

ORDINANCE NO. 484

AN ORDINANCE TO PROVIDE FOR PENALTIES FOR FAILING TO REMOVE LITTER AND VARIOUS DEBRIS OR TO OPENLY STORE WASTE, GARBAGE AND RUBBISH.

Be is Ordained by the City Council of the City of Dadeville, Alabama in a regular open meeting that:

NUISANCES*

- Art. I. In General**
- Art. II. Weeds**
- Art. III. Debris Including Inoperative and Abandoned Vehicles**
 - Div. 1. Generally
 - Div. 2. Abandoned Vehicles Including Trailers and Semi-Trailers

ARTICLE I. IN GENERAL

Secs. 1-1--1-14. Reserved

ARTICLE II. WEEDS**

Sec. 1-15. Weeds declared a public nuisance.

Pursuant to and under the authority contained in Section 11-67-21 through 11-67-26, Code of Alabama, 1975, all weeds growing upon streets, sidewalks, or upon private property within the city which bear seeds of a wingy or downy nature, which attain a large growth so as to become a fire menace when dry or which are otherwise noxious or dangerous, may be declared to be a public nuisance by the council of the city, and thereafter abated as provided in this article.

Sec. 1-16. Initiation of Complaint

A Complaint requesting a resolution in declaring a public nuisance and order of abatement may be initiated by a private citizen, an adjoining property owner or by municipal official designated by the mayor. The identity of the complainant and the complaint shall be a matter of public record.

Sec. 1-17. Resolution declaring weeds to be a public nuisance and ordering abatement.

Whenever any weeds are growing upon any street, sidewalk, or private property in violation of section 1-16, the council may, by resolution, declare the weeds to be a public nuisance and order its abatement. The resolution shall refer to the street by the name under which it is commonly known, describe the

property upon which or in front of which the nuisance exists by giving a legal description of the property and no other description of the property shall be required. Any number of streets, sidewalks or parcels of private property, may be included in one resolution.

DADEVILLE CODE

Sec. 1-18. Notice to owner of public hearing; contents; publication in newspaper; posting of signs and form thereof.

After the passage of the resolution by the city council, notice of a public hearing on the matter shall be given by certified mail, return receipt requested, mailed thirty (30) days prior to the date of the hearing and shall inform the owner of the time, date and place of the hearing and the reason for the hearing. The notice shall be mailed to the owner of the property as the information appears on the records of the office of the tax assessor.

All notices shall carry a list of names of persons or private contractors, or both, who perform the work and are registered with the city clerk. The names shall not constitute a recommendation and the failure to include a list shall in no way affect the operation of this ordinance.

Notice shall also be given by publication in a newspaper of general circulation within the city once a week for two (2) consecutive weeks. The first notice shall be published at least fourteen (14) days prior to the date of the scheduled hearing.

In addition, two (2) signs shall be conspicuously posted on the property. The wording of the signs shall not be less than one (1) inch in height and shall be in substantially the following form:

NOTICE TO DESTROY WEEDS

Notice is hereby given that on the _____ day of _____, _____ at _____ a.m./p.m. in the Council Chamber, the Council of the City of Dadeville will consider a resolution regarding the weeds growing upon or in front of the property of _____ Street in the City of Dadeville, Alabama, and more particularly described in the resolution, a copy of which is on file in the office of the City Clerk; and at that time and place will determine whether the weeds constitute a public nuisance which shall be abated by the removal of the noxious or dangerous weeds; and, if so, will order the abatement and removal of the nuisance, in which case the cost of abatement and removal shall be assessed upon the lots and lands from which or in front of which the weeds are removed, and the cost shall be added to the next regular bills for taxes levied against the respective lots and lands for municipal purposes. The amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected. The amounts shall be subject to the same commissions and fees and the same procedures for foreclosure and sale in case of delinquency as provided for ordinary municipal taxes.

If no objections are filed with the City Clerk at least five (5) days before the meeting of the Council and unless the person appears before the Council in person or through his or her representative to show, if

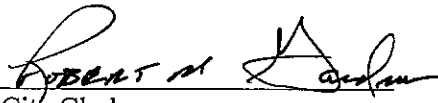
any, why his or her objection should be sustained, it shall be presumed that the person accepts the notice as fact and waives any rights he or she may have to contest the removal of the weeds and the action of the Council shall be final unless good and sufficient cause can be otherwise shown.

