

ORDINANCE NUMBER 727

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 has received numerous complaints about the existence of weeds, abandoned vehicles, automobile parts and tires, and other such matters, and

WHEREAS the City Council understands that the existence of such matters without proper control and regulation can be injurious or dangerous to public health, safety, morals, and the welfare of the Municipality;

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

SECTION 1. DEFINITIONS.

1.1. 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 unreasonable, unwarrantable or unlawful use by a person of such person's own property, either real or personal, or from such person's own improper, indecent, unsightly or unlawful personal 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.

1.2. Without affecting or limiting the generality of the above definition or meaning of the term "nuisance" as herein defined, it is declared that any of the conditions declared in this ordinance to be nuisances are within such definition.

1.3. Unless the context clearly indicated a different meaning, the following words and phrases, wherever used in this ordinance, shall have the meanings respectively ascribed to them in this is section:

"CITY" means the City of Roanoke, Alabama.

"DISMANTLED, JUNKED OR ABANDONED VEHICLES" shall be deemed to include major parts thereof, including bodies, engines, transmissions, rear ends, etc.

"PERSON" means and includes each and every individual, firm, corporation, person, association, company, partnership, or agency.

"STREET OR HIGHWAY" shall mean and include the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

"VEHICLE" shall mean and include a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides, and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

"PROPERTY" shall mean any real property within the City which is not a street or highway.

"BUSINESS" means and includes each and every exhibition, activity, trade, business, vocation, occupation, profession, machine, device, article or line of merchandise, engaged in, conducted, carried on, or operated in the City, or the police jurisdiction thereof, for which a license is required and provided for hereunder.

"HOUSEHOLD ITEMS" shall mean and include, for the purpose of this ordinance, as items and goods not normally used or stored outside of a residence or other enclosed building. Such items include (but are not limited to) kitchen appliances, clothes, dishes, hand or shop tools, furniture, plumbing fixtures such a tubs, sinks, and commodes, televisions and stereo equipment.

"SALVAGE AND/OR JUNKYARD" shall mean and include a business dealing in buying or selling, holding or storing old or scrap metal, any rags, scrap paper, wrecked or abandoned vehicles, or any like old materials; or a place or premises where any person stores or allows to remain for more than three (3) days any old or scrap metals, rags, scrap paper, two or more vehicle bodies from which the motors have been removed, two or more motor vehicles which are valuable as junk only or as replacement parts on other motor vehicles, or any other articles commonly known and recognized as junk.

"DANGEROUS STRUCTURES, WELLS AND EXCAVATIONS - DECLARED NUISANCES"

means and includes any unsightly building, billboard or other structure which has been abandoned or partially destroyed or commenced and left unfinished, which has been deemed to be unsuitable or unfit for human occupancy or habitation by any duly constituted official of the state department of health, the county department of health or the city building official, or any abandoned well or excavation not properly protected and which may attract children and endanger them in the course of play, shall constitute a public nuisance and may be abated as provided by law.

"STAGNANT POOLS OF WATER - DECLARED NUISANCES" means allowing stagnant pools of water to accumulate or exist is declared to be a public nuisance.

"WRECKED, ABANDONED OR DAMAGED MOTOR VEHICLES - DECLARED NUISANCES" shall mean and include major parts thereof, including bodies, engines, transmissions, rear ends, etc. and wrecked or damaged motor vehicles abandoned on private premises and on public streets, highways, and the right of ways thereof, particularly and including those vehicles which are visible, which are allowed to remain unmoved for extended periods of time on private premises other than licensed salvage or junk yards operating in compliance with the laws of Alabama and the City of Roanoke within view of a public right of way, constitute hazards to children, targets for vandals and thieves, shelters for rodents and other animals and eyesores to the immediate neighborhood, and therefore constitute public nuisances.

A vehicle legally or physically incapable of being operated shall include one which has not been duly registered according to law or which lacks the equipment in good operating condition as required by law to enable it to be registered.

"REASONABLE TIME" Without determining what constitutes a reasonable time for each condition that may raise, as that time may vary from situation to situation, any period over thirty (30) days is specifically declared an unreasonable time for any nuisance to remain in existence. Moreover, any period in excess of twenty-four (24) hours is specifically declared unreasonable for a vehicle to remain on the public road or right of way.

"GENDER" Wherever the context requires, the masculine gender shall include the feminine and neuter genders, and the plural shall include the singular and the singular shall include the plural.

SECTION 2. SPECIFIC CONDITIONS PROHIBITED

2.1. **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. "Abatement" shall mean either repair, rehabilitation, demolition or removal, as shall be determined by the enforcing official as the proper remedy for any nuisance declared under this Article.

