

Amended Nuisance

ORDINANCE NUMBER 810

AN ORDINANCE TO AMEND ORDINANCE NUMBER 700; BEING AN ORDINANCE REGULATING NUISANCES, INCLUDING BUT NOT LIMITED TO WEEDS AND OUTDOOR STORAGE OF HOUSEHOLD ITEMS, AUTOMOBILE PARTS AND UNSANITARY CONDITIONS AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE AND OTHER MATTERS RELATING THERETO.

WHEREAS the City Council of the City of Roanoke deems it proper to amend Ordinance Number 700 to better provide for the public health, safety, morals and welfare of the Municipality;

NOW THEREFORE, be it ordained by the City Council of the City of Roanoke, Alabama, that Ordinance Number 700 is hereby amended as follows:

SUBDIVISION 1.1 OF SECTION 1 OF SAID ORDINANCE IS AMENDED TO READ AS FOLLOWS:

For the purposes of this Article the term "nuisance" shall mean: (1) Anything that unlawfully causes hurt, inconvenience or damage; or (2) That class of wrongs that arises from the reasonable, unvarnished or unlawful use by a person of such person's own property, or the property of another person including but not limited to both real and personal property, or from such person's own improper, indecent, unsightly or unlawful conduct, working an obstruction of or injury to the right of another or of the public, and producing material annoyance, inconvenience, discomfort or hurt to another person or to the general public; or (3) Anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property of another; or, (4) All buildings, structures or conditions which are: (a) unsafe, unsanitary or unfit for human habitation; or, (b) not provided with adequate egress; or (c) which constitute a fire hazard; or, (d) are otherwise dangerous to human life; or, (e) which in relation to existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, abandonment, or accumulation of rubbish and debris.

SUBDIVISION 2.1 OF SECTION 2 OF SAID ORDINANCE IS HEREBY AMENDED TO READ AS FOLLOWS:

2.1(a) NUISANCE IS UNLAWFUL.

It shall be unlawful for any person to permit or maintain the existence of any nuisance on any property and it shall be unlawful to permit any dangerous building, structure or condition to remain or to continue in existence in any place after receiving an order from the enforcing official to abate the same by repair, rehabilitation, demolition or removal. It shall be unlawful to occupy any building or structure or permit it to be occupied while it is or remains a nuisance.

- (b) Any tenant, lessee or such other person or entity which otherwise utilizes any property that constitutes a nuisance or who utilizes any property in a manner so as to constitute a nuisance shall be deemed in violation of this Section 2.1.
- (c) Any owner, landlord, lessor, or such other person or entity which controls any property that is used by another shall be in violation of this Section 2.1 in the event the tenant, lessee or such other user of the property utilizes the property in a manner as to constitute a nuisance.

Without limiting the foregoing, it is expressly declared to be the responsibility of the owner of the premises to keep the premises in compliance with this ordinance, which responsibility includes, but is not limited to, cleanup and otherwise returning the premises to compliant conditions after premises are vacated, whether by the owner, tenant, lessee or other user of the premises and regardless of who personally caused or allowed the nuisance to exist.

SECTION 3 IS HEREBY AMENDED TO READ IN FULL AS FOLLOWS:

SECTION 3. ENFORCEMENT

3.1 BUILDING AND NUISANCE ENFORCEMENT OFFICER.

(a) There is hereby created the position of building and nuisance enforcement officer within the City of Roanoke. This officer may also be referred to herein as the enforcing official and may also be that person referenced as the Zoning Administrator in Ordinance Number 682 of the City of Roanoke. This officer shall be a sworn law enforcement officer with the City of Roanoke to be supervised by the police chief of the City of Roanoke. In addition to all other powers and authorities of other policeman of the City of Roanoke the building and nuisance enforcement officer shall have such other and further duties as stated herein and as may be provided in other ordinances as well.

(b) It shall be the duty of the police officers of the City to report to the building and nuisance enforcement officer the existence of any nuisance known to them. The police officers of the City of Roanoke shall also have the authority to take all such action as is appropriate to enforce any and all provisions of this ordinance except those provisions specifically delegated to the chief of police, the nuisance enforcement law officer or some other official of the City of Roanoke.

3.2 REMOVAL FROM PUBLIC PROPERTY

(a) It shall be the duty of the police to remove, or cause to be removed, nuisances from the streets, alleys or other public grounds in the City or its police jurisdiction. Such removal shall be at the cost of the person who created the nuisance, if known, and such costs shall be collected as other debts owed the City. If such person is not known, the removal shall be at the cost of the City, but may later be assessed against

2. Except as otherwise specifically stated herein, upon an abandoned vehicle being located the procedures for remedying the situation shall be followed as stated in Code of Alabama, 1975, Section 32-13-1, et. seq. as may be amended from time to time.
3. If any wrecked or abandoned vehicle or any other object is in a public highway, alley, street or thorough fare or situated so that it causes a present hazard or unduly obstructs traffic, ingress to or egress from private or public property, the same may be removed by the police department without any prior notice and all costs of the same shall be assessed against the owner or the operator of said vehicle.
4. Neither the owner, lessee, or occupant of the premises from which the aforesaid vehicle shall be removed, its servants or agents, or the City, shall be liable for any loss or damage to said vehicle while being removed, or while in the possession of the City, or as a result of any subsequent sale or other disposition.