Reference is hereby made to the resolution, on file in the office of the City Clerk, for further particulars.

NUISANCES

DATED this the 12th day of NOVEMBER, 2013,

CITY OF DADEVILLE, ALABAMA

BY: 
City Clerk

The notice shall be posted at least fourteen (14) days prior to the time for hearing objections by the city council.

Sec. 1-19. Entry of municipal employees and agents on property to abate nuisance; abatement by private contractor; right of owner to have weeds removed at owner's expense.

After the council passes the resolution finding the conditions of the property to be a nuisance and ordering its abatement, all employees and duly authorized agents of the city may enter upon private property for that purpose.

The council may, as its option, authorize private contractors, companies, enterprises, or individuals to abate and remove the nuisance. The council, by resolution, shall designate the contractors, companies, enterprises, or individuals who may perform the work. Those persons so designated may enter upon private property for the purposes of abating or removing the nuisance. For purposes of this article compliance with the competitive bid law is not required.

Any property owner shall have the right to have any weeds removed at his or her own expense providing the removal is done prior to the commencing of the work by the employees or agents of the city to do the same. The city reserves the right to inspect the weed removal and require approval by the appropriate designated city official upon notice of completion by the property owner.

Sec. 1-20. Account of cost of abatement or removal of nuisance; report to governing body; posting of report.

The mayor or his authorized representatives shall keep an account of the cost of abating or removing the nuisance in front of or on each separate lot or parcel of land where work is done by the city or its employees, or by a duly authorized private contractor, company, enterprise, or individual, and shall render an itemized report in writing to the council showing the cost of removing the nuisance on each separate lot, or in front of the lot and before the report is submitted to the council, a copy of the report shall be posted for at least five (5) days prior thereto on or near the chamber door of the council, together with a notice of the time when the report shall be submitted to the council for confirmation.

Sec. 1-21. Hearing on cost of abatement or removal of nuisance; cost to constitute weed liens; report to tax collector; amounts to be included in tax bills; collection.

At the time fixed for receiving and considering said report, the council shall hear the same, together with any objections which may be raised by any of the property owners liable to be assessed for the work of abating said nuisance and thereupon make such modifications in the report as it deems necessary, after which by motion or resolution said report shall be confirmed. The amounts of the cost for abating such nuisance in front of or upon the various parcels of land mentioned in said report shall hereinafter be referred to as "weed liens" and as thus made and confirmed shall constitute a weed lien on said property for the amount of such weed liens, respectively. After confirmation of said reports, a copy shall be turned over to the tax collector of Tallapoosa County, who, under the "optional method of taxation", is charged with the collection of the city's municipal taxes pursuant to [Code of Alabama, 1975,] Sections 11-51-40 through 11-51-74 whereupon it shall be the duty of said tax collector to add the amounts of the respective weed liens to the next regular bills for taxes levied against said respective lots and parcels of land, and thereafter said amounts shall be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in the case of delinquency.

State law reference—Power of city to abate nuisances at expense of person creating same, Code of Ala., § 11-47-117.

Sec. 1-22—1-35. Reserved.

**ARTICLE III. DEBRIS INCLUDING INOPERATIVE AND ABANDONED
VEHICLES***

DIVISION 1. GENERALLY

Sec. 1-36. Definitions.

The following terms, when used in this article, shall have the meaning ascribed to them in this section:

Abate: To stop, halt, end or terminate.

Antique or vintage vehicle: A vehicle, operative or inoperative, which is being or has been restored and has a valid State of Alabama vintage vehicle license plate attached

Authorized agent: Any city employee designated by the mayor to have enforcement authority under this article.

Debris: Those things or conditions existing on private property in the city which are hazardous or detrimental to the public health or safety or which constitute a fire hazard, including conditions which by their unsightly appearance can result in decreasing the value of other properties in the immediate area. Debris includes but is not limited to the following: Accumulation of rubbish, trash, refuse, junk, and other abandoned materials such as pallets and lumber; partially dismantled, nonoperating, wrecked, junked or discarded motor vehicles; construction equipment, vehicles or equipment parts and other such equipment, garden tools, building supplies, household appliances, toys or furniture.

Enclosed area: Any area composed of at least three (3) solid walls and a solid roof which is inaccessible to public view except that for the purpose of this article a carport, front porch, or the use of tarpaulins or tarpaulin type materials to shield an area from public view is not an enclosed area.

