

ORDINANCE NO. 414

AN ORDINANCE OF THE CITY OF BONIFAY, FLORIDA, PROVIDING FOR AN AMENDMENT TO ORDINANCE NO. 385 OF THE CITY OF BONIFAY, RELATING TO PRIVATE PROPERTY STANDARDS, ABATEMENT OF NUISANCES, AND CODE ENFORCEMENT PROVISIONS; PROVIDING FOR SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Bonifay, Florida, has determined that it is in the best interest of all of the citizens and residents of the City that the provisions of Ordinance No. 385 of the City of Bonifay be amended, relating to code enforcement, in accordance with this ordinance;

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BONIFAY, FLORIDA:

Section 1. Ordinance No. 385 of the Code of the City of Bonifay is hereby repealed in its entirety, and the following replacement is adopted and enacted, to provide as follows:

PRIVATE PROPERTY STANDARDS AND ABATEMENT OF NUISANCES

ARTICLE I. - IN GENERAL

Sec. 1-1. - Purpose.

The purpose of this chapter is to protect the comfort, health, repose, safety, and general welfare of the citizens who reside in the city and to prevent maintenance of nuisances affecting the general public. It is hereby declared by the city council that the creation or maintenance of a nuisance shall constitute irreparable public injury. In order to accomplish the foregoing purpose, it is deemed essential to establish a mechanism to review and provide for remedies in order to abate or remove a public nuisance through action of the city council or county court system.

Sec. 1-2. - Definitions.

The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

Abandoned personal property shall mean wrecked or derelict property having no value other than nominal salvage value, if any, and which has been left abandoned and unprotected from the elements and shall include wrecked, inoperative or partially dismantled motor vehicles, trailers, boats, machinery, white goods, furniture, and any other similar article which has been left abandoned and unprotected from the elements. The term includes any article of personal property

which is left upon public or private property without the consent of the owner, lessee, or occupant thereof for a period longer than two (2) hours.

Cover means any device, equipment, container, close-fitting tarpaulin, chain, rope, wire, or line used on vehicles to prevent any part of a vehicle load to sift, blow, leak, fall, or escape in any manner from the vehicle.

Debris means abandoned or inoperative material which is stored externally and shall include but not be limited to one or more of the following: discarded household items; inoperative or abandoned machinery, motor vehicles, boats, trailers, household appliances including but not limited to freezers, refrigerators, iceboxes, stoves, dishwashers, and washing and drying machines for clothing; or refuse, garbage, rubbish, trash, junk, used scrap, lumber, steel, plumbing fixtures, insulation materials, barrels, boxes, drums, piping, glass, iron materials, excelsior or plastic.

Excessive growth means the growth of weeds, vegetation, or plants which are not cultivated or landscaped or regularly tended which exceeds a height of twelve (12) inches.

Externally means outside a fully enclosed building or structure, except that materials stored in a carport shall not be deemed to be stored externally.

Inoperative means not in a working condition as designed, or incapable of being lawfully operated. For the meaning of the term, a motor vehicle is deemed to be inoperative if a current registration, also known as a license plate, of a kind required under a state law as a condition of operation upon the public streets is not affixed thereto, or if one or more parts which are required for the operation of the vehicle are missing or not attached to the vehicle as designed.

Inspector means any code enforcement officer, municipal development director and/or his/her designee for the city.

Litter means refuse and rubbish including, but not limited, to paper, bottles, tin cans, glass, crockery, plastic, rubber, yard trash, waste building materials, tree and shrub trimmings, leaves, and disposable packages and containers.

Nuisance means conduct specified as follows:

- (a) Any continuing condition or use of a premises or of building exteriors or of land which causes substantial diminution of the value of property in the vicinity of such condition or use.
- (b) Any continuing condition or use of a premises, building exteriors or of land which unreasonably annoys, injures, or endangers the comfort, health, repose, privacy, or safety of the public through offensive odors, noises, substances, smoke, ashes, soot, dust, gas fumes, chemical diffusion, smog, flooding, disturbance and vibrations of earth, air, or structures, emanations, light, sights, entry on adjoining property by persons or vehicles.
- (c) A condition that interferes with, obstructs, or tends to obstruct, or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch, or drainage way.

