ORDINANCE NO. 2022-08

AN ORDINANCE DECLARING GROWTHS OF WEEDS AND OTHER VEGETATION, HAZARDOUS PLANT GROWTHS, JUNK, INOPERABLE VEHICLES, SCRAP, GARBAGE, LITTER, STAGNANT WATER, WATER LIKELY TO BREED MOSQUITOES, AND OTHER CONDITIONS TO BE PUBLIC NUISANCES; ESTABLISHING PROCEDURES FOR ABATEMENT OF SUCH NUISANCES; IMPOSING REQUIREMENTS FOR THE MAINTENANCE OF REAL PROPERTY SO AS TO PREVENT SUCH NUISANCES AND OVERGROWTH OF GRASS AND VEGETATION; DECLARING VIOLATIONS OF THE PROVISIONS HEREOF TO BE A MISDEMEANOR AND PRESCRIBING PUNISHMENTS FOR SAME; AND REPEALING ORDINANCE NUMBER 2001-07 OF THE TOWN OF TRINITY, ALABAMA

WHEREAS, the Town Council of the Town of Trinity, Alabama adopted Ordinance No. 2001-07, which found that the adequate protection of the public health, safety and welfare and the enjoyment of life and property by the citizens of the Town of Trinity require that the Town adopt and enforce controls over the use of real property as to prevent the maintenance thereon of unsafe, unsanitary and unsightly conditions resulting from accumulations of junk, garbage, scrap, litter, and inoperable vehicles and from weed nuisances, hazardous plant nuisances and stagnant water nuisances; and

WHEREAS, said Ordinance No. 2001-07 was amended several times and the Council finds that the provision of Ordinance No. 2001-07 and its amendments should be consolidated into one ordinance for convenience and easier interpretation and application.

NOW, THEREFORE, be it **ORDAINED** by the Town Council of the Town of Trinity, Alabama, as follows, to-wit:

SECTION 1. **Repeal of Prior Ordinances**

a. Ordinance Nos. 2001-07, 2013-06 and 2015-06 of the Town of Trinity, Alabama are hereby repealed.

b. Ordinances Number 89-2 and 97-06 of the Town of Trinity, Alabama shall remain repealed as provided in said Ordinance No. 2001-07 so that the adoption of this Ordinance shall not be deemed to revive said Ordinances by the repeal of Ordinance No. 2001-07.

SECTION 2. **Definitions**

For the purposes of this Ordinance, the following terms shall have the definitions and meanings hereinafter set forth, to-wit:

a. APPROVED, ENCLOSED, COVERED STRUCTURE: Any building, garage, accessory structure, or other structure, having four or more enclosing walls and a roof, built according to and in compliance with all applicable building, zoning, fire, or other codes of the Town of Trinity, Alabama.

b. AUTOMOBILE GRAVEYARD: Any establishment or place of business which is duly licensed and operated in accordance with all applicable state laws and ordinances of the Town of Trinity, 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.

c. COMMERCIAL PROPERTY: Any lot, tract, parcel, land, or other property located within the Town of Trinity, Alabama, that is zoned or designated for uses other than residential purposes.

d. DISCARDED HOUSEHOLD FURNISHINGS : Any furniture, appliance,

carpeting, or similar item, originally intended for indoor residential use, placed outside of an approved, enclosed, covered structure.

e. GARBAGE: Any animal or vegetable waste resulting from the handling, preparation, cooking or consumption of food or food products.

f. HAZARDOUS PLANT NUISANCE: Trees, shrubs, ornamental or non-ornamental plant growth, growing or standing on private property and which is dead, damaged, deteriorated, decayed or has otherwise become hazardous for any reason and which could pose a danger to the property on which it is located, any adjacent property, whether public or private, or to the public in general, by danger of falling, splitting, uprooting, or shedding limbs, or any other reason determined to be a hazard.

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

h. INOPERABLE: Incapable of being used for the manufactured, designed or originally intended purpose.

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

j. JUNK: Shall mean and include all metals, whether ferrous or nonferrous,

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

k. JUNK OR SALVAGE YARD: Any premises, establishment, or place of business which is duty licensed and operated in accordance with all applicable state laws and the ordinances of the Town of Trinity. 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.

