

ORDINANCE NO. 2025-02-03-01

**AN ORDINANCE ADOPTING THE ASHLAND NUISANCE ORDINANCE OF 2023,
DEFINING NUISANCES GENERALLY, ESTABLISHING PROCEDURES FOR THE
ABATEMENT OF NUISANCES, PROVIDING PENALTIES FOR VIOLATIONS,
REPEALING ALL CONFLICTING ORDINANCES; AND PROVIDING FOR AN
EFFECTIVE DATE OF SAID ORDINANCE**

BE IT ORDAINED BY THE CITY COUNCIL OF ASHLAND, ALABAMA AS FOLLOWS:

ARTICLE I. ADMINISTRATION

Section 1.1: Purpose. The purpose of this ordinance is to foster harmonious relationships within the City of Ashland, Alabama (“City”) and promote the health, safety, and prosperity of its citizens by specifying the responsibilities of persons for maintaining all property within the City under their control.

ARTICLE II. DEFINITIONS

Section 2.1: Definitions. For the purposes of this ordinance, the following terms, phrases, words, and their respective derivations shall have the meanings given herein:

A. Appropriate City Official. The term appropriate city official shall mean any law enforcement officer with the City’s Police Department and any city official or city employee designated by the mayor as a person authorized to exercise the authority and perform the duties herein. In addition, any City employee who is designated by the chief of police as a Code Enforcement Officer or whose title includes “Code Enforcement Officer” is hereby designated an appropriate city official.

B. City. The City of Ashland, Alabama.

C. County. Clay County, Alabama.

D. Discarded Furnishing. Discarded furnishing shall mean any furniture, appliance, carpeting, mattresses, box springs, or other similar item, originally intended for indoor use and placed outside of a fully enclosed structure.

E. Inoperable. Incapable of being used for the manufactured, designed, or originally intended purpose.

F. Junk. All scrap metal (ferrous or nonferrous), inoperable vehicles and/or the component parts thereof, rubber tires, appliances, discarded furnishings, machinery, equipment, discarded or unused building material, or other items that are either in a wholly or partially rusted, wrecked, junked, dismantled or inoperative condition.

G. Junk Yard. Any lot or parcel of land, structure, or any part thereof, used for the collection, dismantling, storage, or salvaging of machinery or inoperable vehicles or the parts thereof or upon or in which discarded or nonfunctional articles, products, materials or other junk items are kept, compacted, burned, stored, cannibalized, bought, or sold. Such articles shall include but are not limited to discarded furnishings, all scrap metal, demolition materials or debris, worn or used rags, plastic, glass, and used tires.

H. Litter. Litter means all uncontainerized or improperly containerized rubbish, refuse, garbage, waste, including but not limited to used bottles, cans, glass, paper, and disposable packages, dead animals or fowl, offal, scrap metal, cigarettes, cigars, discarded household furnishing, or manmade waste material, including waste that can be or is subject to being blown from place to place or scattered by the elements.

I. Nuisance. A nuisance is anything that works hurt, inconvenience, or damage to another. The fact the act done may otherwise be lawful shall not prevent it from being a

nuisance. The inconvenience complained of must not be fanciful or such as would affect only one of fastidious taste, but it must be such that would affect an ordinary and reasonable man.

J. Owner. A person or entity, whether singular or plural, listed as the titleholder of record in the records of the City, County, or State, including information on file with the County's revenue commissioner, or who is otherwise identified to be the owner of an equitable or beneficial interest in property, including any person or entity who has possession, use, or enjoyment of the subject property, such as an occupant or tenant.

K. Person. Any individual, firm, corporation, or other entity or organization of any kind. The term "person" shall include, but not be limited to, any trustee, administrator, executor, personal representative, other legal representative, including guardians and/or conservators, and/or the heirs, successors, or assigns of such person where the text so permits.

L. Public Nuisance. Anything that may damage ordinary and reasonable persons who come within the sphere of its operation, though it may vary in its effects on individuals.

M. Trash or Garbage. Trash means all household or business waste, litter, and refuse and includes organic material such as tree limbs, tree trunks, wood, building material, and dead shrubbery and any waste, whether animal, vegetable, or otherwise, resulting from the handling, preparation, or consumption of food or food products. Grass clippings and leaves shall be excepted from this definition when prepared as and contained in a compost bin.

