked on an improved surface in an area located behind the front setback of said residential lot as defined in the City's Zoning Ordinance unless such vehicle or boat is being prepared for an imminent use in which case, such parking shall be limited to a period not to exceed seventy-two (72) hours. For corner lots, said parking shall be provided in an area not located adjacent to any public street or right-of-way.

##### **Section 3. Notice.**

(a) Any notice under this section shall be served as provided in Article I, Section 6.



(b) Upon service of the notice to abate the nuisance, the owner, operator, occupant, or tenant shall have seven (7) calendar days to abate the nuisance by repairing the vehicle to make it operational or by removing the vehicle from the property. Failure of the owner, operator, occupant, or tenant to abate the nuisance within seven (7) calendar days shall allow the Authorized City Official to begin abatement proceedings under this Ordinance.

(c) Nothing in this Article shall be construed to foreclose or limit the City's right to prosecute a property owner, occupant, operator, tenant, and owner of the abandoned or inoperable motor vehicle for violating this Ordinance.

#### **Section 4. Removal of Vehicle By Towing and Impounding- Authorized.**

(a) As provided under federal and state law, as well as this Ordinance, any law enforcement officer is authorized to cause to be removed or tow an abandoned or inoperable vehicle following proof that notice was served on the owner, operator, occupant, or tenant of the property upon which the vehicle is unlawfully parked on a public street or public right-of-way or an abandoned or inoperable motor vehicle kept on a premises.

(b) Upon towing of an abandoned or inoperable vehicle, the law enforcement officer shall remove or caused to be removed the abandoned or inoperable vehicle to a garage or lot for storage.

(c) Prior to removing or causing to the abandoned and inoperable motor vehicle to be removed, the law enforcement officer shall make a reasonable effort to ensure the vehicle is not stolen or under a repossession claim by a lienholder.

(c) In the event of any the removal or towing of any vehicle as provided under this Ordinance, the law enforcement officer shall comply with state law. Within five (5) calendar days of removing or causing an abandoned or inoperable motor vehicle to be removed as provided under this Ordinance, the law enforcement officer who removed the vehicle shall provide written notice of the removal to the owner(s) of record with the Alabama Department of Revenue, along with any lienholder if applicable, and the Alabama Law Enforcement Agency.

#### **Section 5. Authority to Sell Vehicle.**

As provided under Ala. Code § 32-13-3 (1975), the Authorized City Official is authorized to sell any vehicle impounded under this Ordinance as provided under state law.

#### **Section 6. Assessments of Costs; Liens.**

(a) Any special assessments or lien assessed against the real property upon which the abandoned or inoperable motor vehicle is located may be assessed as provided in Article I, Section 9 of this Ordinance.

(b) In the event an abandoned motor vehicle is auctioned or sold as provided under state law, if the owner of the property and the owner of the abandoned or inoperable motor vehicle are the same, any amount received from the auction or sale of the vehicle shall first be credited against

the balanced owed of any special assessment or lien placed upon the real property from which the abandoned or inoperable motor vehicle was removed. Any remaining balance may be assessed as provided under Ala. Code § 32-13-6 (1975).

(c) In the event the owner of the abandoned or inoperable motor vehicle and the owner, occupant, operator, and/or tenant of the real property from which the abandoned or inoperable motor vehicle was removed, any amount received from the auction or sale of vehicle shall be assessed as provided under state law.

(d) Nothing in this section shall be deemed to waive any remedy the City may have at law or in equity.

**Section 7. Appeals.**

(a) In all cases, the property owner, occupant, operator, tenant, and owner of the abandoned or inoperable motor vehicle maintains a right to appeal any decision of the Authorized City Official to the City Council.

(b) In all cases, the property owner, occupant, operator, tenant, and owner of the abandoned or inoperable motor vehicle maintains a right to appeal any decision of the City Council to the circuit court of the county in which the real property is located as permitted under law.

(c) Any conviction in the Municipal Court may be appealed as provided under state law.

**ARTICLE V. ENACTMENT AND OTHER PROVISIONS**

**Section 1. Severability.** In the event any article, section, part, or clause of this Ordinance is declared unconstitutional or unlawful by a court of competent jurisdiction, only that clause shall be deemed to be unconstitutional. The remainder of this Ordinance shall not be effected.

**Section 2. Conflict.** In the event of any article, section, part, or clause of this Ordinance shall conflict with any federal or state law that is presently enacted or comes to be enacted following the enactment of this Ordinance, the applicable federal or state law provision shall govern.

**Section 3. Enactment.** BE IT FURTHER ORDAINED, this Ordinance shall be in full force and effect following, passage, adoption, and publication as required by law.

ADOPTED this the 8<sup>th</sup> day of May, 2018.



---

**ALAN TAYLOR**  
**COUNCIL PRESIDENT**



---

**BUDDY CHOAT**  
**MAYOR**

**ATTEST:**



---

**LYNN PORTER**  
**CLERK**