

**CHAPTER 1 - ENVIRONMENTAL NUISANCE ORDINANCE**

**ARTICLE I. - IN GENERAL**

**Sec. 1-1 — 1-20. - Reserved.**

**ARTICLE II. - NUISANCES<sup>1</sup>**

**DIVISION 1. - GENERALLY**

**Sec. 1-21. - Findings.**

Pursuant to the authority granted by the Mississippi Legislature to the City of Eupora, Mississippi by Section 21-19-1 and Section 21-19-11 of the Mississippi Code, Amended, and such other statutes as may be applicable, the Mayor and Board of Aldermen of the City of Eupora finds and determines the following:

- (1) The city has a history and reputation for well-kept properties, and property values and general welfare of the community are founded, in part, upon the appearance and maintenance of private property;
- (2) Owners and occupants of some properties within the city have permitted visual blight, including, but not limited to, deteriorated buildings, the accumulation of overgrown, rank and noxious vegetation and the accumulation of broken or discarded personal property in front, side, and rear yards;
- (3) The existence of such conditions as described in this chapter is injurious and inimical to the public health, safety and welfare of city residents and contributes to the deterioration of residential, commercial and industrial areas;
- (4) Abatement of these conditions is in the best interest of the health, safety and welfare of the citizens of the city because maximum use and enjoyment of properties in close proximity to one another depends upon minimum standards of cleanliness, safety, and sightliness.
- (5) The beneficial effects of maintaining minimum standard of cleanliness, safety, and sightliness for properties in the city include, but are not limited to, appreciation of property values, physical improvements of residential, commercial and industrial zones, attraction of capital investors to residential, commercial and industrial zones, increase in commercial trade and industrial productivity and increase in the tax base of the city;
- (6) The abatement of such conditions will improve the general welfare, health, safety, and image of the city;
- (7) The abatement procedures set forth in this chapter are reasonable and afford due process to all affected persons;
- (8) The uses and abuses of property, as described in this chapter, reasonably relate to the proper exercise of police power to protect the health, safety and welfare of the public.

**Sec. 1-22. - Definitions.**

As used in this Ordinance, the following words and terms shall be defined as follows:

- (1) **Abate/Abatement:** means action to terminate, stop, cease, repair, rehabilitate, replace, demolish, correct or otherwise remedy nuisance activity, condition, premises or conduct by such means and in such manner as to bring the activity, condition, premises or conduct into compliance with the laws or regulations of the City of Eupora and/or the State of Mississippi or in such manner as is necessary to promote the health, safety or general welfare of the public.
- (2) **Building Official:** shall mean the City Building Inspector, any sworn Police Officer of the City of Eupora, Mississippi, or any other City official named by the Mayor and/or Board of Aldermen to enforce the provisions of this Ordinance.
- (3) **City:** shall mean the City of Eupora, Mississippi, acting under the authority of its Mayor and Board of Aldermen.
- (4) **City Clerk:** means the City Clerk of the City of Eupora, Mississippi.
- (5) **Court Clerk:** shall mean the clerk or any assistant clerk of the Municipal Court of the City of Eupora, Mississippi.
- (6) **Enforcement Officer:** shall be the person or persons responsible for interpreting the provisions of this ordinance. The Enforcement Officer shall include, but not be limited to, the City Building Official, designee of the City, Chief of Police, Code Enforcement Officer, or uniformed officer of the City of Eupora.
- (7) **Minor:** shall mean any person under the age of eighteen (18) years, and who is not emancipated.
- (8) **Municipal Court:** shall mean the Municipal Court of the City of Eupora, Mississippi.
- (9) **Owner:** means the owner or owners of any premises or real property.
- (10) **Premises or real property:** shall mean, in context, any location, building, structure, residence, garage, room, shed, shop, store, dwelling, lot, parcel, land or portion thereof, whether improved or unimproved.
- (11) **Public Nuisance:** shall mean any condition, instrumentality or machine located in a building or on premises, which constitutes a health hazard and/or which is or may be unsafe or dangerous to members of the general public by reason of their inability to appreciate the peril therein, and/or which may reasonably be expected to attract children to the premises and risk injury by playing with, in, or on it.
- (12) **Repeat Offense:** means a second or any subsequent violation of the same requirement or provision of this ordinance for which the person admits responsibility or is determined to be responsible.

**(13) Responsible party or person:** means any individual, business or entity responsible for creating, causing, maintaining or permitting the nuisance activity, premises, condition or conduct; and includes, but is not limited to, the property owner, tenant, lessee, possessor, or occupant of real property, the president or other officer of the corporation, a business owner or manager of a business.

### **Sec. 1-23 Unlawful Property Nuisance**

It shall be unlawful for any person owning, renting, leasing, occupying, managing or having charge, or possessing of any real property in the City of Eupora to maintain such premises in such a manner that any of the following conditions are found to exist thereon:

(1) A building, structure, or portion thereof, which is in a dilapidated or dangerous condition so as to be unfit, unsafe, or unsuitable for human occupancy. Such conditions include, but are not limited to:

- a. Inadequate or inoperable mechanical, electrical, plumbing, or sanitation systems or equipment;
- b. Lack of sound and effective exterior walls or roof covering to provide weather protection;
- c. Lack of structural integrity, including deteriorated or inadequate foundations, joists, vertical or horizontal support;
- d. Broken, missing, or inoperable windows or doors constituting a hazardous condition or a potential attraction to trespassers;
- e. Buildings or structures which are unpainted or which otherwise lack exterior coating, causing dry rot, warping or termite infestation;
- f. Broken, deteriorated, or substantially defaced structures visually impacting the neighborhood or presenting a risk to public safety;
- g. Substandard building conditions as described in the International Building Code.

(2) An abandoned building or structure such as:

- a. An unoccupied and unsecured building or structure;
- b. A partially constructed, reconstructed, or demolished building or structure where work is abandoned for one hundred and twenty (120) consecutive days;
- c. A damaged or partially destroyed building or structure not removed or repaired within one hundred and twenty (120) days after the damage or destruction, or, if the removal or repair cannot reasonably be accomplished within one hundred and twenty (120) days, upon which removal or repair has not been commenced within such period and prosecuted diligently toward completion.

(3) Property maintained in a condition so defective, unsightly, or in a state of such deterioration, disrepair or neglect that it causes a health, safety or fire hazard or an public nuisance to children or others such as:

- a. The accumulation of dirt, litter, refuse, trash or debris in carports, parking areas, driveways, front yards, side yards, rear yards, porches, vestibules, doorways of

buildings, the adjoining sidewalk, or alley;

- b. Storage of personal property (other than items designated for outdoor use) on porches, in front, exterior side, or rear yard areas visible to public view, including, but not limited to unregistered, inoperative or dismantled vehicles or vehicle parts, building materials not currently being used for the construction of improvements on the site, appliances, household furnishings or equipment, tools, machines, garbage cans, packing boxes, debris, rubbish, and broken or discarded furniture;

(4) Trees, weeds, grass, vines, brush, or other vegetation which are dead, decayed, infested, diseased, overgrown, or likely to harbor rats or vermin, standing water that breeds mosquitos, or any other nuisance which may be detrimental to neighboring property or property values. This paragraph shall be applicable to every track of land upon which any building, facility or other structure of any type is located, regardless of the condition of the structure. This paragraph shall not be applicable to:

- a. Tracks of land in its natural forested or unimproved state that have not been subdivided, platted, or recorded for development purposes;
- b. Tracks of land used primarily for agricultural purposes;
- c. Tracks of land that have not been improved or occupied for a period of at least 25 years and upon which no structure exists;
- d. Natural wildlife areas, open fields, or other similar situated tracks of land pursuant to the Zoning Ordinance of the City of Eupora.

