

**CITY OF PALMETTO
ORDINANCE NO. 2018-04**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, CREATING NEW REGULATIONS REGARDING ABANDONED VEHICLES ON PRIVATE PROPERTY TO BE SET FORTH IN CHAPTER 18, ARTICLE I, SECTIONS 18-7 THROUGH 18-13 OF THE PALMETTO CODE OF ORDINANCES; PROVIDING FOR PURPOSE AND DEFINITIONS; PROHIBITING STORAGE OF DERELICT VEHICLES ON PRIVATE PROPERTY; PROVIDING FOR EVIDENCE AND CRITERIA TO IDENTIFY AN ABANDONED OR DERELICT VEHICLE; PROVIDING FOR ENFORCEMENT PROCEDURES AND FOR RESPONSIBILITY FOR VEHICLE OWNERSHIP; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Palmetto City Code, Chapter 18, Article I, Sections 18-1 through 18-6 regulating junked, wrecked, dilapidated, and/or abandoned vehicles were originally adopted in 1975 and subsequently readopted and codified without change in 1990; and

WHEREAS, the City recently adopted Ordinance No. 2017-08 regarding abandoned vehicles and vessels on **public** property or in **public** waterways; and

WHEREAS, this Ordinance instead addresses abandoned and dilapidated vehicles visibly stored on **private** property, provides specific criteria for code enforcement identification of a dilapidated vehicle, and eliminates the involuntary towing of vehicles from **private** property; and

WHEREAS, it is the intention of this Ordinance to create new language to provide comprehensive regulations which protect the aesthetic integrity of both commercial property and residential neighborhoods while providing proper constitutional protection to City residents. This Ordinance is not intended to conflict with Ordinance No. 2017-08 and is only intended to apply to private real property; and

WHEREAS, the City Commission of the City of Palmetto finds that any abandoned or derelict motor vehicle which is visibly parked on private real property in the City limits, is a visual

nuisance, creates blight, and is detrimental to the general health and welfare of the residents of the City; and

WHEREAS, Motor vehicles that are abandoned, junked, and/or left derelict on private property are unsightly, interfere with the enjoyment of, and reduce the value of, private property, invite plundering, create fire hazards and other safety and health hazards, and interfere with the comfort and well-being of the public. The purpose of this Ordinance is, therefore, to provide adequate protection of the public health, safety, and welfare which requires that such condition be regulated, abated, or prohibited, and to provide an effective system of removal for such vehicles; and

WHEREAS, the City Commission of the City of Palmetto has certain regulatory authority granted to it by the Florida Constitution, the Florida Statutes and the City Charter to regulate the use of land within its corporate boundaries; and

WHEREAS, the Planning and Zoning Board has reviewed the proposed Ordinance amendment, held a properly noticed public hearing on April 26, 2018, received public comment and testimony, and provided its recommendation to the City Commission of the City of Palmetto; and

WHEREAS, the City Commission of the City of Palmetto held a properly noticed public hearing on May 7, and received public comment and testimony at said hearings; and

WHEREAS, the City Commission of the City of Palmetto finds that approval of this Ordinance will serve the best interests of its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AS FOLLOWS:

SECTION 1. The Whereas Clauses set forth above are hereby adopted as findings.

SECTION 2. The Definition of Abandoned Motor Vehicles or Vessels” in Section 18-1 of the Palmetto Code of Ordinances is here by Amended to read as follows:

Abandoned motor vehicle or vessel: A motor vehicle or vessel in a wrecked, inoperative or partially dismantled condition or in a state of disuse or neglect and which has an identifiable owner and has been disposed of on either public or private property within the city, or which has no identifiable owner and has been disposed of on private property within the city. Specifically excluded from this definition is a motor vehicle or vessel that has no identifiable owner or owners and has been disposed of on public property in a wrecked, inoperative or partially dismantled condition, as such property is governed under Chapter 705, Florida Statutes. Further, the absence of a license plate for the current year or the absence of a current motor vehicle or vessel registration shall be prima facie evidence that such vehicle or vessel is abandoned. The presence of a current license plate or registration shall not, in and of itself, exempt any motor vehicle or vessel from this definition or the provisions of this chapter. Evidence to be considered when determining whether a vehicle is an abandoned motor vehicle or vessel for the purposes of this Article are set forth in Section 18-10.