SECTION 4 IS HEREBY AMENDED TO READ IN FULL AS FOLLOWS:

SECTION 4. NOTICE TO ABATE NUISANCE

- 4.1 (a) Whenever in the opinion of the building and nuisance enforcement officer a nuisance exists as defined in the Code of the City of Roanoke, Alabama, or other applicable law or ordinance, and in the opinion of the nuisance enforcement officer it is not practical or appropriate to issue citations for a nuisance, the said officer shall order the owner, agent, occupant, and/or lessee of the property on which the nuisance is located to abate the same. If however in the opinion of the nuisance enforcement officer the nuisance was caused or left by persons not the owner, occupant or lessee of the property the said officer may order the person who caused the nuisance to abate the same. Abatement shall mean full and complete removal of any declared nuisance.

(b) In the event two or more citations have been issued regarding a nuisance at the same location within a period of twelve (12) months a rebuttable presumption shall exist that abatement is the proper remedy for the said nuisance.

SECTION 5 IS HEREBY AMENDED TO READ IN FULL AS FOLLOWS:

SECTION 5. APPEALS FROM NOTICE OF ABATE

- 5.1 Any person receiving a notice of a nuisance and an order to abate the same from the building and nuisance enforcement officer as provided in Section 3.3 (c) may appeal said order to the governing body of the City by written notice filed with the City Clerk within seven (7) days of the date of such notice. No appeal filed later than

the creator of the nuisance if said creator's identity is subsequently determined.

3.3 REMOVAL FROM PRIVATE PROPERTY

(a) When any nuisance, other than one in regards to a building, structure, part of a building or structure party wall or foundation, is found to exist on private property within the City or its police jurisdiction, the police of the City of Roanoke, shall serve written notice on the owner of the property or his tenant or agent, if known. Such notice shall describe the nuisance and prescribe a time not to exceed fourteen (14) days, within which it is to be removed or abated by the owner, tenant, or agent.

(b) When a nuisance is not removed or abated in accord with a notice given pursuant to subsection (a) above, the police shall issue a citation to the person or entity to whom the notice was given. The guilt or innocence of the person receiving said citation shall be determined by the Municipal Court of the City of Roanoke. A person or entity found guilty of violating this ordinance will be guilty of violating a municipal ordinance and be subject to the statutory maximum for such violation(s).

(c) In addition to the issuance of citations and the imposition of liability thereof, or in the alternative thereof, the building and nuisance officer may initiate steps of having the City abate the nuisance. The expense of doing so shall be a charge or a lien on the property and, on being reported to the City Council, an order shall be made taxing the same against the property, and the amount, if not paid earlier, shall be collected at the same time and in the same manner as annual taxes. In addition, resort may be had to courts of proper jurisdiction to enforce the lien.

(d) In the event the building and nuisance enforcement officer shall find that any building, structure, part of a building or structure, party wall or foundation is situated in the City of Roanoke in such a manner to be unsafe to the extent that it is a public nuisance, the building and enforcement officer shall take such steps to abate the nuisance and to recover the costs for the City of Roanoke as may be appropriate and in accordance with the laws of the State of Alabama, including but not limited to State of Alabama, 1975, Section 11-40-31, et. seq. and 11-53-B-1 et. seq., as may be amended from time to time. Appeals from said orders to abate shall be handled in accordance with the Code of Alabama.

3.5 WRECKED AND ABANDONED CARS

1. In addition to the definition of abandoned vehicle stated elsewhere in this ordinance, the definition of abandoned motor vehicle shall include the definition stated in the Code of Alabama, 1975, Section 32-13-1, as may be amended from time to time.

seven (7) days after the notice shall be considered unless the enforcing official consents. The governing body of the City may affirm, modify or reverse the order and its decision shall be final, subject, however, to such remedy as any aggrieved party may have at law or in equity. This section shall not apply to nuisances on public property or to nuisances on private property caused or left by persons not the owner or tenant of the premises.

SECTION 6 IS HEREBY AMENDED TO READ IN FULL AS FOLLOWS:

SECTION 6. RECOVERY OF COSTS


The determination of all costs to abate a nuisance and the recovery of all said costs shall be as provided in the Code of Alabama, 1975, as may be amended from time to time. In the alternative, or in the event the Code does not specifically address the manner in which costs are to be assessed and collected regarding a particular situation, the manner of assessing costs and collecting the same shall be as stated in Section 7 and 8 of this ordinance.

SECTION 11 IS HEREBY AMENDED TO READ AS FOLLOWS:

SECTION 11. EFFECTIVENESS

Except as amended herein ordinance number 700 of the City of Roanoke shall remain in full force and effect. To the extent feasible this ordinance and ordinance number 700 shall be read in harmony with each other. However, in the event of conflict this ordinance shall prevail over the other.

This ordinance shall become effective on July 10, 2006, and shall continue in effect from year to year thereafter, except to the extent that the same may be hereafter amended or repealed.


Henry V. Bonner, Mayor

ATTEST:


Ellen Farmer, City Clerk