(5) Abandoned and broken equipment or machinery, or parts thereof;

(6) The discharge of sewage or untreated wastewater into any yard, open ditch, storm sewer line or any other open public or private property area;

(7) Fences and walls:

- a. which lack structural support because of missing or wet soil, missing or failed footings, or missing or failed fastenings; or which otherwise do not stand erect;
- b. which are in disrepair due to damage, crumbling mortar, missing bricks or wood, rotted wood, breaks or dents in their structure;
- c. All fences and walls and associated landscaping shall be maintained in good repair and in a safe and attractive condition—including, but not limited to, the repair or replacement of missing, decayed, or broken structural and decorative elements.

(8) Front yards, and street side yards on improved lots, including corner lots, which lack required landscaping with a lawn, ground cover, bushes, or trees, or which lack required covering with rock or other decorative material, except during permitted construction, demolition, or remodel work on the lot;

(9) A surface excavation or grading on private property which:

- a. Contains four (4) or more inches of standing water for a period in excess of five (5) days during which no rain has fallen; or
- b. Has sides which slope at an angle that exceeds City standards.
- c. This prohibition does not apply to:

- i. Completed drainage facilities which are owned or maintained by, or approved and maintained in the manner approved by, the City of Eupora or Webster County;
- ii. Excavations made as part of construction approved by the City and protected with barriers or fences that meet City, County and/or State standards; or
- iii. Excavations which are completely surrounded by a fence or other secure barrier at least six (6) feet tall;

(10) A vehicle or vehicles parked or stored in a required front or corner side yard, except on a driveway or a paved area or behind a solid fence or wall a minimum of six (6) feet in height, on lots in a residentially zoned district. No more than fifty percent (50%) of the front yard may be paved or used for such parking.

(11) Clothing, linen, towels, laundry, rugs, mattresses, and other similar material hung, placed, or attached to power lines, trees, bushes, fences, buildings, railings, or walls and visible from public property, public right-of-way, or an area open to the public.

(12) Waste matter or personal property placed on rooftops.

(13) Construction or agricultural equipment, machinery, or materials, parked or placed on residential premises and visible from public property, public right-of-way, or an area open to the public; except during permitted construction, demolition or remodel work on the site.

(14) Commercial vehicles with a gross weight of ten thousand (10,000) pounds or more which are parked on the street right-of-way or on a lot or parcel in a residentially zoned district, unless the vehicle is in the process of delivering goods or services.

(15) Vehicle or vessel repair which occurs in a residentially zoned district and is offensive or detrimental to the health, safety, or welfare of other persons, or which substantially interferes with the reasonable enjoyment of property by other persons, because of the substances, odors, noise, or visual clutter created by the repair; or because of the items stored in connection with the repair, or because the repair is performed on a vehicle not owned by the occupant of the property;

(16) Any building or structure which is a public nuisance under common law.

(17) Any violation of the zoning ordinances or occupying or otherwise using property in violation of the provisions of any conditional use permit, planned development permit, variance or other land use entitlement or land use permit.

(18) Any condition or activity which is a "nuisance" or a "public nuisance" as defined in by the State of Mississippi or which is specifically declared to constitute a nuisance by any statute of the State of Mississippi or by any ordinance of the City of Eupora.

(19) Any building or structure which is constructed, altered, repaired, modified, maintained or used in violation of the provisions of the City of Eupora, Mississippi Zoning Ordinance.

**Sec. 1-24 Declaration of Public Nuisance.**

All property found to be maintained in violation of any one or more of the provisions of Section 1-23 of this Ordinance is hereby declared to be a public nuisance and shall be abated pursuant to the procedures set forth herein. The procedures for abatement set forth herein shall not be exclusive and shall not in any manner limit or restrict the City of Eupora from enforcing other City ordinances or abating public nuisances in any manner provided by law.

**Sec. 1-25 Responsibility for Property Maintenance.**

Every responsible party who owns or is in possession of premises within the City of Eupora is required to maintain such premises in a manner so as not to violate the provisions of this Chapter.

**Sec. 1-26 Enforcement Officer.**

The provisions of this Code shall be administered and enforced by the Building Official, Designee of the City, Chief of Police or Code Enforcement Officer or other appropriate city employee(s).

**Sec. 1-27 Right to Enter Property to Inspect or Abate.**

The Enforcement Officer, employee, or agent of the City of Eupora may enter and inspect or abate any building or premises whenever necessary to secure compliance with, or prevent violation of, any provision of this Ordinance. If the Owner or agent of any premises refuse entry upon request of City officials to carry out inspections incident to enforcement of this ordinance, the City of Eupora may make the application to the appropriate judicial officer for a warrant based upon constitutional standards in effect at the time of the application, and shall not make entry in absence of consent, lawful warrant, or other legal authority.

**Sec. 1-28 Enforcement Procedure.**

(1) **Compliance Order; contents.** Whenever the Enforcement Officer determines that any property is maintained in violation of one or more of the provisions of this Ordinance, he or she shall serve on one or more of the responsible parties, via mail to the tax parcel address, a noticed posted on the premises of the subject property, and in person when possible, a written Compliance Order which contains:

- a. The date and location of the violation;
- b. The section of the code violated and a brief description of the violation;
- c. The actions required to correct the violation(s) or abate the condition(s);
- d. The time period after which the City of Eupora will enter the property to abate the conditions or issue a misdemeanor violation citation if compliance is not achieved; e. The time period for abatement shall be at least fifteen (15) days, unless it is determined by the Enforcement Officer that the conditions constitute an imminent threat to the public health, safety or welfare. The Enforcement Officer may grant an extension of time upon good cause, provided the responsible party signs a written agreement to abate the nuisance within a time certain.
- f. That a citation will be issued charging the responsible party or parties with a misdemeanor violation of the terms of this Ordinance if abatement is not achieved within the time set forth in the Compliance Order.

(2) **Citation; Order to Appear.** If the responsible party or parties fail to abate the conditions set forth in the Compliance Order issued by the Enforcement Officer, he or she shall issue a

misdemeanor citation charging the responsible party with violation of the terms of this Ordinance. Said citation shall be in writing and of a form and content approved by the Municipal Court. The citation shall be an order and summons to appear before the Municipal Court at a time and date established by the Municipal Court and said time and date shall be written on the citation. The Enforcement Officer shall file a copy of the Citation with the Court Clerk and the Court Clerk shall enter the Citation on the Court docket. Failure of the Responsible Party or Parties to appear before the Municipal Court at the time and date set forth on the Citation shall constitute prima facie evidence of Contempt of Court and subject to judicial action by the Municipal Court.

#### **Sec. 1-29 Recovery of abatement costs.**

(1) Any costs incurred by the City of Eupora in the abatement of any nuisance under the provisions of this article shall be reimbursed by the property owner within ninety (90) days from the receipt of repair. Failure to reimburse the City of Eupora shall constitute a lien against the property upon which such nuisance existed and shall be certified by the city clerk to the county auditor who shall cause such costs to be placed upon the tax duplicate of the owner of such property and such costs shall then be collected from the owner as other taxes are collected.

