

ORDINANCE No. 14- 20

AN ORDINANCE OF THE CITY OF PALATKA, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF PALATKA TO REVISE CHAPTER 30, ENVIRONMENT, ARTICLE II, ENTITLED “JUNKED AUTOMOBILES AND ABANDONED PROPERTY” BY REVISING DEFINITIONS, PENALTY, SERVICE OF NOTICE TO REMOVE JUNKED VEHICLES AND ABANDONED PROPERTY FROM PUBLIC OR PRIVATE PROPERTY, AND REQUEST FOR, CONDUCT OF AND DECISION OF HEARING; BY DELETING SECTION 30-63, ENFORCEMENT, IMMUNITY OF ENFORCEMENT OFFICERS FROM PROSECUTION FOR TRESPASS; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, code violations involving junked vehicles and abandoned, wrecked or derelict property negatively affect the health, safety and welfare of the community as well as the general livability of the community in the City of Palatka; and

WHEREAS, code violations are enforced by the City of Palatka through its' Code Enforcement Officer and the Code Enforcement Board; and

WHEREAS, the City of Palatka wishes to enforce code violations in a uniform manner;

WHEREAS; the City of Palatka wishes to provide for the removal of junked vehicles or abandoned, wrecked and derelict property from public and private properties in the City of Palatka,

WHEREAS; the City of Palatka wishes to provide for the hearings to appeal notices for removal,

WHEREAS; the City of Palatka wishes to collect for the cost of removal and storage of junked vehicles, or abandoned, wrecked and derelict property,

WHEREAS, this Ordinance amends and replaces Chapter 30, Article III of the Palatka Municipal Code of Ordinances.

NOW, THEREFORE, BY IT ENACTED BY THE PEOPLE OF THE CITY OF PALATKA, FLORIDA, AS FOLLOWS:

Section 1. That Chapter 30, Environment, Article III, entitled Junked Automobiles and Abandoned Property, shall be and is hereby restated in its entirety as follows:

Sec. 30-61. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned property means wrecked or derelict property having no value other than nominal salvage value, if any, which has been left abandoned and unprotected from the elements, and shall include wrecked or partially dismantled motor vehicles, trailers, boats, machinery, refrigerators, washing machines, plumbing fixtures, furniture, and any other similar article which has no value other than nominal salvage value, if any, and which has been left abandoned and unprotected from the elements.

Enforcement officer means the city manager, police chief, police officer, **code enforcement officer**, director of public services, building official, building inspector or compliance officer, or any other officer or employee of the city designated by law or by the Charter, ordinances or resolutions of the city to enforce the provisions of this article.

Junked vehicle means any motor vehicle, as defined by state statutes, which:

- (1) Is inoperative and which does not have lawfully affixed thereto a valid unexpired license tag and which is wrecked, dismantled, partially dismantled or discarded; or
- (2) Remains inoperable for a continuous period of more than 120 days.

Private property means real property located within the city which is not owned or used by a governmental body, but does not include a place licensed and permitted under chapter 94 (the zoning code) to be used as a junkyard.

Public property means lands and improvements owned by the federal government or its agencies or bureaus, the state or its departments, divisions or districts, the county, and the city or any other municipalities lying within the county, and includes buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way and other similar property.

(Code 1981, § 10-1)

Cross reference— *Definitions generally, § 1-2.*

Sec. 30-62. - Penalty.

Any person violating the provisions of this article shall, upon conviction, be subject to punishment, as provided by **Chapter 2, Article II, Division 2, Section 2-314**. Each day that such violation shall continue shall constitute a separate offense.

(Code 1981, § 10-5)

~~Sec. 30-63. - Enforcement; immunity of enforcement officers from prosecution for trespass.~~

~~The enforcement officer shall enforce this article, and references in this article to the enforcement officer shall include his authorized assistants. Pursuant to the authority conferred by F.S. § 705.16(7), the enforcement officer or any person authorized by the enforcement officer shall be immune from prosecution, civil or criminal, for reasonable good faith trespass upon real property while in the discharge of duties imposed by this article.~~

(Code 1981, § 10-2)

Sec. 30-63. - Declaration of public nuisance.

