

AN ORDINANCE PROSCRIBING NUISANCES

WHEREAS, the City Council of the City of Elba (sometimes referred to hereinafter as "City Council" or "city council") is aware that public nuisance conditions or common nuisance conditions threaten the health, safety, morals and welfare of the public, and has thus previously enacted ordinances in an attempt to reduce, abate and remove such conditions from the City of Elba (sometimes referred to hereinafter as "City" or "city"); and

WHEREAS, the City Council views the existence and proliferation of public nuisance conditions or common nuisance conditions to be a serious problem in the City, as such conditions can cause an increase in and the spread of disease and crime and can be damaging and injurious to the inhabitants and general public, and therefore, again desires to enact a measure to help prevent, reduce and remove such conditions in the interest of the public's health, safety, morals and welfare; and

WHEREAS, Alabama law authorizes a municipal corporation from time to time to adopt ordinances and resolutions to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the inhabitants of the municipality, and may enforce obedience to such ordinances;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELBA, as follows:

- (a) The terms or phrases "public nuisance condition(s) or common nuisance condition(s)" as used above and below shall mean those conditions set forth below in subsections (i) through (xiii). The city council specifically finds that such conditions work to hurt, inconvenience or damage others and additionally damage all persons who come within the sphere of their operation, and/or that such injure or threaten to injure the health, morals, comfort or welfare of the community or any portion thereof. The fact that the conditions below may otherwise be lawful does not keep them from being a public nuisance condition or common nuisance condition. The following shall constitute public nuisance conditions or common nuisance conditions:
 - (i) Any wrecked, demolished, disabled or partially dismantled vehicle ("vehicle" shall mean propelled by or designed to be propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides, or any device in, upon or by which any person or property is or may be transported, carried, or drawn from one place to another including but not limited to, automobiles, trucks, tractors, motorcycles and trailers), or part or portion thereof which is left or permitted to remain upon any real property or street, which is accessible to children or where weeds, grass and other vegetation is allowed to grow in or around such vehicle. Said definition does not include those persons or entities who are lawfully engaged in the business of storage, repair, sale or maintenance of vehicles (but nothing herein is intended to abrogate, limit, decrease or reduce the requirements of such a business to comply with other ordinances, rules and regulations of the city).
 - (ii) Lawns and grounds on real property which regularly or habitually contain any growth of weeds, grass or vegetation more than one (1) foot in height, as same are deemed favorable to the harboring of mosquitoes or other insects or rodents. Such real property which has never been developed is not included in said definition, nor is property located in any agricultural district.


- (iii) Any premises upon which exists trash or debris and any premises upon which exists garbage, rubbish or other refuse in such a manner that it will become offensive or deleterious to health or likely to cause disease.
- (iv) The placing, leaving, dumping, or permitting of the accumulation of any garbage, rubbish, trash, material or other items in any building or on any premises so that the same shall cause the accumulation of flies, mosquitoes, or other insects or rodents.
- (v) Any metal, glass, paper, rags, wood, machinery parts, cloth, or other waste or discarded material of any nature or substance whatsoever, or any scrap or salvage materials. Said definition does not include those persons or entities who are lawfully engaged, in the correct zoning district, in the business of storage and sale of scrap or salvage materials (but nothing herein is intended to abrogate, limit, decrease or reduce the requirements of such a business to comply with other ordinances, rules and regulations of the city).
- (vi) The placing, leaving, dumping or permitting of the accumulation of any amount of water which would or could be a breeding area for mosquitoes or other insects.
- (vii) Places of swimming or bathing that are not kept in a clean and sanitary condition.
- (viii) Any building, dwelling or structure which has become dilapidated, decayed, unsafe or unsanitary or which so utterly fails to provide the amenities essential for decent living that they are unfit for human habitation, or is likely due to its condition to cause illness, injury, or disease, so as to work injury or threat of injury to the health, welfare, morals and/or safety of the public (hereinafter referred to as "unsafe and/or dilapidated buildings, dwellings, and structures").
- (ix) The raising, maintaining, possessing, feeding, killing or slaughtering of any chickens, turkeys, geese, ducks or other fowl on any premises in such numbers or under such conditions or circumstances or with the result as to be offensive or unwholesome or a source of injury, hurt or annoyance to the health, comfort and welfare of any person occupying adjacent or nearby premises or under such conditions or circumstances or with such result that flies or other obnoxious or repulsive insects congregate therein or thereat.
- (x) The raising, maintaining, possessing, feeding, killing or slaughtering of any hogs, cattle, sheep, goats or animals of like kind on any premises in such numbers or under such conditions or circumstances or with such result as to be offensive or unwholesome or a source of injury or detriment, hurt or annoyance to the health, comfort and welfare of any person occupying adjacent or nearby premises or under such conditions or circumstances or with such result that offensive odors emanate therefrom to the annoyance or discomfort of others or under such circumstances or with such result that flies or other obnoxious or repulsive insects breed or congregate therein or thereat.
- (xi) The operation of any gin, mill or other machinery in such manner or under such conditions or with such result as to create noise, smoke, dust or other like conditions in such volume or intensity as to be offensive or unwholesome or a source of injury, detriment, hurt or annoyance to the health, comfort, or welfare of other persons occupying adjacent or nearby premises, or under such conditions or circumstances or with the result that offensive dust clouds, smoke clouds or offensive and disturbing noises emanate therefrom to the annoyance or discomfort of others.
- (xii) Any premises where animal dung, offal or refuse is accumulated, suffering such premises to be and remain without the application of insecticides to prevent the breeding and