2.2 It shall be unlawful and a nuisance for an owner of a lot that is vacant or that is not being used for the purpose of producing revenue to allow to remain thereon for any unreasonable length of time piles of rubbish, partially burned timbers from a burned building or unsightly and dangerous brick walls. It is likewise unlawful and a nuisance for the owner of any such lot to allow the debris from a burned building to remain thereon in such manner as to obstruct the drainage of the lot.

2.3. It shall be unlawful and constitute a nuisance for any person to permit weeds to grow to a height in excess of six (6) inches on any premises or vacant lot owned or occupied by him within the City.

2.4. PREMISES TO BE KEPT FREE OF GARBAGE, WEEDS, INOPERABLE MOTOR VEHICLES, TIRES.

(a) **Garbage and Junk.** It shall be unlawful for the owner or other person in charge of control of a building, lot, or other premises within the City or the police jurisdiction to fail to keep said lot or premises clean and free from garbage, refuse, litter, junk, debris, salvaged materials, household items, trash, used motor vehicle tires, inoperable motor vehicles, kitchens, appliances and other nondecorative matters, including any materials within which water may accumulate or which may shelter or encourage the growth of insects or rodents, or materials which generate obnoxious odors, or which offend the esthetics of the community and thereby cause a substantial diminution in the value of other property nearby, except under emergency conditions not to exceed forty-eight (48) hours. Likewise, it shall be unlawful for any person to deposit, store, or keep any of the aforesaid items on the premises of another person without the consent of the owner or other person in control of the premises. However, this subsection shall not apply to a licensed business if such activity is reasonably necessary incident in the operation of the business and is done in a manner which does not allow the accumulation of water within which mosquito larvae may live or encourage the growth of insects and/or rodents. Each day such condition is maintained

shall constitute a separate offense.

(b) Weeds, shrubs, other vegetable growth. It shall be unlawful for any owner, proprietor, or other person in charge or control of any lot, place or premises within the City or police jurisdiction when such lot, place or premises are not under cultivation for useful and productive purposes, to fail to keep and maintain the same free from injurious, noxious, or unsightly weeds, shrubs, and other vegetables or high grass growth. Each day such condition is maintained shall constitute a separate offense.

SECTION 3. DUTIES

3.1. REPORT OF EXISTENCE. It shall be the duty of the police officers of the City to report to the city manager the existence of any nuisance known to them.

3.2. REMOVED FROM STREETS AND OTHER PUBLIC GROUNDS.

(a) It shall be the duty of the chief of 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, such cost to be collected as other debts owed the City. If such person is now known, the removal shall be at the cost of the City.

(b) If a wrecked or abandoned vehicle is on a City street or a public highway, twenty-four (24) hour notice as aforesaid to remove the same shall be given by the Police Department, provided that if said vehicle constitutes a present hazard or unduly obstructs traffic ingress to or egress from private or public property, the same may be removed by said Police Department without any prior notice.

(c) An unregistered vehicle on premises not owned or occupied by the owner of said vehicle may be deemed to be abandoned.

3.3. REMOVAL FROM PRIVATE PROPERTY.

(a) When any nuisance is found to exist on private property within the City or its police jurisdiction, the City Manager 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 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, or when a nuisance exists on any property, and the owner of such is not

known, it shall be the duty of the chief of police to have the nuisance abated or removed. The expense of doing so shall be a charge on 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 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.

3.4 No person, firm or corporation shall deposit, store, keep or permit to be deposited, stored or kept in the open upon public or private property a dismantled, unserviceable, junked or abandoned vehicle, or one legally or physically incapable of being operated, unless a license for said storage has theretofore been obtained from the proper authority.

3.5 (a) The owner of any wrecked or abandoned vehicle shall remove the same within seven (7) days after being ordered to do so in writing by the owner, lessee or occupant of the premises where said vehicle shall be found. If the owner of any aforesaid vehicle is not known or cannot readily be ascertained notice to remove may be given by attaching such notice to said aforesaid vehicle. The police department upon request therefore shall assist in ascertaining the name and address of the owner of any such vehicle.

(b) If the owner of any aforesaid vehicle is also the owner, lessee or occupant of the premises, notice to remove as aforesaid shall be given by the Police Department.

(c) An unregistered vehicle on premises not owned or occupied by the owner of said vehicle may be deemed to be abandoned.