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

m. NATURAL CONDITION: Uncultivated and unseeded land, still in a state of nature. However, any growth on land once it has been cleared or plowed is not a natural condition, even though it has not been planted or cultivated by anyone.

n. OWNER OR OWNERS OF PROPERTY: Any person, agent, operator, firm or

corporation having a legal or equitable interest in the property or recorded in the official records of the state, county or municipality as holding title to the property; or person last assessed for payment of ad valorem taxes; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor, personal representative or administrator of the estate of such person if ordered to take possession of real property by a court.

o. PERSON: 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, personal representative, administrator, guardian, trustee, bankruptcy trustee, or other person in charge of, care of, possession of, or control of any real or personal property.

p. PREMISES: Any lot, yard, plot, tract, parcel, or other piece of land or property located within the Town of Trinity, Alabama.

q. RESIDENTIAL PROPERTY: Any lot, tract, parcel, land, or other properly located within the Town of Trinity, Alabama, on which single or multifamily structures used as residences or for human habitation exist, or any property located within an area which is zoned for residential uses by the Town of Trinity, Alabama.

r. SCRAP: All 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.

s. SCRAP METAL YARD: Any establishment or place of business which is duly licensed and operated in accordance with all applicable state laws and ordinances of the

Town of Trinity, 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.

t. SCRAP PROCESSOR: Any person who is duly licensed and operating in accordance with all applicable state laws or ordinances of the Town of Trinity, Alabama, and is engaged primarily in the purchase and collection of scrap metallic materials (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.

u. STAGNANT WATER NUISANCE: Any accumulation of water, whether natural or man made and water in any type of open pool, container, or vessel, which said water is not moving, not flowing, is motionless, or is in a foul state from standing.

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

w. WEED NUISANCE: Any abundance of overgrown weeds or grass within the Town of Trinity, Alabama, which could be injurious to the general public health, safety and general welfare by providing breeding grounds and shelter for rats, mice, snakes, mosquitoes and other vermin, insects and pests; or attaining such heights and dryness so as to constitute a serious fire threat or hazard; or bearing wingy or downy seeds, that when mature, could cause the spread

of weeds and, when breathed, could cause irritation to the throat, lungs and eyes of the public; or hiding debris, such as broken glass or metal, which could inflict injury on any person going upon the property; or being unsightly; or any growth of weeds, other than ornamental plant growth, which exceeds 12 inches in height.

SECTION 3. **Nuisance Declared**

It shall be unlawful and constitute a nuisance for the owner or owners, or any person in actual or constructive possession or control of, or in charge of any real property located within the Town of Trinity, Alabama, to maintain such real property in such a manner as to violate the provisions of any section of this Ordinance.

SECTION 4. **Exceptions**

a. The provisions of Section 3 of this Ordinance shall not apply to the following with respect to those conditions prohibited only by Sections 5(a) and 11 hereof, to-wit:

i. Any property which is in its "natural condition."

ii. Any property which has been zoned agricultural property.

iii. Any property which is located outside any improved subdivision and is located more than 100' from any boundary of any lot or parcel of real estate upon which any dwelling is located, and more than 100' from any commercial enterprise.

iv. Cultivated row crops and garden plants in their respective growing seasons. This exception applies only to growing crops and garden plants, and shall not be construed to permit any crops or gardens to become overgrown with weeds in violation of the remaining terms of this ordinance.

v. Ornamental shrubbery and ground cover, provided that such uses are part of a landscaping theme and are not associated with a general deterioration of the property, are not in an overgrown or unmanaged condition, and are not planted, maintained or overgrown so as to encroach over or onto adjacent properties.

SECTION 5. **Duty of Property Owner**

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

b. It shall be the duty of the owner or owners, or any person in actual or constructive possession or control of, or in charge of any real property located within the Town of Trinity, Alabama, to maintain plant growth upon said property in such a manner as not to constitute a hazardous plant nuisance as defined herein.

SECTION 6. **Procedure of Abatement of Weed Nuisances.**

a. Weeds may be declared public nuisance; resolution to abate.

