

ORDINANCE 18- 20

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF OKALOOSA COUNTY, FLORIDA; AMENDING DIVISION 3, ARTICLE III AND ARTICLE VI OF CHAPTER 11 OF THE CODE OF OKALOOSA COUNTY; PROVIDING FINDINGS; PROVIDING ADDITIONAL DEFINITIONS; AMENDING THE DEFINITION OF LITTER; AMENDING ENFORCEMENT PROCEDURES FOR CODE ENFORCEMENT BOARD; AMENDING CODE ENFORCEMENT PROCEDURES FOR CITATIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, pursuant to Chapter 162, Florida Statutes, the Board of County Commissioners of Okaloosa County (the "Board") has the power to adopt Ordinances necessary for the exercise of its powers and to prescribe fines and penalties for the violation of Ordinances in accordance with law; and

**WHEREAS**, the Board desires to protect the public health, safety, and welfare of the citizens of Okaloosa County and maintain a high quality of life for the citizens of Okaloosa County; and

**WHEREAS**, the Board finds that the accumulation of litter and the creation of junkyard-like conditions has a negative impact on the character of the neighborhoods in which they occur which, if unabated, can lead to the establishment and proliferation of blight conditions which degrade property values and threaten the health, safety and welfare of the citizens; and

**WHEREAS**, in order to help maintain property values and community character by precluding the establishment of conditions that could lead to community blight, and to protect the public health, safety, and welfare, the Board finds that is in the public interest to provide additional protections and procedures for the elimination of the accumulation of litter and creation of junkyard-like conditions on property.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OKALOOSA COUNTY AS FOLLOWS:**

**Section 1. Recitals.**

That above recitals are true and incorporated by reference.

**Section 2.** The provisions of section 11-131. – Definitions of Division 3 of Article III of the Code of Ordinances of Okaloosa County, Florida are amended to modify the definition of “Litter” and to add various definitions.

**Sec. 11-131 - Definitions.** *Litter* means refuse and rubbish including, but not limited to paper, bottles, cans, glass, crockery, scrap metals, plastic, rubber, yard trash, tar paper, lumber, masonry, concrete, drywall, packing and crating materials, discarded appliances, junked automobiles, tires, tree and shrub trimmings, piles of leaves improperly placed in a public or private right-of-way in a manner contrary to requirements for the collection of solid waste as set forth in Article IV of Chapter 11 of the Code of Okaloosa County, disposable packages and containers, and any other solid waste matter readily visible while located at ground level from another property or from a public or private road right-of-way to the eye.

*Building* means any structure, habitable or otherwise, consisting of two or more walls and a roof.

*Building Official* means that employee of the Board of County Commissioners charged with the administration and enforcement of the Florida Building Code and related regulations as provided in Chapter 468 of the Florida Statutes.

*Community blight* means a condition in which a reasonable person would find that one or more properties has/have deteriorated or become unsafe or unsanitary, or has created a condition that the property is likely to become unsafe or unsanitary, including potentially harboring vermin such as rats, mice, and other rodents, disease bearing insects, or nuisance wildlife, due to the accumulation of junk or litter and for which the County has received one or more complaints.

*Junkyard-like conditions* include but are not limited to the accumulation on public or private property at a location readily visible while located at ground level from another property or from a public or private road right-of-way, of the following materials: litter; motor vehicle parts either in whole or in part and whether serviceable or otherwise; inoperable lawn equipment, refrigerators and other appliances; inoperable bicycles, golf carts, or other means of transportation other than automobiles and vessels regulated pursuant to Chapter 21 of the County Code; and goods and materials such as, for example, clothing, large or small appliances (washers, dryers, blenders, food processors, etc.), furniture, other than lawn furniture, books, papers, electronic equipment, cookware or utensils, and other items not customarily used or stored outside even if kept in bins or containers or under tarps or similar covers, provided that such storage or accumulation is such that it would be contributory to the establishment of community blight if allowed

to remain unabated. This definition is not intended to apply to the reasonable and temporary staging of construction materials or items not intended to remain in outside storage. This definition shall not apply to items meeting the preceding description located in a carport, pole barn, or a fully enclosed structure, nor shall it apply to such items within the curtilage if not readily visible while located at ground level from another property or from a public or private road right-of-way, nor to operable and good-working-order children's toys, including bicycles, scooters, skateboards, etc. on properties with an occupied residence, nor to properties for which the zoning allows such accumulation (e.g., a junkyard on property zoned for junkyards or construction materials stored on a property zoned for construction yards) and the accumulation is part of the active use (e.g., the construction company with which the construction yard is associated is in business) that is in compliance with the Land Development Code and other applicable regulations.