- (d) Any accumulation of rubbish, trash, junk and other abandoned materials, metals, lumber or other things.
- (e) Any excessive accumulation of grass, weeds, undergrowth or other dead or living plant life upon a lot, tract or parcel of land, improved or unimproved, within 100 feet of any improved property within the city to the extent and in the manner that such lot, tract or parcel of land shall or may become infested or inhabited with rodents, vermin or snakes; may become a breeding place for mosquitoes; threaten or endanger the public health and welfare; may reasonably cause disease; or adversely affect and impair the economic welfare of the adjacent property.
- (f) Any refuse of a height of more than one foot.
- (g) Any excessive growth of vegetation.
- (h) Any unfit or unsafe dwelling or structure.
- (i) Any weeds which exceed one foot in height.
- (j) All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
- (k) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
- (l) The carcasses of animals or fowl not disposed of within 24 hours after death.
- (m) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- (n) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
- (o) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
- (p) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.
- (q) Unsheltered storage for a period of 30 days or more within the corporate limits of this city, except in licensed junkyards, of old and unused stripped junk and other automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements, or equipment or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured is hereby declared to be a nuisance and a danger to public health, safety and welfare.
- (r) Any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which the premises are located. This includes, but is not limited to, the keeping or depositing on or the scattering over the premises of any of the following:

- (1) Lumber, junk, trash, or debris; and
 - (2) Abandoned, discarded, unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers.
- (s) Other unreasonable intrusions upon the free use and comfortable enjoyment of the property of the citizens of the city or other conditions or uses declared to be nuisances under any other city ordinance or under applicable state or federal law.

Owner, with respect to property, means the person, corporation, partnership, or other legal entity, singular or plural, which is a record owner as recorded on the current tax rolls of Holmes County.

Premises means the land and all structures and articles appurtenant or attached thereto which are owned, leased, occupied, or controlled by a person.

Property means any individual parcel of real property or any portion thereof.

Refuse means leavings, dregs, rubbish, trash or waste material.

Underbrush means any undergrowth or brush conducive to the collection of insects and rodents.

Unfit or unsafe dwelling or structure means any dwellings or structures or portions thereof and accessory buildings which are structurally unsafe, unstable, or unsanitary; inadequately provided with exit facilities; constitute a fire hazard; unsuitable or improper for the use or occupancy to which they are put; constitute a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; dangerous to life or property of the occupant thereof or of the surrounding areas; unfit for human habitation, if so intended or used; or otherwise in violation of the housing, building, electrical, plumbing, mechanical, sanitation and fire codes of the city.

Sec. 1-3. - Conditions and conduct.

The existence of any of the following specific conditions or conduct is also hereby declared to constitute a public nuisance as that term is used in this chapter. It shall be a violation of this chapter for any owner, heir(s) to real property, or person(s) in charge, or in control, of any property within the city limits to allow any item(s) declared a nuisance under this chapter, after proper notice of such nuisance being served, to be placed or remain on such property unless stored in a completely enclosed building or structure.

- (a) Buildings which are unoccupied, deserted, boarded up, partially destroyed, or left for unreasonably long periods of time in a state of partial construction, disrepair, such as broken windows, partial walls and foundations, incomplete framing, and unpainted or peeled paint surfaces, etc., abuse or neglect as to appearance provided that any unfinished building or structure which has been in the course of construction two (2) years or more, and where the appearance of such unfinished building or structure substantially detracts from the appearance of the immediate neighborhood or reduces the value of property in the immediate neighborhood or is a nuisance, shall be deemed and presumed to have

been left for an unreasonably long period of time in the sense of this subsection.

