

ORDINANCE NUMBER 1464-14

AN ORDINANCE AMENDING ORDINANCE NUMBER 1452-13 OF THE CITY OF MUSCLE SHOALS, ALABAMA AND PROVIDING FOR AND PERTAINING TO THE CLEARING OF TRASH AND DEBRIS AND CUTTING OF WEEDS, REMOVAL OF JUNK AND NONCONFORMING VEHICLES WITHIN THE CITY OF MUSCLE SHOALS, ALABAMA

BE IT ORDAINED by the Council of the City of Muscle Shoals, Alabama as follows:

ORDINANCE NUMBER 1452-13 and the provisions thereof heretofore adopted by the Council of the City of Muscle Shoals, Alabama on August 19, 2013 are hereby amended to read in its entirety as follows:

BE IT FURTHER ORDAINED by the Council of the City of Muscle Shoals, Alabama as follows:

Section 1. DEFINITIONS:

The following words, terms and phrases, when used in this section, shall have the following meanings:

Junk means any metals, machinery, plumbing fixtures, vehicle part(s) (including, but not limited to, mechanical parts, auto body parts, engine parts, mufflers, bumpers, truck caps and shells, truck storage boxes, box truck cargo areas, and trailer boxes), boat part(s), trailer part(s), mechanical part(s), rubber tire(s), appliance(s), furniture, machinery, equipment, building material, wire, cable, bearings, valves, pipes, pipe fittings, wood, or other items which are either in a wholly or partially rusted, wrecked, disabled, discarded, dismantled, or inoperative condition.

Litter means rubbish, refuse, waste material, garbage, dead animals or fowl, offal, paper, glass, cans, bottles, trash, scrap metal, debris, or any foreign substance of whatever kind and description, and whether or not it is of value. As used herein, "litter" shall also include fallen or cut limbs, tree cuttings, fallen or cut trees, vegetation cuttings, and yard waste. Any agricultural product in its natural state that is unintentionally deposited on a public highway, road, street, or public right-of-way shall not be deemed litter.

Nonconforming vehicle means any vehicle or trailer (including, but not

limited to, cars, trucks, boats, motorcycles, and recreational vehicles) that is inoperable in that one or more of its major mechanical components including, but not limited to, engine, transmission, drive train, or wheels is or are missing or not functional. A nonconforming vehicle shall also include an automobile or motorcycle that may not be legally operated on a public street due to the absence of a current license tag, unless such vehicle:

- (a) Is on real property owned or leased by and in the control of an automobile dealer who is properly licensed to sell new or used vehicles at said property, and
- (b) Said vehicle is held and offered for sale as shown by a sign or other physical indication on the vehicle.

Overgrown grasses and weeds means any growth of grasses or weeds favorable to the harboring of mosquitoes or other insects, rats, snakes, or rodents or reptiles of like kind, and every such growth of grasses or weeds more than 12" inches in height shall be deemed favorable to the harboring of mosquitoes or other insects, rats, snakes, or rodents or reptiles of like kind, within the meaning of this ordinance.

Section 2. DUTY TO KEEP PROPERTY CLEAR AND FREE FROM LITTER AND JUNK.

(a) *Residential and other noncommercial properties.* Any owner, lessee, or person in control of any property used for residential or noncommercial purposes shall keep any and all portions of the property that are not located inside a fully enclosed structure clear and free from litter and junk. This duty shall extend to all porches, patios, decks, sidewalks, driveways, alleyways, and rights-of-way (other than public roadways) lying adjacent to said residential property.

(b) *Commercial properties.* Any owner, proprietor, or person in control of any property used for commercial purposes shall keep and maintain any and all portions of the property that are not located inside a fully enclosed structure clear and free from litter and junk. As used herein, the phrase "the property on which the business is conducted" shall include, but is not limited to, all premises, parking lots, and loading/unloading areas that are owned, leased or utilized by the business. This duty shall also extend to all porches, patios, decks sidewalks, parking lots, driveways, alleyways, and rights-of-way (other than public roadways) lying adjacent to said property.