ARTICLE III. NUISANCES UNLAWFUL & VIOLATIONS GENERALLY

Section 3.1. Nuisance Declared and Unlawful. It shall be unlawful and constitute a public nuisance for any person having charge, control, or possession of real property within the City's police jurisdiction to create, cause, or maintain, or to permit the creation or maintenance of, a public nuisance upon such property. A person with a duty to prevent or abate any nuisance is

liable for separate and distinct offenses for each day or part thereof the nuisance remains, and such periods may be charged as separate offenses.

Section 3.2. Citation Authorized; Summary Abatement not Required. An appropriate city official is expressly authorized to issue a municipal citation or complaint for a violation of this Ordinance regardless of whether summary abatement has been attempted.

ARTICLE IV. NUISANCES, GENERALLY

Section 4.1. Property Maintenance Generally. Each person in charge, control, or possession, whether actual or constructive, of real property within the City and its police jurisdiction shall maintain such property in a clean, sanitary, and safe condition and such obligation shall include, but not be limited to, the duty to prevent and abate the conditions enumerated in Sections 4.2 to 4.9 from existing upon said property. The conditions in Sections 4.2 to 4.9 are hereby expressly declared to constitute a public nuisance.

Section 4.2. Keeping of Junk Prohibited. No person having charge, care, or possession, whether actual or constructive, of any real property within the City's police jurisdiction shall store or keep upon such premises any inoperable vehicles, discarded furnishings, scrap metal, discarded building materials, or other junk, unless the same is housed in an enclosed, covered structure so as not to be viewable from any street, alley, or other public right of way or any other private premises, and in such a manner as to prevent a health, safety, or fire hazard.

A. **Limited Junk Yard Exception.** The operation of a legitimate and licensed junk yard shall be excepted from the prohibitions in this section, provided the accumulated junk, machinery, motor vehicles, parts, appliances, articles, or other materials:

- i. are enclosed within an opaque fence, solid wall structure, or otherwise completely obscured from public view to the extent required by the Ashland Zoning Ordinance;

ii. do not extend beyond the boundary lines of the property on which the business is principally located; and

iii. do not become breeding places for rodents, snakes, insects, or other vermin that pose or may become a hazard to the health and safety of the citizens.

B. **Limited Exceptions for Inoperable Vehicles.** Vehicles being repaired or awaiting repair that are located on the premises of any automobile dealer, repair and body shop, or other vehicle enterprise or business that is duly licensed and operated in compliance with all City ordinances and all other applicable laws provided the vehicles are so located or stored in a manner as to prevent any health, fire, or safety hazard. A person who has or permits no more than two (2) inoperable vehicles that are not housed in a covered, enclosed structure, to be kept or stored upon property under his or her control shall not, by virtue of mere presence of such inoperable vehicles, be deemed to have violated this Section.

Section 4.3. Keeping of Litter & Trash Prohibited. No person having charge, care, or possession, whether actual or constructive, of any real property within the City's police jurisdiction shall allow upon such premises an accumulation of litter, trash, or any combination of litter and trash, unless the same is containerized and stored or kept in such a manner as to prevent it from being blown, deposited, or otherwise scattered by the elements, animals, birds, or other means. The careless littering of a few, smaller individual items such as aluminum or plastic bottles, cans, used or worn rags, cigarette or cigar butts, shall not be considered an accumulation of litter or trash unless such items pose a threat to human health or environment.

Section 4.4. Stagnant or Foul Water Prohibited. No person having charge, care, or possession, whether actual or constructive, of any real property within the City's police jurisdiction

shall allow upon such premises the accumulation of stagnant or foul water, whether natural or manmade.

A. **Exceptions.** The following are exempt from the stagnant, but not foul, water requirements of this section:

- i. Ponds or lakes that are more than one-half acre in size;
- ii. Ponds or lakes that are stocked with fish;
- iii. Ponds or lakes aerated or operated by some mechanical means.

B. **Swimming Pools or Hot Tubs.** Between April 15 and November 15 of each year, no person shall allow water to remain in a swimming pool or hot tub located on real property within the City's police jurisdiction that is in the person's possession, custody, or control, unless such water is regularly circulating through an operational filtration system and treated by chlorine, salt, or other such chemical treatment.