Inoperative motor vehicle: A motor vehicle unable to move under its own power due to defective or missing parts and which has remained in such condition for a period of not less than seven (7) consecutive days, and/or is not currently licensed for use on public streets, or unfit for further use as a conveyance.

Junk: Worn out, dismantled, inoperable, wrecked or dilapidated mobile homes, manufactured homes, trailers, vehicles, aircraft or appliances, scrap building materials, metals, rubber, paper, plastic, wood, clothes, machinery parts, or other discarded waste, scrap, or discarded materials of every kind or substance whatsoever, or any scrap or salvage materials.

Junk Yard: Any lot or parcel of land, structure or part thereof used for the collection, storage or sale of wastepaper, rags or scrap metal or discarded material, or for the collection, dismantling, storage, or salvaging of machinery or inoperative vehicles or for the sale of parts thereof.

Major recreational equipment: For purposes of this article, major recreational equipment includes travel trailers, camper shells, pickup campers or coaches, motorized dwellings, tent trailers, converted

buses or similar devices intended for use as portable recreational housing, boats and boat trailers, amphibious houseboats and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

Major Repair: Major repairs include pulling an engine block, repair or replacement of transmissions and front and rear axles, major body repair, dismantling, and similar work associated with automobiles, boats or other motorized vehicles.

Minor Repair: Minor repairs include routine maintenance such as changing oil and tires; replacement of water pump, alternator, brakes, shocks, oil and air filters, and spark plugs; and similar work associated with automobiles, boats or other motorized vehicles.

Nuisance: For the purpose of this article, the work "nuisance" is hereby defined as an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health or safety of others; or
- (2) Is offensive to the senses; or
- (3) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream ditch or drainage, or
- (4) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

Owner: A person, persons or legal entity listed as current titleholder as recorded in the official property records of Tallapoosa County, Alabama.

Occupant: A person, persons or legal entity that, through rights of ownership or tenancy, has possession or the use and enjoyment of the subject real property.

Semi-trailer: The non-motorized storage portion of a tractor-trailer rig used to transport goods and merchandise.

Street, highway or right-of-way: The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic.

Trailer: A wagon, two (2) or four (4) axles, pulled by a motorized vehicle. For the purpose of this article, trailer can also refer to a house trailer in transit.

Sec. 1-37. Prohibited; nuisance declared.

- (a) The storing of or keeping or allowing to remain for more than seven (7) days outside of any enclosed area of property any debris or any inoperative motor vehicle, or any other article which is commonly known and recognized as debris which is accessible to children, or where weeds, grass or other vegetation is allowed to grow in and around such debris or vehicles, together with the maintenance of said property in such a condition is hereby declared to be a nuisance.

- (b) The provisions of subsection (a) shall not apply to a duly licensed garage, service station, scrap metal yard, or junk yard which is operating within a properly zoned district.
- (c) No major recreational equipment or vehicles in an inoperative condition shall be parked, stored or allowed to remain in any required front or street side setback area. Except in legally established sales agencies for such vehicles, such vehicles may only be parked or stored in a garage or rear or interior side yard with a solid fence or wall not less than five (5) feet high, or other manner of storage approved by the mayor or the authorized agent of the mayor, separating the vehicle from the public right-of-way in such a manner that the vehicle does not constitute a visual nuisance to the neighboring properties.
- (d) No person shall be prevented from storing or keeping, or restricted in the method of storing or keeping, any antique or vintage vehicle on private property with the permission of the person having the right to the possession of the property, except that a person having such permission shall be required to conceal by means of buildings, fences, vegetation, terrain or other suitable obstruction, any antique or vintage vehicle stored in the open.

Sec. 1-38. Tearing down, stripping, etc., of vehicles, major recreational vehicles or parts thereof prohibited.

- (a) The tearing down, stripping, junking, storage, repair or servicing of motor vehicles including major recreational vehicles or parts thereof is prohibited unless such use is shown to be specifically authorized, permitted or licensed under this or other ordinances of the city.
- (b) This section shall not be construed as prohibiting the occupant of a residence located in or adjacent to a predominantly residential area from performing minor repairs on his/her own vehicle including major recreational vehicles or part thereof if said minor repairs are made within the confines of an enclosed area or on a paved driveway or parking pad between the hours of 7:00 a.m. and 10:00 p.m. and the repairs are completed within seven (7) days.
- (c) The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine within a residential district, so as to unreasonably disturb or interfere with the peace, comfort, and repose of owners or possessors of real property, is hereby prohibited by this article.

