

ORDINANCE #10-2015 NUISANCE ORDINANCE CITY OF DORA, ALABAMA

AN ORDINANCE TO PROVIDE FOR THE REGULATION AND CONTROL OF THE STORAGE, ACCUMULATION AND DISPOSITION OF JUNK, TRASH, RUBBISH, ABANDONED VEHICLES, WRECKED, DISMANTLED OR UNUSABLE VEHICLES AND BUILDING MATERIALS; THE MAINTENANCE OF BLIGHTED STRUCTURES AND OTHER BLIGHTING FACTORS OR CAUSES OF BLIGHT AND DETERIORATION THEREOF; TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED by the City Council of the City of Dora, Alabama, as follows:

SECTION 1 Definitions: The following words or terms when used herein shall be deemed to have the meanings set forth below:

(a) The term **“Junk”** shall include, without limitation, parts of machinery or motor vehicles, broken and unusable furniture, stoves, refrigerators, or other appliances, remnants of wood, metal or any other cast-off material of any kind, whether or not the same could be put to any reasonable use.

(b) The term **“Junk Motor Vehicles”** shall include, without limitation, any vehicle which is not licensed for use upon the highways of the State of Alabama for a period in excess of 60 days, and shall also include, whether licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of 60 days; provided that there is excepted from this definition unlicensed, but operative, vehicles which are kept as the stock in trade of a regularly licensed and established new or used automobile dealer or other motorized vehicle; provided, further that the time limit such vehicles may remain upon the premises of a motor vehicle repair garage shall be a period of 120 days rather than 60 days, with extension of additional 30 days period upon presentation to the enforcing officer of written proof the offending vehicle is involved in insurance claims litigation or a similar matter and additional time is required for settlement before a vehicle can be moved.

(c) The term **“Abandoned Vehicle”** shall include, without limitation, any vehicle which has remained on private property for a period of 48 continuous hours, or more, without the consent of the owner or occupant of the property, or for a period of 48 continuous or more after the consent of the owner or occupant of the property has been revoked.

(d) The term **“Blighted Structure”** shall include, without limitation any dwelling, garage, or outbuilding, or any factory, shop, store, office building, warehouse or any other structure, or part of a structure, which, because of fire, wind, or other natural disaster, or physical deterioration, is no longer habitable as a dwelling, nor useful for the purpose for which it may have been intended.

(e) The term **“Building Material”** shall include, without limitation, lumber, brick, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete, or cement, nails, screws, or any other materials used in constructing any structure.

(f) The term **“Person”** shall include all natural persons, firms, partnerships, corporations, limited liability companies, all legally recognized entities, and all associations of natural persons, incorporated or unincorporated, whether acting by themselves, or by a servant, agent or employee. All persons who violate any of the provisions of this ordinance, whether as owner, occupant, lessee, agent, servant, or employee shall, except as herein otherwise provided, be equally liable as principals.

(g) The term “**Trash and Rubbish**” shall include any and all forms of debris not herein otherwise classified.

SECTION 2: Detriment and Nuisance: It is hereby determined that the storage or accumulation of trash, rubbish, junk, junk motor vehicles, abandoned vehicles, building materials, and the maintenance of blighted structures upon any private property within the City of Dora, tends to result in blighted and deteriorated neighborhoods, the spread of vermin and disease, the increase in criminal activity, and therefore is contrary to the public peace, health, safety and general welfare of the community, and hereby declared a nuisance.

SECTION 3: Junk; Trash, Rubbish, Junk Motor Vehicles, etc.: It shall be unlawful for any person to store, or to permit the storage or accumulation of trash, rubbish, junk, junk motor vehicles or abandoned vehicles on any private property in the City except within a completely enclosed building or upon the premises of a properly licensed or approved junk dealer, junk buyer, dealer in used auto parts, or dealer in second hand goods or junk.