SECTION 3. Section 18-4 of the Palmetto Code of Ordinances is hereby amended to read as follows:

Sec. 18-4. - Notice.

(a) Whenever an officer discovers abandoned property or an abandoned motor vehicle or vessel on public property, the officer shall cause a notice to be placed upon such article in substantially the following form:

NOTICE IS HEREBY GIVEN TO THE OWNER OF AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY. This property, to wit: (setting forth brief description) is unlawfully upon this property known as (setting forth brief description of location) and must be removed to a location outside the city or into an enclosed building within five (5) days; otherwise it shall be deemed abandoned property and be removed and disposed of pursuant to chapter 705, Florida Statutes, or chapter 18 of the Palmetto Code of Ordinances. The owner shall be liable for costs of removal, storage and publication of notice. The owner or any person or entity claiming an interest in this property may appeal this removal order by contacting the city clerk's office within five (5) days following the date of this notice (or five (5) days after your receipt of this notice if sent by mail) and requesting such an appeal. Dated this: (setting forth the date of posting of notice); Signed: (setting forth name, title, address, and telephone number of the posting officer).

(b) Such notice shall be not less than eight (8) inches by ten (10) inches in size and shall be sufficiently weatherproofed to withstand normal exposure to the elements. In addition to posting, the officer shall make a reasonable effort to ascertain the name and

address of the owner. If such is reasonably available to the officer, he shall mail a copy of such notice to the owner, certified mail, return receipt requested, on or before the date of posting. The officer shall contact the department of highway safety and motor vehicles in order to determine the name and address of the owner of such motor vehicle or vessel and any party that has filed a lien on such motor vehicle or vessel. On receipt of this information, the officer shall mail a copy of the notice by certified mail, return receipt requested, to the owner and each lienholder, if any, on or before the date of posting.

SECTION 4. Section 18-5 of the Palmetto Code of Ordinances is hereby amended to read in its entirety as follows:

Sec. 18-5. - Appeal of order to remove; procedure for removal on public property.

(a) *Appeal of removal order.* In the event the owner or any person or entity interested in the abandoned property or abandoned motor vehicle or vessel on public property wishes to appeal the order to remove the property from its location, the owner, person or entity must notify the city clerk's office, either verbally or in writing, prior to the end of the fifth day following posting or the return of the certified mail receipt, whichever is later, requesting such an appeal hearing. If such appeal is so requested, the officer shall request a hearing before ~~the a city code enforcement board~~ special magistrate consistent with the procedures and rules governing ~~such board~~ the special magistrate. The ~~board~~ special magistrate may either affirm the removal order issued by the Officer or overrule such removal order.

(b) *Procedure for removal.* If at the end of five (5) days after posting the notice or at the end of five (5) days after return of the certified mail receipt, whichever comes later, the owner or any person or entity interested in the abandoned property or abandoned motor vehicle or vessel has failed to remove such abandoned property, motor vehicle or vessel from its location set forth in the notice, and has not requested an appeal hearing as described in this section, or the removal order has been affirmed by the ~~code enforcement board~~ a City special magistrate, the following shall apply:

(1) For abandoned property, the Officer may maintain any or all such property for use by the city, trade such property to another unit of local government, donate the property to a charitable organization, sell such property as provided in this chapter or, in the event the abandoned property has no apparent value, notify the appropriate refuse removal service to remove and dispose of such property. If the officer elects to maintain, trade or donate such abandoned property, notice of such election shall be given by an advertisement published once a week for two (2) consecutive weeks in a newspaper of general circulation in Manatee County. A copy of such notice shall also be sent by certified mail, return receipt requested, to the owner or owners of the abandoned property, if known, and to all known lienholders.

(2) For abandoned motor vehicles or vessels, the Officer shall request a commercial towing and storage service to tow such motor vehicle or vessel from

its location and store such motor vehicle or vessel until sold as set forth herein. The towing and storage service shall have a lien against such motor vehicle or vessel equal to the reasonable cost of towing and storage of such motor vehicle or vessel plus all costs it incurs for advertisement and otherwise as provided in this chapter. The city shall have a lien against such vehicle or vessel equal to any and all costs it incurs under this chapter.

