ORDINANCE NO. 1776

AN ORDINANCE PROHIBITING THE ABANDONMENT OF VEHICLES; RESTRICTING THE DISPOSITION OR KEEPING OF WRECKED, NON-OPERATING, OR DISCARDED VEHICLES ON STREETS, PUBLIC WAYS, OR PRIVATE PROPERTY; PROVIDING FOR IMPOUNDING OF CERTAIN VEHICLES; AND IMPOSING PENALTIES

WHEREAS, in the City of Prichard, Alabama, vehicles are or may in the future be abandoned in the streets and other places within the City; and

WHEREAS, there are or may in the future be dismantled, partially dismantled, wrecked, junked, non-operating or discarded vehicles left about the City other than in junk yards or other appropriate and approved places; and

WHEREAS, such conditions tend to impede traffic in the streets or interfere with the enjoyment of and reduce the value of private property; invite plundering; create fire hazards and other safety and health hazards to children as well as adults; interfere with the comfort and well-being of the public; and, create, extend, and aggravate urban blight; and

WHEREAS, adequate protection of the public health, safety and welfare requires that such conditions be regulated, abated, or prohibited;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PRICHARD, ALABAMA, AS FOLLOWS:

SECTION 1. DEFINITIONS:

The following definitions shall apply in the interpretation and enforcement of this Ordinance:

(a) "Motor Vehicle" shall mean every vehicle which is self-propelled and shall include, without limitation, automobiles, trucks, trailers, motorcycles and tractors.

(b) "Person" shall mean every natural person, firm, partnership, association, corporation, or organization or entity of any kind.

(c) "Street" shall mean the entire width between boundary lines of every publicly maintained roadway and any public right-of-way adjacent or adjoining thereto when any part thereof is open to use for public purposes or vehicular travel.

(d) "Highway" shall mean every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways or streets is required by law to yield the right-of-way to vehicles on such through highway in obedience to a stop sign, yield, or other official traffic-control device.

SECTION 2. ABANDONMENT OF MOTOR VEHICLES ON PUBLIC PROPERTY PROHIBITED:

(a) It shall be unlawful for any person to abandon for any length of time a motor vehicles on any street, highway, alley, or other public way of the City of Prichard or its police jurisdiction.

(b) In the event that a motor vehicle mentioned in subsection (a) hereof is not removed by the owner or his agent within 30 days after notice, such motor vehicle may be impounded by the City of Prichard and subjected to the same treatment for disposition as provided for removal motor of vehicles abandoned on the public ways.

(c) The failure, neglect or refusal of any owner so notified to properly dispose of an abandoned vehicle within ten (10) days after receipt of notice as provided for in this section shall constitute a violation of this Ordinance.

SECTION 3. ABANDONMENT OF MOTOR VEHICLES ON PRIVATE PROPERTY OF ANOTHER PROHIBITED:

(a). It shall be unlawful for any person to abandon for any length of time a motor vehicle on the private property of another person. Any resident of the City of Prichard or its police jurisdiction upon whose property a motor vehicle is

abandoned may file a complaint with the Police Department or the Inspection Department of the City of Prichard.

(b) The Inspection Department is hereby authorized and empowered to notify the owner or agent of such owner of any motor vehicle abandoned on the property of another person to properly dispose of such vehicle.

Such notice may be delivered to the owner or agent by personal service by any law enforcement officer of the City of Prichard or by any employee of the City of Prichard designated by the Mayor as an enforcement officer or by certified mail to the last known address of the owner of such vehicle as it is shown on the certificate of title or records in the Office of the Alabama Department of Public Safety or the License Commissioner of Mobile County, Alabama.

(c) In the event that a motor vehicle mentioned in subsection (a) hereof is not removed by the owner or his agent within 30 days after notice, such motor vehicle may be impounded by the City of Prichard and subjected to the same treatment for disposition as provided for removal of motor vehicles abandoned on the public ways.

(d) The failure, neglect or refusal of any owner so notified to properly dispose of an abandoned vehicle within ten (10) days after receipt of notice as provided for in this section shall constitute a violation of this Ordinance.

(e) Nothing in this Ordinance shall prevent or be construed to interfere with any private right or remedy of the owner of

any private property to have an abandoned vehicle removed from said premises without the assistance of municipal employees or the agents, servants, etc., of the City of Prichard.

SECTION 4. ABANDONMENT OF MOTOR VEHICLES ON PRIVATE PROPERTY PROHIBITED:

(a) It shall be unlawful for any person in charge or control of any property within the City of Prichard or its police jurisdiction, whether as owner, tenant, occupant, leasee, or otherwise, to allow any partially dismantled non-operating, wrecked, discarded or abandoned motor vehicles to remain on such property longer than ten (10) days; except that this Ordinance shall not apply with regard to vehicles in an enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprises; or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city or the police jurisdiction.

(b) The failure, neglect or refusal of any owner so notified to properly dispose of an abandoned vehicle within ten (10) days after receipt of notice as provided for in this section shall constitute a violation of this Ordinance.