Sec. 1-39. Outdoor storage of certain items.

- (a) No mud, dirt, sand, gravel, concrete or such materials shall be deposited in any manner that the material would flow into a public storm drain or watercourse, and the materials shall be removed as quickly as is feasible, but in no event less than twenty four (24) hours from the time deposited.
- (b) No debris, including trash, paper, wood, plant cuttings and other vegetation, shall be spilled onto the public street or sidewalk, without prior approval of the city.
- (c) No vehicles and/or other materials associated with business activity shall be stored on the public right-of-way or in the public right-of-way.
- (d) No items of business inventory, equipment, vehicles, furniture or the like shall be placed in such a manner as to unlawfully obstruct the free passage or use in the customary manner of any navigable waterway or any public park, square, public street, highway, lane or sidewalk unless specifically authorized under other ordinances of the city.
- (e) The storage of new or used appliances, boxes, furniture, clothing, televisions, bags and other items of debris on the front or side porch or in the front or side yard of a house or residence, or on the city right-of-way for more than seven (7) days is prohibited.

Sec. 1-40. Inspections.

Subject to constitutional limitations, authorized agents of the mayor are hereby authorized to enter into or upon any premises where there is a reason to suspect the existence of any nuisance. It shall be unlawful for any person to interfere, hinder or refuse to allow said agent to enter upon private property for inspection.

Sec. 1-41. Notice.

Whenever the city finds that any person has violated or is violating this article, or any prohibition, limitation or requirement contained herein, the city shall give written notice to the owner, occupant or such person stating the nature of the violation.

Sec. 1-42. Contents of notice.

The issued notice under the provisions of this article shall contain:

- (1) An order to correct the violation within a stated time, which shall be reasonable under the circumstances.
- (2) The location of the violation, if the same is stationary.

- (3) A statement of the nature of the violation.
- (4) A statement of acts necessary to correct the violation.
- (5) A statement that if the violation is not corrected, the city will issue a not-traffic citation or warrant, if appropriate, to the person, owner or occupant in violation of this article.

Sec. 1-43. Service of notice.

The notice required under section 1-41 and 1-42 shall be given by certified mail, return receipt requested, personal service or by any other method of service available pursuant to Rule 4 of the Alabama Rules of Civil Procedure. The notice shall be sent to the person shown by the records of the county to have been the last person assessed for payment of ad valorem taxes on the property where the violation is alleged to exist.

Sec. 1-44. Failure to correct violation; misdemeanor declared.

Upon the failure of the person upon whom notice was served pursuant to the provisions of this article to correct the violation within the time prescribed by the notice or to submit a plan for the satisfactory correction thereof, the person shall be guilty of a misdemeanor and a private citizen or the duly designated agent of the mayor shall proceed to have issued to said person a non-traffic citation.

Sec. 1-45. Penalties.

Any person convicted of violating any provisions of this article shall be punished by a fine in an amount not exceeding five hundred dollars (\$500.00), or imprisonment of not more than six (6) months, or both such fine and imprisonment, at the discretion of the court trying the case.

Sec. 1-46. Each violation a separate offense.

Each day of violation of this article is a separate offense.

Sec. 1-47. Prohibited.

No person shall abandon any motor vehicle, trailer or semi-trailer on any public street or public grounds or upon any privately owned property. No person controlling privately owned property shall permit any abandoned or unsafe vehicle, trailer or semi-trailer to remain thereupon.

Sec. 1-48. Determination of abandonment.

The following criteria shall be used to determine whether or not a vehicle, trailer or semi-trailer is abandoned:

- (1) The vehicle fails to display a current license plate, and it is partially dismantled or wrecked or incapable of self-propulsion or of being moved in the manner for which it was originally intended; or
- (2) The vehicle, trailer or semi-trailer is left on private property without the consent of the owner, occupant or lessee thereof for a period of time exceeding twenty-four (24) consecutive hours; or
- (3) The vehicle, trailer or semi-trailer is left on any public street or highway or in any parking garage of the city for a period of time greater than seven (7) consecutive days; or
- (4) The vehicle, trailer or semi-trailer is left on any property owned or operated by the city other than that as described in subsection (3) hereof for a period of time greater than twenty four (24) consecutive hours.

Sec. 1-49 Mayor authorized to remove and impound abandoned vehicles, trailers or semi-trailers.

The mayor or the authorized agent of the mayor is hereby authorized to remove or have removed any vehicle, trailer or semi-trailer left at any place within the city which reasonably appears to be in violation of this article or lost, stole, unclaimed, or unsafe, and to have said vehicle, trailer or semi-trailer impounded.

Sec. 1-50. Notice to be affixed.

(a) Whenever a police officer has reason to believe that a vehicle, trailer or semi-trailer may be abandoned within a street or highway, or upon the right-of-way of a street or highway, he/she shall securely affix to the windshield or to the driver's side door of the vehicle, or to the side of the trailer or semi-trailer, a conspicuous warning notice, indicating that the vehicle, trailer or semi-trailer is believed to

be abandoned and is in violation of this article. This notice shall further state that if the vehicle, trailer or semi-trailer is not removed within the time period written on the motion, the same shall be removed and impounded.

(b) Whenever a police officer has reason to believe that a vehicle, trailer or semi-trailer may be abandoned upon private property, he/she shall securely affix to the windshield or to the driver's side door of the vehicle, or to the side of the trailer or semi-trailer, a conspicuous warning notice, indicating that the vehicle, trailer or semi-trailer is believed to be abandoned and is in violation of this article. The notice shall further state that if the vehicle, trailer or semi-trailer is not removed within the time period written on the notice, the same shall be removed and impounded. However, removal and impoundment of a vehicle, trailer or semi-trailer abandoned upon private property first requires consent of the property owner or a court order.

Sec. 1-51. Impoundment.

An abandoned vehicle, trailer or semi-trailer which has not been removed after notice shall be towed and stored at a place set aside by the city for such storage. The city may alternatively contract with a private company to tow, store and dispose of abandoned vehicles, trailers, or semi-trailers provided said company is licensed by the City of Dadeville and carries adequate liability insurance to cover the cost of any damage inflicted on the vehicle, trailer or semi-trailer during towing or storage.

Sec. 1-52. Impounding of vehicles, trailers or semi-trailers in emergency circumstances.

In circumstances hereinafter enumerated, preservation of the public safety and welfare requires that vehicles, trailers, or semi-trailers be removed from the public right-of-way without delay. Therefore, police officers are hereby authorized to remove, or have removed, at their discretion, a vehicle, trailer, or semi-trailer from any street, alley, highway, roadway, sidewalk, bridge, viaduct, public parking lot, or from any other public way or place, to any other place of safety under any of the circumstances hereinafter enumerated:

- (1) When any vehicle is left unattended upon any street or other public way or place, where such vehicle constitutes an obstruction to traffic;
- (2) When a vehicle, trailer or semi-trailer upon a street or other public way is so disabled as to constitute an obstruction to traffic, or the person or persons in charge of the vehicle, trailer or semi-trailer are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody and removal;
- (3) When any vehicle, trailer or semi-trailer is left unattended upon a street or any other public way or place, and is parked so illegally as to constitute a hazard or obstruction to the normal flow of traffic;
- (4) When the driver of such vehicle is taken into custody by the police department and such vehicle would thereby be left unattended upon a street or other public way or place;
- (5) When removal is necessary in the interest of public safety because of fire, flood, storm, or other emergency reason;

- (6) When any trailer or semi-trailer is left unattended and parked in such a manner as to be an obstruction to traffic, or the contents of said trailer or semi-trailer constitute a hazard to public safety.

Sec. 1-53. Release of impounded vehicles, trailers, or semi-trailers.

Vehicles, trailers or semi-trailers impounded pursuant to this division shall only be released to the owner or his/her representative after payment of the towing, storage and notice costs.

Joe L Smith
Mayor

ATTEST:

Robert M. Gordon
City Clerk

CERTIFICATION OF CITY CLERK

The undersigned, as Acting Clerk of the City of Dadeville, Alabama, hereby certified that the foregoing is a true, correct, and complete copy of Ordinance No. 484 which was duly adopted by the City Council on the 12th of NOVEMBER, 2013.

WITNESS MY SIGNATURE, as Acting Clerk of the City of Dadeville, Alabama, under the seal thereof, this 12th day of November, 2013.

Robert M. Gordon
Clerk of the
City of Dadeville, AL

SEAL

Larry Foster
Patricia S. Fells
Billy Monroe
Frank Goodman
James W. Taylor