ORDINANCE NO. 2247

ORDINANCE AMENDING CHAPTER 42 ARTICLE IV OF CITY CODE TO ADDRESS INOPERABLE VEHICLES ON PRIVATE PROPERTY

WHEREAS, Northport City Code Chapter 42, Article IV. Junked or Inoperable Vehicles, enables the city to issue tickets for nuisance inoperable vehicles, and

WHEREAS, the City occasionally encounters situations where ticketing or other hand-delivery is not possible, and

WHEREAS, the City wishes to clarify the procedure for removing nuisance inoperable vehicles from private property if hand-delivery of notice or ticketing is not possible.

NOW, THEREFORE, BE IT ORDAINED by the City Council for the City of Northport, Alabama, as follows:

1. The City of Northport amends Chapter 42, Article IV. of the City of Northport Code of Ordinances, as set forth in Exhibit "A" which is attached hereto and incorporated by reference as if fully set out verbatim.
2. This Ordinance shall become effective immediately upon passage and publication.
3. All Ordinances, Resolutions, or parts thereof conflicting in any manner herewith are hereby repealed.

ORDAINED AND DONE this 18th day of November 2024.

CITY COUNCIL OF THE CITY OF NORTHPORT

BY:_____

ATTEST: Christy Bobo, Its President

_____

Glenda Webb, City Administrator-Clerk

APPROVED this 18th day of November 2024

_____

Dr. John Hinton, Mayor

I hereby certify that the above and foregoing Ordinance was published on November 27, 2024, in the Northport Gazette, a newspaper of general circulation published in the City of Northport.

_____

Glenda Webb, City Administrator-Clerk

1st Reading:	November 4, 2024
Motion:	Aiken
2nd Reading:	November 18, 2024
Motion By:	Aiken
Second By:	Washington
Publication:	November 27, 2024

EXHIBIT “A”

ARTICLE IV. JUNKED OR INOPERABLE VEHICLES[1]

DIVISION 1. - GENERALLY

Sec. 42-81. Prohibited.

It shall be unlawful for any person in charge or control of any premises located in a residential zone of the city, whether such a person is the tenant, owner, occupant, lessee or otherwise, to allow any junked or inoperable vehicle to remain on the property longer than ten calendar days after written notice has been served upon such person or, if such person cannot be found after a reasonably diligent search, then the notice shall be posted upon the vehicle by any environmental control officer, any other city or state law enforcement officer or health officer of the county, notifying such person to remove such vehicle or vehicles from the premises. In lieu of this procedure, the city may utilize the provisions of the abandoned vehicle law.

Sec. 42-82. Exceptions.

This article shall not apply to any vehicle in an enclosed building or to any vehicle on the premises of a licensed junk dealer or similar business when the keeping of such vehicle is necessary to the operation of such licensed business.

Sec. 42-83. Declaration of public nuisance.

Any unoccupied vehicle parked in a no parking, tow-away zone, or parked upon a public street or any public alley in the city, at a place, in a manner or for a length of time prohibited in this article or by any ordinance of the city is hereby declared to be an obstruction to traffic and a public nuisance, and any police officer of the city is hereby authorized to remove such vehicle or to cause such vehicle to be removed and impounded at police headquarters, or such other location designated by the city for such purposes pursuant to Code of Ala. 1975, §§ 32-13-2, 32-5A-139.

Sec. 42-84. Authority to impound.

Whenever any police officer of the city shall find upon any public street, public parking lot or public alley of the city, or within the police jurisdiction, any vehicle which he has reasonable cause to believe to be lost, stolen or abandoned, or any vehicle which is, or is likely to become, an obstruction on a public way, or to be without proper protection by reason of the person in charge or control thereof having been arrested or incarcerated, or any truck or trailer, left standing, whether attended or unattended, in violation of section 70-53, such officer shall have authority immediately to remove such vehicle or cause such vehicle to be removed to, and impounded at, police headquarters or in a depository provided by the city for such purpose.

Sec. 42-85. Lien on impounded vehicles.

The city shall have a lien upon each impounded vehicle for the amount of the cost of removing such vehicle. Any violation of the provisions of this article shall be subject to the penalty provisions of section 1-6 of this Code.

