

ORDINANCE NO. 02-02-A

WHEREAS, the City of Owens Crossroads is empowered to enact ordinances to protect and to promote the general public health and welfare; and

WHEREAS, the storage of damaged, worn out, scrapped, or discarded materials and objects, such as inoperable vehicles, building materials, machinery, metals, waste paper, rags, glassware, tinware, or other scrap and/or junk, as hereinafter defined, in the yards or other open spaces of lots used for residential and/or commercial purposes within the City of Owens Cross Roads could be injurious or harmful to the general public health, safety, and welfare by becoming overgrown with grass or weeds; and/or becoming littered with rubbish and debris; and/or becoming infested with rats, mice, insects, reptiles, and other vermin; and/or being unsightly; and

WHEREAS, such conditions tend to attract children and endanger their lives and/or health, spread diseases, invite plundering, attract vagrants, create fire hazards and/or other safety and health hazards, create, extend, and aggravate urban blight, interfere with the enjoyment of and/or reduce the value of private property, and interfere with the comfort and well-being of the public; and

WHEREAS, adequate protection of the public health, safety, and welfare requires that the storage of inoperable vehicles, junk, and scrap materials be regulated and controlled for the overall good and protection of the public as a whole.

NOW, THEREFORE, for the foregoing purposes, and other legitimate purposes for the protection of the public health, safety, and general welfare, the City of Owens Cross Roads, Alabama, through its duly elected Council, does enact the following ordinance, to-wit:

**SECTION 1 - TITLE**

This ordinance shall be entitled "The Owens Cross Roads, Alabama, Junk, Litter and Inoperable Vehicle and Article Ordinance."

**SECTION 2 - DEFINITIONS**

For the purposes of this ordinance, the following terms are defined as hereinafter set forth, to-wit:

**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, lessee, manager, operator, occupant, executor, executrix, administrator, guardian, 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 Owens Cross Roads, Alabama.

**PUBLIC PROPERTY:** Shall mean any real property, including appurtenances thereon, which is owned, maintained, or controlled by the City of Owens Cross Roads, Alabama, or any other county, state or federal governmental entity, and shall include any street, avenue, road, drive, lane, boulevard, alley, highway, park, or other property owned, operated, or controlled by the City of Owens Cross Roads, Alabama, or any other public governmental entity for the use, benefit, or enjoyment of the general public.

**RESIDENTIAL PROPERTY:** Shall mean any lot, tract, parcel, land, or other property located within the City of Owens Cross Roads, Alabama, on which single or multi-family 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 Owens Cross Roads, Alabama.

**COMMERCIAL PROPERTY:** Shall mean any lot, tract, parcel, land, or other property located within the City of Owens Cross Roads, Alabama, on which offices, clinics, kennels, shopping or service establishments, or any other commercial enterprises exist, or any property that is located within an area that is zoned or designated for uses other than residential purposes by the City of Owens Cross Roads, Alabama.

**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 devices.

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

**INOPERABLE VEHICLE:** Shall mean any vehicle that is in a state of disrepair, disassembly, or damage that renders the vehicle inoperable or incapable of being used for its designed or intended purpose.

**MOTOR VEHICLE:** Shall mean any vehicle which is self-propelled, and shall include, but not be limited to, automobiles, trucks, busses, vans, motorcycles, motorhomes, dune-buggies, tractors, and motorized recreational or agricultural vehicles.

**NON-MOTORIZED VEHICLE:** Shall mean any vehicle that is not self-propelled, and shall include, but not be limited to, camping trailers, utility trailers, boat trailers, and horse trailers.

**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, or other motor vehicle; gas or electrical appliances or fixtures, or parts thereof; household hardware; wire; cable; bearings; valves; pipes and pipe-fittings; building materials; wood; or any other used or secondhand metal articles, including motor vehicles.

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

**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 polystyrenes.

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

**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 Owens Cross Roads, 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.

**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 Owens Cross Roads, 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.

**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 Owens Cross Roads, 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.

**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 Owens Cross Roads, 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.

### **SECTION 3 - GENERAL**

#### **3.1 - SCRAP AND JUNK**

##### RESIDENTIAL PROPERTY

It shall be unlawful and a violation of this ordinance for any person to store or keep upon the premises of any residential lot, apartment building or complex, trailer court, or other tract of land or lot used for residential purposes, any inoperable vehicle, 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 public way or any other private property and in such a manner as to prevent a health, fire, or safety hazard as defined by the laws of the state and the ordinances of the City of Owens Cross Roads, Alabama.

##### COMMERCIAL PROPERTY

(A) It shall be unlawful and a violation of this ordinance for any person to store or keep upon commercial property within the City of Owens Cross Roads, Alabama, any inoperable vehicle, scrap, or junk, unless the same is housed in an approved, enclosed, covered structure.