(2) In addition, such costs shall be a debt which may be collected by the City of Eupora in an appropriate civil action.

#### **Sec. 1-30 Remedies.**

(1) **Injunction** - The city may, either before or after the institution of other authorized action, seek injunctive relief from any appropriate court, commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.

(2) **Order of Abatement** - In addition to an injunction, the city may seek an order of abatement from any appropriate court, directing any or all of the following actions:

- a. Buildings or other structures on the property be closed, demolished, or removed.
- b. Fixtures, furniture or other movable property be moved or removed entirely.
- c. Improvements, alterations, modifications or repairs be made or removed.
- d. Any other action be taken that is necessary to bring the property into compliance with this ordinance.

(3) **Penalties** - Any responsible party who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$100.00 or more than \$1,000.00 each day, or by imprisonment in the county jail for not to exceed 90 days, or by both such fine and imprisonment. Each day that a violation continues to exist shall constitute a separate offense.

(4) **Continuing Violations** - If a violation is repeated within a two (2) year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall



be subject to additional penalties and remedies. A repeat violation is one which is identical to or reasonably similar to a previous violation for which a warning citation or civil citation has been issued by the city.

**Sec. 1-31 Severability.**

The procedures provided in this Chapter shall be cumulative and in addition to any other procedure or legal remedy provided for in the Ordinance of the City of Eupora or by state law for the abatement of nuisance related activities, premises, conditions or conduct. Nothing in this Chapter shall be deemed to prevent the City of Eupora from commencing a civil or criminal proceeding to abate a nuisance under applicable civil, criminal or municipal code provisions as an alternative or alternatives to the proceedings set forth in this Ordinance. The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of the ordinance other than said part of portion thereof.

**Sec. 1-32 Appeal**

Any person affected by an order issued by the administrator may appeal the order to the Board of Aldermen, and such governing authority shall enter an order affirming or overruling the order of the administrator. Any such person aggrieved by an affirmative order of the Board of Aldermen may apply to the Municipal Court of the City of Eupora for an injunction restraining the administrator from implementing the provisions of the order. The remedies provided by law shall be the exclusive remedies.

**Sec. 1-33 — 1-40. - Reserved**

**DIVISION 2. - LITTER / ACCUMULATION OF GARBAGE OR REFUSE**

**Sec. 1-41 Intent.**

It is the express intent of the Board of Aldermen to promote a clean, healthy, safe, and attractive environment in which to live.

**Sec. 1-42 Applicability.**

This Ordinance shall apply to and be enforced within the incorporated boundaries of the City of Eupora, Mississippi.

**Sec. 1-43 Definitions.**

The following words, phrases, or terms, as used in this Ordinance, unless context indicates otherwise, shall have the following meanings:



(1) Authorized Receptacle: A litter storage and collection container as required and authorized by this Ordinance.

(2) Compostable Trash: Every waste accumulation of lawn grass, tree trimmings, shrubbery, or dry leaf rakings, that is free of dirt, rocks, non-compostable trash, and bulky waste.

(3) Container: The receptacle which shall be provided by the owner or occupant responsible, shall be a receptacle with the appropriate capacities as required by the city or its agent retained for the purpose of collecting and disposing of garbage. Said container shall be constructed of plastic, metal, or fiberglass and be designed and constructed in a manner appropriate for the depositing, holding and collecting of garbage. Said container shall meet the specifications, terms and conditions of the city and its agents retained to collect and dispose of its contents. These specifications, terms and conditions are subject to change upon proper notice.

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

(5) Garbage: Litter and refuse collectively as defined in this ordinance.

(6) Litter: All trash, including that which is unsightly and/or excessive in accumulation, including but not limited to paper, bottles, cans, glass, crockery, plastic, rubber, waste, building materials, and disposable packages and containers, white goods, water heaters, abandoned automobiles, small automobile parts, tires, furniture, non-compostable trash, or any other matter which tends to create a hazard to public health, safety, and welfare.

(7) Person: Any person, owner or lessee, firm, business, partnership, sole proprietorship, association, corporation, company, or organization of any kind.

(8) Private Property: Any dwelling, house, building, or other structure designed, or used for private, commercial, or residential purpose and shall include any yard, grounds, acreage, vacant lots, walk, driveway, porch, steps, parking areas, vestibule, or mailbox belonging to such dwelling, house, building, or other structure.

(9) Public Property: Any and all streets, public right-of-way, easements, medians, sidewalks, boulevards, highways, streets, alleys, or other public parks, squares, spaces, grounds, and buildings.

(10) Refuse: All solid waste including rubbish, ashes, trash, construction debris, and street cleanings, and animal, vegetable, and/or other matter that results from the preparation, processing, consumption, dealing in handling, or decomposition of meats, fish, birds, fruits, grains, or other animal or vegetable matter, including, but by no way limited to, used tin cans and other food containers, all putrescible, or easily decomposable waste, animals and vegetable matter which is likely to attract flies, insects, or animals.

(11) Unauthorized Dump: Any collection of solid wastes either dumped, or caused to be dumped, or placed on any property either public or private, whether or not regularly used, an abandoned automobile, large appliance, or similar large item of solid waste, shall be considered as forming an unauthorized dump within the meaning of Mississippi Code Ann. 17-17-1 et, seq. but not the careless scattered littering of smaller individual items such as tires,

bottles, cans, and the like. An unauthorized dump shall also mean solid waste disposal site which does not meet the regulatory provisions of Mississippi Code Ann. 17-17-1 et, seq.

**Sec. 1-44 Littering prohibited.**

It shall be unlawful for any person to throw, discard, or deposit garbage or compostable trash in any manner or amount in or upon any public property, or private property, highway street, right-of-way, body of water, or park in the city, except in the public receptacles in authorized private receptacles or in accordance with regulations and requirements set forth by the city and its agent for collection.

- (1) Any materials such as garbage or compostable trash being transported by vehicle shall be secured in such a manner to prevent it from blowing or falling off the vehicle.
- (2) Any driver or other person in direct control of any vehicle from which any materials or objects have fallen, blown, leaked, shifted, or otherwise escaped, shall immediately cause said materials or objects to be cleaned up at their own expense or cited and fined in accordance with the ordinance and laws of the State of Mississippi.
- (3) Unauthorized dumps are declared to be a public nuisance per se and shall be eliminated by removal or onsite burial.

**Sec. 1-45 Placement of litter in receptacles required.**

- (1) It is unlawful for any person to deposit any materials in receptacles placed for public use as a depository for litter or refuse other than that specifically designated for that container.
- (2) All persons shall store their garbage in leak-free, enclosed containers, so as to eliminate wind-driven debris and unsightly garbage in and about the property owned, operated, or controlled by them. Spillage and overflow around any container shall immediately be cleaned up as it occurs.
- (3) Persons owning or occupying property shall keep sidewalks and right-of-way areas in front of their premises free of garbage and compostable trash.
- (4) It shall be the responsibility of each person to keep his or her own property clean and free of garbage.
- (5) It shall be the duty of every person in possession, charge of, or in control of, any place, public, or private, where garbage in compostable trash is accumulated or generated, to provide adequate and suitable receptacles and/or containers capable of holding such materials until proper final disposal is accomplished, and at all times to keep said garbage in these receptacles and/or containers.
- (6) Any non-contained and uncontrolled accumulation of garbage and compostable trash on any public or private property is a violation of this ordinance.