(c) *[Exceptions.]* There is no violation of this section where:

(1) The condition relates to the placement of litter or junk (that would otherwise constitute a violation of this section) on the property for collection in a manner that adheres to all applicable requirements of Chapter 94 (Solid Waste and Garbage) of the Code of Ordinances of the City of Muscle Shoals, Alabama; or

(2) With respect to property used for commercial purposes, the condition relates to materials, goods, and/or supplies (not including vehicle(s), trailer(s), or vehicle and/or trailer part(s)) that are normally stored, displayed, or kept

outside on the premises of duly licensed building supply companies, lumberyards, plumbing supply companies, nurseries, and similar commercial establishments, so long as the materials, goods and/or supplies (i) are not wholly or partially rusted, wrecked, ruined for their intended purpose or dismantled, disabled, or inoperative, and (ii) are stored in such a manner so as to prevent overgrowth with grass and/or weeds or the harboring of rats, mice, insects, reptiles, or other vermin; or so located as to prevent any health, fire or safety hazard;

(3) With respect to property used for commercial purposes, agricultural equipment, industrial equipment, and/or lawn and garden equipment that are displayed for sale on the premises of establishments that are duly licensed for the sales of such items, so long as they are stored in such a manner so as to prevent overgrowth with grass and/or weeds or the harboring of rats, mice, insects, reptiles, or other vermin; or so stored as to prevent any health, fire or safety hazard;

(4) The condition relates to fallen or cut limbs, tree cuttings, fallen or cut trees, and/or vegetation cuttings (other than grass cuttings) that are:

- i. On any property or part thereof which remains in its natural condition. For purposes of this subsection, once property has been cleared, plowed, or developed in any manner, the property or part thereof is no longer in its natural condition;
- ii. On any property that is used for agricultural purposes excluding those parts of said property that are within 50 feet from the abutting property lines of any and all abutting property used for residential or commercial purposes;
- iii. Not visible from public rights of way or adjacent properties owned by a person or entity different from the owner of the property with the condition;
- iv. The result of timber or logging operations, and are removed from the property within 30 days after the condition is created;
- v. The result of activities to remove or alter vegetation in connection with the improvement or development of the property for business, governmental, residential use, and are removed from the property within 30 days after the condition is created; or
- vi. On the premises as the result of storm or wind, and are removed from the property within 30 days after the condition is created.

(5) The condition relates to building materials located on a premises where a valid permit is in existence for construction or repairs;

(6) The condition relates to the operations of a public utility. Any property or part thereof which remains in its natural condition.

(d) Violations; Penalties.

Any person found guilty of violating this section shall:

(1) Upon that person's first violation be punished by a fine of \$100.00; provided that, upon such person's first violation and no later than 72 hours before the person's court date, the person may elect to plead guilty before the magistrate and pay pursuant to the city's schedule of fines if the magistrate has received certification from a code enforcement officer of the city that the property conditions supporting the violation no longer exist or have been cured; and

(2) Upon that person's second violation within twelve (12) months, be punished by a fine not less than \$300.00 nor shall it exceed \$500.00 and/or imprisonment or confinement at hard labor for a period of time up to six (6) months. Upon being charged with a second violation within the time period prescribed herein, it is mandatory that the person or entity charged shall appear before the municipal court judge.

(3) Upon that person's third or subsequent violation within twenty-four (24) months, be punished by a fine of \$500.00 and/or imprisonment or confinement at hard labor for a period of time up to six (6) months. Upon being charged with a second violation within the time period prescribed herein, it is mandatory that the person or entity charged shall appear before the municipal court judge.

(e) A corrective notice shall be issued to any person who is allegedly in violation of this section, and who has not previously been issued a corrective notice in connection with a violation of this section concerning the property that is the site of the violating condition. The corrective notice may be issued by any code enforcement officer of the city or any city employee or agent that is authorized to do so by the Mayor. The corrective notice may be either hand-delivered to the person, or mailed to the person by First Class Mail with postage prepaid through the United States Postal Service. The corrective notice shall (i) describe the nature of the violating condition, and (ii) identify this section. The corrective notice shall also provide that the violating condition must be remedied within fourteen (14) calendar days from its issuance, and no action shall be instituted hereunder until the said fourteen (14) day period has expired.