(B) Every junk and salvage yard, scrap metal processing yard, or automobile graveyard, as defined in this ordinance, shall be enclosed, except for entrances and exits, with a solid, or otherwise nontransparent vertical wall or fence of a minimum height of eight feet measured from ground level at any point. Entrances and exits shall not be wider or more numerous than is reasonably necessary for the conducting of business. This requirement may be waived and/or modified as to any side or portion of said premises which are adequately screened by natural objects, plantings, structure, or other appropriate means so as not to be visible from public ways or from adjacent property. No fence shall be required along a railroad right-of-way where the same is not necessary to discourage trespass by children or vagrants.

(C) It shall be unlawful and a violation of this ordinance 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, implements, utensils, or other items for displayed for sale to the general public, unless the same is housed in an approved, enclosed covered structure, or, is enclosed by a solid, or otherwise non-transparent vertical wall or fence that is a minimum of seven (7) feet in height measured from ground level,

so as not to be viewable from adjacent public ways or from adjacent residential property, and is stored in such a manner as to prevent any health, safety, or fire hazard.

EXCEPTIONS.

Excepted from the requirements of paragraph (A) of this section are:

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

Excepted from the requirements of paragraph (C) of this section are:

- 1.) Materials, goods, and/or supplies which are normally stored, displayed, or kept outside on the premises of building supply companies, lumber yards, plumbing supply companies, nurseries, and similar commercial establishments so long as the same are so stored in such a manner as to prevent overgrowth with grass and/or weeds, the harboring of rats, mice, insects, reptiles, and other vermin, so as to prevent any health, fire, or safety hazard.
- 2.) Merchandise, goods, or supplies that are displayed on the premises of duly licensed retail or commercial sales establishments for the purpose of temporary special promotional sales, so long as the same are displayed in a manner to prevent any health, fire, or safety hazard while so displayed. Displays under this section shall be permitted only one time per year, not to exceed sixty (60) days in any calendar year.
- 3.) Automobiles, trucks, boats, tractors, agricultural or industrial equipment, lawn and garden equipment, and other vehicles that are displayed on the premises of establishments that are duly licensed for the sales of such items.
- 4.) Building materials located on premises where a valid permit is in existence for construction or repairs.

ENFORCEMENT. In the event that any person shall fail or refuse to comply with the foregoing provisions of this section of this ordinance, then the Chief Enforcement Officer for the City of Owens Cross Roads, Alabama or any code Enforcement Officer of the City of Owens Cross Roads, Alabama, may cause to be served upon such person, in person or by first class mail, written Official Notice apprising the person of the violation of this ordinance and requiring such person to comply with this ordinance within a time stated in said notice, or to enter a request for an extension of time to the City of Council within the specified time stated in said notice. The Code Enforcement Officer, or any Enforcement Officer working under his supervision, may issue a citation to any person who, after written notice has been issued, fails or refuses to comply with the provisions of this ordinance. Such citation shall name the party charged, the address of the property where the violation is located, and the nature of the offense or violation. It shall also apprise the person of the date, time, and place at which to appear for court. Upon a finding of guilty in the Municipal Court of the City of Owens Cross Roads, Alabama, the person is subject to the same penalties as provided for violations of City Ordinance in Section 89:1 Municipal Code of Ordinances, City of Owens Cross Roads, Alabama. Such citation, returnable to the Municipal Court of Owens Cross Roads, Alabama, who shall forthwith appear and make oath as to the alleged offense before a magistrate of the Municipal Court. This

provision for the issuance of a citation to Municipal Court shall not prevent any such Officer from appearing before the Municipal Court magistrate and making oath as to the facts and applying for a summons or warrant with respect to any alleged offense, in lieu of issuing a citation.

#### REQUESTS FOR EXTENSION OF TIME

Any person receiving written notice of violation of Section 3 of this ordinance, or his duly authorized agent, may, within twenty-one (21) days following the date of issue of such notice, enter a request for an extension of the date for compliance to the City Council. Such request must be in writing and must state the location of the property, the date of the notice of the violation of this ordinance, and the Official Notice Number. The request must also state the hardship or reason for the request of additional time, and the amount of time that is requested. No request for an extension filed later than twenty-one (21) days after the date of such notice shall be acted upon by the City Council unless the Code Enforcement Officer shall consent thereto.

### 3.2 - LITTER AND GARBAGE

#### LITTER AND GARBAGE

It shall be unlawful and a violation of this ordinance for any owner, tenant, or person 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 containerized and stored in such a manner as to prevent it from being blown, deposited, or otherwise scattered by the elements, animals, birds, or any other means. Containers and storage practices shall conform to the requirements set forth by the Waste Collection and Storage rules of Madison County, Alabama (herein incorporated by reference).

#### ENFORCEMENT

In the event that any person shall fail or refuse to comply with the foregoing provisions of this section of this ordinance, the Code Enforcement Officer for the City of Owens Cross Roads, Alabama, or his authorized representative, may cause to be served upon such person, by delivery in person, by first class mail, or by posting on the premises in a conspicuous place, an Official Notice apprising the occupant of the violation of this ordinance and requiring such person to comply with this section within a time stated within said notice.

