

ORDINANCE 391

An ordinance prohibiting the disposal of certain items on public streets, public property, public waterways, or public drainage ditches within the City Limits of Bonifay, Florida; providing for definitions; providing for penalties; and providing for enforcement procedures;

WHEREAS, the City of Bonifay has found that the improper disposal of yard trash, debris and rubbish, as defined below, in, on or over public right-of-ways, waterways, drainage ditches, or drain ways could cause an undesirable effect on the City's sewer system;

WHEREAS, the City of Bonifay has found that said yard trash, debris and rubbish could also cause damage to private as well as public property;

WHEREAS, the City of Bonifay has found that allowing such items to be placed upon public property without proper disposal poses a threat to the health, welfare and safety of the citizen of Bonifay, the City's property and its Citizens' property;

THEREFORE BE IT ORDAINED:

1. It shall be unlawful for any person to cause the blocking, stopping or otherwise impeding of the normal flow of water through or across any natural drain way for surface waters within the city and such action is hereby declared to be a public nuisance.
2. It shall be unlawful for any person to deposit on, or burn in, or causing to be deposited on or buried in any land, public square, street, alley, vacant lot or unoccupied lot, watercourse or ditch within the city limits, any garbage, trash, refuse, rubbish, or other noxious, malodorous or offensive matter.
3. It shall be unlawful for any person to place or allow to be placed upon the streets, alleys, curbing or sidewalks of the city excessive amounts of refuse, rubbish, sweepings, debris, trash or waste materials of any kind which might be a menace to traffic, both vehicular and pedestrian, or which will endanger the proper operation of the city's sewer or drainage system.

4. Definitions:

- a. *Garbage* is putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.
- b. *Natural drain way* as herein used is defined as any ditch, depression, channel or watercourse located in, upon or across any land or area through or across which surface waters naturally drain or flow from one tract of land to another.
- c. *Refuse* is all putrescible and nonputrescible solid waste (except body waste), including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial waste.
- d. *Rubbish* is nonputrescible solid waste consisting of both combustible and noncombustible waste, such as paper, cardboard, tin cans, construction debris, clippings, wood, grass, in excessive amounts, capable of impeding the drainage of water and in excess of normal lawn maintenance, bedding, crockery and similar materials.
- e. *Refuse container* is any movable container intended or used to collect or store refuse, including without limitation, garbage cans, dumpsters and vehicles used to store and remove refuse.
- f. *Trash* means all grass, in excessive amounts, capable of impeding the drainage of water and in excess of normal lawn maintenance, leaves, tree limbs, small debris, cloth, paper, cardboard, tin cans, glass and other similar materials. This includes anything that will be put out by residents except: Any limbs or shrub trimmings more than three inches in diameter and over six feet long, furniture, appliances, construction debris, concrete blocks, metal, roof shingles, stumps or trees.

5. Exceptions:

- a. Nothing herein shall prohibit the ownership, use or possession of a refuse container on a residential lot intended and used exclusively to collect and store for removal garbage and trash provided such container is used exclusively for garbage and trash generated by property occupants on the site on which such container is located, and such container is not located adjacent to a vehicular right-of-way for more than twelve consecutive hours in any three day period.

- b. Nothing herein shall prohibit the ownership, use or possession of any single, isolated refuse container equal to or less than fifty-five (55) gallons in capacity or a container which is intended to be used by the general public as a litter receptacle, provided that such receptacle shall be kept and maintained in a neat and clean condition.
- c. The City shall maintain the authority and sole discretion to exempt from this ordinance any activity conducted by any individuals or organizations, such as but not limited to sporting events, festivals, and parades, on a case by case basis.
- d. Regular yard mowing that produces insignificant grass clippings and other natural occurring yard debris, not capable of impeding the flow of normal drainage.

6. Penalties:

- a. For the first violation of this ordinance the person in violation shall receive a notice stating the violation and that the violator has a twenty four hour period in which to remedy the violation.
- b. If said condition is not remedied within the twenty four hour period and upon finding of probable cause an officer may issue a citation to the person in violation of this ordinance.
- c. Upon the first citation issued to person in violation of this ordinance, within a twelve (12) month period of time, the person in violation shall pay a civil penalty within thirty (30) days of the issuance of the citation in the amount of fifty dollars (\$50.00), if the person in violation does not contest the citation. If the person in violation contests the first citation and is found in violation of this Ordinance, the person in violation shall pay a civil penalty in the amount of one hundred dollars (\$100.00).
- d. Upon the second citation issued to person in violation of this ordinance, within a twelve (12) month period of time, the person in violation shall pay a civil penalty within thirty (30) days of the issuance of the citation in the amount of seventy-five dollars (\$75.00), if the person in violation does not contest the citation. If the person in violation contests the second citation and is found in violation of this Ordinance, the person in violation shall pay a civil penalty in the amount of one-hundred fifty dollars (\$150.00).

- e. Upon the third citation issued to person in violation of this ordinance, within a twelve (12) month period of time, the person in violation shall pay a civil penalty within thirty (30) days of the issuance of the citation in the amount of one-hundred and fifty dollars (\$150.00), if the person in violation does not contest the citation. If the person in violation contests the third citation and is found in violation of this Ordinance, the person in violation shall pay a civil penalty in the amount of three hundred dollars (\$300.00).
- f. Upon the fourth citation issued to person in violation of this ordinance, within a twelve (12) month period of time, the person in violation shall pay a civil penalty within thirty (30) days of the issuance of the citation in the amount of two-hundred and fifty (\$250.00), if the person in violation does not contest the citation. If the person in violation contests the fourth citation and is found in violation of this Ordinance, the person in violation shall pay a civil penalty in the amount of five hundred dollars (\$500.00)

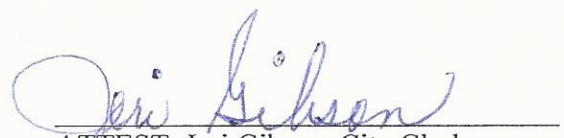
7. Enforcement:

- a. The civil provisions of this ordinance shall be enforced by those persons or agencies designated by The City Council's authority, including the Bonifay Police Department or any other City employee designated by the City Council to do so.
- b. The City of Bonifay shall sit as the reviewing board for anyone who requests a hearing upon the issuance of a violation of this ordinance.
 - i. Upon issuance of a citation any person may request a hearing within 7 days of issuance of the citation concerning the violation of this ordinance with the City Clerk during normal business hours.
 - ii. The City Clerk shall place the request on the next available regular City Council meeting to be heard by the Council.
 - iii. The City Council shall make a determination as to whether or not the ordinance has been violated and shall issue a written order to that affect within 5 days of said hearing to the person requesting said hearing.

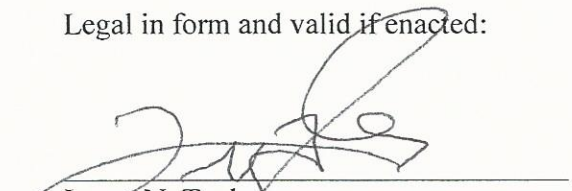
PASSED and **ORDAINED** by the City Council of Bonifay, Florida, on this 22nd day of September, 2014, after due and proper public notice and meeting, by a vote of 5 to 0.

CITY COUNCIL OF BONIFAY, FLORIDA


BY: Lawrence Cloud
Mayor


ATTEST: Jeri Gibson, City Clerk

Legal in form and valid if enacted:


Lucas N. Taylor
City Attorney for Bonifay, Florida