Repeat violation means a violation of a provision of a code or ordinance by a person who has been previously found through a code enforcement board or any other quasi-judicial or judicial process, to have violated or who has admitted violating the same provision within 5 years prior to the violation, notwithstanding the violations occur at different locations.

Structure means a thing that is built or constructed, regardless of whether it is made from prefabricated components.

**Section 3.** The provisions of section 11-134. – Definitions of Division 3 of Article III of Chapter 11 of the Code of Ordinances of Okaloosa County, Florida are amended as follows:

Sec. 11-134. - Litter storage.

(a) Non-Residential Property

(a)1. All commercial establishments shall store their litter in a controlled manner so as to eliminate wind-driven debris and litter in and about their establishments. The number and size of containers necessary for each commercial establishment shall be as required to control all waste generated on the premises. Spillage and overflow around containers shall be immediately cleaned up as it occurs by the generator.

(b)2. All loading and unloading areas at commercial establishments shall be provided with litter receptacles by the generator to store loose debris, paper, cardboard, packaging materials, and similar materials.

(c)3. It shall be the duty of any and every person, corporation, company, lessee, or agent owning or operating any public establishment or place open to the public to have available receptacles adequate to contain litter generated from such establishment.

(d)4. It shall be the duty of every person, corporation, company, firm, owner, lessee or agent in possession, charge of or in control of any place, public or private, where litter is accumulated or generated, to have available and at all times to keep such litter in adequate and suitable receptacles and/or containers capable of holding such materials until proper final disposal is accomplished.

(b) Residential and Non-Residential Property

(e)1. Any unauthorized accumulation of litter on any property, vacant or occupied, premises, public street, or other public or private place is a violation of this division.

2. All property within the Urban Development Boundary, a Rural Community Overlay, or within a subdivision platted with lots one (1) acre or less in size (whether in or out of the Urban Development Boundary or a Rural Community Overlay) of which greater than 50% are in individual ownership, shall not be allowed to exist in a junkyard-like condition which is readily visible while located at ground level from another property or from a public or private road right-of-way. Covering materials included within the definition of junkyard-like conditions with a tarp or other covering (except in the case of vehicles covered with actual vehicle covers) shall not constitute compliance with this provision. This provision shall not be construed to allow the accumulation or storage of hazardous materials as defined by federal or state regulations on any property unless all requisite local, state, and federal requirements have been issued and all materials are stored in compliance with such permits and regulations. The purpose and intent of this provision is to protect health, safety, and welfare, and is not intended to be a regulation of aesthetics.

**Section 4.** The provisions of section 11-605(b) 2. of Division 3 of Article VI of Chapter 11 of the Code of Ordinances of Okaloosa County, Florida, is hereby revised as follows:

(2) Should the violation continue beyond the time specified for correction in the notice of violation, and the code enforcement officer determines that there has been no progress in correcting the violations for which the notice was issued, the code enforcement officer shall notify the code enforcement board and schedule a public hearing. Written notice of such hearing shall be hand delivered or mailed by way of certified mail return receipt requested as provided in Section 162.12, Florida Statutes, to said violator. If the notice cannot be delivered by hand or through certified return receipt mail, notice may additionally be served by publication or posting as provided in Section 162.12, Florida Statutes. The hearing shall be conducted in accordance with section 11-607, below. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for

correction by the code enforcement officer, the case ~~shall~~ may be presented to the code enforcement board even if the violation has been corrected prior to the board hearing, and the notice shall so state. In those circumstances where there has been a reoccurrence of a violation, the code enforcement board shall hold a hearing and make a determination as to whether there has been a violation. Such determination shall be made even if the violation is corrected prior to the hearing. If a violation has been found to have existed by the code enforcement board, then such determination shall be deemed to constitute a finding of violation for the purposes of enforcement of a repeat violation. In the event the violation has continued beyond the time specified for correction in the notice of violation, but the code enforcement officer determines that progress has been made toward correcting the violations for which the notice was issued, the code enforcement officer may extend the time allowed for correction. The extension shall be in writing and delivered in the same manner as the hearing notice.