[1]Cross-reference(s)—Offenses and miscellaneous provisions, ch. 54; junk, scrap and salvage, § 54-286 et seq.; traffic control, ch. 70.

DIVISION 2. - STORAGE AND REMOVAL OF INOPERABLE VEHICLES ON PRIVATE PROPERTY

Sec. 42-86. Storage and removal of inoperable vehicles—Scope, findings and purpose.

(a) This section applies to all inoperable vehicles parked on private property in public view within the city and provides the city with a process to remove an inoperable vehicle(s) from private property when the city is unable to deliver a violation notice to the appropriate individual(s) by hand delivery pursuant to section 2-267 of this Code.

(b) The purpose of this article is to safeguard the peace and safety and to maintain the general welfare of the residents of the city and their visitors by establishing a removal procedure for abandoned, junked, wrecked, dismantled, inoperative, rusted, junked, or partially dismantled vehicles placed in a residential area.

(c) The restrictions on placement of inoperable vehicles and requirement of their removal are necessary to protect the public health, safety and welfare of its residents.

Sec. 42-87. Definitions.

For the purposes of this article, the following terms, phrases, words and their derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Evidence of disuse, neglect or abandonment may include, without limitation, factors such as: the vehicle being wrecked or inoperable; the vehicle being partially dismantled, having no engine, transmission, or other major or necessary parts; the vehicle having no valid license tag; there being vegetation underneath the vehicle as high as or higher than the lower portion of the vehicle body or frame; there being refuse or debris collected under the vehicle; the vehicle being used solely for storage purposes; and/or the vehicle being in any physical state rendering it inoperable.

Inoperable motor vehicle means any motor vehicle, trailer, or semitrailer regardless of size that has remained on private property and in view of the general public for thirty (30) days or more and (i) is inoperable in that one (1) or more of its major mechanical components, including, but not limited to, the engine, transmission, drive train, or wheels, are missing or are not functional, or the vehicle otherwise constitutes a nuisance; (ii) is apparently incapable of being self-propelled upon the public streets of the city; (iii) does not meet the requirements for operation upon the public streets of the city, including a current motor vehicle registration; and/or (iv) shows evidence of disuse, neglect or abandonment, including flat or rotted tires. A motor vehicle shall be considered abandoned or disabled if it shows evidence of disuse, neglect or abandonment.

Person means any person, firm, partnership, corporation, association, company or organization of any kind.

Private property means any real property within the city which is privately owned and which is not public property owned by the city or any other governmental unit.

Property means any real property within the city.

Vehicle means a machine propelled by power other than human power designated to travel along the ground by use of wheels, treads, runners, or slides and shall include, without limitation, an all-terrain vehicle (ATV), automobile, bus, truck, trailer, motorcycle, tractor, go-carts, golf carts, buggy and wagon, and camper.

Sec. 42-88. Prohibited; declared nuisance.

(a) Unless otherwise set forth in this article, it shall be unlawful for any person to park, leave or store more than two (2) inoperable motor vehicles upon any lot, place or premises in all residential and commercial districts, subject to the exemptions enumerated in Sec. 42-89, below. All such vehicles shall be screened from view from all public or private street rights-of-way by virtue of storage within an enclosed building or being screened by privacy fencing, topography, and/or vegetation.

(b) Any inoperable motor vehicle parked upon a place, in a manner, or for a length of time prohibited by this article or any other ordinance or regulation of the city is hereby declared to be a public nuisance, subject to removal, impoundment and disposal.

Sec. 42-89. Exemptions.

(a) An inoperable motor vehicle shall not be deemed a nuisance and in violation of this article if:

(1) The vehicle has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations for a period not greater than thirty (30) days;

(2) The vehicle is on the premises of a properly zoned place of business engaged in the wrecking or junking of motor vehicles, or primarily engaged in the storage and sale of damaged or theft-recovered vehicles for insurers; or

(3) The vehicle is kept in an enclosed building or being screened by privacy fencing such that any inoperable vehicle is completely shielded from the view of others off of the private property on which the vehicle is located.

(b) These exemptions are subject to the requirements of other applicable provisions of the Code.

Sec. 42-90. Notice.