**Sec. 1-46 Garbage disposal regulation.**

(1) It shall be required that all garbage or compostable trash resulting from construction, repair, or alteration of any building in the City, shall be contained and removed in a timely manner at the expense of the licensed contractor, or contracting homeowner, or occupant of such building. All trees, tree limbs, and brush cut by a contractor shall be removed at the contractor's or persons occupying the property expense. All trees cut by any other means shall be removed by the person performing such task.

(2) It shall be unlawful to dispose of any hazardous waste except in the manner specifically authorized by statute and shall not be disposed of as part of garbage or compostable trash.

**Sec. 1-47 City garbage collection.**

The city or its Agent shall provide a method for collection of household garbage that has been prepared and contained in covered receptacles. The City or its Agent will maintain regular collection routes on particular days at particular times and will make known to the public the routes, days, and times of regular collections. The City or its Agent, with the approval of the Board of Aldermen, shall notify the public of any variation of changes in the regular collection schedule.

**Sec. 1-48 Certain acts declared unlawful.**

It shall be unlawful for any person:

- (1) To place or deposit or cause to be placed or deposited upon the streets, roads, and right-of-ways in the City garbage unless prepared and contained as required in this ordinance;
- (2) To throw, or deposit, or to cause to be thrown, or deposited litter, or garbage compostable trash on roads, right-of-ways, and adjacent public and private properties;
- (3) To deposit or cause to be deposited in any ditch, creek, watercourse, gutter, or drain within the City any garbage or compostable trash; and
- (4) To allow an unauthorized deposit on any individuals private property.

If the Enforcement Officer or Designee of the City discovers an article of garbage bearing a person, corporation, company, firm, business, or institution's name or address, or any public property, it shall be presumed that said article of garbage so discovered is the property of such person whose name or address appears thereon, and said person placed or caused to be placed upon such article of garbage, provided however, that such presumption shall be rebuttal by competent evidence. This presumption is based on the tenant that all generators of such items are responsible for such items until such time it has been properly disposed of.

**Sec. 1-49 Failure to comply with a notice.**

Any person who has been served such notice in accordance with the provisions of this Ordinance and

who shall neglect, or shall refuse, or shall fail to fully comply with the corrective notices so ordered and/or within the time frame so ordered therein, shall be in violation of this Ordinance.

**Sec. 1-50 Enforcement**

Any violation of the provisions of this division are hereby declared to be a public nuisance which may be enjoined or which may subject the violator to the enforcement procedures provided in Division 1, Section 1-28 of this ordinance.

**Sec. 1-51 Cleaning of private property.**

Upon the failure, neglect, or refusal of any person so notified to properly dispose of garbage and compostable trash from their property within thirty (30) days after issuance of proper corrective notice, the City may demand the removal of said garbage and compostable trash and charge the owner of such property for said removal pursuant to Miss. Code Ann. §21-19-11 and such assessment shall be a lien against the property.

**Sec. 1-52 Severability**

Severability is intended throughout and within the provisions of this division. If any provision, including any exception, part, phrase, or term, or the application thereof, to any person or circumstance is held invalid by a Court of appropriate jurisdiction, the application to the other person's circumstances shall not be affected thereby, and validity of this division in any and all other respects shall not be affected thereby, the Board of Aldermen of the City of Eupora, Mississippi do not intend a result that is absurd, impossible to execute or unreasonable. It is intended that this division be held inapplicable in such cases, if any, where its application would be unconstitutional as Constitutionally permitted construction is intended and shall be given. The Board of Aldermen of the City of Eupora, Mississippi does not intend to violate any provisions of the Constitution of the United States of America or the Constitution of the State of Mississippi.

**Sec. 1-52 Ordinance Cumulative**

This ordinance shall be cumulative in addition to any other laws in force.

**Sec. 1-53 — 1-69. - Reserved.**

**DIVISION 3. - EXTERIOR PROPERTY MAINTENANCE.**

**Sec. 1-70 Intent.**

The purpose of the City of Eupora Property Maintenance Law is to preserve and improve City

beautification, living standards, and community pride; prevent the gradual intrusion of blight, degradation, unsightliness, and property depreciation; and assure the health, safety, and welfare of the general public.

### **Sec. 1-71 Applicability.**

This law applies to all buildings and properties within the City of Eupora. The ordinance applies to vacant properties; residential one, two, and multiple family dwellings, mixed occupancy, storage, and accessory buildings; all properties under construction or demolition; commercial properties.

### **Sec. 1-72 Enforcement.**

Any violation of the provisions of this division are hereby declared to be a public nuisance which may be enjoined or which may subject the violator to the enforcement procedures provided in Division 1, Section 1-28 of this ordinance.

### **Sec. 1-73 Complaints.**

Any individual may anonymously register a complaint through filling out a form via The City of Eupora's Website or by visiting Eupora City Hall. It is not necessary to provide identification. The City's Enforcement Officer or Designee of the City will conduct an on-site evaluation of the area in question to determine what action is warranted.

### **Sec. 1-74 Landscaping.**

The condition and maintenance of lawns and associated vegetation are the responsibility of the property owner. All grass, weeds, or other plant growth must be cut or trimmed to avoid the development of places for the accumulation of blowing trash, dumping of trash or debris, rodent harborage or infestation, criminal activity, or places which constitute a blighting or unsightly influence on the neighborhood. Any trees, shrubs, hedges, and bushes, or portions thereof which are hazardous to persons or property must be trimmed or removed. Farms and wooded land are not required to be mowed.

The following are the regulations that directly relate to lawn care and maintenance:

(1) **Grass Height:** Grass shall not grow to be taller than one foot (1').

(2) **Sidewalk Overgrowth:** Weeds/vines shall not overtake city owned sidewalks and associated stairs. Trees shall not grow into the path of egress of any and all sidewalks. Tree canopies may overhang sidewalks with the stipulation of seven feet (7') for head height clearance.

(3) **Curbs:** Grass/landscaping shall not grow over into curbs thereby restricting the flow of rain water. Property owners are responsible for edging the curb on the property side.

(4) **Structure Overgrowth:** Weeds/vines/bushes or any form of vegetation shall not overtake

any habitable structure. Exception: Vines may be allowed to grow on 25% of the wall surface of the structure as long as the species is in a well-maintained condition.

(5) **Sprinkler Systems:** Sprinkler systems, whether automated or manual, shall be timed to run from 12:00am - 7:00am.

(6) **Property Access:** Steps, walks, driveways, parking spaces, and similar paved areas must be maintained to allow safe and convenient passage.

(7) **Fences/Retaining Walls:** All fences, walls and associated landscaping shall be maintained in good repair and in a safe and attractive condition—including, but not limited to, the repair or replacement of missing, decayed, or broken structural and decorative elements. Chain link fencing is not permitted toward the front of a primary residence beyond the rear facade of any structure after the date of this adopted ordinance. Any pre-existing chain link fencing is considered legal non-conforming and if removed to be replaced will not be permitted as replacement fencing without approval from the Board of Aldermen.

(8) **Filling:** Filling or the changing of established grades requires the approval of the Town Engineer and the Building Inspector. Filling may not obstruct natural or installed drainage. A permit may be required for filling. For information call the City of Eupora City Hall.