Section 3. DUTY TO KEEP PROPERTY CLEAR AND FREE FROM NONCONFORMING VEHICLES.

(a) *Residential and other noncommercial properties.*

Any owner, lessee, or person in control of any property used for residential or noncommercial purposes shall keep any and all portions of such property that are not located inside a fully enclosed and roofed structure clear and free

from nonconforming vehicles. This duty shall extend to all sidewalks, driveways, alleyways, and rights-of-way lying adjacent to said property.

(b) Commercial properties.

Any owner, proprietor, or person in control of any property used for commercial purposes shall keep and maintain any and all non-screened portions of the property on which the business is conducted clear and free from nonconforming vehicles.

(c) [Nonscreened portions.]

As used in subsection (b), the phrase "non-screened portions" shall refer to those portions of the property that are not located inside (i) a fully enclosed structure, (ii) a nontransparent vertical wall or fence, and/or (iii) natural objects/plantings, any and all of which are of a minimum height of eight feet and in good, neat, and orderly condition and repair, such that the interior contents are completely shielded from the ground level view of adjacent public or private property, including any public right of way.

(d) [Property on which the business is conducted.]

As used in subsection (b), the phrase "the property on which the business is conducted" shall include, but is not limited to, all parking lots, and loading/unloading areas that are owned, leased or utilized by the business. This duty shall also extend to all porches, patios decks, sidewalks, parking lots, driveways, alleyways, and rights-of-way lying adjacent to said property.

(e) [Exceptions.] There is no violation of this section where:

(1) The condition relates to the placement of junk and litter (that would otherwise constitute a violation of this section) on the property for collection in a manner that adheres to all applicable requirements of Chapter 94 (Solid Waste and Garbage) of the Code of Ordinances of the City of Muscle Shoals, Alabama;

(2) With respect to any property on which a properly lawfully licensed vehicle repair or towing business is operating, the condition relates to a particular vehicle(s), trailer(s), vehicle part(s), and/or trailer part(s) that is in violation of subsection (b);

(3) The condition relates to a storage place or depository lawfully maintained by duly constituted law-enforcement officers or under the control of the municipality or its agencies; or

(f) Any person found guilty of violating this section shall:

(1) Upon that person's first violation be punished by a fine of \$100.00 provided that, upon such person's first violation and no later than 72 hours before the person's court date, the person may elect to plead guilty before the magistrate and pay pursuant to the city's schedule of fines if the magistrate has received certification from a code enforcement officer of the city that the property conditions supporting the violation no longer exist or have been cured; and

(2) Upon that person's second violation within twelve (12) months, be punished by a fine not less than \$300.00 nor shall it exceed \$500.00 and/or imprisonment or confinement at hard labor for a period of time up to six (6) months. Upon being charged with a second violation within the time period prescribed herein, it is mandatory that the person or entity charged shall appear before the municipal court judge.

(3) Upon that person's third or subsequent violation within twenty-four (24) months, be punished by a fine of \$500.00 and/or imprisonment or confinement at hard labor for a period of time up to six (6) months. Upon being charged with a second violation within the time period prescribed herein, it is mandatory that the person or entity charged shall appear before the municipal court judge.

(g) A corrective notice shall be issued to any person who is allegedly in violation of this section, and who has not previously been issued a corrective notice in connection with a violation of this section concerning the property that is the site of the violating condition. The corrective notice may be issued by any code enforcement officer of the city or any city employee or agent that is authorized to do so by the mayor. The corrective notice may be either hand-delivered to the person or mailed to the person by First Class Mail with postage prepaid through the United States Postal Service. The corrective notice shall (i) describe the nature of the violating condition, and (ii) identify this section. The corrective notice shall also provide that the violating condition must be remedied within fourteen (14) calendar days from its issuance, and no action shall be instituted hereunder until the said fourteen (14) period has expired.

Section 4.- DEBRIS FROM CONSTRUCTION, DEMOLITION, ALTERATIONS OR REPAIR.