The location or presence of any junked vehicle or abandoned, wrecked or derelict property on any lot or tract or parcel of land, or portion thereof, public or private, improved or unimproved, occupied or unoccupied, within the city shall be deemed a public nuisance, and it shall be unlawful for any person in the city to cause or maintain such public nuisance by wrecking, dismantling, rendering inoperable, abandoning or discarding his vehicle on the property of another, or to suffer, permit or allow such vehicle to be placed, located, maintained or exist upon his own real property; provided that this section shall not apply to:

- (1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property.
- (2) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer.
- (3) Unlicensed inoperable vehicles stored on private property; provided, however, that the vehicles and outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view from the fronting street or roadway by means of a fence, trees, shrubbery or other appropriate means.

(Code 1981, § 10-3)

Sec. 30-64. - Prohibited acts.

It shall be unlawful and no person shall:

- (1) *Abandoning property.* Place, leave or cause to be placed or left on public or private property any junked vehicles or any abandoned property.
- (2) *Abandoning airtight containers.* Place or leave outside a building or dwelling or on an unenclosed porch, areaway or other portion of a building or dwelling or in a place accessible to children, or permit to remain in a place under his control, an abandoned, unattended or discarded icebox, refrigerator, freezer or other container having an interior capacity of 1.5 cubic feet or capacity of 1.5 cubic feet or more, which has a substantially airtight door or cover designed or intended to be fastened with a snap lock or other mechanical device which, when closed, cannot readily be released for opening from the inside of the icebox, refrigerator, freezer or other container, unless the locking device shall have been removed and the door or cover which it was designed or intended to secure will open freely at all times.
- (3) *Obstructing enforcement officer.* Oppose, obstruct or resist the enforcement officer or any person authorized by the enforcement officer in the discharge of his duties as provided by this article.
- (4) *Removing or defacing notice.* Remove, deface or destroy any notice affixed to abandoned property under this article without the enforcement officer's consent.

(Code 1981, § 10-4)

Sec. 30-65. - Removal of junked vehicles from public property.

Removal of junked vehicles from public property shall be in accordance with F.S. § 705.103.

**Sec. 30-66. - Notice to remove abandoned property from public property—
Posting of notice.**

- (a) Whenever a public nuisance exists in the city in violation of this article and the enforcement officer for the city shall ascertain that an article of abandoned property is present on public property within the limits of the city, he shall prepare a notice of abandoned property, with sufficient copies thereof, and shall cause one copy of the notice to be placed upon such abandoned article in substantially the following form:

NOTICE OF ABANDONED PROPERTY
NOTICE TO THE OWNER AND ALL
PERSONS INTERESTED IN THE
ATTACHED PROPERTY

This property, to wit: (setting forth brief description) is unlawfully upon public property known as (setting forth brief description of location) and is a public nuisance, and must be abated and removed within ten days or, if the property is a boat, 30 days from date of this notice; otherwise it shall be presumed to be junked, abandoned or derelict property as defined by the Ordinances of the City of Palatka. Upon your failure to remove said property as hereby demanded, it is subject to removal by and may be removed and destroyed by order of the City of Palatka. If the property is a wrecked or partially dismantled motor vehicle or is a boat, you as the owner will be liable for the costs of removal and destruction.

Pre-taking hearing. You are further notified that you may, within the ten-day period, request a pre-taking hearing as to the propriety of this determination and necessity of removal of this article, by contacting the City of Palatka City Manager at the City of Palatka City Hall, 201 N. 2nd Street, Palatka, Florida.

Your failure to request a hearing within the ten-day period will act as a waiver of your right to a hearing and may result in the assessment of the cost of removal against you personally.