Section 4.5. Dead or Diseased Trees and Ornamental Growth. No person having charge, care, or possession, whether actual or constructive, of any privately owned real property within the City's police jurisdiction shall fail to remove or fail to cause to be removed from such premises any tree or ornamental or non-ornamental plant growth that is dead, damaged, deteriorated, decayed, or has otherwise become hazardous for any reason and that poses a danger to public property or members of the public, by reason of falling, splitting, uprooting, shedding limbs, or otherwise.

Section 4.6. Obnoxious Odors or Stench. No person having care, charge, or possession, whether actual or constructive, of any property within the City's police jurisdiction shall permit or allow any disagreeable or obnoxious odor or stench to emanate from such premises.

Section 4.7. Intrusions into Right of Way Prohibited. No person having care, charge, or possession, whether actual or constructive, of any real property within the City's police jurisdiction shall permit, maintain, or fail to remove from such premises any physical intrusion into a public right-of-way, irrespective of height or size, including any structures, unoccupied vehicles, or loose fill materials, regardless of whether deliberately placed in the right of way. It shall be the duty of each owner to keep any public rights-of-way burdening the owner's premises free and clear from any physical intrusion.

Section 4.8. Commercial Retail and Shopkeeper Nuisances Prohibited. No person having care, charge, or possession, whether actual or constructive, of any real property within the City's police jurisdiction upon which is operated a retail store, secondhand store, thrift store, or similar commercial establishment, to keep or display or permit to be kept or displayed any merchandise, goods, or wares, including, but not limited to, gas or electric appliances, parts thereof; plumbing fixtures, or part thereof; lawn mowers or lawn more parts; machinery, equipment, utensils, or items displayed for sale to the general public, in such a manner to constitute a health, safety, or fire hazard.

Section 4.9. Unsafe or Dangerous Conditions, Generally. No person having care, charge, or possession, whether actual or constructive, of any real property within the City's police jurisdiction shall permit, maintain, or fail to remove anything dangerous, offensive, or unwholesome that poses an imminent risk of injury, whether to persons or public property, or is likely to cause discomfort or annoyance to the public at large, including, without limitation, any condition that provides harborage for snakes, rats, mice, or other vermin.

ARTICLE V. ABATEMENT

Section 5.1. Initial Abatement Notice. When an appropriate city official finds a public nuisance exists, other than a public nuisance arising by virtue of an unsafe, dangerous, or dilapidated structure, weeds, or an abundance of overgrown grass, the official may initiate abatement proceedings by giving written notice to the Owner by certified mail, return receipt requested, or as otherwise provided by Section 7.1.

A. **Contents of Notice.** The notice shall:

- a. contain a description of the real property, by street address or otherwise, on which the nuisance exists;
- b. identify and describe the nuisance(s);
- c. direct the recipient to abate the nuisance within fourteen (14) days from the date of the notice;
- d. notify the recipient that an objection to the abatement order may be made by submitting a written objection to the City Clerk within fourteen (14) days of the date of the notice, but that such objection will not necessarily stop or delay efforts to eliminate the nuisance; and
- e. if the nuisance is not timely abated, the City Council will hold a hearing to consider directing the City to abate the nuisance at the Owner's cost and expense.
- f. that the Owners will be jointly and severally liable for all abatement costs incurred by the City, which may also be assessed against the property.

Section 4.2. Council Hearing. If the nuisance is not timely abated, the City Council or the City Clerk shall set a date for a public hearing at which the City Council shall hear evidence and objections concerning the alleged nuisance. The hearing may be set during any regularly

scheduled meeting of the City Council or for a special meeting; provided, however, that such hearing shall occur not more than ninety (90) days after the date of the initial abatement order. Notice of the hearing shall be given to the Owner via personal delivery or certified mail, return receipt requested, not less than ten (10) days prior to the hearing.

Section 4.3. Conduct of Hearing. The City Council shall, at the date and time of the public hearing, hear the evidence and objections concerning the alleged nuisance. If the objections are overruled or if no objection is made, the City Council may, by resolution, find that a public nuisance exists and order the City to abate the nuisance at the Owner's cost and expense. The decision of the City Council shall be final, and the City may proceed with the abatement ten (10) days after the adoption of the resolution calling for abatement. The Owner may abate the nuisance provided the Owner abates the same before the City commences work on the abatement.

