

TOWN OF MT. VERNON, ALABAMA

ORDINANCE 2024-199

AN ORDINANCE FOR THE ABATEMENT OF NUISANCES

WHEREAS, Section 11-47-117, Code of Alabama 1975, authorizes municipalities to abate all nuisances and to assess the costs against the person who created or maintained the nuisance.

WHEREAS, the Town Council of Mt. Vernon, Alabama, after due consideration deems it necessary and prudent to enact an ordinance to abate certain nuisances and to assess the costs against the person who created or maintained such nuisances.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MT. VERNON, ALABAMA, AS FOLLOWS:

Sec. 1. General.

This ordinance shall be known and cited to as the Mt. Vernon Weed and Junk Ordinance.

Sec. 2. Definitions.

The following words, when used in this division shall have the meaning ascribed to them, except where the context clearly indicates otherwise or requires a different meaning:

- (a) *Citation* shall mean a notice charging the violation of this division which directs anyone in violation to pay the prescribed fine or appear in municipal court to answer the charge or charges of violations.
- (b) *Town* shall mean the Town of Mt. Vernon, Alabama, and its police jurisdiction.
- (c) *Corrective notice* shall mean a courtesy notice or other communication to advise anyone that there may be a violation of this division that may require corrective action on the part of the recipient of the notice.
- (d) *Disturbed property* shall mean a vacant lot which has been cleared but otherwise not improved upon.
- (e) *Exempt property* shall mean a vacant and/or undeveloped lot.
- (f) *Junk vehicles* shall mean automobiles, trucks, vans, boats, two-wheel and/or four-wheel motorized vehicles that do not have lawfully affixed thereto an unexpired license plate, and/or are in states of

- (f) *Junk vehicles* shall mean automobiles, trucks, vans, boats, two-wheel and/or four-wheel motorized vehicles that do not have lawfully affixed thereto an unexpired license plate, and/or are in states of disrepair, disassembly, rusted through, wrecked or appearing to be wrecked, and/or are not otherwise capable of being driven or operated for its intended purpose, and boat trailers, utility trailers, horse or livestock trailers or other trailers of other use that are wrecked or appearing to be wrecked and/or in states of disrepair, disassembly, and/or rusted through, that do not have lawfully affixed thereto an unexpired license or tag and/or which are otherwise not capable of performing its intended use.
- (g) *Occupant* shall mean the person or entity in current possession or control of subject real property.
- (h) *Owner* shall mean the last person or entity against whom ad valorem taxes were assessed for subject real property.
- (i) *Underbrush* shall mean a dense growth of shrubs and/or small scrub trees, and or which bear seeds of a wingy or downy nature, which attain a growth higher than twelve (12) inches from ground level.

Sec. 3. Areas subject to division.

Unless specifically stated otherwise or where the context clearly indicates otherwise or requires a different meaning, each provision of this division shall apply to all real property within the Town other than exempt property as described above.

Sec. 4. Standard for maintenance of lots or parcels of real property.

- (a) *Weeds*. It shall be the duty and responsibility of every owner or occupant of any parcel of real property (other than "exempt property" as previously defined in this division), to keep said property clean and to remove from the property within the time frame so required by the correction notice issued by the Town all weeds and underbrush with a growth higher than twelve (12) inches, and/or dead trees, garbage, debris, and such other things favorable to the harboring of rodents, reptiles, mosquitoes or other insects or creatures which will adversely affect public health and safety.
- (b) *Disturbed property*. It shall be the duty and responsibility of every owner or occupant of any parcel of real property other than "exempt property" as described above, to grass said parcel and install

erosion control measures on said parcel in compliance with general industry standards within thirty (30) days from clearing said lot or parcel.

- (c) *Junk vehicles.* It shall be the duty and responsibility of every owner or occupant of real property to remove from the real property within the time frame so required by the correction notice issued by the Town all junk vehicles as previously defined in this division.

Sec. 5. Enforcement procedures.

- (a) When any police officer or other employee of the Town designated by law or ordinance as an enforcement officer finds any violation of any provision of this division which he is authorized or required to enforce, such person may issue on forms provided by the Town, a municipal offense citation and deliver it to the person in violation, directing the person to appear in the municipal court of the Town of Mt. Vernon at a time and date stated thereon to answer to the charge or charges of the violation, which shall be stated in the citation.
- (b) If the violation is the first charge violation of such provision of this division within a twelve-month period, such person, in lieu of appearing in the municipal court at the time and date stated in the citation, may pay a fine of fifty dollars (\$50.00), plus the costs of court within ten (10) calendar days from the date of issuance of the citation. Such payment to be tendered to the office of the municipal court clerk for the use of the Town as may be designated by law.
- (c) The police officers and other employees of the Town, designated by law or ordinance as enforcement officers and authorized to issue citations as above provided, are hereby authorized to swear out warrants or execute affidavits or complaints charging persons with the violations of this division without first having issued a citation for such violation.
- (d) Any employee of the Town designated by the mayor or chief of police may issue corrective notices to persons, corporations, establishments, companies, owners, tenants, occupants and agents found to be in violation of any provision of this division. The issuance of such corrective notice is not necessary for the prosecution of violations of this division.

Sec. 6. Failure to comply with notice.

Any person, corporation, company, firm, business, institution, owner, lessee, agent, tenant or occupant who has been served with a corrective notice in accordance with the provisions of this division and who shall neglect or shall refuse or shall fail to fully comply with the corrective notices so ordered and/or within the time frame so ordered therein shall be in violation of this division.