Dated this: (setting forth the date of posting of notice). Signed: (setting forth name, title, address and telephone number of enforcement officer).

- (b) Such notice shall be not less than eight inches by ten inches and shall be sufficiently weatherproof to withstand normal exposure to the elements for a period of ten days.

(Code 1981, § 10-6)

Sec. 30-67. - Same—Service of notice.

In addition to posting as provided in [section 30-67](#), the enforcement officer shall make a reasonable effort to ascertain the name and address of the owner. If he can reasonably ascertain the person responsible for placing, leaving or causing the placing or leaving of such abandoned property on public property, he shall serve that person, by mail or delivery, a copy of the notice of abandoned property and so indicate the service thereof on the face of the notice, noting the time, date and type of service and the name of the person so served. If the service is by delivery, the person receiving the notice shall sign the enforcement officer's copy as an acknowledgement that he has received such notice. If the person required by this section to sign a notice of abandoned property willfully fails or refuses to do so, the enforcement officer shall note this fact on the face of

the notice, which shall constitute prima facie evidence of delivery or service of notice as required by this section. If the service is by mail, it shall be sent to the person certified, return receipt requested. If the notice is returned undelivered by the United States Postal Service, official action to abate the nuisance shall be continued to a date not less than ten days from the date of such return.

(Code 1981, § 10-7)

Sec. 30-68. - Notice to remove junked vehicle or abandoned property from private property—Posting of notice.

- (a) Whenever a public nuisance exists in the city in violation of this article, and the enforcement officer of the city shall ascertain that a junked vehicle or an article of abandoned property is present on private property within the limits of the city in violation of any zoning ordinance or regulation, anti-litter ordinance or regulation, or other similar ordinance or regulation, he shall prepare a notice of abandoned property, with sufficient copies, to be placed upon such junked vehicle or abandoned article, in substantially the following form:

NOTICE OF ABANDONED PROPERTY
NOTICE TO THE OWNER AND ALL
PERSONS INTERESTED IN THE
ATTACHED PROPERTY

This property, to wit: (setting forth brief description) located at (setting forth brief description or location) is a public nuisance that must be abated, and is improperly stored and is in violation of (setting forth ordinance or regulation violated of the City of Palatka) and must be removed within ten days or, if the property is a boat, 30 days from date of this notice; otherwise it shall be presumed to be junked, wrecked, abandoned or derelict property as defined by the Ordinances of the City of Palatka. Upon your failure to remove said property as hereby demanded, it is subject to removal by and may be removed and destroyed by order of the City of Palatka. If the property is a motor vehicle or boat, you as the owner will be liable for the costs of removal and destruction.

Pre-taking hearing. You are further notified that you may, within the ten-day period, request a pre-taking hearing as to the propriety of this determination and necessity of removal of this article, by contacting the City of Palatka City Manager at the Palatka City Hall, 201 N. 2nd Street, Palatka, Florida.

Your failure to request a hearing within the ten-day period will act as a waiver of your right to a hearing and may result in the assessment of the cost of removal against you personally.

Dated this: (setting forth date of posting of notice). Signed: (setting forth name, title, address and telephone number of enforcement officer).

- (b) Such notice shall be sufficiently weatherproof to withstand normal exposure to the elements for a period of ten days.

(Code 1981, § 10-8)

Sec. 30-69. - Same—Service of notice.

In addition to posting as provided in [section 30-69](#), the enforcement officer shall make a reasonable effort to ascertain the name and address of the owner of the article and of the private property upon which the article was left. If he can

reasonably ascertain the person responsible for placing, leaving or causing the placing or leaving such article on private property and the landowner, he shall serve such persons, by mail or delivery, a copy of the notice of abandoned property and so indicate the service thereof on the face of the notice, noting the persons so served. If the service is by delivery, the person receiving the notice shall sign the enforcement officer's copy as an acknowledgement that he has received such notice. If the persons required by this section to sign a notice of abandoned property willfully fail or refuse to do so, the enforcement officer shall note this fact on the face of the notice, which shall constitute prima facie evidence of delivery or service of notice as required by this section. If the service is by mail, it shall be sent to such persons certified, return receipt requested. If the notice is returned undelivered by the United States Postal Service, official action to abate the nuisance shall be continued to a date not less than ten days from the date of such return.

