

STATE OF ALABAMA
COUNTY OF BLOUNT
TOWN OF HIGHLAND LAKE

ORDINANCE NUMBER HL 2020-02

**AN ORDINANCE TO PREVENT CERTAIN VEHICLES,
WEEDS, OR OTHER RUBBISH WHICH IS UNSIGHTLY,
FROM BECOMING A PUBLIC NUISANCE,
A SAFETY OR PUBLIC HEALTH HAZARD, OR A FIRE HAZARD,
WITHIN THE TOWN LIMITS OF HIGHLAND LAKE, ALABAMA**

WHEREAS, the presence of dismantled, junked or abandoned vehicles, other unsightly discarded items on public or private property, noxious or unsightly weeds, or other rubbish constitute an attractive nuisance for children and animals, constitute a menace to public health, create a fire hazard, causes neighborhoods to become unsightly, resulting in the depreciation of property values, and, if on town streets or public highways create a traffic hazard and endanger the public safety.

NOW, THEREFORE BE IT ORDAINED BY THE TOWN OF HIGHLAND LAKE, ALABAMA:

SECTION 1: DEFINITIONS

The following definitions shall apply in the interpretation of this ordinance:

- A. "Person" shall mean any person, firm, partnership or corporation, association, company, or organization of any kind.
- B. "Street of highway" shall mean 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 travel.
- C. "Property" shall mean any real property within the Town Limits of the Town of Highland Lake which is not a street or highway.
- D. "Vehicle" shall mean a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides, and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and/or wagon.
- E. "Junk" shall mean any dismantled vehicles, appliances, or other unsightly, discarded items not located within an enclosed building.

F. "Weeds" shall mean any injurious, noxious or unsightly weeds. Weeds 12" or higher are hereby deemed to be unsightly. As used herein, "weeds" shall include an economically useless plant, a plant of unsightly appearance, a tree or shrub of low economic value that tends to grow freely and a form of vegetable life of exuberant growth and injurious effect.

G. "Town" means the Town of Highland Lake, Alabama.

SECTION 2: VIOLATIONS

A. No person, firm or corporation shall deposit, store, keep or permit to be deposited, stored or kept in the open upon public or private property a dismantled, unserviceable, junked or abandoned vehicles (one legally or physically incapable of being operated) or motor vehicle parts, unless a license for said storage has theretofore been obtained from the proper authority.

B. No person shall abandon or leave any vehicle or partially dismantled, non-operating, wrecked or junked vehicle within the Town Limits or the police jurisdiction of Highland Lake. It shall be presumed that any vehicle which has been left at any place on a street or highway within the Town for a period of seventy-two (72) hours consecutively is an abandoned vehicle.

C. No person in charge or control of any property within the Town Limits of the Town's police jurisdiction, whether as an owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, non-operating, wrecked, junked, or discarded vehicle or vehicle parts, disabled appliances, or other unsightly discarded items to remain on any property within the Town longer than seventy-two (72) hours, and no person shall leave any such vehicle or motor vehicle parts on any property within the Town for a longer time than seventy-two (72) hours, except that this ordinance shall not apply with regard to a vehicle in an enclosed building.

D. It shall be unlawful for any owner, proprietor, tenant or other person in charge or control of any lot, place or premises that lies within the Town of Highland Lake, Alabama, when such lot, place or premises are not under cultivation for useful and productive purposes, to fail to keep and maintain the same free from injurious, noxious or unsightly weeds.

SECTION 3: NOTICE

Whenever it comes to the attention of the Mayor that any condition exists as defined in the previous Sections of this Ordinance in the Town, a notice in writing shall be served upon the occupant of the land where the said condition exists, or in case there is no such occupant, then upon the owner of such property or his agent, by certified mail, return receipt requested, or by personal service, notifying the occupant or owner of the existence of the condition and requesting its abatement within 21 days or failing this, a citation will be issued pursuant to Section 4 of this Ordinance. Upon a written request filed by the occupant or owner of such property, and upon extraordinary circumstances being shown, the Mayor may grant an extension for the abatement of the appropriate condition. In the event such an extension is granted by the Mayor, he shall report such extension to the Town Council at the next scheduled meeting of the said Town Council.

SECTION 4: PENALTIES

A. Any condition found to exist as described in this Ordinance is declared to be a public nuisance and further constitutes an offense under this Ordinance which is designated as a violation within the meaning of Title 12A Criminal Code, Code of Alabama, 1975, as amended. Upon the determination of the Mayor of the Town, or his/her subordinate that any violation of this Ordinance exists after notice, such official shall issue a citation to the owner, proprietor, tenant or other person in charge or control of the property or all or any one or more of them. The citation shall identify the violation and shall notify the Defendant, if this is a fourth offense, to appear in the District Court of Blount County, Alabama, at the time and place stated in the citation to answer the charge. The Defendant shall have all rights secured to persons charged in the town with violations generally. If the Defendant is found guilty by the District Court of Blount County, Alabama, the Court may impose a fine or imprisonment or both and court costs. Violations of this Ordinance are punishable by a term of imprisonment in the Blount County Jail not to exceed 30 days and a fine not to exceed \$500.00. In the event that District Court for Blount County, Alabama determines that a violation of this Ordinance exists, in addition to the fine or imprisonment as set out herein, it shall declare that a violation exists and shall make an Order requiring the abatement and removal of same within five (5) days from the making of said Order.

