

**TOWN OF ESTO**  
**ORDINANCE NO. 01-02 / 07-17**

**AN ORDINANCE OF THE TOWN OF ESTO, FLORIDA; REPEALING PREVIOUSLY ADOPTED ORDINANCES IN REGARD TO NUISANCES ON PRIVATE PROPERTY; REGARDING DETERMINATION OF NUISANCE; COUNCIL AUTHORITY; PENALTIES FOR NON-COMPLIANCE AND VIOLATIONS; THE AMENDMENT OF SAID ORDINANCE AND PROVIDING SPECIFICATIONS: SEVERABILITY, DATE OF EFFECT, AND DEFINITIONS.**

**DESCRIPTION:** *An ordinance amending Ordinance No. 01-02 of the Code of Ordinances of the Town of Esto, Florida; dealing with nuisances on private property; empowering the town council to authorize entry upon private premises for the removal of nuisances, requiring the town council to keep an account of the expenses and costs of removal, and to demand payment of same from owner, occupant, mortgagee, or lessee; empowering the town council, upon the failure of the owner to pay said costs and expenses to declare same; a lien upon the real property or to seek legal remedies to recover costs, including reasonable attorney fees; to provide for criminal penalties for the violations of Ordinance No. 01-02 of the Code of Ordinances of the Town of Esto, Florida; providing for severability, providing for an effective date.*

**WHEREFORE**, the Town Council of the Town of Esto, Holmes County, Florida, is authorized by Florida law to enact and enforce ordinances, and

**WHEREFORE**, the Town Council of the Town of Esto, Holmes County, Florida, has determined, after due deliberation and consideration, that the following amendments of Ordinance No. 01-02 of the Code of Ordinances of the Town of Esto, Florida, are appropriate and lawful, and better establish procedures and penalties for the removal of nuisances within the corporate limits of the Town of Esto, Florida (the "Town");

**WHEREFORE**, the Town Council of the Town of Esto, Holmes County, Florida, finds that there are not only vacant lots and parcels in the Town, but also occupied parcels of land that are overgrown with weeds, vines, and other growth, and have become a collection place for garbage, debris, junk, or other undesirable mess, and are likely to become the breeding place for rats, mosquitoes, and flies and have unsafe conditions. In these same lots and parcels of land, are conditions located thereon that are unattractive within the Town;

**WHEREFORE**, The Town Council of the Town of Esto, Holmes County, Florida, further finds as a fact that the conditions described above materially affect more of the following:

- The safety of not only the citizens of Esto, but individuals who may be visiting the Town;
- The general health and welfare of the citizens of Esto and those individuals visiting within the Town;
- The health and safety of children who are attracted to such conditions and who are vulnerable to conditions which lead to accidents and injuries;
- The quality of urban attractiveness and the overall aesthetic appearance of the Town;
- The protection of property values nearby to such conditions, as well as the property values throughout the Town;
- The ability of the Town to attract new industry and to create new and better paying jobs, including the opportunity for the full economic development of the Town;
- The comfort, happiness, and emotional stability of owners and occupants of property in the vicinity of dangerous or unattractive conditions and nuisances; or the full use, ownership, and enjoyment of property in the vicinity of such conditions; and /or
- The right to live in a peaceful, quiet neighborhood and the pursuit of happiness.

**NOW THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Esto, Florida, that all ordinances or portions of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed. Ordinance Number 08-01/07-17 of the Town of Esto, Florida, is hereby amended and adopted in its entirety to read as follows;

### **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.

It shall be unlawful for any person to create or cause a nuisance, as defined herein, to be created, or for the owner, tenant, occupant, caretaker, or person in possession of any lot, parcel, or tract of land in the Town to create a nuisance or to otherwise permit, allow, or suffer a nuisance to be created, or allow a nuisance to remain on such property after it has been declared a nuisance in the manner provided for herein.

For purposes of this chapter, the owner, or owners, as well as any tenant, caretaker, occupant, or person in possession of any lot or parcel of land shall be liable for any condition that is determined to be a nuisance and this chapter shall be fully enforceable against any or all of such persons, jointly or severally.

### **SECTION 2: DEFINITIONS**

For the purposes of this ordinance, the term "nuisance" is defined to mean any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial decrease in the value of other property in the neighborhood in which such premises are located.

A nuisance consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which essentially interferes with the comfortable enjoyment of life and property; or tends to depreciate the value of the property of others.