(Code 1981, § 10-9)

Sec. 30-70. - Filing of copies of notices.

After the posting and serving of the notices as provided in this article, the enforcement officer shall retain information of the posting for the official record.

(Code 1981, § 10-10)

Sec. 30-71. - Failure to request hearing.

The failure of the interested person or owner of a junked vehicle abandoned on private property or an article abandoned on public or private property, upon which notice has been attached, to contact the city clerk or to otherwise request a pre-taking hearing as to the necessity of removal shall constitute a waiver of the right of such person to the hearing. If an abandoned article was removed from public property and the owner thereof was served with notice, the costs of removal, storage and disposition may be assessed against him personally. If the junked vehicle or abandoned article was removed from private property and the owner of the land was served with notice, such charges may be assessed by the disposal company and filed as a lien against the real estate from which the junked vehicle or abandoned article was removed.

(Code 1981, § 10-11)

Sec. 30-72. - Effect of request for hearing; conduct of hearing; decision.

- (a) If the person who received a notice of abandoned property under this article or his agent timely requests **(within ten days of notice to remove)** a pre-taking hearing on the propriety of this determination and a hearing of the necessity for removal of the abandoned property, a date shall be set ~~not more than ten days after the date of the request,~~ **for the next scheduled meeting of the Code Enforcement Board** for a public hearing prior to the removal of the junked vehicle from private property or abandoned property from public or private property. **The request for hearing shall be filed with the Code Enforcement Office.** The hearing shall be held before the ~~city commission or before an officer of the city as the commission may direct.~~ **Code Enforcement Board.** The timely filing of the request for a hearing shall operate as a stay of further action by the city under this article until the hearing has been completed and a decision rendered.
- (b) The city shall provide a convenient place for the hearing, which may be at the city hall, and shall make provision for a typed recording of the

proceedings. A record shall be kept of any evidence presented and of the names and addresses of any witnesses who testify. At the hearing, the interested person or property owner, his agent or his attorney shall be afforded an opportunity to present, by oral testimony or documentary evidence, his objections to:

- (1) The propriety of the determination of the public nuisance;
 - (2) The designation of the property as a junked vehicle or abandoned property;
 - (3) The necessity for removal of the junked vehicle from private property and the abandoned property from public or private property;
 - (4) His liability for the payment of cost for the removal, storage or disposition of the property, if required; and
 - (5) The proposed allocation of any proceeds realized from the disposition of the property.
- (c) At the conclusion of the hearing, ~~the city commission or the city officer appointed by the commission to hear the matter~~ **Code Enforcement Board** shall promptly render a decision on all issues presented. If the ~~board commission or the city officer~~:
- (1) Finds that no nuisance exists or that the property is not a junked vehicle or abandoned property, it shall direct that the notice of abandoned property previously served on the person, as a result of which the hearing was requested and held, be cancelled and that the removal notice attached to or near the property be removed.
 - (2) Finds that the property is a junked vehicle or abandoned property, it shall direct the removal of the property or its other disposition so that it no longer is abandoned, establish the extent of the liability of the person who requested the hearing for payment of the cost of such removal or other disposition, including storage charges, and direct the disbursement of the proceeds, if any, realized from the disposition of the property.
- (d) The decision so rendered shall be final, and a copy of the decision shall be furnished to the person who filed the request for the hearing, to the enforcement officer and to the city clerk.

(Code 1981, § 10-12)

Sec. 30-73. - Storage of abandoned property removed by city.