Whenever any weed nuisance is deemed to exist on any real property within the Town of Trinity, Alabama, except as provided in Section 4 hereof, the Town Council may, by resolution, declare the same to be a public nuisance and order its abatement. The resolution shall refer to the street by the name under which it is commonly known or describe the property upon which or in front of which the nuisance exists by giving a legal description of the property and no other description of the property shall be required. Any number of parcels of private property may be

included in one resolution.

b. Notice.

i. After the passage of the resolution, notice of a public hearing on the matter shall be given by certified mail, return receipt requested, mailed 21 days prior to the date of the hearing and shall inform the owner of the time, date, and place of the hearing and the reason for the hearing. The notice shall be mailed to the owner of the property as the information appears on record in the office of the tax assessor.

ii. All notices shall carry a list of names of persons or private contractors, or both, who perform the work and are registered with the Town Clerk. The names shall not constitute a recommendation and the failure to include a list shall in no way affect the operation of this Ordinance.

iii. Notice shall also be posted in three public places located in the Town of Trinity, Alabama for at least 21 days prior to the hearing.

iv. In addition, two signs shall be conspicuously posted on the property. The wording of the signs shall not be less than one inch in height and shall be in substantially the following form , to-wit:

NOTICE TO DESTROY WEEDS

Notice is hereby given that on the _____day of_____, 2____ at _____ A.M./P.M. in the Council Chamber, the Town Council of the Town of Trinity, Alabama will consider a resolution regarding the weeds growing upon the property located at _____, in the Town of Trinity, Alabama, and more

particularly described in the resolution, a copy of which is on file in the office of the Town Clerk; and at that time and place will determine whether the weeds constitute a public nuisance which shall be abated by removal of the noxious or dangerous weeds; and, if so, will order the abatement and removal of the nuisance. If abatement and removal are ordered, the cost of abatement and removal shall be assessed upon the lots and lands from which or in front of which the weeds are removed, and the cost shall be added to the next regular bills for taxes levied against the respective lots and lands for municipal purposes. The costs shall be collected at the same time and in the same manner as ordinary municipal taxes are collected. The costs shall be subject to the same commissions and fees and the same procedure for foreclosure and sale in case of delinquency as provided for ordinary municipal taxes.

If no objections are filed with the Town Clerk at least five days before the meeting of the council and unless the person appears before the council in person or through his or her representative to show cause, if any, why his or her objection should be sustained, it shall be presumed that the person accepts the notice as fact and waives any rights he or she may have to contest the removal of the weeds and the action of the council shall be final unless good and sufficient cause can be otherwise shown.

Reference is hereby made to the resolution, on file in the office of the Town Clerk, for further particulars.

Dated this _____ day of _____, 2____.

_____
Town of Trinity, Alabama

Town Clerk

v. The notice shall be posted at least seven days prior to the time for hearing objections by the Town of Trinity.

c. Hearing.

If objections are filed, at the time stated in the notice, the Town Council shall hear and consider all evidence, objections, and protests regarding the proposed removal of weeds. The Town Council may continue the hearing from time to time. Upon the conclusion of the hearing, the Town Council, by resolution, shall decide whether a public nuisance exists and, if so, shall order it to be removed or abated with respect to any property or part thereof described. The Town Council, by passage of the resolution, shall be deemed to have acquired jurisdiction to proceed and either to perform or have performed the work of removal or abatement with respect to the property or part thereof. The decision of the Town Council on the matter shall be deemed final and conclusive.

d. Alternative Procedures for Repetitive Violations

i. The term "repetitive violations" shall mean a weed nuisance on any real property in the Town where that real property has been the subject of any prior weed nuisance abatement procedure or attempted weed nuisance abatement procedure. An attempted weed nuisance abatement procedure is one where nuisance abatement procedures were initiated but terminated due to abatement of the nuisance by the responsible party, compromise, dismissal or any other reason.

ii. Repetitive weed violations shall be handled in accordance with the

procedures set out in Section 14 of this Ordinance for abatement of nuisances and violations other than weed nuisances with the following exceptions:

(a) The provision of Section 14(a)(i) that weed nuisances shall be handled according to the procedures of Section 6 shall not apply;

(b) The provisions of Section 14(a)(iv) for posting of notice in three conspicuous locations in the Town shall not apply;

(c) The provisions of Section 14(b)(iii) for posting of notice in three conspicuous locations in the Town shall not apply.