SECTION 4. NOTICE TO ABATE NUISANCE

4.1. Whenever in the opinion of the enforcing official a nuisance exists as defined in the Code of the City of Roanoke, Alabama or other applicable law or ordinance, such official shall order the owner, agent, occupant or lessee of the property on which the nuisance is located to abate the same. Abatement shall mean full and complete removal of any declared nuisance.

SECTION 5. APPEALS FROM NOTICE TO ABATE

5.1. Any person receiving a notice of a nuisance and an order to abate the same from private property from the enforcing official 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 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. FAILURE TO COMPLY

6.1. When a nuisance is not removed or abated when a nuisance exists on any property, the owner of which is not known, or on the property of a nonresident having no agent or tenant on whom notice may be served, it shall be the duty of the chief of police to have the nuisance abated or removed. The expenses 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 shall be collected at the same time and in the same manner as annual taxes. In addition, resort may be had to a court of equity to enforce the lien.

6.2. Upon failure to remove any abandoned vehicle within the time limited herein, said owner, lessee, occupant of the premises or Police Department shall forthwith remove or cause the said vehicle to be removed from the premises to a location to be provided for said purpose by the Town.

6.3. The owner of any vehicle so removed may regain possession thereof from said City by making application therefore within thirty (30) days after its receipt by said City upon paying to said City all reasonable costs of removal, which shall be repaid to the person who paid or incurred such charges, plus an additional charge of five dollars per day (\$ 5.00) for storage charge of said vehicle while in possession of the City.

6.4. If no claim for said aforescribed vehicle is made within two (2) months after receipt thereof, said City may sell vehicle for the best price obtainable as junk or otherwise and the proceeds thereof shall be used to pay the reasonable charges of delivering the same to said City if a claim therefore be made by the person who paid said charges, the expenses of keeping and disposing of said vehicle, and any balance shall be paid into the General Fund.

6.5. Neither the owner, lessee, or occupant of the premises from which any aforescribed vehicle shall be removed, his or its servants or agent, 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.

6.6. Any person, firm or corporation required by the provisions hereof to remove any aforesaid vehicle who shall fail to do so shall be guilty of an offense punishable in accordance with the provisions of Section 6 of 6.1- 6.5

SECTION 7. ASSESSMENT OF COST LEVY

7.1. (a) Upon completion of the work ordered by the governing body of the City the enforcing official shall compute the actual expense, including, but not limited to, total wages paid, value of the use of equipment, advertising expenses, postage, materials purchased, which was incurred by the city as a result of such work.

An itemized statement of such expenses shall be mailed to the last known address of the owner, agent, occupant or lessee of the property.

(b) In the event the owner, agent, occupant or lessee shall fail or refuse for a period of twenty-eight (28) days to pay off and discharge the expenses, the enforcing official shall report such failure to the governing body of the city at the next regular meeting following the expiration of that period.

(c) The governing body of the City shall hold a public hearing before causing the actual expenses of such work to be levied as a special assessment against the property. Notice of such public hearing shall be published in a newspaper of general circulation in the City at least five (5) days prior to the hearing. The itemized statement under subsection (a) shall also give notice of the time and place of the public hearing. After the public hearing the governing body of the City may by resolution assess all or part of such expense against the property.

(d) Any assessment against property under this section shall not be final until seven (7) days after adoption by the governing body of the City. Once the assessment has become final, the City Clerk shall have such resolution recorded in the office of the Judge of Probate of the county.

SECTION 8. COLLECTION REMEDY OF CITY

8.1. In the event the owner, agent, occupant or lessee shall fail or refuse to discharge the assessment after a period of twenty-eight (28) days from the date the assessment was made final, the City may commence an action in any court of competent jurisdiction to recover said expenses.

SECTION 9. NOT EXCLUSIVE REMEDY

9.1. In addition to remedies otherwise provided for herein, the governing body of the City may cause an action to be instituted to enjoin or abate any nuisance.

SECTION 10. CONSTRUCTION OF ARTICLE

10.1. This article shall be construed to contain all power granted to municipalities under the Code of the State of Alabama providing for controlling nuisances, sanitation and good public health and safety conditions, including but not limited to present sections 11-40-10, 11-47-117, 11-47-118, 11-47-131 and 11-47-140, Code of Alabama, 1975, as amended.

SECTION 11. EFFECTIVE DATE.

11.1. This ordinance shall become effective on November 13th, 1995, and shall continue in effect from year to year thereafter, except to the extent that the same may be hereafter amended or repealed.

Adopted and approved on this 13th day of November, 1995.

Betty S. Ziglar
Betty S. Ziglar, Mayor

ATTEST:

Ellen Farmer
Ellen Farmer, City Clerk