- (b) Any attractive nuisance dangerous to children and the welfare of the general public, shall be defined as any form of abandoned or broken equipment; partially destroyed buildings, shed or storage buildings; unfenced pools, excavations or wells; junk or abandoned vehicles or boats; freezers, refrigerators, washing or drying machines, stoves or dishwashers.
- (c) Overt blocking of drainage pipes, ditches, channels, and streams, so as to cause flooding and adverse affect to surrounding properties.
- (d) The existence of excessive growth of weeds or vegetation, or the existence of any accumulation of debris, trash, garden trash, junk, untended growth of vegetation, or undergrowth or dead or living vegetation, upon any property to the extent and manner that such property contains or is likely to contain rodents, reptiles, or other vermin, or furnishes a breeding place for flies, mosquitoes, or wood-destroying insects, or otherwise threatens the public health, safety or welfare.
- (e) The outdoor storage of all or part of any dismantled, partially dismantled, inoperative or discarded motor vehicle, machinery, farm equipment, aircraft, construction equipment, boat, personal water craft, trailer, truck, motorcycle, or bicycle, which is not located on the premises of a lawfully established storage yard or which is not on the premises of a lawfully established vehicle service establishment and is in the process of repair or maintenance by that establishment.
- (f) Any other condition or use that constitutes a nuisance to the public, generally, as that term is defined herein, which is continually or repeatedly maintained, the abatement of which would be in the best interest of the health, safety, or welfare of the citizens of the city.
- (g) *Prima facie evidence of abandonment of a vehicle.* The absence of a license plate for the current year and/or the absence of a current motor vehicle registration shall be prima facie evidence that such vehicle has been abandoned, junked or discarded. Further, prima facie evidence shall include whether the vehicle, motor home or trailer is unusable for its intended purpose or is incapable of operating under its own power due to damage, disassembly, deterioration, or the existence of trash or undergrowth in or around the vehicle, motor home or trailer indicating disuse.

Sec. 1-4. - Maintenance of private property.

No person owning, leasing, operating, occupying, or having control of any premises within the city shall maintain, keep, or permit any nuisance, as defined herein.

Sec. 1-5. - Litter control.

It shall be a violation of this chapter for any person to throw, discard, place, drop, or deposit

litter in any manner or amount in or upon any public property, private property, highway, street, right-of-way, or body of water in the city, except in areas and containers duly provided.

(a) *Littering prohibited.*

1. In any case where litter is ejected or discarded from a motor vehicle, except at approved and permitted disposals sites, the operator of the motor vehicle shall be deemed in violation of this chapter.
2. It shall be a violation of this chapter for any person to deposit any item or materials, except litter, in any receptacle placed for public use as a depository litter.

(b) *Vehicle loads.*

1. No vehicle shall be driven, moved, stopped, or parked on any highway street, alley, or thoroughfare unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing, or otherwise escaping therefrom, except that sand may be dropped only for the purpose of securing traction or water or other substances may be sprinkled on a roadway in cleaning or maintaining the roadway.
2. It is the duty of every vehicle owner, lessee, or driver of any vehicle hauling, upon any public road or highway open to the public, dirt, sand, lime rock, gravel, silica, or other similar material, to prevent such materials from falling, blowing, or in any way escaping from such vehicle. Covering and securing the load with a close-fitting tarpaulin or other appropriate cover is required.
3. Any owner, lessee, or driver of any vehicle from which any materials or objects have fallen, blow, leaked, sifted, or otherwise escaped from the vehicle shall immediately cause the materials or object on public property or private property to be cleaned up and shall pay any cost thereof.

(c) *Litter containers.* It shall be the duty of any and every person, business, corporation, company, lessee, or agent owning or operating any public establishment or public place to keep litter in adequate and suitable receptacles and/or containers capable of holding such materials until proper disposal is accomplished.

(d) *Construction litter.*

1. All construction and demolition contractors, owners, or agents, shall provide on-site receptacles for loose debris, paper, building materials wastes, scrap building materials, and other litter products to prevent wind-driven scattering of such materials.
2. It is a violation of this chapter for any private property owner, tenant, occupant, lessee, or agent to grant permission to any person to dispose of construction or other debris on such property.

Sec. 1-6. - Penalty.

Any violation of this Chapter shall be penalized as provided herein or elsewhere in the City Ordinances or code or as determined by the county judge, with each day that such condition continues to exist regarded as a new and separate offense.

ARTICLE II. - SUPPLEMENTAL PROCEDURES FOR CODE ENFORCEMENT

Sec. 2-1. - Short title.

This article shall be known and may be cited as the "City of Bonifay Code Enforcement Ordinance".

Sec. 2-2. - Authority and purpose of article.

This article is adopted pursuant to F.S. Chapter 162, as a supplemental method of enforcing the codes and ordinances of the city and is enacted to protect the public health, safety and welfare of the citizens of the city. In no way is this article intended to replace or exclude the enforcement of code or any ordinance violations as otherwise permitted by law.