A. **Notice of Resolution.** If the Council finds a public nuisance exists and orders the same abated, the City Clerk shall mail a copy of resolution to the Owner via United States First Class Mail, postage prepaid, and post a copy of the resolution on the subject property; provided, however, that if an Owner attends the hearing, no further notice shall be required.

Section 3.3. Assessment of Costs. The city official responsible for abating or managing the abatement of the nuisance shall keep accurate records of all costs and expenses associated with the abatement, including the costs of service contracts, attorneys' fees, certified mail fees, and the costs of disposing of trash or rubbish.

A. **Report & Notice of Costs.** The city official responsible for abating or managing the abatement of the nuisance shall send to the Owner via First Class United States Mail written notice that identifies (i) the total costs and expenses the City incurred with respect to the abatement and (ii) the date and time of the hearing at which the City Council will consider

fixing and assessing such costs, which shall become a special assessment and lien upon the property upon the adoption of such resolution. Said notice shall be mailed not less than ten (10) days prior to the hearing.

B. **Adoption of Resolution.** At the time and place of the hearing on assessment of costs, the City Council shall hear and consider the evidence and objections, if any, in support of the assessment of the costs and expenses of abatement, and if the objections are overruled or no objection is made, the City Council shall adopt a resolution fixing the costs and expenses of abatement as reported, which shall be a special assessment and a lien against the subject property and a personal obligation of the Owner. The Council may sustain such objections, whether in whole or in part, and assess a sum less than the total reported to the extent it deems appropriate.

C. **Notice of Resolution.** The City Clerk may record in the Office of the Judge of Probate a certified copy of the resolution assessing the cost. The City Clerk or the city attorney may cause a satisfaction of lien to be recorded in the Office of the Judge of Probate upon the City's receipt of the sums so assessed.

Section 3.4. Payment and Collection of Assessment. The Owner shall pay the sum of the assessment, in full, to the City within twenty-eight (28) days of the date of the assessment. Upon payment of all amounts becoming due and owing by virtue of the assessment, including interest, late charges, and other penalties, if any, the City Clerk or city attorney shall cause the lien or assessment recorded in the Office of the Probate Judge to be satisfied or released. If the Owner or Occupant fails to timely pay the assessment in full, the City may proceed to collect the sums as follows:

A. **Municipal Assessment Lien.** The City Clerk may proceed to collect such amounts at the same time and in the same manner as ordinary municipal assessments are collected, and the amounts shall be subject to the same penalties and the same procedure for foreclosure and sale in case of delinquency as provided for ordinary municipal assessments.

B. **Judicial Action.** The Mayor may direct that a judicial action be initiated against persons liable therefore to recover the sums due under the assessment.

C. **Collection as Taxes.** If legislation is enacted to allow assessment of costs as taxes and collection by the county revenue commissioner, the City Clerk shall forward appropriate documents to obtain collection in such manner.

D. **Other Collection Efforts.** The City may exercise any other right or pursue any other remedy now or hereafter available to the City.

ARTICLE VI. ENFORCEMENT

Section 6.1. Enforcement. Any violation of this Ordinance may be redressed by either summary abatement, the issuance of a municipal citation or complaint to the responsible person, or any combination of the foregoing, in addition to all other enforcement rights and remedies available to the City.

Section 6.2. Violation is Misdemeanor. Each person convicted of violating any section of this Ordinance shall be guilty of a misdemeanor, which shall be punishable by a fine of not less than \$50.00 nor more than \$500.00, by imprisonment for not more than thirty (30) days, or both for each conviction. Any person convicted of violating this Ordinance shall also be responsible for payment of court costs.

A. **Continuous Violation.** A person with a duty to prevent or abate any public nuisance is liable for separate and distinct offenses for each day or part thereof the nuisance remains, and such periods may be charged as separate offenses.

Section 6.3. Authority to Issue Citation or Complaint. Only an appropriate city official shall be authorized to issue a citation or complaint for a violation of this Ordinance.

Section 6.4. Remedies Cumulative. The requirement to abate a nuisance is not a penalty for violating this Ordinance but is an additional remedy available to the City. Nothing in this Ordinance shall be construed as limiting the City's rights and remedies, including rights and remedies not expressly identified in this Ordinance, with respect to any nuisance or the abatement thereof, and nothing in this Ordinance precludes the issuance of a municipal citation or complaint for any nuisance as defined herein without the City first attempting summary abatement.