(a) Any person engaging in the business of, or being hired for the purpose of, constructing, demolishing, remodeling, repairing, roofing, or altering, any building or other structure within the city shall:

(1) Within ten (10) days after completion of the job or construction project, remove any debris, concrete, lumber, roofing material, dirt, sand, gravel, concrete blocks, bricks or any other building material resulting or relating to such job and/or project; and,

(2) Provide on-site receptacles for litter, and ensure that litter is properly placed in such containers, to prevent scattering of such litter by wind or rain if such litter is not otherwise properly disposed of on a daily basis.

(b) Where the job or construction project referenced in subsection (a)(1) is such that a certificate of occupancy would be issued by the city upon the completion thereof, the reference herein to the time of "completion" shall mean the time of issuance of a certificate of occupancy by the city.

(c) Any person found guilty of violating subsection (a) shall:

(1) Upon that person's first violation be punished by a fine of \$100.00; provided that, upon such person's first violation and no later than 72 hours before the person's court date, the person may elect to plead guilty before the magistrate and pay pursuant to the city's schedule of fines if the magistrate has received certification from a code enforcement officer of the city that the property conditions supporting the violation no longer exist or have been cured; and

(2) Upon that person's second violation within twelve (12) months, be punished by a fine not less than \$300.00 nor shall it exceed \$500.00 and/or imprisonment or confinement at hard labor for a period of time up to six (6) months. Upon being charged with a second violation within the time period prescribed herein, it is mandatory that the person or entity charged shall appear before the municipal court judge.

(3) Upon that person's third or subsequent violation within twenty-four (24) months, be punished by a fine of \$500.00 and/or imprisonment or confinement at hard labor for a period of time up to six (6) months. Upon being charged with a second violation within the time period prescribed herein, it is mandatory that the person or entity charged shall appear before the municipal court judge.

(d) A corrective notice shall be issued to any person who is allegedly in violation of this section, and who has not previously been issued a corrective notice in connection with a violation of this section concerning the property that is the site of the violating condition. The corrective notice may be issued by any code enforcement officer of the city or any city employee or agent that is authorized to do so by the mayor. The corrective notice may be either hand-delivered to the person or mailed to the person by First Class Mail with postage prepaid through the United States Postal Service. The corrective notice shall (i) describe the nature of the violating condition, and (ii) identify this section. The corrective notice shall also provide that the violating condition must be remedied within fourteen (14) calendar days from its issuance, and no action shall be instituted hereunder until the said fourteen (14) period has expired.

Section 5. OVERGROWN GRASSES AND WEEDS.

(a) Any person, owner, tenant, occupant or person having charge of any residential, commercial or industrial premises in the City of Muscle Shoals, Alabama shall keep the same free of any growth of grasses or weeds favorable to the harboring of mosquitoes or other insects, rats, snakes, or rodents or reptiles of like kind, and every such growth is hereby declared to be a nuisance, and every such person who shall allow any such growth of grasses and weeds, on the premises which such person owns or of which he is in charge, shall be in violation of this section of the ordinance.

(b) Any growth of grass or weeds or other vegetation more than 12" inches in height shall be deemed favorable to the harboring of mosquitoes or other insects, rats, snakes, or rodents or reptiles of like kind, within the meaning of this ordinance.

(c) It shall be unlawful for any person owning, possessing, residing, or having charge or control of any real property within the city to allow any other vegetation, including but not limited to jimson, ragweed, cocklebur, kudzu, vines, or underbrush to become overgrown to such an extent that the same may create favorable conditions to the harboring of mosquitoes or other insects of like kind and/or rodents or reptiles or otherwise constitutes a public nuisance or a danger to the public health, safety and welfare.

(d) The owner or person having charge of any such premises within the City of Muscle Shoals, who having been served with the corrective notice provided in Section (g) hereof, and not having previously been issued a corrective notice, and who shall fail to comply with the corrective notice to remedy the violation by the cutting and/or removal of such grasses and weeds, shall be guilty of violation of this section, and on conviction shall be punished as provided in this ordinance.

(e) Any property within the City of Muscle Shoals, Alabama which has as its purpose the planting and harvesting of crops, with the exception of hay; farm land; timber land; and pasture land; hedgerows; fencerows; and buffers and copse shall be exempted from the provisions of this ordinance. The planting and harvesting of hay shall be limited to areas of a minimum of three (3) acres, which shall be contiguous, in size and the planting, cultivating and harvesting of hay shall be no closer than fifty (50) feet from a residential, commercial or industrial building or structure, other than said structures which are owned or leased by the person or entity planting and harvesting the hay in said area, unless the person or entity planting or harvesting the hay has the written permission of the owners of said buildings or structure to do so.

The hay crop shall be cut at such time as it reaches 36" in height and once cut, whether baled or not, shall be removed from the premises with fourteen (14) calendar days from the date of the commencement of the cutting of the hay

(f) Violations; Penalties.

Any person found guilty of violating this section shall:

(1) Upon that person's first violation be punished by a fine of \$100.00; provided that, upon such person's first violation and no later than 72 hours before the person's court date, the person may elect to plead guilty before the magistrate and pay pursuant to the city's schedule of fines if the magistrate has received certification from a code enforcement officer of the city that the property conditions supporting the violation no longer exist or have been cured; and

(2) Upon that person's second violation within twelve (12) months, be punished by a fine not less than \$300.00 nor shall it exceed \$500.00 and/or imprisonment or confinement at hard labor for a period of time up to six (6) months. Upon being charged with a second violation within the time period prescribed herein, it is mandatory that the person or entity charged shall appear before the municipal court judge.

(3) Upon that person's third or subsequent violation within twenty-four (24) months, be punished by a fine of \$500.00 and/or imprisonment or confinement at hard labor for a period of time up to six (6) months. Upon being charged with a second violation within the time period prescribed herein, it is mandatory that the person or entity charged shall appear before the municipal court judge.

(g) A corrective notice shall be issued to any person who is allegedly in violation of this section, and who has not previously been issued a corrective notice in connection with a violation of this section concerning the property that is the site of the violating condition. The corrective notice may be issued by any code enforcement officer of the city or any city employee or agent that is authorized to do so by the Mayor. The corrective notice may be either hand-delivered to the person or mailed to the person by First Class Mail with postage prepaid through the United States Postal Service. The corrective notice shall (i) describe the nature of the violating condition, and (ii) identify this section. The corrective notice shall also provide that the violating condition must be remedied within ten (10) calendar days from its issuance, and no action shall be instituted hereunder until the said ten (10) day period has expired.

Section 6. Procedure.

(a) Except as otherwise set forth herein, the city's code enforcement officers or municipal employees may enforce this division without first having issued any warning notice. The magistrate shall issue a summons and complaint to any person charged with violating any part of this ordinance, in lieu of placing such persons under custodial arrest.

(b) The summons and complaint must contain:

- (i) The name of the court;
- (ii) The name of the defendant;
- (iii) A description of the offense, including the municipal ordinance number;
- (iv) The date and time of the offense;
- (v) The place of the offense;
- (vi) Signature of the magistrate issuing the citation;
- (vii) The scheduled court date and time;

(viii) A signature block for the magistrate to sign upon the code enforcement officer's oath and affirmation given prior to trial.

Section 7. Miscellaneous Provisions.

(a) In addition to any fines and penalties contained herein for violation of any provision of this Ordinance, if the owner or person having in charge any premises whereof there exists any growth of grasses and weeds and/or hay shall fail to cut and remove the grasses and weeds and hay within the time provided for in the corrective notice described in Section 5 (g), upon a finding of a violation of Section 5, the municipal court shall enter an Order authorizing the City of Muscle Shoals, Alabama, acting through an agent, servant or employee, to enter upon said premises, and at the expense of such person shall proceed to cut and/or remove said grasses and weeds and/or hay, and the City Clerk shall thereafter submit a statement to the owners at their last known address or to the person in charge of the property, showing the charge for the cutting and/or removal of weeds which shall be One Hundred Twenty-five (\$125.00) per hour with a minimum charge of One Hundred Twenty-five (\$125.00) per lot or accumulation.

(b) In addition to any fines and penalties contained herein for violation of any provision of this Ordinance, if the owner or person having in charge any premises whereof there exists any junk, litter and/or non-conforming vehicles shall fail to remove or remedy the offending items or otherwise comply with the provisions of said Ordinance pertaining to same, within the time period provided for in the corrective notice described in Section 2 (e), Section 3 (g) and/or Section 4 (d) upon a finding of a violation of Section 2, Section 3 and/or Section 4 of this Ordinance, the municipal court shall enter an Order authorizing the City of Muscle Shoals, Alabama, acting through an agent, servant or employee, to enter upon said premises, and at the expense of such person, remove the junk, litter or non-conforming vehicle and the City Clerk shall thereafter submit a statement to the owners at their last known address or to the person in charge of the property, showing the charge for the removal of junk, litter and/or non-conforming vehicles which shall be calculated at the sum of One Hundred Fifty Dollars (\$150.00) per hour plus the costs of disposal at a sanitary landfill or otherwise and or any storage fees incurred, with a minimum charge of One Hundred Fifty Dollars (\$150.00).

(c) The charges for cutting and/or removal, and removal of junk, litter and/or non-conforming vehicles, if incurred by the City, shall be a claim, judgment and/or lien against the owner or person in charge of the property found in violation of any provision of this Ordinance and a lien on the property so assessed for the cutting and/or removal of weeds, junk, litter and non-conforming vehicles,

which lien may be enforced and collected as any other debt or lien or assessed as restitution to the City or taxed as costs of court.

Section 8. Severability.

If any section or provision of this ordinance shall be held invalid, such holding shall not affect the validity of any other section or provision thereof which is not of itself invalid.

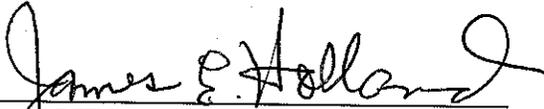
Section 9. Effective Date.

The Ordinance, and its provisions, shall become effective upon publication or posting pursuant to law or as otherwise provided for by law.

ADOPTED AND APPROVED this 2nd day of September, 2014.

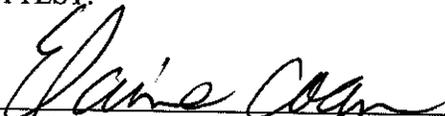
**COUNCIL OF THE CITY OF MUSCLE SHOALS,
ALABAMA**

By: _____



JAMES E. HOLLAND
President of the Council

ATTEST:



ELAINE COAN
Assistant City Clerk

TRANSMITTAL

I hereby certify that the above ordinance was passed on the 2nd day of September 2014 by the Council of the City of Muscle Shoals and was transmitted to the Mayor on the 3rd day of September 2014 at 10 o'clock.



Assistant City Clerk

APPROVED on September 3, 2014 at 10 o'clock



DAVID H. BRADFORD

Mayor of the City of Muscle Shoals, Alabama

CERTIFICATE OF POSTING

I, Elaine B. Coan, Assistant City Clerk for the City of Muscle Shoals, Alabama, hereby certify that the above and foregoing Ordinance was duly and properly adopted by the Council of the City of Muscle Shoals, Alabama at a regular meeting of the said Council held on the 2nd day of September 2014 at 6:00 o'clock p.m. in said City.

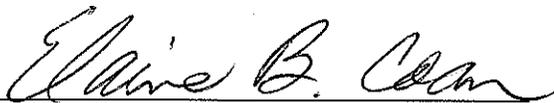
The said Ordinance has been duly and properly published on this the 5th day of September 2014, pursuant to and in compliance with Act. 2011-680 of the Acts of Alabama, by posting a copy of said Ordinance at the Office of the Mayor at City Hall in the City of Muscle Shoals, Alabama; Muscle Shoals Public Library; Muscle Shoals Recreation Building # 1, Gattman Park; and First Metro Bank, Muscle Shoals Branch; being four conspicuous public places lying and being within the City of Muscle Shoals, Alabama, there being no newspaper published and of general circulation in the City of Muscle Shoals, Alabama.

I certify that a copy of the said Ordinance has been posted to the City's website which may be found at

www.cityofmuscleshoals.com

Reasonable steps will be undertaken to maintain the postings for not less than thirty (30) days.

This 5th day of September, 2014.



ASSISTANT CITY CLERK