SECTION 5. REMOVAL OF ABANDONED MOTOR VEHICLES ON PUBLIC WAYS:

(a) Any law enforcement officer of the City of Prichard or

other employee of the City designated by the Mayor as enforcement officer, who has reasonable grounds to believe that a motor vehicle has been abandoned may affix to the windshield or other prominent part of the vehicle, a "TOW WARNING" emblem. The emblem shall be 5 by 7 inches or larger, bright orange in color, with printed words "tow warning" in bold letters at least two (2) inches high, and also state that unless the vehicle is removed before _____ o'clock in the _____ of the _____ day of _____, 19____, the vehicle will be impounded and taken to _____ _____, and after Thirty (30) days it will be sold to recover the costs of removal, storage, and sale. The emblem shall be self-adhesive and the blanks above stated shall be completely filled in with permanent dark ink indicating the required details. The time set for removal shall be at least Five days (5) after the emblem is affixed. After the time set for removal has expired, any designated City employee or officer shall cause the motor vehicle to be removed to the depository maintained by the City for the purpose of storing such motor vehicles.

(b) In the event the vehicle is illegally parked or is disabled, a tow warning emblem need not be affixed, and the vehicle may be immediately impounded.

(c) Upon arrival at the depository, the vehicle shall be impounded and its contents inventoried.

(d) The Police Department shall within five (5) days after

a motor vehicle is impounded notify the State Department of Motor Vehicles of the impoundment of the motor vehicles and such notification shall include such information as is available that will enable the Department of Motor Vehicles to identify the registered owner of the vehicle.

SECTION 6. NOTIFICATION OF OWNER AND CLAIMING OF VEHICLES:

(a) Within ten (10) days after the impoundment of a motor vehicle pursuant to the provisions of this Ordinance, the Police Department shall give written notice to the owner, secured parties of record, and known lienholders, if any, at least 30 days prior to the date of the sale of the motor vehicle advising of (1) the complete description of the vehicle and the date and place the vehicle was found or taken into possession, (2) the approximate amount owed for the cost of repair, towing and storage, (3) the location of storage of the vehicle, (4) the time and place that a sale of the vehicle will be held, (5) the right of the owner, secured parties or lienholders to contest the right to sell such vehicle by the filing within 10 days before the date of the sale of the vehicle of an application for hearing to be conducted before the judge of the district court or circuit of the county in which the sale is to be held. The notice required by this section shall be deemed to be given when sent by certified mail, postage prepaid, to the address of the owner, secured party of record, and known lienholder shown on any public filing evidencing such ownership, security interest,

or lien; or, if none, to any such address ascertained by reasonable effort.

(b) If the name and address of the owner, secured parties or lienholders of the vehicle are unknown or cannot be reasonably ascertained, then the notice required herein shall be given by publication once a week for two successive weeks in a newspaper of general circulation in the county in which the sale is to be held. The first publication shall be at least 30 days before the date of sale.

(c) The registered owner, or other person who can prove he is entitled to possession of a motor vehicle impounded pursuant to the provisions of this Ordinance, may claim the motor vehicle within thirty (30) days of the date of impoundment by presenting himself at the dispository and by paying a fee determined by the Chief of Police to reimburse the City for the reasonable and necessary costs of removing and storing the motor vehicle. The towing fee will not exceed $125.00 and the storage fee will not exceed $5.00 per day.

SECTION 7. <u>DISPOSAL OF UNCLAIMED MOTOR VEHICLES</u>:

(a) If a motor vehicle remains unclaimed after the expiration of Thirty (30) days form the date of impoundment, the Chief of Police shall cause such vehicle to be disposed of in accordance with the procedures established under State Statutes applicable to Garageman's, Materialman's, or Mechanic's Liens, or if not such State Statutes exist according to the procedures

established by Section 9-504 et seq., of the Uniform Commercial Code.

(b) The proceeds of the sale shall be applied first to the expenses of the sale, and to the costs of removal and storage as determined pursuant to Section Six (6). Any remaining proceeds from the sale shall be held by the Chief of Police for six (6) months after the date of the sale and shall be turned over to the person who can prove he held the title to the motor vehicle upon the demand of such person. If at the end of the six (6) month period no person has claimed the proceeds of the sale, they shall be turned over to the City Treasurer for deposit in the General Fund of the City.

SECTION 8. PENALTY:

Any person abandoning a motor vehicle in violation of the provisions of the Ordinance, is guilty of a misdemeanor and upon conviction shall be fined not more than FIVE HUNDRED AND 00/100 DOLLARS ($500.00) or imprisoned for not more than six (6) months, or both. Each day that a violation continues shall constitute a separate offense which shall be punished as such.

SECTION 9. SEVERABILITY:

If any article, section, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by declaration of any court of competent jurisdiction, such declaration shall not affect the validity of

remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each article, section, sentence, clause, or phrase thereof irrespective of the fact that one or more articles, sections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 10. EFFECT OF ORDINANCE:

This Ordinance shall be in full force and effect from and after its adoption and publication as required by law. This Ordinance applies to property within the city limits and police jurisdiction of the City of Prichard and shall be in full force and effect therein.

ADOPTED THIS 1st day of June, 1993.

APPROVED:

Jesse M. Norwood

JESSE M. NORWOOD, MAYOR

ATTEST:

Cynthia K. Norwood

CYNTHIA K. NORWOOD, CITY CLERK