e. Properties in State of Consistent Violation

i. The term "state of consistent violation" shall mean a weed nuisance on any real property in the Town where that real property is or has been the subject to a weed nuisance abatement procedure or an attempted weed nuisance abatement procedure for at least the third time within a twenty-four (24) month period. An attempted weed nuisance abatement procedure is one where nuisance abatement procedures were initiated but terminated due to abatement of the nuisance by the responsible party, compromise, dismissal or any other reason.

ii. Abatement of a weed nuisance on any property in a state of consistent violation shall proceed in the same manner as repetitive weed violations with the following exceptions:

a. The provisions of Subsection 14(c)(iii) shall apply, except that the public hearing shall be to determine whether to order continuous abatement of the weed nuisance. Continuous abatement shall mean that the enforcement official is ordered to abate the

nuisance on a continuing as-needed basis. In such cases where the Council has ordered continuous abatement, the only notice to the owner or person responsible for the subject property before any abatement proceeds shall be written notice seven (7) days in advance that the nuisance will be abated by the Town if not abated within seven (7) days of the date of the notice. Such notice shall be addressed to and delivered in the manner prescribed in Section 14(a)(iii).

b. If the Council elects to order the enforcement official to abate the nuisance on a continuing basis as provided in Section 6(e)(ii)(a), the Town's costs shall be determined and collected in the same manner as for all weed nuisance abatement procedures.

f. Report of Costs; Confirmation; Lien Established.

i. The Town Clerk shall keep an account of the cost of abating or removing the nuisance in front of or on each separate lot or parcel of land where the work is done by its employees, or by a duly authorized private contractor, company, enterprise, or individual, and shall render an itemized report in writing to the Town Council showing the cost of removing the nuisance on each separate lot, or in front of the lot. Before the report is submitted to the Council, a copy of the report shall be posted for at least five days prior thereto on or near the chamber door of the Council, together with a notice of the time when the report shall be submitted to the Council for confirmation.

ii. At the time fixed for receiving and considering the report, the Town Council shall hear the report, together with any objections which may be raised by any of the property owners liable to be assessed for the work of abating the nuisance and thereupon make modifications in the report as deemed necessary, after which by motion or resolution the report

shall be confirmed. The amounts of the cost for abating the nuisance in front of or upon the various parcels of land mentioned in the report shall hereinafter be referred to as "weed liens," and shall constitute a weed lien on the property for the amount of the weed liens, respectively. After confirmation of the reports, a copy shall be given to the revenue commissioner of the county to be collected at the same time and in the same manner as the Town's ad valorem taxes pursuant to Section 11-67-66, *Code of Alabama, 1975*, as amended from time to time.

SECTION 7. **Keeping of Junk, etc. Prohibited**

It shall be unlawful and a violation of this Ordinance for the owner or owners, or any person in actual or constructive possession or control of, or in charge of any residential or commercial property, within the Town of Trinity, Alabama, to store or keep upon the premises of any residential or commercial property, any inoperable vehicle, discarded household furnishings, scrap, or junk, as defined herein, unless the same is housed in an approved, enclosed, covered structure so as not to be viewable from any street, alley, or other public right of way, or any other private premises, and in such a manner as to prevent a health, safely, or fire hazard. However, this Section shall not apply to the following:

a. Materials stored or located on the premises of any junk or salvage yard, scrap metal yard, scrap processor, or automobile graveyard, as defined herein.

b. Vehicles being repaired or awaiting repair that are located on the premises of any automobile dealer, automobile repair and body shop or garage, or other vehicle repair enterprise that is duly licensed and operated in compliance with all applicable codes and ordinances of the Town of Trinity, Alabama, provided said vehicles are so located or stored in a manner as to

prevent any health, fire, or safety hazard.

SECTION 8. **Shopkeepers not to Permit Nuisances, etc.**

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

SECTION 9. **Property to be Kept Free of Garbage and Litter**

It shall be unlawful and a violation of this Ordinance for any owner or owners, or any person in actual constructive possession or control of or in charge of any residential or commercial property to fail to maintain the property free from litter and garbage as herein defined, unless said litter and garbage is properly containerized and stored in such a manner as to prevent it from being blown, deposited, or otherwise scattered by the elements, animals, birds, or by any other means. Containers and storage practices shall conform to the requirements set forth in Ordinance Number 70-1 of the Town of Trinity, Alabama or any other ordinance of said Town or State statute.