accumulation of flies and other insects which are detrimental to public health and comfort.

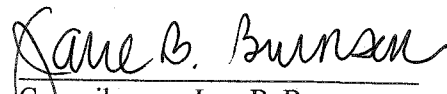
- (xiii) The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or response of any person or persons in the vicinity.
- (b) The Building Inspector or Official/Code Enforcement Officer, or other official designated by the mayor and/or city council to abate nuisances, shall give notice to any person or entity who causes, creates or maintains a public or common nuisance condition(s) as defined above within the city or its police jurisdiction, upon discovering or being made aware of same, with such notice requiring the person or entity to whom directed to abate the nuisance within ten (10) days of service of the notice. The notice shall be served in one of the following ways:
 - a. If the person is a resident of the city, by personal service.
 - b. If the person is a non-resident of the city and there is no person residing on the premises/property where the public or common nuisance condition(s) exist(s), by posting a copy of the notice on said premises/property.
 - c. By certified mail, return receipt requested, at the last known address of the person to be served.
- (c) Every person or entity who causes, creates or maintains a public or common nuisance condition(s) as defined above within the city or its police jurisdiction, and who fails to comply with a notice as specified herein within ten (10) days after service, shall be guilty of a misdemeanor. Each day an offense defined under this ordinance continues shall constitute a separate offense.
- (d) Should a person or entity fail to comply with a notice as specified herein within ten (10) days after service of same, the Building Inspector or Official/Code Enforcement Officer, or other appropriate city official, shall appear before the city magistrate and swear under oath as to the facts that form the basis of any charge under this ordinance, excluding a charge for an unsafe and/or dilapidated building, dwelling, or structure, and present any supporting evidence in support of said facts. Should a person or entity fail to comply with a notice as specified herein regarding an unsafe and/or dilapidated building, dwelling, or structure within ten (10) days after service of same, the Building Inspector or Official/Code Enforcement Officer, or other appropriate city official, shall, after receiving the affirmative approval of the city council, appear before the city magistrate and swear under oath as to the facts that form the basis of a charge under this ordinance for such, and present any supporting evidence in support of said facts. Upon finding probable cause for any offense as defined herein, the magistrate shall cause the issuance of a summons and complaint, which shall be served by either personal service or certified mail.
- (e) A person or entity convicted under this ordinance shall be punished by a fine of not more than five hundred dollars (\$500.00) and/or may be sentenced to imprisonment or hard labor for the city for a period not exceeding six (6) months for each offense.
- (f) Articles I and II of Chapter 30 of the Code of Ordinances, City of Elba, Alabama, are hereby repealed and replaced herewith. This ordinance does not expressly or impliedly repeal or abrogate any other existing ordinances or parts thereof as to the same subject matter, nor shall anything in this ordinance be construed, interpreted, or taken to limit the city in its rights to proceed by injunction or other civil remedy against any person or entity who causes, creates or maintains a public nuisance condition or common nuisance condition.
- (g) This ordinance shall become effective upon its approval, adoption, enactment and publication by newspaper as set forth in § 11-45-8(b), *Code of Alabama*, 1975.

ADOPTED and APPROVED this _____ day of _____, 2014.


Councilperson Rolanda P. Jones


Councilperson Tommy Skinner


Mayor Mickey L. Murdock

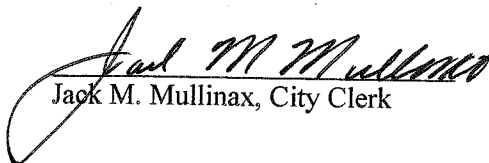

Councilperson Jane B. Brunson


Councilperson Harold Spicer

Councilperson Ronnie Hammond

(SEAL)

Attest:


Jack M. Mullinax, City Clerk