Sec. 7. Penalties.

Any person found guilty of violating any provision of this division shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or by imprisonment in the Town jail for a period not exceeding six (6) months, or both, or, in the alternative, may be sentenced to pick up litter or any other lawful remedial action which the municipal judge deems appropriate. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

Sec. 8. Lien on real property.

If the recipient of a corrective notice fails to fully comply with the same as set forth hereinabove, the Town may, exclusive of the provisions of this division, pursuant to the provisions of Code of Ala. 1975, § 11-67-20 et seq. (as amended) declare the property a public nuisance and abate the same in accord with such statutory authority.

Sec. 9. Abatement of Nuisances.

In addition to the punishment set forth in section 7 herein, all nuisances may be abated as follows:

- (a) *Notice.* The enforcing official shall give the owner or tenant, or other person or entity written notice in person or by first class mail. The notice shall require the owner to comply with this article within the time stated in the notice or to request an administrative hearing before the enforcing official or other person as designated by the mayor to determine whether there has been a violation. The notice shall apprise the owner of the facts of the alleged nuisance and shall name the particular date, time, and place for such hearing, if requested. For a nuisance, the notice shall contain the names of all known owners and lienholders of the property, the street address or a legal description of the property, if available, and the nature of the proceeding.

The notice shall be delivered or mailed via first class mail to owner, if known, that person shown by the records of the county tax collector to have been the last person assessed for payment of ad valorem tax on the property where the nuisance is situated, or the current operator of the premises if leased or rented, or both. It shall be the responsibility of that person to promptly advise the enforcing official of any change in ownership or interest in the property. It shall be unlawful to knowingly fail to notify the enforcing official of any such change of ownership or interest.

The notice shall require the owner to complete abatement of any nuisance within thirty (30) days from the date of notice, provided the enforcing official may stipulate additional time, but in no case more than a total of one hundred fifty (150) days.

If an owner has been notified within the preceding twelve (12) months that the growth of grass or weeds violates this article, the enforcing official is authorized to give written notice to the owner to appear in court at a time and place to be fixed in the notice and then and there show cause why the growth of grass and weeds should not be declared a nuisance. The enforcing official is authorized to proceed to cut and remove the grass and weeds to the extent of the violation.

- (b) *Service.* The notice provided for in subsection (a) shall be served upon the owner of the property or the person having charge of the property, as the case may be. If such person is not known or cannot be found within the Town or its police jurisdiction, service of the notice shall be effected by posting one (1) copy thereof on the premises where such nuisance is found to exist, and the notice, as herein provided for, shall be served or posted, as the case may be, at least five (5) days before the date fixed for hearing before the municipal court.
- (c) *Hearing before the municipal judge.* A hearing before the municipal judge must be requested within five (5) days of the date of the notice by the enforcing official. The enforcing official shall notify the owner by personal service or by first class mail of the determination of the municipal judge. If the municipal judge determines that a nuisance exists, the owner must comply with the initial order to abate issued by the enforcing official, with such modifications as may be made by the municipal judge.

- (d) *Abatement procedure.* If the owner or person having charge of any premises whereon there exists a nuisance in violation of this article, shall fail to abate the same within the period prescribed in the notice or the five (5) days after the abatement thereof has been ordered by the municipal judge, the Town shall enter upon the premises and at the expense of such person, shall proceed to abate the nuisance, and the officer in charge of the work is hereby directed to keep an account of the expense of abating the nuisance, and to certify the same monthly to the council. The officer shall keep separate accounts showing the total expense of abating the nuisances from each separate lot or premises, and in certifying the same to the council, shall report separately as to each piece of property wherefrom the Town has incurred such expense, together with a description of the premises, and the name of the owner or person having the same in charge thereof (if known) and the total expense incurred in abating each such nuisance. If prisoners or persons are employed, a reasonable charge for their labor shall be included in the expense to be charged against the property owner or occupant of the premises.
- (e) *Assessment of costs.* At intervals to be determined by the Town council, it shall cause to be made a list showing the names of the owners or persons who have in charge the premises from which nuisances have been removed or abated at the expense of such persons as hereinbefore provided, together with a description of the property from which the nuisance has been removed, and the statement of the amount of the expense (as reported by the officer overseeing the abatement) of removing the nuisance from each such piece of property. If the names of the owners of the property are not known, 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, that the expense should not be assessed against them and their respective premises, and shall cause such notice to be published one (1) time in some newspaper published in the Town, the publication to be made at least ten (10) days in advance of the date fixed for such hearing. At the time and place fixed for the 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 against the right of the Town to assess the same, shall proceed to levy an assessment against the persons and their respective premises (from which the nuisance was abated)

(f) *Collection of costs.* The Town clerk shall also file with the tax collector of the county, a copy of such nuisance abatement costs and lien and the tax collector shall collect the nuisance abatement costs and lien under the optional method of taxation pursuant to Code of Ala. 1975, §§ 11-51-4 through 11-51-75, as it presently exists or hereinafter amended. The lien shall be added to the next regular bill of taxes levied against such property and shall be collected in the same manner as ordinary municipal ad valorem taxes and shall be subject to the same penalties and procedures under foreclosure and sale in the case of delinquency as provided by law.

ADOPTED AND APPROVED by the Town Council of the Town of Mt. Vernon, Alabama at a meeting thereof held on the 9th day of April, 2024.


ERIC L. PEOPLES, Mayor

ATTEST:


JACQUELINE A. NILES, Town Clerk