SECTION 10. **Stagnant Water Nuisance Prohibited**

It shall be the duty of the owner or owners, or any person in actual or constructive

possession or control of or in charge of any real property located within the Town of Trinity, Alabama to prevent the concentration or accumulation of stagnant water on any real property situated within the Town of Trinity. This Section shall include but not be limited to poor surface drainage, non-engineered ponds (whether man made or natural), swimming pools, wading pools, ornamental ponds, buckets, non-mounted tires, boats, vessels, or receptacles, etc., which could provide habitat or breeding areas for insects, or attract insects, vermin, or pests. This Section is not intended to restrict the use of pools, spas, ornamental ponds etc., provided that they are equipped with the proper operable circulation and filtration systems, or children's wading pools that are being properly maintained and are not creating a nuisance.

SECTION 11. **Grass and Weeds to be Cut.**

It shall be the duty of the owner or owners, or any person in actual or constructive possession or control of or in charge of any real property located within the Town of Trinity, Alabama to prevent any substantial growth of grass or weeds to more than twelve inches (12") from the ground in height or length and to cut or mow the grass or weeds on such property so as to prevent such growth from exceeding twelve inches (12"). This Section shall not be construed to mean that weeds less than twelve inches (12") in length or height cannot constitute a weed nuisance as defined and prohibited elsewhere in this Ordinance.

SECTION 12. **Mosquito Control.**

It shall be unlawful to have, keep, maintain, cause, permit or allow within the Town of Trinity, Alabama any collection or accumulation of standing, moving or flowing water in which mosquitoes breed or are likely to breed unless such collection or accumulation is lawfully treated

or maintained so as to effectively prevent such breeding. The presence of mosquito larvae in any such water shall be *prima facia* evidence of such breeding. However, no offense shall be deemed committed under this Section unless at least twenty-four (24) hours notice of the existence of the violation shall have been effectively communicated to the owner or owners or the person in actual or constructive possession or control of or in charge of the real property in question by an official of the Town of Trinity or by a County or State Health Department official.

SECTION 13. **Responsibility of owner or person in charge of premises for Sidewalks and Alleys.**

a. The owner or owners, or any person in actual or constructive possession or control of or in charge of any real property located within the Town of Trinity, Alabama whose property faces on any municipal sidewalk or strip between streets and sidewalks shall be responsible for keeping those sidewalks and strips free of nuisances or violations under the provisions of this Ordinance.

b. The owner or owners, or any person in actual or constructive possession or control of or in charge of any real property located within the Town of Trinity, Alabama whose property faces on any municipal alley shall be responsible for keeping the area from such property to the centerline of the alley free of nuisances or violations under the provisions of this Ordinance.

SECTION 14. **Procedure of Abatement of Nuisances or Violations Other Than Weed Nuisances.**

a. Notice

i. Whenever in the opinion of the enforcing official a nuisance or violation under the provisions of this Ordinance exists, other than a weed nuisance, such official shall order the owner or owners, or any person in actual or constructive possession or control of or in charge of the property on which the condition is located to abate the same. Abatement shall mean full and complete removal of any declared nuisance or violation. Weed nuisances shall be handled according to the procedures set out in Section 6 hereof.

ii. The enforcing official shall give written notice to the owner or owners, or any person in actual or constructive possession or control of or in charge of the subject property of the existence of the nuisance, shall describe the particulars which make it a nuisance or violation, shall order the manner in which it shall be abated, and shall state the time within which the nuisance or violation must be abated.

iii. Such notice shall be hand delivered by the enforcement official or his or her designee or by the Police Chief or any police officer of the Town of Trinity, or be sent by certified mail, to the person known to be the owner or owners, or any person in actual or constructive possession or control of or in charge of the premises or such notice shall be sent by certified mail to that person shown by the records of the tax assessor of the county to have been the person last assessed for payment of state, county and city ad valorem tax on the property where the nuisance or violation is situated. If the notice is delivered personally a written notice of the date and approximate time of the delivery, along with a copy of the notice given, shall be filed with the building official or retained by him or her if he or she personally delivers the

notice.

iv. Such notice shall also be posted in a conspicuous place on the property and in three conspicuous places in the Town of Trinity, Alabama, including the Town Hall.

v. The notice shall require the owner or owners, or any person in actual or constructive possession or control of or in charge of the premises to complete the abatement of the nuisance or violation within 30 days from the date of the notice; however, the enforcing official may stipulate a different time but in no case more than ninety (90) days or less than ten (10) days, except as provided in Section 17(b)(iv) of this Ordinance.

vi. The notice shall state that if the nuisance or violation is not abated within the stated time, the enforcing official may institute legal proceedings against the owner, agent, occupant, lessee or other person in charge or control for violation of this Ordinance, including criminal charges in municipal court.

b. Appeals From Notice to Abate.