A nuisance includes, but is not limited to, the maintaining, using, placing, depositing, leaving, or permitting of any of the following specific acts, omissions, places, conditions, and things of:

- 1) Any odorous, putrid, unsound, or unwholesome grain, meat, hides, skins, feathers, vegetable matter, or the whole or any part of any dead animal, fish, or fowl;
- 2) The emission of smoke, dust, fumes, gases, mists, odors, or polluted air from any source that is injurious or dangerous to human health and safety.
- 3) Privies, vaults, cesspools, dumps, pits, or like places which are not securely protected from flies or rats or other insects and rodents, or which are foul or malodorous;
- 4) Filthy, littered, or trash-covered cellars, house yards, barnyards, stable-yards, factory yards, mill yards, vacant areas in rear of stores, vacant lots, houses, buildings, or premises;
- 5) Dead animals buried within the corporate limits;
- 6) Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the municipality;
- 7) Hauling any garbage, waste, or refuse matter through the streets, alleys, and public ways, except when the same is loaded and conveyed in such a way that none of the contents shall be spilled;
- 8) Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish, or any waste vegetable or animal matter in any quantity. Nothing herein contained shall prevent the temporary retention of waste in receptacles, nor the dumping of non-putrefying waste in a place and manner approved by the municipality;

- 9) Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles;
- 10) Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials, when any of the articles or materials create a condition in which flies or rats or other insects or rodents may breed or multiply, or which may be a fire danger, or which are so unsightly as to depreciate property values in the vicinity;
- 11) Any unsafe building, unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which buildings, billboards, or other structures are a fire hazard, or a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity;
- 12) All places used or maintained as junk yards, or dumping grounds, or for the wrecking and disassembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked, or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to depreciate property values in the vicinity thereof;
- 13) Stockyards, granaries, mills, pig pens, cattle pens, chicken pens, or any other place, building or enclosure, in which animals or fowls of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when the places in which the animals are confined, or the premises on which the vegetable or animal matter is located are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom to the annoyance of inhabitants of the municipality, or are maintained and kept in such a manner as to be injurious to the public health, or the maintenance of livestock, cows, pigs, horses, mules, fowl, rabbits, within 100 foot of a public roadway, walkway or public easements; if such property is designated as residential and the total lot size is less than one acre;
- 14) Dead or diseased trees within the right-of-way of streets within the corporate limits;
- 15) Undrained lots which hold or may hold stagnant water or any other nuisance;
- 16) Any condition which allows the perpetuating of insects and rodents;
- 17) Storage, accumulation, keeping, placing, or allowing to remain trash, garbage, scrap and wrecked, worn-out, broken or inoperative, or partially destroyed or disassembled personal or real property of any kind, including any junk or abandoned motor vehicles, tractors, trailers, machinery, and equipment;
- 18) Any vehicle which is not properly registered, or is inoperable, wrecked, junked, or partially dismantled and remaining longer than thirty (30) days on private property. This does not apply to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner to which an operational license has been obtained from the municipality, when necessary to the lawful operation of such business enterprise (such as a licensed salvage dealer, motor vehicle dealer, farm implement dealer or automobile repair shop), or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner, and so long as the premises on which said vehicle is located is not a nuisance and is maintained in a healthful and safe condition;
- 19) Lots, pieces of ground, and the adjoining streets and alleys with growth of weeds or noxious growth;

20) Any place or premises that has been used:

- a) On more than two occasions within a 6-month period, as the site of violation of Florida Statute 796.07;
- b) On more than two occasions within a 6-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- c) On one occasion, as the site of the unlawful possession of a controlled substance, where such a possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
- d) By a criminal gang for the purpose of conducting criminal gang activity as defined by Florida Statute 874.03;
- e) On more than two occasions within a 6-month period, as the site of violation of Florida Statute 812.019, relating to dealing in stolen property; or
- f) On two or more occasions within a 6-month period, as the site of violation of Florida Statute 499, may be declared to be a public nuisance, and such nuisance may be abated pursuant to the procedures provided in Florida Statute 893.138.

### **SECTION 3: DUTY OF MAINTENANCE OF PRIVATE PROPERTY**

No person owning, leasing, occupying, or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the property in the neighborhood in which such premises are located.

### **SECTION 4: ENFORCEMENT OF ORDINANCE**

Enforcement of this ordinance may be accomplished by the Town in the manner as herein 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.

The Town of Esto Council members shall be primarily responsible for the administration and enforcement of this ordinance; however, as necessary, the Holmes County Sheriff's Department and its sworn personnel, and any other personnel may take the necessary action to administer and enforce its various provisions.

#### **a) DUTIES OF TOWN COUNCIL**

The Town Council shall, upon receipt of the written report of the designated "Nuisance Ordinance 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(s) 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 in said 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 consequences of their failure to comply with said order.

**b) NOTICE OF NONCOMPLIANCE**

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 affirmative vote of Town Council, 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(s) involved.

**c) 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 subsection (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.

**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 percent (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 certificates 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.

**e) PENALTIES FOR VIOLATIONS**

Any violation of this ordinance as a nuisance as defined in Section 2 herein, shall include after due process determination, a fine of \$250 per day; reimbursement for the payment of reasonable costs including attorney fees associated with investigations of and hearings on public nuisances; provide for continuing jurisdiction for a period of one (1) year over any place or premises that has been declared to be a public nuisance, in addition to fines not to exceed \$500 per day for recurring public nuisances; the Town shall record such order on public nuisances so notice shall be given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order; providing that such recorded orders on public nuisances may become liens against the real property that is the subject of the order; and provide for the foreclosure of property subject to a lien and the recovery of all costs, including reasonable attorney fees, associated with the recording of orders and foreclosures. Such as is defined within F.S. 893.138

**SECTION 5: SEVERABILITY & CONFLICT**

**a) SEVERABILITY**

If any section, provision, or clause of any part of this ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this ordinance, as applied to any particular situation or set of circumstances, shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this article not so held to be invalid, or the application of this ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent that this ordinance would have been adopted had such invalid portion not been included herein.