(3) The rightful owner of any abandoned property or abandoned motor vehicle or vessel who, after notice is posted to remove such property as provided in this chapter, fails to remove such property within the specified period shall be liable for all costs of removal, storage and destruction of such property, vehicle or vessel, less any salvage value obtained by disposal of the property, vehicle or vessel plus all costs of advertisement and sale of such property, vehicle or vessel. If the rightful owner of an abandoned vehicle or vessel does not make claim to such property, or fails to pay such costs within thirty (30) days after removal notice is posted, or removal notice by certified mail is received, title to the abandoned vehicle or vessel shall vest in the city. The city shall sell such vehicle or vessel as provided herein. If the rightful owner of abandoned property does not make claim to such property or fails to pay such costs within thirty (30) days after removal notice is posted, or removal notice by certified mail is received, title to the abandoned property shall vest in the city, which shall retain or dispose of such abandoned property as set forth in this chapter.

(4) In the event the abandoned property or abandoned motor vehicle or vessel is to be sold, such property, motor vehicle or vessel shall be sold at a public sale by competitive bidding. Notice of the sale shall be prepared by the seller and shall be given by an advertisement of the sale arranged and paid for by the seller and published once a week for two (2) consecutive weeks in a newspaper of general circulation in Manatee County at such seller's expense if the value of the property is more than one hundred dollars (\$100.00). If the property is valued at one hundred dollars (\$100.00) or less, notice shall be given posting a description of the property at the Palmetto Police Department. The notice shall include a statement that the sale shall be subject to any and all liens. The sale of abandoned motor vehicles or vessels shall be conducted by the commercial towing and storage company having title to the abandoned vehicle or vessel. The sale of abandoned property shall be conducted by the city clerk or his designee. Such public sale shall be held at the nearest suitable place where the abandoned personal property or abandoned motor vehicle or vessel is held or stored. The notice shall state the time and place of the sale and shall describe the abandoned property or abandoned motor vehicle or vessel in a manner reasonably adequate to permit the rightful owner of such property to identify it. The sale may take place no earlier than ten (10) days after the final publication. At the time a copy of the notice of sale is sent by the seller to the newspaper for advertisement, a copy of such notice shall also be sent by the seller by certified mail, return receipt requested, to the owner or owners of the abandoned property or abandoned motor vehicle or vessel, if known, and to all known lienholders.

(5) Upon sale, the seller shall provide a bill of sale clearly stating that the sale is subject to any and all liens. The costs of removal, transportation, storage,

advertisement and notice shall be deducted from the sale proceeds and shall be paid over to the appropriate party who provided such services or advanced such costs, and the balance of sale proceeds, if any, shall be deposited into an interest-bearing account by the seller and shall be held there for one (1) year. If no rightful owner comes forward with a claim to the property within the designated year, the balance of the proceeds shall be deposited in the state school fund, if required by law, or the city general fund. The rightful owner of the abandoned property or abandoned motor vehicle or vessel may claim the balance of the proceeds, plus accrued interest, within one (1) year from the date of the above-stated deposit by making application to the seller. If no rightful owner comes forward with a valid claim to the property, vehicle or vessel within the designated year, the proceeds, plus accrued interest, shall become the property of the city.

(6) Upon final disposition of the abandoned property or abandoned motor vehicle or vessel, the seller shall notify the prior owner, if known, of the amount the owner may owe for all outstanding costs of removal, storage and destruction of such property, vehicle or vessel, less any salvage value obtained by disposal of the property, vehicle or vessel, plus all outstanding costs of advertisement and sale of such items. If the owner does not pay such costs within thirty (30) days of making a claim to the property, title to the property shall vest in the city. Further, in the event the sale proceeds exceed the costs of towing, storage, advertising and sale, the officer shall notify the prior owner of the identity of the possessor of the excess sale proceeds and the owner's right to claim such proceeds, plus interest.

SECTION 5. Sections 18-7 through 18-9 of the Palmetto Code of Ordinances are hereby created as new sections regulating dilapidated vehicles on private property as follows:

Section 18-7. Storage of Abandoned Motor Vehicles or Vehicles on privately owned property.

No person shall allow any abandoned, junked, dilapidated, wrecked, or derelict vehicle to be placed or remain on any privately owned real property within the City, and no person in charge or in control of any privately owned property within the City, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any abandoned vehicle or vessel to be placed or remain on such private real property unless such vehicle or vessel is within a completely enclosed building, or is on the premises of an automobile or marine repair or

storage business for which the owner of the business has a current City business tax license and zoning approval. The owner, tenant, occupant, lessee, and/or agent of the property upon which a violation of this Ordinance occurs *and* the owner of the vehicle which is parked in violation, shall be jointly and individually responsible for failure to comply with this Ordinance.