Except as to those matters covered by the procedures of Section 6 hereof, any person receiving a notice of a nuisance or violation under the provisions of this Ordinance and an order to abate the same from the enforcing official may appeal the order to the Town Council by written notice filed with the Town Clerk within seven (7) days of the date of such notice. No appeal filed later than seven days after the notice shall be considered unless the enforcing official consents. The Town Council may affirm, modify or reverse the order and its decision shall be final, subject, however, to such remedy as any aggrieved party may have in any court proceeding.

c. Failure to Comply With Notice to Abate.

i. If the owner or owners, or any person in actual or constructive possession or control of or in charge of any real property located within the Town of Trinity, Alabama shall fail, neglect or refuse to comply with the notice to abate the nuisance or violation, the enforcing official may proceed to prosecute such person for a violation of the provisions of this Ordinance or other applicable ordinance.

ii. If the owner or owners, or any person in actual or constructive possession or control of or in charge of any real property located within the Town of Trinity, Alabama shall fail, neglect or refuse to comply with the notice to abate the nuisance or violation, the enforcing official shall notify the Town Council of such fact. The Town Council shall hold a public hearing before authorizing the abatement of the nuisance by the enforcing official.

iii. Notice of the public hearing to determine whether the Town Council should order the enforcing official to abate the nuisance or violation shall be given by causing a notice of such hearing to be sent by certified mail to the owner or owners, or any person in actual or constructive possession or control of or in charge of said premises or to that person shown by the records of the tax assessor of the county to have been the person last assessed for payment of state, county and city ad valorem tax on the subject property at least ten (10) days before the date of such hearing. Such notice shall also be posted on the subject property and in three conspicuous places in the Town of Trinity, Alabama, including the Town Hall.

iv. After the public hearing, the Town Council may by resolution order the enforcing official to proceed with the work specified in such notice or may order such nuisance

or violation removed. If the owner or owners, or any person in actual or constructive possession or control of or in charge of the property shall appear at the public hearing, no further notice of the order of the Town Council shall be required. If the owner or owners, or any person in actual or constructive possession or control of or in charge of the property fails to appear, notice of the order of the Town Council shall be mailed to the same person or persons and in the same manner and likewise posted in the same manner as provided in Section 14 (c)(iii) hereof.

v. Upon the expiration of seven (7) days from the date of publication under Section 14 (c)(iv) hereof, or seven (7) days from the date of the order if notice by publication is not required, the enforcing official or such officials designated representative or agent shall proceed to carry out the order of the Town Council.

vi. After the Town Council passes the resolution provided in Section 14 (c)(iv) hereof, all employees and duly authorized agents of the Town may enter upon the private property to abate the nuisance.

vii. The Town Council may authorize private contractors, companies, enterprises, or individuals to abate and remove the nuisance. The Town Council, by resolution, shall designate the contractors, companies, enterprises, or individuals who may perform the work. Those persons so designated may enter upon private property for purposes of abating or removing the nuisance. For purposes of this article compliance with the competitive bid law is not required.

viii. Any property owner shall have the right to have any nuisance removed or abated at his or her own expense providing the removal is done prior to the commencing of the

work by the employees or agents of the Town to do the removal.

d. Assessment of Cost; Levy.

i. The enforcing official shall keep an account of the cost of abating or removing the nuisance on each separate lot or parcel of land where the work is done by its employees, or by a duly authorized private contractor, company, enterprise, or individual, and shall render an itemized report in writing to the Town Council showing the cost of removing the nuisance on each separate lot. Before the report is submitted to the Town Council, a copy of the report shall be mailed to the same person or persons and in the same manner as provided in Section 14 (c)(iii) hereof and shall be posted for at least five days prior thereto on or near the chamber door of the Town Council, together with a notice of the time when the report shall be submitted to the Town Council for confirmation.