(9) **Erosion and Sediment:** Sediment accumulation and tracking on public rights-of-way, such as streets, alleys, storm drains or sanitary sewers, ditches and sidewalks, is not permitted and shall be removed daily. Specific site conditions that encourage erosion shall be corrected by the property owner.

#### **Sec. 1-75 Structures.**

(1) **Painting:** Building exterior surfaces must be in a well-maintained condition. Surfaces not normally resistant to deterioration must be treated with a protective coating of paint or other suitable preservative.

(2) **Rotting Structure Elements:** Elements of the structure including but not limited to fascia boards, soffits, siding, etc., are to be repaired/restored in a timely and effective manner. In addition, once the item is repaired/restored it is to be painted/stained to match alike elements.

(3) **Hazardous Structure Elements:** Elements of a structure that present hazardous or potentially dangerous to the public must be repaired/removed/secured. Hazardous or potentially dangerous elements are of the type to cause physical injury to a person or damage to another's property.

#### **Sec. 1-76 Garbage, trash, and junk.**

(1) **Accumulation of Garbage:** The accumulation of garbage, trash or junk is not permitted except for normal bi-weekly collection or when caused by construction or remodeling of a

building or landscaping operations. Care must be taken to assure such accumulation isn't unsightly and is removed immediately upon work completion or within a reasonable time after. Garbage and refuse containing food or spoiled goods must be placed in covered containers.

(2) **Garbage Collection:** All properties are required to contract with a licensed garbage collection service.

(3) **Uncollected Items:** Items not picked up within the bi-weekly collection time by the property's licensed garbage collection service will become the property owner's responsibility to remove from the premises and discard in a safe, effective manner.

### **Sec. 1-77 Storage and parking of motor vehicles.**

(1) **Storage:** It is unlawful to store an unlicensed, wrecked, abandoned, junk, or dismantled motor vehicle outdoors on any residential premises. There are no restrictions on the garaging of any vehicles.

(2) **Parking:** Motor vehicles and recreational vehicles may not be parked on the "tree lawn" or the area between the sidewalk and the curb. Vehicles may be parked or stored in a required front or corner side yard only in a driveway or paved parking area, or behind a solid fence or wall a minimum of six (6') feet in height in residentially zoned districts. Parking of motor vehicles may not interfere with the use of building exits, public sidewalks, public rights of way, or adjoining premises. Motor vehicles may parallel park along the street as long as one vehicle width is left to allow for passage. No more than fifty percent (50%) of the front yard may be paved or used for such parking.

(3) **Commercial Vehicles:** Commercial vehicles with a gross weight of 10,000 pounds or more shall not be parked on the street right-of-way or on a lot or parcel in a residentially zoned district, unless the vehicle is in the process of delivering goods or services.

(3) **Recreational Vehicles:** Parking of recreational vehicles owned by a resident of the premises is permitted, provided that such vehicles are licensed and in condition for their intended use. Recreational vehicles shall be parked in a driveway, garage, or behind the main structure of the residence. Recreational vehicles include, but are not limited to:

- Travel and tent trailers
- Pick-up truck campers
- Motor homes
- Boats
- Boat trailers
- Racing vehicles
- Cycle trailers
- Utility trailers

### **Sec. 1-78 Signs**



(1) **Signs in Residential Districts:** Signs in residential districts are limited to election signs, garage sale signs, building or lot for sale or rent signs, signs for roadside stands for sale of produce grown on the premises, and signs for major home occupations. Garage sale and realtor signs are restricted to one (1) sign.

### **Location**

Signs may NOT be:

- Attached to fences, trees, or utility poles.
- Placed to obstruct the vision of motorists.
- Placed off the property to which the sign refers.
- Placed in the public right-of-way.
- Placed in any location blocking the sight triangle of a driveway or intersection.

(2) **Garage Sale Signs:** Garage sale, election, and other temporary signs must be removed within forty-eight (48) hours of the end of the event.

(3) **Signs in Commercial Districts:** Signs in commercial districts are limited to wall mounted signs, monument signs, awning signs, suspended signs, marquee signs, window signs, or temporary signs.

- a. Wall mounted and awning signs shall have a maximum size of one hundred-fifty square feet as measured by the copy or overall sign area, not the letters or font. Wall signs shall not exceed fifty percent (50%) of the square footage of the facade face of the building or the awning. Fonts shall not exceed eighteen (18) inches in height.
- b. A monument sign is a freestanding on premise sign with one (1) or two (2) sides attached to a permanent foundation or decorative base and not attached or dependent on support from any building, pole, posts or similar uprights on a site with one (1) or multiple tenants. Monument signs shall have a maximum height of eight (8') feet, maximum width of twelve (12') feet, and maximum sign area of eighty (80) square feet. Fonts shall not exceed eighteen (18) inches in height. No monument sign shall be placed closer than five (5') feet from the right-of-way of a street or property line.
- c. Temporary banner signs are permitted for a maximum of thirty (30) days.

(4) **Building Address Numbers:** Building numbers allow emergency vehicles to locate a dwelling quickly, and serve as well for the convenience of those trying to locate a building in non-emergency situations.

### **Address Numbers Must Be:**

- Securely mounted to a building's front wall, public street entry-way, or pathway leading to the main entrance from a public street.

- Arabic (1, 2, 3, etc. not script or Roman numerals).
- At least four (4) inches high in residential areas.
- Clearly visible from the street.

**(5) Prohibitions**

- No sign shall be allowed to obstruct the view of vehicle operators at any intersection and shall not be placed within a sight triangle of a street or driveway.
- No sign shall be placed in the right-of-way with the exception of official traffic control signs unless approved by the Board of Aldermen. This shall include any sign placed on any curb, sidewalk, post, pole, hydrant, bridge, tree or other surface located on, over, or across any public street, right-of-way, property or thoroughfare, unless authorized by the Board of Aldermen.
- No sign shall be erected that would obstruct or be confused with, by its location, color, size, shape, nature or message, with official traffic signs or other signs erected by governmental agencies.
- The removing, damaging, or trimming of any tree or shrub within the public right-of-way for the purpose of increasing or enhancing the visibility of any sign is prohibited except with approval by the Board of Aldermen after a determination is made of a danger to public safety.
- Non-seasonal decorative lighting that is used to attract the attention of pedestrians or motorists that is not part of a seasonal display or outdoor gathering space is not permitted.
- Pole/Pylon signs or signs in excess of eight (8') feet in height are not permitted. Any pole/pylon sign in place and existing at the time of this ordinance shall be considered legal nonconforming. Any nonconforming sign and its supporting structure that is discontinued for a period of one hundred and twenty (120) days or more shall be removed in its entirety at the expense of the property owner. No building or sign permits shall be issued until arrangements have been made for the removal of all nonconforming signs and their supporting structures from the subject property.

**Sec. 1-79 Pets**

(1) **Pet Control:** All pets must be kept in an appropriate manner and under control. Pets found wandering or lost will be turned over to the City of Eupora Police Department to be detained until the owner comes forward to claim the animal upon paying the penalty price of \$50.00. This penalty will be charged per time the animal is detained by the City of Eupora Police Department. Owners of pets seen wandering or lost within the city limits may be charged regardless of detainment.

(2) **Farm Animals:** Farm animals regardless of size, breed or species must be kept only on a farm.

(3) **Outdoor Animals: Animals** are allowed to be kept outside if they are retained within the boundaries of the property by fencing or barriers. It is unlawful for dogs to be off of their owner's property without a leash unless permission has been given by the property owner.