**Section 5.** The provisions of section 11-605(b) 3. of Division 3 of Article VI of Chapter 11 of the Code of Ordinances of Okaloosa County, Florida, is hereby revised as follows:

3. If a repeat violation is found to have occurred within five (5) years of a previous violation, the code enforcement officer shall provide the violator a written notice of violation ~~notify the violator~~ but is not required to give the violator a reasonable time to correct the violation even if all prior instances have been corrected within the timeframe allowed per prior notifications. In addition, upon determining that a repeat violation has occurred within the five (5) year period, the code enforcement officer shall assess a fine as provided in section 11-607 of the Code of Ordinances of Okaloosa County, Florida. Such fine shall begin accumulating immediately and shall continue until corrected. The code enforcement officer, upon ~~notifying~~ issuing the notice of violation to the violator of a repeat violation, shall notify the code enforcement board and shall place the violation on the agenda for the next regularly scheduled meeting. For violations, which pose an immediate threat to the public health and safety, the code enforcement board may hold a special meeting, which shall be noticed in accordance with all applicable statutes. The case ~~may~~ shall be presented to the code enforcement board even if the repeat violation has been corrected prior to the board hearing, and the notice shall so state. If a notice of violation has been issued for the a repeat violation has been and the violation was corrected, the code enforcement board retains the right to shall schedule a hearing to determine whether there was a violation and if found to have occurred, impose the costs and impose the payment of reasonable enforcement fees upon the repeat violator. For a repeat violation, the code enforcement board shall not reduce or otherwise waive the amount of fine imposed from the date of violation to the date the violation was corrected. The repeat violator may choose to waive his or her rights to this hearing and pay said costs and fines as determined by the code enforcement board. As used herein, a repeat violation is a recurrence of a violation of the same section of the code for which a citation or notice of violation has been previously issued

for the same property, or to the same property owner on a different property than the property for which these repeat violations provisions are being applied.

**Section 6.** The provisions of section 11-605(c) 1. of Division 3 of Article VI of Chapter 11 of the Code of Ordinances of Okaloosa County, Florida, is hereby revised as follows:

1. Prior to issuing a citation, a code enforcement officer shall provide notice to the person that has committed a violation of a code or ordinance and shall establish a reasonable time within which the person must correct the violation. Such time shall be no more than 30 days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time, a code enforcement officer may issue a citation and may notify the code enforcement board and request a hearing pursuant to the procedure set forth herein. A code enforcement officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if the code enforcement officer has reason to believe that the alleged violator is engaging in unlicensed contracting or that violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible. Further, if a repeat violation is found to have occurred within five (5) years of a previous violation, the code enforcement officer shall issue a citation but is not required to give the violator a reasonable time to correct the violation even if all prior instances have been corrected within the timeframe allowed per their notifications. In addition, upon determining that a repeat violation has occurred within the five (5) year period, the violation shall be subject to a fine as set forth in section 11-606 of the Code of Ordinances of Okaloosa County.

**Section 7. Conflicts.** The provisions of this Ordinance shall supersede all Okaloosa County Ordinances, parts thereof, in conflict herewith to the extent such conflicting ordinances, or parts thereof, regulate administrative adjustments.

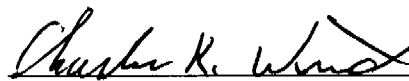
**Section 8. Severability.** If any provision of the Ordinance is declared, invalid, all other provisions thereof shall remain in force and effect.

**Section 9. Inclusion in the Code of Ordinances.** It is intention of the Board of County Commissioners that the provisions of this Ordinance shall be included in the Code of Ordinances of Okaloosa County, Florida, and that any renumbering of the various sections is hereby authorized as necessary to achieve this directive.

**Section 10. Effective Date.** This ordinance shall become effective as provided by law.


**PASSED AND DULY ADOPTED** by the Board of County Commissioners of Okaloosa County, this 6th day of November, 2018.

BOARD OF COUNTY COMMISSIONERS  
OKALOOSA COUNTY, FLORIDA

  
Graham W. Fountain, Chairman

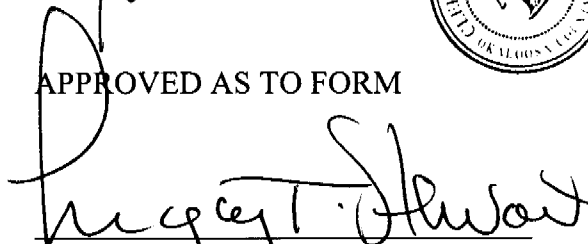


ATTEST:

  
J.D. Peacock, II, Clerk of Circuit Court



APPROVED AS TO FORM

  
Gregory T. Stewart, County Attorney



## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

November 6, 2018

Honorable J. D. Peacock II  
Clerk of the Circuit Court  
Okaloosa County  
101 East James Lee Boulevard  
Crestview, Florida 32563-1359

Attention: Ms. Renee S. Ramirez

Dear Mr. Peacock:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Okaloosa County Ordinance No. 18-20, which was filed in this office on November 6, 2018.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb