

## ORDINANCE 2001-107

An ordinance defining nuisances, establishing a procedure for the abatement of nuisances, and providing penalties for violations of its provisions

BE IT ORDAINED, by the City Council of the City of Russellville in the State of Alabama as follows:

Section 1. PURPOSE. This ordinance establishes the definitions of nuisances, establishes a procedure for the abatement of nuisances and provides for penalties for violations of its provision.

Section 2. DEFINITIONS. For the purpose of this ordinance the following terms are defined as hereinafter set forth, to-wit:

**APPROVED, ENCLOSED, COVERED STRUCTURE:** Shall mean any building, garage, accessory structure, or other structure, having four enclosing walls and a roof, built according to and in compliance with all applicable building, zoning, fire, or other codes of the City of Russellville, Alabama.

**AUTOMOBILE GRAVEYARD:** Shall mean any establishment or place of business which is duly licensed and operated in accordance with all applicable laws and/or ordinances of the City of Russellville, Alabama, and which is maintained, used, or operated for storing, keeping, buying, or selling of wrecked, ruined, damaged, or dismantled motor vehicles or parts thereof.

**COMMERCIAL PROPERTY:** Shall mean any lot, tract, parcel, land, or other property located within the City of Russellville, Alabama, that is zoned or designated for uses other than residential purposes.

**DISCARDED HOUSEHOLD FURNISHINGS:** Shall mean any furniture, appliance, carpeting, or similar item, intended for indoor residential use, placed outside of an approved, enclosed, covered structure.

**GARBAGE:** Shall mean the animal and/or vegetable waste resulting from the handling, preparation, cooking or consumption of food products.

**HAZARDOUS PLANT NUISANCE:** Trees, shrubs, ornamental or non-ornamental plant growth, growing or standing on private property that is dead, damaged, deteriorated, decayed or has otherwise become hazardous for any reason that could pose a danger to the property on which it is located, any adjacent property, whether public or private, or to

the public in general, by danger of falling, splitting, uprooting, or shedding limbs, or any other reason determined to be a hazard.

**IMPROVED SUBDIVISION:** A division of a tract of land or acreage into tracts or parcels, and the improvement thereof by construction of streets, water lines and, where applicable, sewer lines to serve the subdivided property.

**INOPERABLE:** Shall mean incapable of being used for the manufactured, designed or intended purpose.

**INOPERABLE VEHICLE:** Shall mean any vehicle in a state of disassembly, or in the process of being stripped, dismantled, or overhauled; or undergoing body work; or any other condition that renders the vehicle inoperable or incapable of being used for its designed or intended purpose. Any vehicle that is not currently licensed as required by law that is kept or stored in a manner as to constitute a health, safety, or fire hazard is also defined as an inoperable vehicle.

**JUNK:** Shall mean and include all metals, whether ferrous or non ferrous, including, but not limited to, any used or second hand parts of machinery; plumbing fixtures, or parts thereof; parts of an automobile, truck, bus, motorcycle, water craft, or other motor vehicle; gas or electrical appliances or fixtures, or parts thereof; household hardware or furnishings; wire, cable; bearings; valves, pipes and pipe-fittings; building materials; wood; or any other used or secondhand metal articles, including any inoperable motor vehicle(s) that is kept or stored upon the premises in such a manner as to constitute a health, safety, or fire hazard. This definition shall not apply to building materials stored temporarily for use on the same real property within a period of twelve months, when said materials are neatly stored at least eighteen inches above the ground.

**JUNK OR SALVAGE YARD:** Shall mean any premises, establishment, or place of business which is duly licensed and operated in accordance with all applicable laws and/or ordinances of the City of Russellville, Alabama, and which is maintained, operated, or used for storing, keeping, or dismantling of junk and salvage, but shall not include the place of business or premises of a scrap processor as herein defined.

**LITTER:** Shall mean all waste material which can be or is subject to being blown from place to place or scattered by the elements, including, but not limited to, paper; cardboard; cartons, boxes; plastics; rags; cloth; fibers and fabrics; leather; polyethylene; and polystyrene.

**NATURAL CONDITION:** Uncultivated and unseeded land,

still in a state of nature. But any growth on land once it has been cleared or plowed is not a natural condition, even though it has not been planted or cultivated by anyone.

**NUISANCE:** Shall mean anything that unlawfully causes hurt, inconvenience or damage; that class of wrongs that arises from the unreasonable, unwarrantable or unlawful use by a person of his own property, either real or personal, or from his own improper, indecent, unsightly, or unlawful personal conduct, working an obstruction of or injury to the right of another or of the public, and producing material annoyance, inconvenience, discomfort or hurt to another person or to the general public; anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property of another.

**OWNER OR OWNERS OF PROPERTY:** Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or person last assessed for payment of ad valorem taxes; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

**PERSON:** Shall mean any individual, owner, title holder, agent, firm, corporation, partnership, association, or organization of any kind. It shall include, but not be limited to, any tenant, leasee, manager, operator, occupant, executor, executrix, administrator, guardian, trustee, bankruptcy trustee, or other person in charge of, care of, possession of, or control of any real or personal property.

**PREMISES:** Shall mean any lot, yard, plot, tract, parcel, or other piece of land or property located within the City of Russellville, Alabama.

**RESIDENTIAL PROPERTY:** Shall mean any lot, tract, parcel, land, or other property located within the City of Russellville, Alabama, on which single or multifamily structures used as a residence or for human habitation exist, or any property that is located within an area that is zoned for residential uses by the City of Russellville, Alabama.

**SCRAP:** Shall mean other materials or waste, including, but not limited to old cordage, ropes; rubber; bottles and other glass; tin or aluminum cans; buckets; tree branches, tree limbs, tree stumps; or other waste or refuse not otherwise classified herein as junk, litter, or garbage.

**SCRAP METAL YARD:** Shall mean any establishment or place of business which is duly licensed and operated in accordance with all applicable laws and/or ordinances of the City of Russellville, Alabama, and which is maintained, used, or operated solely for the processing or preparing of scrap metals for re-melting by steel mills and foundries.

**SCRAP PROCESSOR:** Shall mean any person who is duly licensed and operating in accordance with all applicable laws and/or ordinances of the City of Russellville, Alabama, and is engaged primarily in the purchase and collection of scrap metallics (e.g. manufacturing by-products, obsolescent machinery, and vehicles) for the specific purpose of processing into scrap materials for the metals recovery industry, such as steel mills, foundries, smelters, and refineries, and having machinery and facilities designed for such processing, and making regular shipments of such materials in the normal course of business.

**STAGNANT WATER NUISANCE:** Shall mean any accumulation of water, whether natural or man made, and shall also apply to water in any type of open pool, container, or vessel, that is not moving, not flowing, is motionless, or is in a foul state from standing.

**VEHICLE:** Shall mean any device in, upon or by which any person or property is or may be transported, carried, or drawn from one place to another, and shall include but not be limited to, motor vehicles, boat trailers, utility trailers, horse trailers, bicycles, carts, tractors, or other similar devices.

**WEED NUISANCE:** Any abundance of overgrown weeds or grass within the City of Russellville, Alabama, which could be injurious to the general public health, safety and general welfare by; providing breeding grounds and shelter for rats, mice, snakes, mosquitoes and other vermin, insects and pests; or attaining such heights and dryness so as to constitute a serious fire threat or hazard; or bearing wingy or downy seeds, that when mature, could cause the spread of weeds or, when breathed could cause irritation to the throat, lungs and eyes of the public; or hiding debris, such as broken glass or metal, which could inflict injury on any person going upon the property; or being unsightly; or any growth of weeds, other than ornamental plant growth, which exceeds 12" in height.

Section 3. It shall be unlawful and constitute a nuisance for the owner or owners, or any person in control of, or in charge of any real property located within the City of Russellville, Alabama, to maintain such real property in such a manner as to constitute a nuisance as herein

defined by any section of this ordinance.

Section 4. It shall be the duty of the owner or owners, or any person in control of, or in charge of any real property located within the City of Russellville, Alabama, to maintain any weeds, grass, or non-ornamental plant growth growing upon said property in such a manner as not to constitute a nuisance as herein defined.