Sec. 2-3. - Designation of code enforcement officer.

For the purpose of this article, a code enforcement officer shall be any designated employee or agent of the city whose duty it is to enforce the codes and ordinances enacted by the city. The code enforcement officer may also be referred to herein as "the inspector".

Sec. 2-4. - Authority of officer to issue citations.

Any inspector or code enforcement officer, so designated by the city, is hereby authorized to issue a citation to a person or business when, based upon personal investigation, the officer has reasonable cause to believe that the person or business (the violator) has committed or is committing a violation of a duly enacted code or ordinance of the city, and that the county court, in and for the county will hear the charge or is maintaining or allowing a nuisance to exist.

Sec. 2-5. - Citation procedures.

(a) *Citation with notice.* Prior to issuing a citation, a code enforcement officer shall provide notice to the person that the person has committed a violation of this Code or a city ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than thirty (30) days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the stated time period, the code enforcement officer may issue a citation to the person who has committed the violation to impose a civil money penalty.

(b) *Citation without notice.* A code enforcement officer shall not be required to provide the person who has committed a violation of a city code or ordinance with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if the code enforcement officer has reason to believe that the violation presents a

serious threat to the public health, safety, or welfare or if the violation is irreparable or irreversible.

(c) *Form of citation.* A citation issued by a code enforcement officer to impose a civil money penalty shall be in a form prescribed by the city and shall contain:

- (1) The date and time of issuance;
- (2) The name and address of the person to whom the citation is issued;
- (3) The date and time the civil infraction was committed;
- (4) The facts constituting reasonable cause;
- (5) The number of the section of this Code or ordinance violated;
- (6) The name and authority of the code enforcement officer;
- (7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation;
- (8) The applicable civil penalty if the person elects to contest the citation;
- (9) The applicable civil penalty if the person elects not to contest the citation;
- (10) A conspicuous statement that, if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the person shall be deemed to have waived the right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to a maximum civil penalty.

(d) *Right to contest citation in county court.* Any person receiving a citation to impose a civil money penalty issued under this article must sign and accept a citation indicating a promise to:

- (1) Pay the applicable civil penalty within thirty (30) days of issue; or
- (2) Appear in Holmes County Court within thirty (30) days of issue to receive a hearing date, the time and location of which shall be determined by the clerk of the county court.

(e) *Preponderance of evidence required.* At any hearing pursuant to this article, the commission of a violation of a code or ordinance must be proved by a preponderance of the evidence.

(f) *Applicable rules.* The Florida Rules of Civil Procedure and the Florida Evidence Code shall be applicable to any hearing.

(g) *Reasonable cause.* For issuance of a citation or a notice as set forth below, a code enforcement officer must have reasonable cause to believe that a person has committed an act in violation of a code or ordinance.

(h) *Citations to be deposited with the county court with a copy to the City Clerk* After issuing a citation to impose a civil money penalty on an alleged violator, a code enforcement officer

shall deposit the original and one (1) copy of the citation with the county court, by filing same with the clerk of the county court. The clerk of the county court shall send a copy to the City Clerk.

Sec. 2-6. - Procedure for contesting citation.

- (a) Within fifteen (15) days of the issuance of a citation to impose a civil money penalty, the person so charged may file a contest to such citation with the clerk of the county court. A copy of the contest must be furnished by the person to the city. The contest shall include the name and address of the person.
- (b) The clerk of the county court shall cause the matter to be set before the county judge on the next reasonably available date, in no less than fifteen (15) days and not more than thirty (30) days, with notices being sent by the clerk to the city code enforcement department and the person contesting the citation.
- (c) The county judge shall, on the appointed date and time, hold a hearing to determine if the citation for a civil money penalty was properly issued and to hear any other matters pertaining to such citation, and shall make an adjudication upon the evidence so presented, and may assess a civil penalty up to the maximum set by the ordinance. The minimum standards of procedure, excluding pretrial, set forth in the Florida Rules of Small Claims shall apply.
- (d) If the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he/she shall be deemed to have waived his/her right to contest the citation. In such case, judgment may be entered against the person for an amount up to the maximum civil penalty.
- (e) The judgment of the court, or a default judgment pursuant to subsection (d) of this section, shall have the same effect as any civil judgment of the county court, and bear interest at the legal rate. In addition, such judgment shall be a lien on the property, real or personal, on which the violation exists, and may be enforced as provided by F.S. section 162.09(3).