ii. If the owner or owners, or any person in actual or constructive possession or control of or in charge of the property shall fail or refuse for a period of twenty-eight (28) days to pay off and discharge the expenses, the enforcing official shall report such failure to the Town Council at the next regular meeting following the expiration of that period to consider an assessment against said property.

iii. The Town Council shall hold a public hearing before causing the actual expense of such work to be levied as a special assessment against the property. Notice of such public hearing shall be mailed to the person or persons and posted in the manner provided in Section 14 (c)(iii) hereof at least five (5) days prior to the hearing. The itemized statement under Section 14 (d)(i) hereof shall also give notice of the time and place of the public hearing. After

the public hearing, the Town Council may by resolution assess all or part of such expense against the property.

iv. Any assessment against property under this Section shall not be final until seven (7) days after adoption by the Town Council. Once the assessment has become final, the Town Clerk shall have such resolution recorded in the office of the Judge of Probate of the County.

e. Collection Remedy of Town.

If the owner or owners, or any person in actual or constructive possession or control of or in charge of the property shall fail or refuse to discharge the assessment authorized in Section 14 (d) hereof after a period of twenty-eight (28) days from the date the assessment was made final, the Town may commence an action in any court of competent jurisdiction to recover the expenses.

SECTION 15. **Violation a Misdemeanor.**

Any person violating any provision of this Ordinance shall be guilty of a misdemeanor and punished by a fine not to exceed Five Hundred Dollars ($500.00) or by imprisonment in jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment.

SECTION 16. **Enforcement Official.**

The Police Chief and Building Inspector of the Town of Trinity, Alabama, or any official or employee designated as such by the Mayor or Council, shall be the enforcing official for this Ordinance.

SECTION 17. **Ordinance Cumulative; Enforcement Alternatives.**

a. This Ordinance shall be cumulative with and in addition to all other statues, ordinances or other regulations addressing the same subject or subjects and the Town shall have all other remedies, powers and authorities provided by any such statute, ordinance, regulation or other law available as well as those herein provided.

b. The enforcement official, at the direction of the Mayor, or in the enforcement official's discretion unless otherwise directed by the Mayor, shall have the option to proceed with abatement proceedings as set out in this Ordinance or, in cases where the matter to be abated constitutes a misdemeanor offense under this Ordinance, he or she may initiate and prosecute criminal proceedings in the municipal court, or he or she may initiate both abatement proceedings and municipal court prosecution.

i. If prosecution is pursued it shall be initiated by swearing a complaint in municipal court for violation of this Ordinance, whereupon the magistrate shall issue a summons to the subject person to appear in court at a date and time certain. If a person so summonsed fails to appear as ordered the Judge may issue a warrant for his or her arrest and compel court attendance accordingly.

ii. Before initiating prosecution in municipal court the enforcing official shall give notice of the nuisance or violation to the owner, occupant or person in charge or control of the subject property in the manner prescribed in Section 14(a) of this Ordinance, except that the minimum notice requirement in cases involving only violations of Section 11 (mowing of grass and weeds), Section 12 (mosquito control) or Section 14 (sidewalks) shall be reduced to five (5) days in the discretion of the Mayor or the building official."

SECTION 18. **Continuing Violations.**

Any condition or occurrence in violation of this Ordinance shall be deemed a separate violation for each twenty-four (24) hour period or part thereof that the same shall continue and may be prosecuted as separate offenses for each such twenty-four (24) hour period or part thereof.

SECTION 19. **Severability.**

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

SECTION 20. **Savings Clause.**

The adoption of this Ordinance and repeal of Ordinances 2001-07, 2013-06 and 2015-06 shall have no effect on any action taken pursuant to such ordinances; nor shall such replealer be construed as to effect any violation which occurred during the effective time of said ordinances.

SECTION 21. **Effective Date.**

This Ordinance shall be deemed effective upon its adoption and publication according to law.

ADOPTED and **APPROVED** this 07 day of June, 2022.

Vaughn Goodwin, Mayor

ATTEST:

(SEAL)

Barbara L. Jones

Barbara Jones, Town Clerk

lwm/zip0[illegible]Ordinance.wpd

Barbara L. Jones
Notary Public, Alabama State at Large
My Commission Expires April 8, 2025