Section 6.5. Injunctive Relief. The City shall be permitted, but not required, to seek in a court of appropriate jurisdiction injunctive relief concerning any violation of this Ordinance.

ARTICLE VII. MISCELLANEOUS PROVISIONS

Section 7.1. Notice & Service. Services of notices required by this Ordinance shall, unless otherwise set forth above, be made via personal delivery or by certified mail, postage prepaid, return receipt requested, to the Owner's last known address. In absence of contrary information known to the appropriate city official, the Owner shall be conclusively presumed to be the person last assessing the subject property for payment of *ad valorem* taxes as shown by the records of the County's revenue commissioner. When service herein is permitted or required by mail, the mailing of such notice by certified or first-class mail as required herein, properly addressed and postage prepaid, shall constitute notice.

Section 7.2. Cumulative. This ordinance is cumulative in its nature and in addition to any and all power and authority the City has or may have under any other law.

Section 7.3. Construction. This Ordinance shall be construed to contain all power granted to municipalities under Sections 11-40-10, 11-47-117 to -118, 11-47-131, and 11-47-130 to -140, Code of Alabama, 1975, providing for controlling nuisances, sanitation and good public health and safety conditions.

Section 7.4. Separability. Is it the intention of the City Council that each separate provision of this Ordinance shall be deemed independent of all provisions herein, and it is the further intention of the City Council that if any provision of this ordinance be declared invalid, all other provisions shall remain valid and enforceable.

Section 7.5. Repeal of Other Ordinances. The 2005 Ashland Nuisance Ordinance, adopted on April 4, 2005, as Ordinance No. 2005-04-04-01, and any provision of any other ordinance adopted by the City that is inconsistent with this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect. This Ordinance does not repeal the Ashland Noise Ordinance of 2024, Ordinance No. 2024-02-05-01, or any portion thereof.

Section 7.6. Pending Proceedings. Nothing in this ordinance shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired or liability incurred, nor any cause or causes of action or existing, under any code section or ordinance hereby repealed, nor shall any right or remedy of any character be lost, impaired or affected by this ordinance.

Section 7.7. Effective Date. This Ordinance shall take effect upon its due adoption and publication as required by law.

ADOPTED AND APPROVED this _____ day of _____, 2025.

CITY OF ASHLAND, ALABAMA

LARRY J. FETNER, its Mayor

ATTEST:

CHELSEY WYNN, Ashland City Clerk

DIANNE BALLARD, Council
Member, District 1

BOBBIE STEED, Council Member,
District 2

KIM CAIN, Council Member,
District 3

ANNETTE GAITHER, Council
Member, District 4

TOMMY CANTRELL, Council
Member, District 5

STATE OF ALABAMA)
)
COUNTY OF CLAY)

CERTIFICATION OF PUBLICATION

I hereby certify the Ashland Nuisance Ordinance of 2025, passed and adopted on the ____ day of _____, 202__ as Ordinance No. 2025-__-__-__, was published by posting at the following locations on the ____ day of _____, 2025, at ____ o'clock __.m.:

1. Ashland City Hall (Mayor's office);
2. Ashland Public Library;
3. Ashland Post Office;
4. the Clay County Courthouse; and
5. City of Ashland website (<https://www.cityofashlandal.com/>).

All notices will remain posted for not less than thirty (30) days after posting.

CERTIFIED this ____ day of _____, 2025.

CITY OF ASHLAND, ALABAMA

CHELSEY WYNN
City Clerk/Administrator

CERTIFICATION

I, Chelsey Wynn, the duly appointed, qualified, and acting Clerk of the City of Ashland, Alabama, do hereby certify the foregoing is a true, correct, and complete copy of Ordinance No. 2025-_____ adopted by the City Council of the City of Ashland, Alabama, at a regular meeting held on the ___ day of _____, 2025, and at which a quorum was present and acting throughout, the original of which is on file and of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of the City of Ashland, Alabama on this the ___ day of _____, 2025.

CHELSEY WYNN, Ashland City Clerk

State of Alabama)
County of Clay)

SUBSCRIBED and SWORN to before me, this ___ day of _____, 2025.

(NOTARY SEAL)

Notary Public
My Commission Expires: _____

Ordinance & Certification Prepared By:
Spencer P. Waddell
Gregory Varner & Associates
Post Office Box 338
Ashland, Alabama 36251