(4) **Animal Noise Issues:** Complaints about barking dogs should be directed to the City of

**Sec. 1-80 – 1-89 Reserved**

**DIVISION 4. - BLIGHT AND DILAPIDATED STRUCTURES**

**Sec. 1-90 Intent.**

It is the purpose of this division to prevent, reduce, or eliminate blight or causes of blight within the City of Eupora by the regulation of uncompleted, abandoned, dilapidated or deteriorated buildings; by providing for the removal of building material of any kind whatsoever from land in the city; and to provide penalties for the violation thereof.

**Sec. 1-91 Dilapidated and unsafe buildings.**

It is hereby found and declared that there exist in the City of Eupora, Mississippi dwellings and other buildings which are unfit for human habitation, use or occupancy due to the dilapidation, defects increasing the hazards of fires, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings and other buildings unsafe and unsanitary and dangerous or detrimental to the health, safety or morals, and otherwise inimical to the welfare of the residents of the City of Eupora; and that a public necessity exists for the repair or elimination of such buildings.

**Sec. 1-92 Blight.**

The following uses, structures and activities are determined to be blight or if allowed to exist will result in blighted and undesirable neighborhoods. No person, firm or corporation shall maintain or permit to be maintained any of these causes of blight upon any property owned, leased, rented or occupied by such person, firm or corporation in the City of Eupora.

- (1) In any area, the existence of any structure or part of any structure which, because of disrepair, fire, wind or other natural disaster or physical deterioration is no longer habitable, if dwelling, nor useful for any other purpose of which it is intended.
- (2) In any area, the existence of any partially enclosed structure unless such structure is in the course of construction in accordance with a valid and existing building permit.
- (3) In any area zoned for residential purposes, the open storage upon any property of new or used building materials unless there is in force a valid building permit issued for construction upon said property and said materials are intended for use in connection with such construction.

**Sec. 1-93 Administration and Enforcement**

The Building Official for the City of Eupora is hereby designated as the administrator of this division and may delegate duties of this ordinance to the building inspectors, code enforcement officers and other

city employees. The Administrator shall have such powers as are necessary and convenient to carry out and effectuate the purposes and provisions of this ordinance, without limitation, and those powers authorized by law. Any violation of the provisions of this division are hereby declared to be a public nuisance which may be enjoined or which may subject the violator to the enforcement procedures provided in Division 1, Section 1-28 of this ordinance.

#### **Sec. 1-94 Regulations.**

(1) All buildings and parts thereof erected either before or after effective date of this Ordinance shall be completed in accordance with the building permits issued therefore pursuant to the City of Eupora Zoning Ordinance. If not so completed, the property owner shall put the property back in safe condition ("Safe condition" shall be at the discretion of the Building Official, City Designee, or Code Enforcement Officer) or it may be torn down and removed from the property and any excavation thereunder filled to grade level.

(2) No building, structure or uninhabited residence, whether now existing or hereafter erected, shall be left in a dangerous or hazardous condition by virtue of disrepair, depreciation, damage by fire, collapse, or act of God, or by virtue of any other cause, but shall be forthwith repaired or rehabilitated, and the dangerous or hazardous condition removed by the owner or occupant thereof, or in the alternate, torn down and removed, and any excavation thereunder filled to grade level. Such repairs to rehabilitation shall comply in all respects with the provisions of the City building, plumbing and electrical codes governing such buildings. Permits for building, renovation, or demolition are required. Structures in designated Historic Districts shall follow procedures outlined in the City of Eupora Historic Preservation Ordinance.

(3) Every tract of land within the City shall be kept clean and free from the accumulation of: refuse from repair, alterations or demolition of buildings; any used building materials including, but not limited to lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete ~~or~~ cement, nails, screws, and other materials.

#### **Sec. 1-95 Complaint**

Whenever a petition is filed with the Building Official, or Enforcement Officer by a public authority or by at least five (5) residents of the city, charging that any building is unfit for human habitation, use or occupancy, or whenever it appears to the Building Official, on his own motion, that any building is unfit for human habitation, use or occupancy, the Building Official shall, if his or her preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such premises a complaint, stating the charges in that respect and containing a notice that a public hearing will be held before the Board of Aldermen at a place therein fixed not less than fourteen (14) days nor more than thirty (45) days after the serving of said complaint. Said notice shall also specify that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. A copy of the notice shall be sent by regular mail to any lessee, mortgagee or other party within an interest in the property and a copy of the notice shall be placed on the premises and at City Hall; however, failure to provide a copy of the notice by mail shall not invalidate this notice.

## **Sec. 1-96 Hearing**

The Board of Aldermen shall conduct a public hearing for the purpose of determining if the building in question is, in fact, unfit for human habitation, use or occupancy, inimical to the welfare and dangerous and injurious to the health, safety of the public, and, that a public necessity exists for the repair or elimination of said building. The owner and parties in interest shall have the right to appear in person, or otherwise, and give testimony. The rules of evidence prevailing in courts of law and equity shall not be controlling in hearings before the Board of Aldermen.

## **Sec. 1-97 Order to repair, vacate, or demolish.**

(1) If the Building Official and Board of Aldermen, after consideration of the evidence at the hearing, determines that the building upon which the complaint has been filed is unfit for human habitation, use or occupancy, the findings of fact in support of said determination shall be issued in writing and shall cause to be served upon the owner thereof an order requiring said owner, to the extent and within the time specified in the order, to repair, alter or improve said building to render it fit for human habitation, use or occupancy, or, to vacate and close the building as a human habitation or for human use or occupancy. The order shall specify a reasonable amount of time in which repairs, alterations or improvements shall commence or, to vacate and close the building, and shall further specify the reasonable amount of time the repairs, alterations, improvements, vacation, or demolition shall be completed. The order shall be served on the owner or posted at the property and at city hall in accordance with procedures outlined in Mississippi Code 21-19-11. A copy of the order shall be sent by regular mail to any lessee, mortgagee or other party within an interest in the property.

(2) If the Building Official and Board of Aldermen shall determine, after consideration of the evidence at the hearing, that the building is in such condition, because of dilapidation, disrepair, structural defects or otherwise that it is dangerous or injurious to the health or safety of the public or to the occupants of the building or the occupants of neighboring buildings, said Building Official shall issue and cause to be served upon the owner an order in accordance with Mississippi Code 21-19-11 requiring the demolition of such building. The order shall specify a reasonable amount of time in which to vacate and demolish the building. The order shall be served on the owner. A copy of the order shall be sent by regular mail to any lessee, mortgagee or other party with an interest in the property; however, failure to provide a copy of the order by mail shall not invalidate the order.

## **Sec. 1-98 Failure to repair, vacate, or demolish.**

(1) If the owner fails to repair or vacate pursuant to such order within the time prescribed, the Building Official may cause the building to be vacated and closed and may cause to be posted on the main entrance to any building so closed a placard with the following words: "This building is unfit for human habitation, use or occupancy. The use or occupancy of this building by humans is prohibited and unlawful".

(2) If the owner fails to comply with the order to repair within the time prescribed, the Building Official may cause such building to be repaired, altered or improved in accordance with the order and Mississippi Code 21-19-11. If such repairs, alterations or improvements are determined by the administrator to cost in excess of fifty (50) percent of the value of said building

according to the true value on record at the Webster County Tax Assessor's Office, the administrator may cause such building to be removed or demolished.