Section 18-8. Evidence.

A vehicle shall be in violation of this Section if it is in a state of evident disuse, neglect, or abandonment to be an Abandoned Motor Vehicle or Vessel as set forth in Section 18-1 above. Evidence may include, but is not limited to, factors such as the vehicle or vessel being wrecked or inoperative; vegetative growth underneath the vehicle or vessel as high as the vehicle or vessel body or frame; refuse or debris collected underneath, on top, or about the vehicle or vessel; the vehicle or vessel is used primarily for storage purposes; partially dismantled vehicles or vessel, vehicles or vessels having no engine, transmission, or other major and visible parts dismantled or missing; or a vehicle or vessel being in any physical state rendering it inoperative. If the primary apparent evidence of neglect or abandonment is vegetation growing under the vehicle or vessel, then the Officer shall, using his or her training and experience, determine whether, under the totality of the circumstances, the vehicle or vessel is in a state of evident disuse, neglect or abandonment pursuant to the terms of this Ordinance. In addition, the absence of a valid license plate or sticker for the current year and/or the absence of a current motor vehicle or vessel registration certificate shall be prima facie evidence that such vehicle or vessel is abandoned, junked, or discarded; however, the presence of any such item shall not in and of itself mean that such vehicle or vessel is abandoned or derelict. The mere absence of a

current motor vehicle or vessel registration, license plate, or sticker may be refuted by the property owner, tenant, occupant, lessee or vehicle or vessel owner upon proof that the vehicle or vessel is immediately drive-able and is missing no major mechanical component(s).

Based upon the totality of the above evidence, an Abandoned Motor Vehicle or Vessel will be considered abandoned, dilapidated, derelict, or neglected and must be removed from the premises *unless*:

(1) The vehicle or vessel is within a completely enclosed building, shed or garage, with no part being visible from a public street; or

(2) The vehicle or vessel is upon the premises of an automobile or marine repair or storage building for which the owner of the business has a current City business tax license and zoning approval; or

(3) Where said vehicle or vessel is completely enclosed within a fully opaque fence of at least six (6) feet in height and located on the side or rear of private property.

Section 18-9. Enforcement and Responsibility for Disposition for Abandoned Motor Vehicles or Vessels.

When any Abandoned Motor Vehicle or Vessel is determined to be abandoned and/or derelict by the City of Palmetto as set forth in this Ordinance, then the person in charge, ownership, or control of the real property where the vehicle or vessel is located, whether as property owner, tenant, occupant, lessee, vehicle or vessel owner, or otherwise, shall remove such vehicle or vessel from the property. If the Abandoned Motor Vehicle or Vessel is located on private property, Officer shall give a written notice to said person to

remove said vehicle within five (5) calendar days from the date of the notice. If the vehicle or vessel is not removed by the end of the five (5) day period, the Officer shall issue a Notice of Hearing to appear before the City of Palmetto Special Magistrate. The owner, tenant, occupant, lessee, and/or agent of the property upon which a violation of this Ordinance occurs *and* the owner of the motor vehicle or vessel that is located on private property in violation of this Article shall be jointly and individually responsible for failure to comply with the provisions of this Article.

SECTION 6. Repeal of Ordinances in Conflict. This Ordinance hereby repeals and replaces any ordinances in conflict.

SECTION 7. Severability. If any section, sub-section, paragraph, sentence, clause or phrase in this Ordinance shall be held invalid by a court of competent jurisdiction, then such invalidity shall not affect the remaining portions hereof.

SECTION 8. Effective Date. This Ordinance shall take effect as provided for by law and by City Charter, Section 14, upon execution by the Mayor, or, if the Mayor vetoes the Ordinance, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes.

PASSED AND DULY ADOPTED, by the City Commission, in open session, with a quorum present and voting, this 7 day of May, 2018.

First Reading: April 16, 2018

Publication: April 3, 2018

Public Hearing: May 7, 2018

Public Hearings:

CITY OF PALMETTO, FLORIDA, BY
AND THROUGH THE CITY
COMMISSION OF THE CITY OF
PALMETTO

By: Shirley Groover Bryant
SHIRLEY GROOVER BRYANT, MAYOR

ATTEST: James R. Freeman
City Clerk

By: James R. Freeman
City Clerk/Deputy Clerk