Sec. 2-7. - Continuing violations.

For all purposes under this Chapter, each day (either before or after notice) that a violation continues subsequent to the issuance of a citation shall constitute a separate violation, for which the initial notice and period for corrective action shall suffice, for which a separate subsequent citation may issue, and for which a separate penalty may apply.

Sec. 2-8. - Penalties for violation of codes and ordinances.

- (a) A violation of a code or an ordinance cited and enforced under the provisions of this article shall be deemed a civil infraction.
 - (1) For the first violation, by a civil penalty of fifty dollars (\$50.00).

(2) For the second violation, by a civil penalty of one hundred fifty dollars (\$150.00).

(3) For a third violation, by a civil penalty of two hundred fifty dollars (\$250.00).

(b) Any person who fails to pay the appropriate civil penalty or to request a hearing within the time allowed, or who fails to appear in court to contest the citation when a hearing has been requested, or who fails to appear in court as may be required shall be deemed to have waived his right to contest the citation. A judgment may be entered against the person for the amount of civil penalties. If the person fails to pay the civil money penalty or to request a hearing in the county court; fails to appear in court to contest the citation when a hearing has been requested; or fails to appear in court as may be required; the court may enter judgment for the amount referred to in the citation and/or may issue an order to show cause upon the request of the issuing agency. The court order to show cause shall require such person to appear before the court to explain why action on the citation has not been taken. If any person who is issued such order fails to appear in response to the court's directive, the person may be held in contempt of court. In lieu of a civil penalty, or in addition to a civil penalty, the court may order the violator to perform a public service.

Sec. 2-9. - Provision not applicable to certain building codes. The provisions of this article shall not apply to the enforcement pursuant to F.S. sections 553.79 and 553.80, of building codes adopted pursuant to F.S. section 553.73, as they apply to construction, provided that a building permit is either not required or has been issued by the county. For the purpose of this article, "building codes" means only those codes adopted pursuant to F.S. section 553.73.

Sec. 2-10. - Payment of penalties.

(a) All civil penalties shall be paid to and collected by the clerk of the county court.

(b) A total of two dollars (\$2.00) per citation collected shall be credited to the revenues of the issuing agency and earmarked for training purposes. The remaining funds shall be deposited in the general revenues of the city.

(c) An exception to the general revenues deposit requirement shall be allowed only when specifically designated otherwise by ordinance.

(d) The city, as an additional remedy, may refer cases of violations not paid and not contested within thirty (30) days of issuance to a collection agency for processing, collection, and notification of failure to pay to the credit bureau.

Sec. 2-12. - Notice and order of abatement.

In addition to any other remedy provided for in this Code or otherwise as a matter of law or equity, the City is entitled to utilize the following procedure to give notice of and for entry of an order to require the abatement of a particular nuisance and for enforcement of that order:

(a) A notice to abate may be issued by the code enforcement officer. An order may be entered thereon after notice and hearing by the County Judge. The notice and the order may

require the abatement of any nuisance, or the vacation, demolition or removal of any unfit or unsafe dwelling or structure, or may order the repair, restoration or replacement of any part of the same.

(b) The notice and order may require the abatement of any nuisance, or the vacation, demolition or removal of any unfit or unsafe dwelling or structure, or may order the repair, restoration or replacement of any part of the same.

(c) The notice and order shall include:

- (1) The description of the location of the buildings and/or land involved either by street address or by legal description.
- (2) A statement providing an accurate description of the nuisance for which the notice is issued.
- (3) Specification of the sections of this article upon which the notice of violation is based.
- (4) If the nuisance does not involve an unfit or unsafe structure, a statement ordering what shall be done to abate the nuisance.
- (5) If the nuisance does involve an unfit or unsafe structure, a statement of the nature and extent of such repairs or alterations necessary to comply with this article.
- (6) If the nuisance involves an unfit or unsafe structure and is of such a character that repairs or alterations cannot bring the building into compliance, a statement to that effect and an order of demolition of the building indicating fully the reason therefore.
- (7) If abatement of the nuisance or demolition of a structure is necessary for compliance, a specification of time for performing such abatement or demolition shall be stated in the notice which shall not be less than ten days, nor more than 120 days.
- (8) The name of the person upon whom the notice is served, as stated in section 22-29(b).
- (9) A statement advising that upon the owner's failure to comply with the notice, the city may vacate, demolish, or remove or otherwise abate the nuisance in accordance with the order stated in the notice, and the expense of such performance by the city shall be charged against the real property. The assessment, when made, shall constitute a lien upon the property by the city.
- (10) A statement advising of the right to a hearing.