SECTION 4: Blighted Buildings: It shall be unlawful for any person to keep or maintain any blighted or vacant structure, dwelling, garage, outbuilding, factory, shop, store, or warehouse, unless the same is kept securely locked, the windows kept glazed or neatly boarded up, and otherwise protected to prevent entrance thereto by unauthorized persons or unless such structure is in the course of construction in accordance with Alabama state laws.

SECTION 5: Building Materials: It shall be unlawful for any person to store or permit the storage or accumulation of building materials on any private property, except in a completely enclosed building or except where such building materials are part of the stock in trade or business, located on said property, or except where such materials are being used in the construction of a structure on the property in accordance Alabama state laws.

SECTION 6: Prosecution for Violation of this Ordinance: Whenever the accumulation of trash, rubbish, junk, junk motor vehicles, abandoned vehicles, building materials, and the maintenance of blighted structures are found to be maintained on any private property within the City of Dora, the Chief of Police of the City of Dora may declare the same to be a public nuisance and issue a corrective warning notice to the property owner who is a first-time offender. After receiving such corrective notice the offending property owner shall cause the nuisance to be abated within 30 days of receipt of the notice. Should the offending property owner fail to abate the nuisance within 30 days or be found to be a multiple offender of this ordinance the Chief of Police shall issue a citation to the offending property owner to appear before the Municipal Court for a criminal trial for such violation. Any person issued a citation for violating this ordinance, upon conviction, shall be punished as follows:

1st offense - \$ 50.00

2nd offense - \$100.00

3rd offense - \$250.00

4th offense - \$500.00

After the 3rd offense the violating person shall also be subject to incarceration in the City Jail for a term not to exceed 10 days.

After expiration of the 30 day corrective notice, each day a violation of this ordinance continues to exist constitutes a separate violation.

SECTION 7: Abandon and Stolen Personal Property: The City Council hereby adopts *Ala. Code* § 11-47-116 (1975), and any future amendments thereto as if fully set out herein, which grants the City the authority to take up and store abandoned and stolen personal property found within its corporate limits and police jurisdiction and to sell same in the manner provided therein.

SECTION 8: Right of entry for inspection: Whenever the Chief of Police or duly authorized employee of the City has reasonable cause to believe that a condition prohibited by this ordinance exists, employees and duly authorized agents of the City shall have the right to enter the private property in question for the purpose of inspecting the property. Reasonable cause may

be established by, but is not limited to, the filing of an oral or written complaint with the City by any person.

SECTION 9: Notice of Public Hearing to Approve Abatement and Assessed Costs.

(a) Whenever a condition prohibited by this ordinance is found to exist on private property within the City, the Chief of Police or other duly authorized employee of the City shall declare the condition a public nuisance and cause a written notice to be mailed by first class mail to the “occupant” at the address of the property on which the nuisance exists and to the owner of said property as the information is listed in the records of the tax assessor or revenue commissioner. If the property is a vacant lot, written notice will be mailed by first class mail to the owner of said property as the information is listed in the records of the tax assessor or revenue commissioner.

(b) Said notice shall contain the following:

- (1) A description of the real property, by street address or otherwise, on which the nuisance exists;
- (2) A direction to abate the nuisance within ten days from the date of the notice;
- (3) A description of the nuisance;
- (4) A statement that unless the nuisance is abated, the City will abate the nuisance and the cost of abatement may be assessed against the person creating and maintain said nuisance;
- (5) The date of the regularly scheduled City Council meeting, which shall be no earlier than 14 days from the date the notice is mailed, in which a resolution will be presented to the City Council to approve the abatement of the nuisance and authorize assessment of the cost of abatement; and
- (6) A statement regarding the procedure for filing an objection to abatement of the nuisance and assessment of the cost of abatement against the property.