Section 5. It shall be the duty of the owner or owners, or any person in control of, or in charge of any real property located within the City of Russellville, Alabama, to maintain plant growth upon said property in such a manner as not to constitute a hazardous plant nuisance as defined herein.

Section 6. This section shall not apply to the following:

- (1) Any property which is in its "natural condition".
- (2) Any property which is located outside any improved subdivision and is located more than 100' from any boundary of any lot or parcel of real estate upon which any dwelling is located, and more than 100' from any commercial enterprise.
- (3) Cultivated row crops and garden plants in their respective growing seasons. This exception applies only to growing crops and garden plants, and shall not be construed to permit any crops or gardens to become overgrown with weeds in violation of the remaining terms of this ordinance.
- (4) Ornamental shrubbery and ground cover, provided that such uses are part of a landscaping theme and are not associated with a general deterioration of the property, are not in an overgrown or unmanaged condition, or are planted, maintained or overgrown so as to encroach over or onto adjacent properties.

Section 7. All weed nuisances may be declared to be a public nuisance by the governing body of the City and thereafter abated at the cost of the person last assessed for Ad Valorem taxes as provided in Code of Alabama Section 11-67-60 et seq. The administrative official for the purposes of this section shall be the Compliance Officer or any other employee of the City of Russellville designated as such by the Mayor.

Section 8. It shall be unlawful and a violation of this section for the owner or owners, or any person in control of, or in charge of any residential or commercial property, within the City

of Russellville, Alabama, to store or keep upon the premises of any residential or commercial property, any inoperable vehicle, discarded household furnishings, scrap, or junk, as defined herein, unless the same is housed in an approved, 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. This paragraph shall not apply to the following:

- (1) Materials stored or located on the premises of any junk or salvage yard, scrap metal yard, scrap processor, or automobile graveyard, as defined herein.
- (2) Vehicles being repaired or awaiting repair that are located on the premises of any automobile dealer, automobile repair and body shop or garage, or other vehicle repair enterprise that is duly licensed and operated in compliance with all applicable codes and ordinances of the City of Russellville, Alabama, provided said vehicles are so located or stored in a manner as to prevent any health, fire, or safety hazard.

Section 9. It shall be unlawful and a violation of this section for the owner or owners, or any person in control of or in charge of any real property located within the City of Russellville, Alabama, to keep or store upon the premises of any retail store or shop, secondhand store, thrift store, or similar commercial property or establishment, any merchandise, goods, or wares, including but not limited to, gas or electric appliances, parts thereof; plumbing fixtures, or parts thereof; lawn mowers or lawn mower parts; machinery, equipment, utensils, or other items displayed for sale to the general public, in such a manner as to constitute a health, safety, or fire hazard.

Section 10. It shall be unlawful and a violation of this section for any owner or owners, or any person in control of or in charge of any residential or commercial property to fail to maintain the property free from litter and garbage as herein defined, unless said litter and garbage is properly containerized and stored in such a manner as to prevent it from being blown, deposited or otherwise scattered by the elements, animals, birds, or by any other means.

Section 11. It shall be the duty of the owner or owners, or any person in control of or in charge of any real property located within the City of Russellville, Alabama, to not allow any concentration of stagnant water to accumulate on any real property situated within the City of

Russellville. This section shall include but not be limited to poor surface drainage, non-engineered ponds (whether man made or natural), swimming pools, wading pools, ornamental ponds, buckets, non-mounted tires, boats, vessels, or receptacles, etc., which could provide habitat or breeding areas for insects, or attract insects, vermin, or pests. This section is not intended to restrict the use of pools, spas, ornamental ponds, etc., provided that they are equipped with the proper operable circulation and filtration systems, or childrens wading pools that are being properly maintained and are not creating a nuisance.