(3) If, within the time fixed by the administrator for repairs, alterations or improvement of such building, the administrator finds there has been substantial compliance with the provisions of the order or that the owner has filed with the administrator a copy of a written contract with a contractor to make such repairs, alterations or improvements as ordered, the administrator may extend the time for compliance for an additional period not to exceed sixty (60) days.

(4) If the responsible parties or parties fail to abate the conditions set forth in the Compliance Order issued by the Building Official or Enforcement Officer he or she may issue a misdemeanor citation charging the responsible party with violation of the terms of this Ordinance. Said citation shall be in writing and of a form and content approved by the Municipal Court. The citation shall be an order and summons to appear before the Municipal Court at a time and date established by the Municipal Court and said time and date shall be written on the citation. The Compliance Officer shall file a copy of the Citation with the Court Clerk and the Court Clerk shall enter the Citation on the Court docket. Failure of the Responsible Party or Parties to appear before the Municipal Court at the time and date set forth on the Citation shall constitute prima facie evidence of Contempt of Court and subject to judicial action by the Municipal Court.

#### **Sec. 1-99 Assessment of costs**

(1) The cost to the city for repairs, alterations, improvements, removal or demolition, in addition to a penalty in the amount of twenty (20) percent of such cost shall be a lien against such real estate, and assessed or collected as a special tax. The governing authority of the city shall fix a day for a hearing of objections to such assessment and shall cause the municipal clerk to give to the owner ten (10) days written notice, by mail, if the post office address of the owner be known, but if the post office address of the owner be unknown, notice shall be given by posting notice for at least ten (10) days in advance at City Hall noting the time and place for the hearing or objections to such assessment; one (1) posting notice shall be on the land which is the subject matter of such assessment. Said hearing shall be conducted by the administrator or building official. The property owner shall be given an opportunity to object to the amount of the assessment. The Board of Aldermen shall make a final determination of the amount of the assessment and shall notify the owner of said amount by letter to the last known address of the owner, or, if special assessment is not paid in full within six (6) months from and after the date the assessment becomes final, the tax collector shall proceed to advertise and sell the said real estate, or a sufficient amount thereof to recover said special tax and all costs of the sale, after having given notice of the time and place of such sale as is required by law for the sale of land for delinquent ad valorem taxes. From the proceeds of such sale, the tax collector shall first pay the cost of the sale, after which he or she shall pay the costs of such repairs, alterations, improvement, removal or, demolition and any penalty imposed by the city; and any amount remaining over shall be deposited by him/her with the clerk of the circuit court as hereinafter provided.

(2) If the building is removed or demolished by the Building Official or Designee of the City of Eupora, he or she may sell the materials of such building and shall credit the proceeds of such sale against the cost of the removal or demolition; and any balance remaining shall be deposited



in the circuit court by the administrator, shall be secured in such a manner as may be directed by such court, and shall be dispersed by such court to the persons found to be entitled thereto by the final award or judgment of such court. Nothing in this subsection shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or to issue a citation to the owner of any property in violation of this article.

### **Sec. 1-100 Appeal**

Any person affected by an order issued by the administrator may appeal the order to the Board of Aldermen, and such governing authority shall enter an order affirming or overruling the order of the administrator. Any such person aggrieved by an affirmative order of the Board of Aldermen may apply to the Municipal Court of the City of Eupora for an injunction restraining the administrator from implementing the provisions of the order. The remedies provided by law shall be the exclusive remedies.

### **Sec. 1-101 — 1-119. - Reserved.**

## **DIVISION 5. - Junk Vehicles**

### **Sec 1-120 Purpose**

The purpose of this division is to limit and restrict the outdoor storage, parking or unreasonable accumulation of junk, unused, partially dismantled or non-operating motor vehicles, motorcycles, boats, house trailers, or tractor trailers, or new or used parts thereof upon the premises of any type of property, public or private within the City of Eupora, Mississippi; to thereby avoid injury and hazards to children and other persons attracted to such vehicles or trailers; the devaluation of property values and the psychological ill effect of the presence of such vehicles or trailers upon adjoining residents and/or property owners.

### **Sec 1-121 Definitions.**

When used in this division the following words and terms shall have the meaning set forth in this Section, unless other provisions of this Ordinance specifically indicate otherwise:

(1) Junk Vehicle: Any motor vehicle that does not have a current and valid Mississippi certificate of inspection and motor vehicle registration plate or is in a condition to be considered inoperable. For the purpose of this ~~Ordinance~~ division, any trailer, camper or boat without a current registration shall be considered a junk vehicle.

(2) Junkyard: Any land used, in whole or in part, for private, commercial, or industrial storage, dismantling, and/or sale of waste paper, rags, scrap metal, inoperable motor vehicles and parts, machinery, or other junk outside an enclosed building.

### **Sec 1-122 Regulations.**

(1) No responsible party or person shall park, store, or place upon any public right of-way or public property, or upon any premises or property, public or private, within the City of Eupora, any motor vehicle, motorcycle, boat, house trailer, or tractor trailer or new or used parts



therefrom, unless the same is wholly contained within a fully enclosed building, except as follows:

- a. Duly licensed and operable vehicles or trailers with substantially all main component parts attached.
- b. Vehicles or trailers that are temporarily inoperable because of minor mechanical failure, but which are not, in any manner, dismantled and have substantially all main component parts attached, which may remain upon such private property not to exceed seven (7) days.
- c. Not more than one vehicle in fully operating condition, such as stock car or modified car that has been re-designed or reconstructed for a purpose other than that for which it was manufactured, provided no building or garage is located upon the premises in which the same could be parked or stored. In no event shall any such vehicle lie parked, repaired, or maintained in the front or Side Street or viewable yard area of any premises.

(2) No repairing, redesigning, modifying or dismantling work or operations shall be allowed upon any vehicle or trailer or parts thereof upon any public right-of-way or public property or on any other property for a period in excess of twenty-four (24) hours, except:

- a. Such as shall be accomplished within fully enclosed buildings or behind solid wood fencing, a minimum of six (6) feet and maximum of eight (8) feet in height which are properly maintained and landscaped; and
- b. Will not constitute a nuisance or annoyance to adjoining property owners or occupants.

Any such work within such 24 hour period heretofore allowed shall not, however, consist of any major repair, re-designing, modifying or dismantling work; but only such occasional minor work as may frequently be required to maintain a vehicle or trailer or parts thereof in normal operating condition. Nothing herein contained shall be construed to permit the parking and/or repair or maintenance of said vehicles in any front yard or side yard.

(3) No responsible party or person shall at any time engage in any activity for or on behalf of others, whether for profit or gratis, relative to the performance, storage, parking, repair, redesign, modification, or dismantling work or operation upon any vehicle or parts thereof upon any residentially zoned parcel, public right-of-way or public property or upon any property, public or private, without a proper privilege license for such activity.

(4) All existing junkyards, auto salvage yards, vehicle repair shops, wrecker services, or any other business or enterprise storing any vehicle where junk or wrecked vehicles are stored shall be screened from view from adjacent properties. The premises on which the business of a junk dealer or the operation of a junkyard or auto salvage yard is conducted or any other business where junk or wrecked vehicles are stored shall be entirely enclosed with a tight, closed fence of wood, at least six (6) feet in height, not to exceed eight (8) feet, and gates or doors in said fence shall be closed at all times, except when open for actual admittance of persons or material. All new junkyards, recycling and salvage operations, vehicle salvage yards, vehicle repair shops, wrecker services, automobile dealers with repair shops, or any other business or enterprise storing any junk or wrecked vehicle shall have erected and have in place proper fencing prior to obtaining a privilege license.

