

ORDINANCE NO. 01-02
AN ORDINANCE TO BE ENTITLED

AN ORDINANCE ADDING TO THE CODE OF ORDINANCES OF THE TOWN OF ESTO, FLORIDA TO MAKE PROVISION FOR THE NUISANCE TO INCLUDE, AMONG OTHER THINGS, ACCUMULATED JUNK, TRASH OR DEBRIS, ABANDONED OBJECTS, SUCH AS VEHICLES, COMPOST PILES, UNSANITARY MATTERS AND CONDITIONS AND GRASS OR WEEDS OF EXCESSIVE HEIGHT, PROVIDING FOR A DUTY TO MAINTAIN PRIVATE PROPERTY FREE OF SUCH NUISANCE, PROHIBITING THE EXTERIOR STORAGE OF NON-OPERATING VEHICLES, PROVIDING FOR ENFORCEMENT PROVISIONS, INCLUDING NOTICE OF NON-COMPLIANCE, EFFECT OF FAILURE TO ABATE AFTER NOTICE, DUTIES OF TOWN COUNCIL AND IMPOSITION OF LIEN; PROVIDING FOR VIOLATIONS, AND PROVIDING CODIFICATION AND EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ESTO,
HOLMES COUNTY, FLORIDA:

SECTION 1. NUISANCES ON PRIVATE PROPERTY. There is hereby added to the code of ordinances of the Town of Esto, Florida the following provisions pertaining to the regulation of nuisances on private property lying within the corporate limits of the Town of Esto

SECTION 2. DEFINITION OF "NUISANCE". For the purpose of this ordinance, the term "nuisance" is defined to mean any condition or use of premises or of building which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes, but not limited to, the keeping or the depositing on, or the scattering over the premises of any of the following

- (a) Accumulated junk, trash, or debris;
- (b) Abandoned, discarded or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers,
- (c) Any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease-carrying pests, animals or insects,
- (d) Any unsanitary matters or conditions or any deleterious or septic material unless such material is retained in containers or vessels which deny access to humans, flies, insects, rodents and animals,
- (e) Any growth of grass or weeds of a height exceeding twenty-four (24) inches which constitutes a menace to public health and safety of the Town and its inhabitants by concealing filthy deposits or containers that collect water in which mosquitoes breed, or produces diseases and otherwise adversely affects the health of the residents of the Town, or serves as a breeding place for flies, rats and other pests, or becomes a dangerous fire hazard or fosters the accumulation of trash and filth on the premises where located.

SECTION 3. DUTY OF MAINTENANCE OF PRIVATE PROPERTY. No person owning, leasing, occupying or having charge of any premises shall maintain or keep nuisances thereon, shall any such person keep or maintain such in a manner causing substantial diminution in the value of the property in the neighborhood in which such premises are located.

SECTION 4. EXTERIOR STORAGE OF NONOPERATING VEHICLES PROHIBITED. No person in charge of or in control of a premise, whether an owner, lessee, tenant, occupant or otherwise, shall allow a partially dismantled, wrecked, junked, discarded or other wise non-operating motor vehicle to remain on such property longer than ten (10) days, and no person shall leave any such vehicle on any property within the town for longer than ten (10) days, except that this section shall not apply to any vehicle in an enclosed building or so located upon the premises as not to be readily visible from any public place or from any surrounding private property. Nor shall this

ordinance apply with regard to any vehicle on the premise of a business enterprise operated in a lawful place, other than in a residential district, and operated in a lawful manner, when in keeping or maintenance of such vehicle is necessary to the operation of such business enterprise, nor with regard to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town or any other public agency or entity.

SECTION 5. ENFORCEMENT OF ORDINANCE: Enforcement of this ordinance may be accomplished by the town in the manner as herein-after provided, and in addition, any person who by reason of another's violation of any provision of this ordinance, suffers special damage to himself different from that suffered by other property owners throughout the town generally, may bring an action to enjoin or otherwise abate an existing violation.