(a) Whenever any city representative, who is charged with the responsibility of enforcement of this article and who is unable to obtain service by hand delivery upon a property owner, proprietor, tenant or other person in charge or control of the property (or any one of more of them) that is in violation of this article, shall find an inoperable motor vehicle as defined herein, the representative shall issue (i) a "notice of violation" by causing a notice to be placed on the vehicle that a hearing may be requested on the question of abatement and removal of the vehicle and that if no hearing is requested, the inoperable motor vehicle will be removed and (ii) a written notice by certified mail, with return receipt requested, to the property owner of record (as evidenced by the records of the tax assessor of Tuscaloosa County, Alabama) upon whose private property the vehicle is found, and in cases where the vehicle is in such a condition that identification numbers are available to determine ownership, also to the last registered owner of record of the vehicle and to any secured party or other holder of a recorded or registered security interest or lien on the motor vehicle. The notice shall be considered received and effective within five (5) days of mailing regardless of whether the notice is actually received by the recipient.

(b) The notice shall indicate that the vehicle is determined to be a public nuisance and that the owner of the vehicle is given ten (10) days from the date the notice is received in which to cause the vehicle to be removed from said property and noting that, if the vehicle is not removed within that period of time, the city will cause its removal and all expenses incurred thereby will be assessed against the registered owner of the vehicle if the identity of the owner can be determined, or the costs may be assessed against the owner of the property on which the vehicle is located.

(c) The notice shall further provide that a hearing before the city council on the question of abatement and removal of the inoperable motor vehicle as a public nuisance may be requested in writing by the owner of the vehicle, any secured party, or the property owner within the ten-day period.

Sec. 42-91. Request for a hearing.

If a written request for a hearing is received within the ten (10) day period, the matter shall be placed on the agenda of the city council at a regularly scheduled meeting subsequent to the receipt of the request. A notice giving the time, location, and date of the hearing on the question of abatement and removal of the inoperable motor vehicle as a public nuisance shall be mailed by certified mail, with a return receipt requested, to (i) the owner of the land as shown on the last equalized tax assessment roll, and (ii) the last registered and legal owner of record of the vehicle and any registered or recorded secured party or lienholder, if applicable, unless the vehicle is in such a condition that identification numbers are not available to determine ownership.

Sec. 42-92. Public hearing.

(a) The owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land or otherwise show the owner's plans to abate the nuisance. No cost of the administration or removal of the vehicle against the landowner shall be assessed if it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that the landowner has not subsequently acquiesced to its presence.

(b) The registered owner of the vehicle may appear in person at the hearing and present:

  (1) Any reason why such vehicle should not be determined to be a public nuisance, why removal should not occur, or why the cost of abatement should not be assessed against said owner; and/or

  (2) A plan for abatement of said vehicle within a set period of time.

(c) Any secured party may appear and present a plan for removal of the vehicle or may present reasons why the vehicle should not be removed and sold by the city.

(d) The city council shall consider the information presented at the meeting at which it is presented and may:

  (1) Determine that the information or evidence submitted raises issues which require additional investigation and vote to continue consideration of the matter to a subsequently scheduled meeting;

  (2) Deny any requested relief and order the abatement of the vehicle and its disposal;

  (3) Declare that property owner on whose property the vehicle is responsible for the vehicle due to the vehicle having been placed on the land without the consent of the landowner and that the landowner has not subsequently acquiesced in its presence;

  (4) Determine that the vehicle is not a public nuisance and that removal is not required;

  (5) Accept an adequate plan for removal of the vehicle presented by the property owner or owner of the vehicle, set a date certain by which time the vehicle shall be removed and direct that in the event the vehicle is not removed by the date set, the vehicle shall be immediately abated by the city and all costs assessed against the party presenting the plan for removal; and/or

  (6) Take any other action that it deems appropriate.

Sec. 42-93. Removal by registered owner, secured party or property owner.

The registered owner of the vehicle, any secured party or the owner of the private property on which the vehicle is located may remove the vehicle at such person's own expense at any time prior to the removal of the vehicle by the city.

Sec. 42-94. Removal by city.