(5) In the event the foregoing regulations create any special or peculiar hardship beyond the control of the particular violator thereof because of unforeseen circumstances, Building official of the City of Eupora is hereby given the authority to grant permission to an applicant to operate

contrary to the provisions hereof for a limited period of not more than seven (7) days provided no adjoining property owner or occupant is unreasonably adversely affected thereby and the spirit and purpose of the Ordinance are still substantially observed.

### **Sec 1-123 Nuisance Declared**

Any parking, storage, placement, or operation in violation of the provisions of this Ordinance are hereby declared to be a public nuisance which may be enjoined or which may subject the violator to the enforcement procedures provided in Division 1 Sec 1-28 of this ordinance.

### **Sec 1-124 - 1-129 Reserved.**

## **DIVISION 6. - Sound and Noise**

### **Sec 1-130 Purpose.**

It is the intent and purpose of this article to regulate uses and activities in the City of Eupora in such a manner as to prevent excessive noises which degrade the quality of life, disturb the public peace, and jeopardize the health, safety and welfare of the citizens of Eupora, Mississippi. It is further the intent of this article to recognize that factors such as the time of day, location (e.g., proximity to residences), necessity of public projects for the public good, and necessity of sounds incidental to allowed uses and activities must be considered in balancing the protection of public peace and individual freedoms. Unless specifically stated otherwise, it is also the intent of this article that violations will be enforced using either the plainly audible standard or through the measurement of sound by a sound level meter, but not through the utilization of both standards for the same violation. Furthermore, it is the intent of this article that selection of the standard (plainly audible or sound level meter) utilized by an Enforcement Officer or designee of the City is at their sole discretion and there exists no duty by a code inspector to utilize either standard specifically.

### **Sec 1-131 Definitions.**

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

(1) Construction activities: means any and all activities incidental to the construction, erection, demolition, assembling, altering, installing or equipping of buildings, structures, roads or appurtenances thereto, including land clearing, grading, excavating and filling.

(2) Construction equipment: means construction activities utilizing any equipment or devices,

such as, but not limited to, piledrivers, power shovels, derricks, hoist tractors, loaders, rollers, concrete hauling motor vehicles, pavement breakers, bulldozers, crawler-tractors, rotary drills and augers, cranes, ditchers, trenchers, scrapers, wagons, pumps, compressors, pneumatic power equipment, or other mechanical apparatus operated by fuel or electric power in the construction, repair or demolition of any building, structure, land, street, alley, waterways, or appurtenances thereto.

(3) db(A): means a measure of sound pressure level in decibels on the A-weighted scale.

(4) Decibel meter: means an instrument used to measure decibels which meets or exceeds American National Standards Institute section 1.4, 1971 (revised 1976) standards for type 2 special purpose meters.

(5) Device: means any mechanism which is intended to produce or which actually produces sound when operated or handled.

(6) Domestic power equipment: means any equipment or device used for routine home or building repairs and ground maintenance.

(7) Motor vehicle: shall mean every vehicle which is self-propelled.

(8) Noise: means any sound which exceeds the decibel levels prescribed by this article at a time and location described in this article.

(9) Property line: means the boundary line distinguishing ownership or the common wall of a townhouse, condominium, or leased premises.

(10) Residential district: This term shall have the same meaning as in the zoning ordinance of the City of Eupora.

(11) Sound: means that which is or can be heard, or other physical quality, in a medium with internal forces that cause compression and rarefaction of that medium and which propagates at finite speed to distant points.

(12) Sound-amplifying equipment: means any machine or device for the amplification of the human voice, music, or any other sound or noise.

### **Sec 1-132 Regulations.**

(1) – No person or persons owning, employing or having the care, custody or possession of any musical instrument, radio set, television set, phonograph, victrola or other instrument, machine or device for amplifying, producing or reproducing sound, shall operate, use or permit to be operated or used such instrument, machine or device in such a manner as to disturb the peace and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing of the persons who are in the room or chamber in which or who are on the premises from which such instrument, machine or device is operated and who are voluntary listeners thereto.

(2) The operation of any such instrument, machine or device in such a manner as to be plainly audible on any adjacent or adjoining property shall be prima facie evidence of a violation of this section unless specifically permitted by ordinance or law or by an agency or department of municipal government.

(3) No person operating or occupying a motor vehicle on any street, highway, alley, parking lot, or driveway, either public or private property, shall operate or permit the operation of any sound amplification system, including, but not limited to, any radio, tape player, compact disc player, loud speaker, or any other electrical device used for the amplification of sound from within the motor vehicle so that the sound is plainly audible at a distance of fifty or more feet from the vehicle, or in the case of a motor vehicle on private property, beyond the property line. For the purpose of this subsection "plainly audible" means any sound which clearly can be heard, by unimpaired auditory senses based on a direct line of sight of fifty or more feet, however, words or phrases need not be discernible and said sound shall include bass reverberation. Prohibitions contained in this section shall not be applicable to emergency or public safety vehicles, vehicles owned and operated by the municipal government or any utility company, for sound emitted unavoidably during a job-related operation, or any motor vehicle used in an authorized public activity for which a permit has been granted by the appropriate agency of the municipal government.

(4) No person shall operate nor shall the owner permit the operation of any motor vehicle or combination of motor vehicles at any time or place when such operation exceeds sound pressure levels of eighty (80) decibels when measured at fifty (50) feet from the vehicle. This standard applies to all noise emitted from motor vehicles including any and all equipment thereon, under any condition of acceleration, deceleration, idle, grade or load and regardless of whether in motion.

(5) It shall be unlawful for any person to operate, or for the owner of any motor vehicle to permit the operation of any motor vehicle or combination of motor vehicles at any time that is not equipped with an exhaust muffler.

(6) It shall be unlawful for any person or for any owner to allow any person to modify, tamper with, alter, or change any motor vehicle in any manner that causes the sound emitted from the motor vehicle to exceed eighty (80) decibels when measured at fifty (50) feet from the vehicle.

### **Sec 1-133 Exemptions.**

The following noises shall be exempt from the restrictions set forth in the other sections of this article.

(1) Noises of authorized safety signals and warning devices.

(2) Noises resulting from any authorized emergency vehicle, when responding to an emergency call or acting in time of emergency or any other public safety operation.

(3) Noises resulting from emergency work, which is to be construed as work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from any imminent exposure to danger.

(4) Noises incidental to mosquito control activities.

- (5) Noises incidental to City-approved refuse collection.
- (6) Noises incidental to the activities of bona fide agricultural operations.
- (7) Community events such as fairs, sporting events, school activities, community festivals, etc.
- (8) Noises associated with public works construction or maintenance projects.
- (9) Noises incidental to construction tools and equipment used and operated on a construction site between the hours of 7:00 a.m. and 9:00 p.m.

**Sec 1-134 Enforcement.**

Any violation of the provisions of this division are hereby declared to be a public nuisance which may be enjoined or which may subject the violator to the enforcement procedures provided in Division 1, Section 1-28 of this ordinance.

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