## 12. Penalties.

A. Offenses under this ordinance are hereby designated as VIOLATIONS within the meaning of Title 13A, Criminal Code, Code of AL 1975. Upon the determination of any law enforcement officer or city compliance officer or any employee designated as such by the Mayor, that any violation of this ordinance exists, such official will make contact with the owner of the property and give them written notice and twenty (20) working days to correct the violation(s). If after said time period, violation(s) still exist, the law enforcement officer will make a complaint to magistrate for issuance of a warrant. The defendant will have all rights secured to all persons charged by the Town of Russellville with VIOLATIONS generally. If the defendant is found guilty by the Russellville Municipal Court, the Court may impose a fine or imprisonment or both and court costs in accordance with the Alabama Criminal Code provisions applicable to VIOLATIONS generally, and which include Sections 13-5-4(c), 13A-5-7(b) and 13A-5-12(b), Code of AL (1975) as amended. Such violations are punishable by a term of imprisonment in the municipal jail, not to exceed thirty (30) days and a fine not to exceed \$200.00 for the first offense, \$300.00 for the second offense and \$500.00 for each offense thereafter.

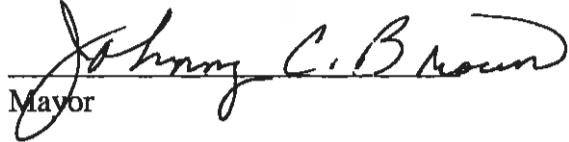
B. Any person convicted of any offense provided for herein shall have the right to appeal to the Franklin County Circuit Court, Criminal Division, for a trial de novo by filing within the same time and in the same manner as prescribed by law for VIOLATIONS generally. Trial by jury may be obtained by proper demand made in accordance with the law for VIOLATIONS generally.

Section 13. If any section, sentence, clause, phrase, or part of this ordinance is for any reason declared to be unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such decision shall not affect any remaining sections, sentences, clauses, phrases, or parts of this ordinance.

Section 14. All city code sections and ordinances or parts of city code sections and ordinances in conflict with the provisions of this ordinance, insofar as they conflict, are hereby repealed.

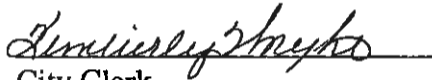
Section 15. This ordinance shall be in full force and effect upon its adoption and publication as provided by law.

ADOPTED this 2nd day of APRIL, 2001.

  
Mayor

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Russellville, Alabama, on the 2nd day of APRIL, 2001.

ATTEST:

  
City Clerk



**ORDINANCE 2005-104**

**AMENDED  
ORDINANCE 2001-107**

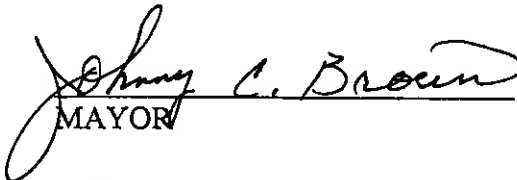
**BE IT ORDAINED**, by the City Council of the City of Russellville in the State of Alabama as follows:

Paragraph 12. A. is hereby amended to provide as follows:

Offenses under this ordinance are hereby designed as VIOLATIONS within the meaning of Title 13A, Criminal Code, Code of AL 1975. Upon the determination of any law enforcement officer or city compliance officer or any employee designated as such by the Mayor, that any violation of this ordinance exists, such official will make contact with the owner of the property and give them written notice and ten (10) working days to correct the violation(s). If after said time period, violation(s) shall exist, the law enforcement officer will make a complaint to magistrate for issuance of a warrant or issue a uniform non-traffic citation to said individual committing the alleged violation(s). The defendant will have all rights secured to all persons charged by the Town of Russellville with VIOLATIONS generally. If the defendant is found guilty by the Russellville Municipal Court, the Court may impose a fine or imprisonment or both and court costs in accordance with the Alabama Criminal Code provisions applicable to VIOLATIONS generally, and which include Sections 13-5-4(c), 13A-5-7(b) and 13-A-12(b), Code of

AL (1975) as amended. Such violations are punishable by a term of imprisonment in the municipal jail, not to exceed thirty (30) days and a fine not to exceed \$200.00 for the first offense, \$300.00 for the second offense and \$500.00 for each offense thereafter.

ADOPTED this 18<sup>th</sup> day of April, 2005.

  
MAYOR

I hereby certify that the foregoing Amended Ordinance was adopted by the City Council of the City of Russellville, Alabama, on the 18<sup>th</sup> day of April, 2005.

ATTEST:

  
City Clerk