(a) **NOTICE OF NON-COMPLIANCE:** All persons owning, leasing, occupying, or having charge of any premises within the corporate limits of the Town of Esto upon which a violation of any provision of this ordinance shall have been determined to exist by the designated "Ordinance Enforcement Councilman" of the Town of Esto shall be notified in writing by the clerk of such violation by certified mail, return receipt requested. Such notice shall describe the premises in violation and shall also specify in as much detail as possible the violation involved as herein above set forth. Such person shall be given reasonable time not to exceed thirty (30) days from the date of the mailing of said notice in which to remove or abate the nuisance from said premises.

(b) **EFFECT OF FAILURE TO ABATE AFTER NOTICE:** Upon failure of any such person owning, leasing, occupying or having charge of any premises to remove or abate any nuisance found to be existing upon said premises within the time period provided in sub-section (a) above, the Enforcement Officer (Councilman) shall report the same to the Town Council and shall appear at all hearings conducted by the Town Council to testify and present photographs showing the nuisance or nuisances involved.

(c) **DUTIES OF TOWN COUNCIL:** The Town Council shall upon receipt of the written report of the Enforcement Officer (Councilman) as provided in sub-section (b) hereof, give written notice by certified or registered mail, return receipt requested, to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said premises as shown by the tax assessment rolls for Holmes County, Florida, to appear on the hearing date specified in the notice to show cause why the circumstances or situation reported to be a nuisance should not be removed or abated from the premises. The Town Council shall hold a hearing and hear such evidence as the Enforcement Officer (Councilman) or the owner, occupant, mortgagee, lessee, or any other person having an interest in said premises shall offer relative to the nuisance. The Town Council shall make findings of fact from the evidence offered as to whether or not a nuisance does exist on the premises as herein above defined. If a nuisance is found to exist, a written order shall be issued by the Town Council allowing owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said premises to remove or abate said nuisance within thirty (30) days from the date of the hearing. The Town Council's order shall fairly and adequately notify the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said premises of the possible consequence of their failure to comply with said order.

(d) **IMPOSITION OF LIEN:** If owner, occupant, mortgagee, or lessee fails to comply with the order of the Town Council within the time specified in the order, the Town Council may cause such nuisance to be removed or abated as the facts may warrant, and shall with the assistance of the Town Attorney, cause the reasonable costs and expenses incurred against the land on which the nuisance existed. For costs and expenses so assessed, the Town may issue lien certificates bearing interest at the rate of six per cent (6%) per annum in the payment for such costs and expenses of such work, payable to the Town within six (6) months from the date of issue. The lien as evidenced by the lien certificate so issued, upon nonpayment after the expiration of the six(6) months, shall be enforceable in equity against the property described therein and such lien may be foreclosed in a suit in foreclosure, including a reasonable attorney's fee, shall be an additional charge and lien against the property, and shall be collected of the amount for which the lien was originally issued.

SECTION 6 PENALTIES FOR VIOLATIONS: The owner, occupant, lessee or other persons having an interest in said premises who shall violate this article by failing to comply with any written order issued by the Town Council as herein above provided shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding five hundred (\$500.00) dollars or by imprisonment for a term not exceeding ninety (90) days, or by both such fine and imprisonment

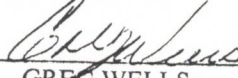
SECTION 7 CODIFICATION: It is the intent of the Town of Esto and of the town that this ordinance be a part of the Code or Ordinance of the Town of Esto, Florida and be codified for inclusion therein.

SECTION 8 EFFECTIVE DATE: This ordinance shall take effect upon its adoption and approval as provided by law.

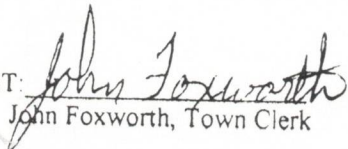
PRESENTED at a regular meeting of the Town Council of the Town of Esto, Florida and read in full on this the 1st day of MAY, 2001

PASSED by the Town Council of the Town of Esto, Florida at a meeting assembled on this the 1st day of MAY, 2001

APPROVED BY:



GREG WELLS
ESTO COUNCIL CHAIRMAN

ATTEST: 
John Foxworth, Town Clerk