B. For a first offense, the owner or person in charge shall be required to pay a fine of \$50.00. For a second offense, the owner or person in charge shall be required to pay a fine of \$75.00. For a third offense, the owner or person in charge shall be required to pay a fine of \$100.00. For a fourth or subsequent offense, the owner or person in charge shall have a complaint filed against him or her in the District Court of Blount County, Alabama and punishment shall be determined by the District Court Judge. The fines for a first, second or third offense shall be paid to the Town Clerk at the Highland Lake Town Hall. Failure to pay the fine for a first, second or third offense may result in charges being brought against the owner or person in charge in the District Court for Blount County, Alabama.

Multiple offenses for one lot, place or premises, shall be cumulative within twelve (12) months from the date of the first offense. Repeat citations for the same offense may be issued in twenty-one (21) day intervals.

C. Any person convicted of any offense provided for herein by the Blount County District Court shall have the right to appeal to the Blount County Circuit Court, Criminal Division, for a trial de novo by filing within the same time and in the same manner as prescribed by law for violations generally. Trial by jury may be obtained by proper demand in accordance with the law for violations generally.

SECTION 5: ABATEMENT

If the owner or person having charge of any premises whereon there exists a condition as described in this Ordinance shall fail to remove and abate same after having been ordered to do so by the District Court Judge of Blount County, Alabama, the appropriate Town department shall enter upon said premises and at the expense of such person, shall proceed to abate and remove the said violation. The officer in charge of the work is directed to keep an account of the expenses of the abatement of the said violation to certify the same to the Town Council. Said officer shall keep separate accounts showing the total expense of abatement and removal from each separate lot or premises and certify the same to the Town Council; he shall report separately as to each piece of property whereon he has abated and removed said violation together with the description of the premises and the name of the owner or person having same in charge thereof (if known) and the total expense incurred in abating each such nuisance.

At intervals to be determined by the Town Council, the Town Council shall cause to be made a list showing the names of the owners or persons who have been ordered to abate any declared nuisance and failed or refused to abate such nuisance. The list shall include a statement of the amount incurred by the town for the abatement of the nuisance. If the name of the owners of said property are not known, the same may be stated as unknown. The Council shall set a time and place when such persons may appear and show cause, if any, they can, why the expense should not be assessed against them and the subject property. A notice shall be published one time in a newspaper of general circulation in Blount County, Alabama, said publication to be made at ten (10) days in advance of the date fixed for said hearing. At the time and place fixed for said hearing, the Town Council shall proceed to hear and determine any objections that may be interposed to such assessments, and unless good cause shall be shown, the Town shall proceed to levy an assessment against the person and the subject property from which said violations have been abated and removed. The assessment shall be for the expense of abating and removing said nuisance and the assessment shall be final and the Town shall have a charge and claim against such persons and a lien on the property so assessed for the amount of the respective assessments, which lien and charge it shall proceed to enforce and collect as any other debts are collected or liens enforced.

SECTION 6: CONFLICTS

A. The provisions contained herein shall be in addition to any existing Town Ordinances dealing with weed and litter control and further shall not restrict or prohibit in any way the pursuit of any and all other remedies allowed by law, including, but not limited to, equitable and injunctive relief from the appropriate court of law.

B. Public Provisions – These regulations are not intended to interfere with, abrogate, or annul any other Ordinance, rule or regulation, statute or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other Ordinance, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

C. Private Provisions – These regulations are not intended to abrogate any easement covenant or any other private agreement or restriction, provided that where the provision of these regulations is more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern.

D. None of the provisions contained herein shall apply to land owned or lawfully occupied by the Town of Highland Lake, Alabama, a political subdivision of the State of Alabama.

SECTION 7: SEVERABILITY

If any part or provision of these regulations or application thereof, to any person or circumstances, is adjudged invalid by any court of competent jurisdiction, said judgement shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgement shall have rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof o other persons or circumstances. The Town Council hereby declares that it would have enacted the remainder of these regulations even without any part, provision or application.

SECTION 8: SAVING PROVISION

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing regulations or as discontinuing, abating, modifying or altering any penalty occurring or about to occur or as affecting the liability of any person, firm or corporation, or as waiving any right of the Town under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the town except as shall be expressly provided for in these regulations.

SECTION 9: REPEALER

Upon passage of this Ordinance, the previous Ordinance HL93-12 and any amendments thereto are hereby repealed.

ADOPTED AND APPROVED on this the 7th day of July 2020.

Donna Hanby, Mayor

Carl Randall, Council

Sid Nelson, Council

Ramzi Malek, Council

Chase Moore, Council

ATTEST:

Joan Shirley, Town Clerk