If the vehicle has not been removed by the owner of the property, the owner of the vehicle, or the holder of the security interest, and if a request for hearing before the city council has not been made at the conclusion of ten (10) days from the date that the notice is deemed received under section 42-90 of this article, then the city shall cause the vehicle to be removed.

If a request is made pursuant to that notice for a hearing before the city council and the city council determines that the vehicle is a public nuisance and that removal should proceed, and the property owner, vehicle owner or holder of the security interest has not removed the vehicle within five (5) days from the date of the decision of the city council, then the city shall cause the vehicle to be removed. If a plan for removal of the vehicle had been presented to the city council and accepted and removal has not been accomplished by the date set, then the city shall cause the immediate removal and disposal of the vehicle.

The city may contract with any entity, person, or group to impound the inoperable motor vehicle or to carry out other functions necessary to administer the intent of this article.

Sec. 42-95. Disposal of vehicles.

(a) Inoperable motor vehicles removed by the city may be disposed of by sealed bid or auction whichever method shall, in the opinion of the city purchasing agent, be in the best interests of the city.

(b) Prior to the sale or disposition of the inoperable vehicle, the same must be advertised for at minimum two (2) consecutive weeks in newspaper of general circulation.

(c) The sale of the abandoned motor vehicle shall be subject to the rights of any secured party or other holder of a recorded or registered security interest or lien on the motor vehicle, which has requested a hearing and verified the existence of the security interest or lien within the time permitted by the procedure.

(d) The proceeds of any such sale shall first be applied toward the payment of any and all expenses incurred by the city pursuant to the implementation of this article, including expenses of sale and the cost of removal and related storage fees.

(e) Any remaining proceeds after payment as provided in the above subsection (d) shall be held by the city for six (6) months after the date of the sale and shall be turned over to the legal holder of title to the motor vehicle if claimed. If at the end of the six (6) month period no person has claimed the proceeds of the sale, then these funds shall be deposited into the city's general fund.

Sec. 42-96. Assessment of costs.

At the conclusion of the removal process and after sale of any such vehicle has been made, all costs incurred by the city in the implementation of this provision of this code which have not been offset by proceeds of the sale of the vehicle will be assessed against the registered owner of the vehicle if the identity of the owner can be determined or the costs may be assessed against the property owner on whose property the vehicle was located unless said property owner shall have requested a hearing as herein provided and shall have presented to the city council evidence sufficient for the council to determine that the vehicle was placed on the property without the consent of the landowner and that the landowner has not subsequently acquiesced in its presence on the property.

Sec. 42-97. Redemption of impounded vehicle.

The owner of any vehicle seized under the provisions of this article may redeem such vehicle at any time after its removal, but prior to the sale or destruction thereof, upon proof of ownership and payment to the city of the actual and reasonable expenses of removal, any preliminary sale advertising expenses, and any and all charges, fees, or expenses for the removal and storage for each vehicle redeemed.

Sec. 42-98. Penalties.

In addition to the right of removal of any inoperable vehicle found to be in violation of any provision of this article, any city representative, who is charged with the responsibility of enforcement of this article, is hereby authorized to cause a complaint to be filed in the municipal court alleging a violation of any provision of this article against any person found to be in violation of this article. Such complaint shall be heard and tried in the municipal court in the same manner as other violations of municipal ordinances of this city are heard and tried. Any person in violation of any provision of this article shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished as provided for in section 1-6 of this Code.

Sec. 42-99. Limited right of entry upon private property.

Members of the police department of the city and/or other city representatives shall have the limited right to enter upon private property to reasonably ascertain the violations of any terms, conditions or provisions of this article, which right of entry shall include the right to gather information to properly identify the owner of the vehicle alleged to be in violation of this article and/or the occupant or owner of the property upon which the vehicle is located.

Sec. 42-100. Article provisions cumulative.

The provisions of this article are cumulative to any other procedure now authorized by law for the accomplishment of the objective hereinabove stated.

Sec. 42-101. Civil penalties.

A violation of any portion of this article constitutes a public nuisance per se. The city, as an additional or alternate remedy, may institute equitable or injunctive proceedings in a court of competent jurisdiction to abate uses prohibited by this article.

Secs. 42-102—42-110. Reserved.