In the event that any affected person shall request a hearing on any matter raised in the notice or order, such a hearing shall be held before the County Judge. Any interested party appearing before the County Judge may appear in person, by counsel, or by an agent possessing the power

of attorney, but may not appear through any person otherwise a stranger to the record. All witnesses appearing before the board in proceedings under this article shall be sworn by the chairman or, in his/her absence, by the person acting in that stead, except by a counsel representing a client. After such hearing, the County Judge shall enter a final order. Such final order of the County Judge may be appealed in writing for review in accordance with the Florida Rules of Civil Procedure and Florida Rules of Appellate procedure for review of a final order from County Court.

(d) In the case of an unfit or unsafe dwelling or structure, the notice and order shall require the owner and other interested parties within 30 days after service to obtain a permit and begin specified repairs or improvements, or begin to demolish and remove the dwelling or structure or portion of such dwelling or structure. This work shall be completed within 60 days from the date of the permit for repair or demolition. Any demolition permit necessary as a result of any condemnation in this section shall not require a fee. When the city inspector verifies the existence of a rodent infestation in any dwelling or structure that is to be demolished and removed, in order to preclude the migration of rodents, the notice and order of the inspector shall require that effective rodent extermination methods be employed by a licensed structural pest control operator prior to demolition. Extermination techniques shall include ectoparasite control measure.

(e) In the case of an unfit and unsafe dwelling or structure, which after inspection is determined to be uninhabited, the inspector shall cause to be posted a no trespassing sign to prevent entry into the premises by third parties who might be exposed to the risk of danger created by the unsafe structure.

(f) The inspector and his designees are hereby authorized to enter upon private property in order to enforce the provisions of this Ordinance. When necessary to obtain such entry, the inspector and his designees may institute appropriate proceedings to obtain a search warrant or inspection warrant, whichever is necessary.

Sec. 2-13. - Services of notice and order; appearance of counsel

It shall be the duty of the Mayor or his or her designee to see to it that the required notice and order are delivered to the interested parties by personal delivery of a copy to the party to be notified, or by leaving such copy at his usual place of abode with some person of the family above 15 years of age and informing such person of the contents of the notice and order, or by either registered or certified United States mail, with return receipt requested, or, if the name of any such party or his place of residence or his post office address cannot be ascertained after diligent search, or if a notice and order sent by either registered or certified mail shall be returned undelivered and the person to be notified is not residing within the city, by publishing a copy thereof once a week for two consecutive weeks in a newspaper of general circulation within the city. A copy of such notice and order shall be posted in a conspicuous place at city hall and the county courthouse and upon such dwelling or structure. The subsequent removal or illegibility of the notice and order posted upon the dwelling or structure shall not render the posting invalid. Any interested party appearing before the County Judge or the city council may appear in person, by counsel, or by an agent possessing the power of attorney, provided the agency's instrument appears in the county's official records book, but may not appear through any person otherwise a stranger to the record.

Sec. 2-14. - Extension of time to comply.

(a) In the case of an unfit or unsafe building or structure, if the interested parties shall have obtained a building or demolition permit within the 30-day period and, in good faith and in due time, begun work to comply with the notice and order, but it appears that they will not be able to complete the work by the date ordered, they may file a written request stating the reasons they have been unable to complete compliance, and, if reasonable grounds are shown therefore, the inspector is authorized to issue an amended notice and order authorizing an extension of time, not to exceed 60 days, in which to complete compliance with the original order. The inspector's decision thereon may be reviewed by the Code Enforcement Officer, if requested by any affected party.

(b) In the case of a nuisance which is not an unfit or unsafe dwelling or structure, the building official may grant extensions of up to 60 days to abate the nuisance as are reasonably necessary under the circumstances, upon a written request from the interested parties, stating the reasons they have been unable to complete compliance and showing reasonable grounds for such failure to complete compliance.

