

ORDINANCE 489

ORDINANCE RENDERING IT UNLAWFUL TO ALLOW CERTAIN PROPERTY TO BE OR REMAIN UPON PRIVATE PROPERTY OR PUBLIC PROPERTY WITHIN THE CITY OF COLLINS, MISSISSIPPI, AND DECLARING THE SAME TO CONSTITUTE A PUBLIC NUISANCE AND PROVIDING FOR THE DISPOSAL THEREOF AND FOR RELATED RELIEF

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF COLLINS, MISSISSIPPI AS FOLLOWS:

Section 1. Definitions.

The following words, whenever used in this Ordinance, shall have the following meanings ascribed to them unless a different meaning clearly appears from the context:

- A. Abandoned Property - vehicles, bicycles and other wheeled devices left unattended on a public street, road, highway or other public property for a period of ten (10) days or longer.
- B. Abate - the removal of abandoned property, junked vehicles or derelict property to some location on private property not in violation of this ordinance or any provision hereof.
- C. Automobile Junkyard - any establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts.
- D. City - the city of Collins, Mississippi, and any area lying within the corporate limits of the city of Collins, Mississippi.
- E. Derelict Property - any personal property, other than a motor vehicle, which is incapable of operation or use in a manner consistent with its design and marketing in its existing state of repair, including but not limited to, wrecked or partially dismantled vehicles, trailers, boats, machinery, equipment, refrigerators, washing machines, or other appliances, plumbing fixtures, furniture and other such items.
- F. Junked Vehicle - any motor vehicle which does not have lawfully affixed thereto both an unexpired license plate and a current motor vehicle safety inspection certificate, or the condition of which is wrecked, dismantled, partially dismantled, inoperable, abandoned, or discarded and is not capable of lawfully being driven upon the public streets of the city.
- G. Motor Vehicle - any motor vehicle as defined by the Mississippi Motor Vehicle Title Law.
- H. Person - any person, owner or lessee, firm, business, partnership, sole proprietorship, association, corporation, company or organization of any kind.
- I. Private Property - any real or personal property not owned by the city of Collins, Mississippi, Covington County, Mississippi, or the state of Mississippi, or the United States of America, or any other governmental entity .
- J. Public Property - any real or personal property owned by the city of Collins, Mississippi, Covington County, Mississippi, the state of Mississippi, the United States of America, or any other governmental entity, including, without limitation, any and all roads, streets, avenues, lanes, alleys, sidewalks, or other public ways and parks, squares, plazas, grounds, and buildings frequented by the general public, whether publicly or privately owned.
- K. Street or Highway - the entire width between the boundary lines or right of way lines of any public way when any part thereof is open to the use of the public for purposes of vehicular travel.
- L. Vehicle - any device in, upon or by which a person or property is or may be transported upon a highway, road, street, lane or alley, excepting devices moved by human power or used exclusively upon stationary rails or tracks.
- M. Within Public View - an offending condition readily visible from a public road, right of way, park, or other public place, or visible from lands owned or in possession of some other person

Section 2. Prohibition.

The location or presence of any abandoned property, junked vehicle, or derelict property on any private or public property within the city constitutes a public nuisance, and it shall be unlawful for any person or persons to cause or maintain such public nuisance upon public property, or upon the owner's own property or upon the property of another, or to suffer, permit or allow abandoned property, junked vehicles or derelict property to be placed, located, maintained or to exist upon the owner's own property or the property of another, provided that this section shall not apply to:

- A. 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;
- B. 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, vehicle repair shop or automobile junkyard;

- C. unlicensed, inoperable vehicles stored on private property utilized as a single family residence or utilized as a commercial establishment, provided, however, that the vehicles and storage areas are maintained in such a manner that they do not constitute a health hazard and are not visible from the street or other public or private property;
- D. any property disposed of or deposited in or upon property properly licensed or permitted for the disposal of such derelict property; or
- E. any property impounded by the city or by agents of the city.

Section 3. Presumption of Consent.

- A. If any junked vehicle or derelict property shall remain on private property for ten (10) days or longer, a presumption shall arise that the presence of such property upon such private property resulted from an act of consent of the landowner or tenant in possession.
- B. If any junked vehicle or derelict property shall remain on public property for ten (10) days or longer, a presumption shall arise that the presence of such property upon public property resulted from an act of consent of the owner of said property.

Section 4. Abatement or Removal Order and Service.