**b) CONFLICT**

All previously adopted ordinances or portions of said ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

**SECTION 6: EFFECTIVE DATE**

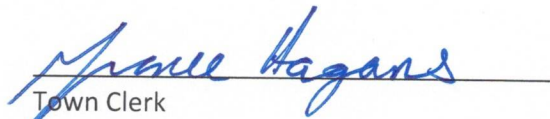
Upon its adoption by the governing authority and upon approval and signature of the President of Town Council and the Town Clerk, this ordinance shall be effective.

**SECTION 7: ADOPTION**

Adopted and Approved by action of Town Council of the Town of Esto, Florida, this the 3rd day of July, 2017, after due process of two public readings and acceptance.

Signed and Attested;

  
Town Council Presiding Officer

  
Town Clerk



# Holmes County Times-Advertiser

P.O. Box 67 • Bonifay, FL 32425

Published Weekly

Bonifay, Holmes County, Florida

## STATE OF FLORIDA COUNTY OF HOLMES:

Before the undersigned authority personally appeared **Nicole Barefield** who on oath says that she is Publisher of the Holmes County Times - Advertiser, a weekly newspaper published at Bonifay in Holmes County, Florida; that the attached copy of the advertisement, being a **TRUE COPY**

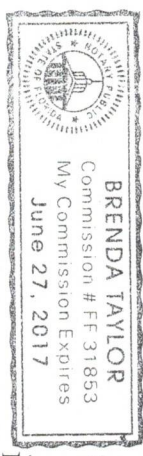
in the matter of Notice of Public Hearing

in the \_\_\_\_\_ Court, was published in said newspaper

in the issues of June 21, 2017

Affiant further says that the Holmes County Times-Advertiser is a newspaper published at Bonifay, in said Holmes County, Florida, each and has been entered as second-class mail matter at the post office in Bonifay, in said Holmes County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Signature of Affiant Nicole P. Barefield  
Sworn to and subscribed before me this 21 day of June, 2017.



Signature of Notary Public Brenda Taylor  
Name of Notary typed, printed or stamped Brenda Taylor

Personally Known XX or produced identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

6-3402 TOWN OF ESTO, FLORIDA NOTICE OF PUBLIC HEARING  
Notice is hereby given that the Town Council of the Town of Esto, Florida, will hold a public hearing for the purpose of enacting Ordinance Nos. 08-01/07-17, 00-01/07-17, and 01-02/07-17 at Town Hall, 3312 Second Ave South, Esto, Florida 32425, on Monday, July 3, 2017, at 7:00 PM, titled as shown:  
ORDINANCE NO. 08-01/07-17 AN ORDINANCE OF THE TOWN OF ESTO, FLORIDA REPEALING P R E V I O U S L Y ADOPTED ORDINANCES IN REGARD TO PROVIDING RESTRICTIONS FOR ANY INDIVIDUAL STORE BUSINESS OR OTHER ESTABLISHMENT ENGAGED IN THE SALE OF ALCOHOLIC BEVERAGES AND THE AMENDMENT OF SAID ORDINANCE, PROVIDING SPECIFICATIONS: SEVERABILITY, DATE OF EFFECT, AND DEFINITIONS.  
NO. 00-01/07-17 AN ORDINANCE OF THE TOWN OF ESTO, FLORIDA, REPEALING P R E V I O U S L Y ADOPTED ORDINANCES REGARDING TOWN OCCUPATIONAL LICENSING; REGARDING THE LEVY OF A LOCAL BUSINESS TAX; REGARDING THE ISSUANCE OF A LOCAL BUSINESS TAX RECEIPT; REGARDING TERM, TRANSFER AND LIABILITIES; THE AMENDMENT OF SAID ORDINANCE, AND PROVIDING SPECIFICATIONS: SEVERABILITY, DATE OF EFFECT, AND DEFINITIONS.  
NO. 01-02/07-17 AN ORDINANCE OF THE TOWN OF ESTO, FLORIDA, REPEALING P R E V I O U S L Y ADOPTED ORDINANCES REGARDING NUISANCES ON PRIVATE PROPERTY, REGARDING DETERM-

NATION OF NUISANCE; COUNCIL AUTHORITY; PENALTIES OR NON-COMPLIANCE AND VIOLATIONS; THE AMENDMENT OF SAID ORDINANCE AND PROVIDING SPECIFICATIONS: SEVERABILITY, DATE OF EFFECT, AND DEFINITIONS.  
Interested parties may appear at the meeting and be heard with respect to the proposed ordinance(s). The ordinance draft(s) may be inspected by the public from 8:30 A.M. to 5:00 P.M., weekdays, in the Office of the Town Clerk, Town Hall, 3312 Second Ave South, Esto, Florida 32425.  
If an individual decides to appeal any decision made by the Town Council with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based (FS 286.0105). Such person must provide a method for recording the proceedings verbatim.  
June 21, 2017