(c) In addition, a sign entitled “Notice to Abate Nuisance” shall be conspicuously posted on the property where the nuisance exists notifying the owner/occupant that a nuisance exists and that the City will take action to abate said nuisance if the nuisance is not abated within ten days. The notice shall give the date the City Council will meet to approve the abatement of the nuisance and assessment of costs and that the property owner can file an objection to said abatement and assessment of costs with the City Clerk’s office at least four (4) business days prior to said hearing. The notice must be post at least 14 days prior to the City Council meeting in which the hearing will be conducted.

SECTION 10: Public Hearing and Objections to Abatement of Nuisance.

(a) If the owner, occupant, lessee or person in control of said property wishes to contest the nuisance abatement and assessment of costs, then the owner, occupant, lessee or person in control of said property shall file an objection to the declaration of nuisance by the City that the condition constitutes a nuisance by notifying in writing the City Clerk’s office at least four business days prior to the date of the regular scheduled meeting of the City Council for which the resolution ordering the abatement of the nuisance and assessing the cost of abatement has been scheduled.

(b) The City Council shall hear and consider all evidence, objections, and protests regarding whether or not the condition constitutes a nuisance and whether same shall be ordered, abated, or removed. The City Council may continue the hearing from time to time. Upon the conclusion of the hearing, the City Council shall decide whether a public nuisance exists and, if so, shall order it to be removed or abated with respect to any property or part thereof described. The City Council, by passage of the resolution, shall be deemed to have acquired jurisdiction to proceed and to perform or have performed the work of removal or abatement with respect to the property or part thereof. The decision of the City Council on the matter shall be deemed final and conclusive.

(c) If a timely objection is not filed with the City Clerk’s office or if the owner, occupant, lessee or person in control of the property fails to appear at the hearing, no additional public hearing will be held regarding that property and abatement of the nuisance will proceed and cost of the

abatement assessed. In such instance, the City Council shall be deemed to have acquired jurisdiction to proceed and either to perform or have performed the work of removal or abatement with respect to the property or part thereof and the decision of the City Council shall be deemed final and conclusive.

SECTION 11: Abatement of Nuisance. After the City Council passes a resolution finding the conditions of the property to be a nuisance and ordering its abatement, all employees and duly authorized agents of the municipality may enter upon the private property to abate the nuisance. Further, the City Council may authorize a registered nuisance abatement agent or other private contractors, companies, enterprises, or individuals to abate and remove the nuisance. The City Council, by resolution, shall designate the registered nuisance abatement agent, or other contractors, companies, enterprises, or other individuals who may perform the work. Those nuisance abatement agents or other persons so designated may enter upon private property for purposes of abating or removing the nuisance. Any property owner shall have the right to have the nuisance removed at his or her own expense provided the removal is done prior to the commencing of the work by the City or its duly appointed agents.

SECTION 12: Abatement procedures separate from penalty. The requirement to abate a nuisance is not a penalty for violating this ordinance, but is an additional remedy. Abatement proceedings and prosecution may occur simultaneously. Neither the initiation of prosecution for violations of this ordinance nor the imposition of a penalty shall relieve the responsible party or property owner of the duty to abate the nuisance.

SECTION 13: Effective Date. This ordinance shall take effect after five (5) days from the date it is posted in accordance with *Ala. Code* § 11-45-8 (1975), as amended.

SECTION 14: Savings Clause. If any provision or section of this ordinance is found to be in conflict with any other provision or section of this ordinance or with any local, state, or federal law or regulation, the more stringent standard shall apply. The invalidity, unconstitutionality, or illegality of any provision or section of this ordinance shall not have any effect upon the validity, constitutionality, or legality of any other provision or section of this ordinance and all remaining provisions or sections of this ordinance shall remain fully valid, binding and enforceable to the fullest extent of the law.

SECTION 15: Repeal: All other ordinances, and parts of ordinances, in conflict with this Ordinance to the extent of such conflict and no further are hereby repealed.

ADOPTED AND APPROVED on this 12th day of January 2016.