- A. The owner or tenant in possession of private property upon which any junked vehicle or other derelict property exists shall abate such nuisance within ten (10) days after service of written notice from the city to do so.
- B. The owner of any abandoned property shall abate such nuisance within (10) days after service of written notice from the city so to do.
- C. Notice hereinabove required shall be served upon the owner of said property located on public property or upon the owner or tenant in possession of private property in any one or more of the following methods:
 - (i) personally;
 - (ii) by leaving notice at the dwelling house or usual place of abode of the owner or tenant in possession with a competent member of his/her family of the age of sixteen (16) years or over;
 - (iii) personally upon a partner, officer, director, trustee, manager, agent or registered agent of any business entity;
 - (iv) if the owner or person in possession of the property on which the derelict property is located does not reside or maintain an office within the city, the notice may be served by ordinary mail and/or by certified mail, postage pre-paid, addressed to the known residence, office or principal place of business of the owner or person in possession of said property. If service of written notice is refused, and the certified mail envelope is returned with an endorsement reflecting the same to have been refused or unclaimed, notice shall be deemed complete when such endorsement is returned;
 - (v) by affixing a copy of said notice to the junked vehicle or derelict property which is the subject of said violation
- D. Such notice shall contain the following information:
 - (i) nature of complaint and findings;
 - (ii) a description and location of the property which is the subject of the nuisance;
 - (iii) statement that such property must be abated no later than ten (10) days from the date of notification;
 - (iv) statement that removal from the location specified in the notification to another location upon which such storage is not permitted is prohibited and shall be subject to the imposition of additional penalties;
 - (v) statement that if abatement is made within the time limit specified, notification shall be given in writing to the City Clerk;
 - (vi) statement of the penalties to be imposed for non-compliance with the notice.

Section 5. Disposal of Junked Vehicles and Derelict Property.

If such public nuisance is not abated within ten (10) days following the date of the notice given in accord with this ordinance, the city may, but shall not be required to, take action to abate the nuisance in the following manner:

- A. Abandoned or junked motor vehicles or parts thereof shall be towed and impounded by a wrecker service and/or by the city or by agents of the city, until lawfully claimed or disposed of in accord with Sections 63-23-1 through 63-23-11 of the Mississippi Code of 1972, as amended.

- B. All abandoned and/or derelict property, other than motor vehicles, shall be towed or otherwise removed by the city or by agents of the city and impounded at such site as the city may determine, whether on city property or on private property; and;
- (i) such property shall be held for thirty (30) days, at the expiration of which, all rights of ownership in and to said property or any part or parcel thereof shall be forfeited, and the city may dispose thereof in such a manner as the city may determine;
 - (ii) however, at any time prior to disposal, the owner of said property may redeem the same upon payment of all towing, removal and/or storage charges incurred by the city, and the payment of such administrative costs as may be determined by the city; and
 - (iii) proof of ownership of all such property shall be produced prior to redemption of said property.

Section 6. Entry Upon Private Property Permitted.

Any inspection officer or police officer of the city, having reasonable cause to believe that such nuisance exists upon private property, may enter upon that private property for the purpose of enforcing this ordinance, obtaining information concerning the nature of the nuisance, or the owner of the offending property, or removing or causing to be removed such property, and serving notices provided for in this ordinance.

Section 7. Removal of Vehicles that Obstruct Traffic.

Nothing in this ordinance shall affect the right of the city to remove vehicles on public property which constitutes an obstruction to traffic

Section 8. Penalty.

- A. Any owner or tenant in possession of private property upon which any junked vehicle or derelict property exists, who shall fail to abate such nuisance within ten (10) days after service of written notice from the city so to do in the manner hereinabove designated in Section 4, is guilty of a misdemeanor; and upon conviction thereof for the first offense, shall be fined the sum of \$100.00, and for each offense after the first offense, shall be fined the sum of \$500.00 for each such offense, or be imprisoned for a period not to exceed ninety (90) days, or both; each day that such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such thereunder.
- B. Any owner or owners of abandoned property, junked vehicles or derelict property located on public property who shall fail to abate such nuisance within ten (10) days after service of written notice from the city so to do in the manner hereinabove designated in Section 4, is guilty of a misdemeanor; and upon conviction thereof for the first offense, shall be fined the sum of \$100.00, and for each offense after the first offense, shall be fined the sum of \$500.00 for each such offense, or be imprisoned for a period not to exceed ninety (90) days, or both; each day that such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such thereunder.

Section 9. Severability.

If any section, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then, said holding shall in no way affect the validity of the remaining portions of this ordinance.

Section 10. Cumulative Relief.

This ordinance is cumulative and in addition to any other relevant laws or ordinances, and this ordinance does not repeal any presently existing ordinance relative hereto. This ordinance shall be liberally interpreted in order to accomplish its purpose.

Section 11. Effective date.

This ordinance shall become effective thirty (30) days after the date hereof.

So Ordained this the 5th day of August, 2014.

V. O. SMITH, MAYOR

ATTEST:

SUZETTE DAVIS, CITY CLERK