The enforcement officer is authorized to take possession of and store abandoned property found on public property whenever the abandoned property apparently is of more than nominal value and may be subject to destruction, damage or loss if it remains where the enforcement officer found it. The storage charges, if any, occasioned by the storage of the abandoned property pursuant to this section shall be and constitute a lien upon the stored abandoned property, and shall be paid or otherwise satisfied before the abandoned property is returned to the person entitled to possession thereof or when it is disposed of. In no case shall abandoned property be stored under this section for longer than 60 days unless it is the subject of judicial proceedings.

(Code 1981, § 10-13)

Sec. 30-74. - Removal by city authorized; payment of costs.

If no pre-taking hearing has been requested under this article, or if requested, the decision resulting from the hearing upholds the propriety of the actions of the enforcement officer in determining that a public nuisance does thereby exist, actions of the enforcement officer in determining that a public

nuisance does thereby exist, the junked vehicle when on private property and abandoned articles shall be promptly removed and disposed of pursuant to the following procedure:

- (1) If, at the end of ten days or, if the property is a boat, 30 days after posting such notice, the owner or any person interested in the abandoned article described in such notice has not removed the article and complied with the ordinance or regulation cited in the notice, the enforcement officer may cause the junked vehicle or articles of abandoned property to be removed and destroyed. The salvage value, if any, of such articles shall be retained by the removal company and/or the city to be applied against the cost of removal and destruction thereof, unless the costs of removal, storage and destruction are paid by the owner as provided in subsection (2) of this section, in which case the salvage value may be deposited in the general fund, or as otherwise determined by the city.
- (2) The owner of any abandoned motor vehicle or boat who, after notice as provided in this section, does not remove the vehicle or boat within the specified period shall be liable for all cost of removal and destruction of such property, less any salvage value received. In the case of an abandoned boat, any person who neglects or refuses to pay such amount shall not be entitled to be issued a certificate of registration for any other boat until such costs have been paid. The enforcement officer shall supply the state department of environmental protection with a list of persons whose boat registration privileges have been revoked under this subsection; and neither the department nor the tax collector or other person acting as agent thereof shall issue a certificate of registration to a person whose boat registration privilege has been revoked, as provided by this subsection, until such costs have been paid.

(Code 1981, § 10-14)

Sec. 30-75. - Removal with permission of owner or occupant.

If within ten days after receipt of notice from the enforcement officer to remove the junked vehicle or abandoned article or to abate the nuisance, as provided in this article, the owner or occupant of the premises shall give his written permission to the enforcement officer for the removal of the junked vehicle or abandoned article from the premises, the giving of such permission shall be considered compliance with the provisions of this article.

(Code 1981, § 10-15)

Sec. 30-76. - Exceptions.

The provisions of this article shall not prevent the city from effecting the immediate removal of a vehicle left on public property which constitutes an obstruction to traffic, or prevent prompt removal of any junked vehicle or abandoned property under circumstances constituting a public emergency or involving any actual or potential public calamity.

(Code 1981, § 10-16)

Section 2. That all sections Chapter 30, Article III of the Palatka Municipal Code be renumbered accordingly to accommodate the changes described in this Ordinance, if necessary.

Section 3. That all ordinances or parts of ordinances in conflict therewith are hereby repealed to the extent of such conflict.

Section 4. That if any section or portion of a section or subsection of this ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or portion of a section, subsection, or part of this ordinance.

Section 5. That this ordinance shall take effect upon its passage as provided by law.

Section 6. That a copy of this Ordinance shall be furnished to the Municipal Code Corporation for insertion in the Code of Ordinances for the City of Palatka, Florida.

PASSED AND ADOPTED by the City Commission of the City of Palatka second reading this 10th day of July, 2014.

CITY OF PALATKA

By: _____
Its **MAYOR**

ATTEST:

CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

City Attorney