The Code Enforcement Officer, or his duly authorized representative, may issue a citation to Municipal Court of the City of Owens Cross Roads, Alabama, to any person who, after written notice has been issued, fails or refuses to comply with the provisions of this section. Such citation shall name the party charged, the address of the property where the violation is located, and the nature of the offense or violation. It shall also apprise the person of the date, time, and place at which to appear for court. Upon a finding of guilty in the Municipal Court, the person shall be subject to the same penalties as provided for violations of city ordinances in Section 89:1, Municipal Code of Ordinances, City of Owens Cross Roads, Alabama. Such citation, returnable to the Municipal Court of Owens Cross Roads, Alabama, shall be served on said person by any Enforcement Officer for the City of Owens Cross Roads, Alabama, who shall forthwith appear and make oath as to the alleged offense before a magistrate of the Municipal Court. This provision for the issuance of a citation to Municipal Court shall not prevent any such Officer from appearing before the Municipal Court magistrate and making oath as to the facts and applying for a summons or warrant with respect to any alleged offense, in lieu of issuing a citation.

### SECTION 4 - PUBLIC PROPERTY

4.1 - INOPERABLE MOTOR VEHICLES ON PUBLIC PROPERTY. It shall be unlawful and a violation of this ordinance for any person to abandon, place, leave, store, or park any inoperable motor vehicle owned by or in possession or control of him upon any public property in the City of Owens Cross Roads, Alabama, for

more than forty-eight (48) hours. Notice to remove such inoperable motor vehicle from the public right-of-way within forty-eight (48) hours shall be placed upon the vehicle or served upon the last known owner of record. If said vehicle is not removed from the public right-of-way by the expiration of such forty-eight (48) hours, the City of Owens Cross Roads may cause said vehicle to be removed and impounded at a depository designated for such purpose. The city shall have a lien upon any such vehicle that is impounded. The lien shall be for the amount of the cost of the removal and impoundment plus such reasonable amount as may be charged for storing such vehicle.

Provided, however, that this section shall not apply to motor vehicles that are properly licensed and are in operating condition, or to vehicles that have been temporarily abandoned by the owner for the purpose of obtaining help or assistance to repair or remove the same.

For the purpose of this ordinance, any motor vehicle located on public property without a current and proper license plate shall be deemed abandoned and improperly stored.

4.2 - NONMOTORIZED VEHICLES ON PUBLIC PROPERTY. It shall be unlawful and a violation of this ordinance for any person to abandon, place, leave, store, or park any non-motorized vehicle owned by or in possession or control of him upon any public property in the City of Owens Cross Roads, Alabama. Notice to remove such non-motorized vehicle from the public right-of-way within forty-eight (48) hours shall be attached to the vehicle or served upon the owner, if know. If said vehicle is not removed from the public right-of-way within the forty-eight hour period, the Chief Enforcement Officer, or his authorized agent, may issue a citation to any person who refuses or fails to comply with the provisions of this section of this ordinance, and/or may cause said vehicle to be removed and impounded at a depository designated for such purpose. The City shall have a lien upon any such vehicle that is impounded.

This section of this ordinance shall apply, but not be limited to, boat trailers, utility trailers, and camping trailers.

4.3 - DUE PROCESS HEARING.

The owner or person entitled to possession of any vehicle which is removed or towed from public property under the provisions of Section 4.1 or Section 4.2 herein, shall be entitled to an immediate due process hearing before the Chief of Police or his designated substitute, to give evidence as to why the vehicle should not be removed or impounded.

DUTIES OF OWNER(S).

It shall be the duty of the owner, or any person in control of or charge of property located within the City of Owens Cross Roads, Alabama, to maintain said property in compliance with the provisions of this ordinance, free of any inoperable vehicles, junk, scrap, garbage, or litter as herein defined.

REPEAL.

By adopting this ordinance the City of Owens Cross Roads, Alabama, hereby repeals the previous ordinances dealing with this subject: Ordinance No. 90-02 and No. 79-3 declaring them to be null and void and rendered of no effect hereafter.

SEVERABILITY.

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.

ADOPTED this the 20th day of August, 2002.

Curtis J. Gray  
President of the City Council of the  
City of Owens Cross Roads, Alabama

APPROVED this the 22nd day of August, 2002.

Barbara Webster  
Attest: 8-22-02

Curtis J. Gray  
Mayor of the City of Owens Cross Roads,  
Alabama

I certify that a copy of the foregoing ordinance  
has been posted in the following places on the 22nd  
day of August, 2002.

- Curt & Betty's Grocery
- Town Hall
- Amoco Food Mart
- True-Value Store

Barbara Webster  
Barbara Webster  
Town Clerk