(c) The City Council, in exceptional cases, upon written request, may extend the completion date required by the notice and order and extensions, as merited by special hardship, unusual difficulty, or uniqueness of the situation. However, in no event shall the completion date extend beyond a maximum period of 180 days.

Sec. 2-15. - City action on failure to comply.

(a) If the owner or other parties in interest fail to repair, restore or replace such parts of the dwelling or structure within the time permitted by the notice and in the absence of extenuating circumstances as would justify an extension of the time period therefore, the Mayor may order a

vacation of the premises until compliance or a demolition of the structure.

(b) If the owner or other parties in interest shall fail to comply with a notice and order made pursuant to the provisions of this article within the time therein fixed, and upon expiration of the 30-day appeal period with no appeal having been taken from the final order of the County Judge (or, if applicable, the final order of the City Council), the city, acting through the Mayor, is authorized to vacate, demolish or remove or otherwise abate the nuisance in accordance with such notice and order, either with city forces or by independent contractor selected through the city's procurement process.

Sec. 2-16. - Assessment of cost and abatement; lien.

(a) The Mayor, after proceeding under this article, shall, as often as may be convenient, report the action taken toward abatement of the nuisance by the city, and the city council shall assess the entire cost of such action against the real property, which assessment, when made, shall constitute a lien upon the property in favor of by the city. The lien of the city shall encompass, in addition to the cost of determining the nuisance, effecting the vacation, securing of the property removal or abatement of the nuisance, and demolition and removal of the dwelling or structure and accessories when applicable, all administrative, legal, postal and publication expenses, as well as rodent extermination when employed, the fees of independent experts offering opinions, reports or testimony concerning the nuisance or abatement, as well as all other direct or indirect costs associated therewith. All such costs and expenses are collectively referred to herein as the abatement cost. The lien upon the property for the abatement cost shall be superior to the interest of all others receiving notice and an opportunity to administratively appeal the notice and order, except taxes.

(b) The city clerk shall record a notice of the lien in the county's official record book showing the nature of such lien, the amount of the lien, an accurate legal description of the property, including the street address, and the names of all interested parties known to the city. Such municipal lien shall bear interest from the date at the rate of 18 percent per annum and enforceable by foreclosure against the property if unsatisfied after the expiration of three months from the date of recording the notice of lien, or enforceable as other liens may be enforced by the city. Additionally, the city may enforce the lien upon the real property of the owner, as provided for by Florida law.

Sec. 2-17. - Provisions of sections regarding supplemental means.

The provisions of the sections hereof regarding supplemental means are an additional and supplemental means of enforcing city codes or ordinances and may be used for the enforcement of all codes and ordinances duly adopted by the city council. Nothing contained in this article shall prohibit the city from enforcing its codes or ordinances by other means.

Section 2. If any section or portion of a section of this ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to impair the validity, force, or effect of any other section or part of this ordinance.

Section 3. That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed and revoked.


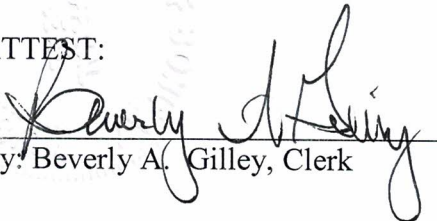
Section 4. That this ordinance shall become effective immediately upon its passage and adoption.

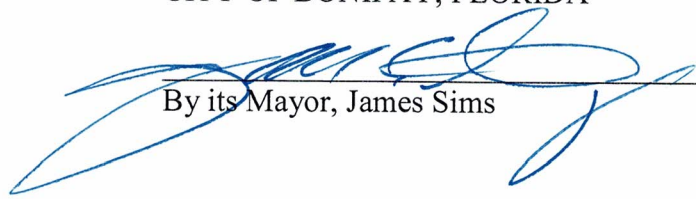
INTRODUCED on first reading in the City Council on August 10th, 2020.

PASSED after second reading by the City Council on September 14, 2020.


CITY OF BONIFAY, FLORIDA

ATTEST:



By: Beverly A. Gilley, Clerk


By its Mayor, James Sims

APPROVED AS TO FORM:


Michelle Blankenship Jordan
City Attorney