

ORDINANCE NO. 6.03

Public Nuisances Affecting Health and Safety

Pursuant to the authority granted to it by Minnesota Statutes 412.221 Subd. 23 and 561.01, the City Council of Rothsay, Minnesota ordains:

Section 1. Purpose. It is the purpose of this section to protect the safety, health, peace and general welfare of the public. It is specifically found that the property conditions regulated in this section negatively impact upon the aesthetics, the residential quality and the visual peace and quiet of our neighborhoods. The maintenance of these nuisances are inappropriate for residential uses and are therefore likely to have a negative impact upon residential property values.

Section 2. Definitions.

Subd. 1. Public Nuisance. Any action or failure to act that adversely affects the public health as follows:

- a) Annoy, injure or endanger the safety, health, comfort or repose of the public;
- b) Offend public decency;
- c) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public;
- d) In any way render a considerable number of persons insecure in life or in use of property.

Subd. 2. Public Place. Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

Subd. 3. Private Premises. Any dwelling, house, building or other structure, designed or used wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and will include any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

Subd. 4. Real property. Any public or private land within the city, including whatever is erected, growing upon or affixed to the land.

Subd. 5. Abandoned vehicle. A motor vehicle, that:

- a) has remained illegally:
 1. for a period of more than 48 hours on any property owned or controlled by a unit of government, or more than four hours on that property when it is properly posted; or
 2. on private property for a period of time, as determined under Minnesota Statute 168B.04, subdivision 2, without the consent of the person in control of the property; and
 3. lacks vital component parts or is in an inoperable condition such that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.
- b) A classic car or pioneer car, as defined in Minnesota Statute 168.10, is not considered an abandoned vehicle.
- c) Vehicles on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with Minnesota Statute 161.242, or that are licensed and maintained in accordance with local laws and zoning regulations, are not considered abandoned vehicles.
- d) A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ, or court order is in effect.

Subd. 6. Inoperable vehicle. Any motor vehicle which cannot be legally and safely driven or propelled under its own power due to its existing condition.

Subd. 7. Junk vehicle. A vehicle that:

- a) is three years old or older;
- b) is extensively damaged, with the damage including such things as broken or missing wheels, motor, drive train, or transmission;
- c) is apparently inoperable;

- d) does not have a valid, current registration plate; and
- e) has an approximate fair market value equal only to the approximate value of the scrap in it.

Subd. 8. Motor Vehicle. Any motorized, self-propelled vehicle of a type that may be used to convey persons or materials or to perform a task as defined in Minnesota Statute 168.002.

- a) For purposes of this section the definition of motor vehicle does not include the following:
 - 1. Home maintenance equipment such as riding lawn mowers or snow blowers.
 - 2. Mobile construction equipment not licensable for public streets that is being used for construction or remodeling at the residence. The temporary parking of mobile construction equipment is permitted only for the duration of the construction or remodeling project. This section does not permit the permanent storage or parking of mobile construction equipment.
 - 3. Recreational Vehicles as defined by Minnesota Statute 168.002.

Subd. 9. Abandoned Well. A well which has been permanently discontinued, or which is in such disrepair that its continued use is impracticable, endangers the quality of the groundwater or may be a health or safety hazard.

Subd. 10. Accumulations of Manure.

- a) Pets. An accumulation of manure that exceeds that which would ordinarily occur in two days.
- b) Other Domestic Animals. An accumulation of manure that exceeds the requirements for manure storage established by the Minnesota Pollution Control Agency Feedlot Rules.
- c) An accumulation of manure which is otherwise considered excessive due to odor or appearance, or which cannot be contained on the premises.

Subd. 11. Diseased Animal. An animal with an infectious or contagious disease.

Subd. 12. Front yard area. An open, unobstructed yard across the front of a lot between the building or allowed building line, and the front property line and between side yard property lines.

Subd. 13. Outside. Outside of an enclosed storage facility and visible from any property and/or public place.

Subd. 14. Garbage. Any organic wastes normally produced from the handling and use of foods, except dishwasher and waste-water.

Subd. 15. Rubbish. Any wastes which are not garbage and will include but not be limited to the following:

- a) Yard waste which includes grass clippings, leaves and garden waste, tree branches and brush; or
- b) Furniture, appliances, trash and similar materials; or
- c) Old machinery and debris which includes old-machinery, motor vehicle components parts, including but not limited to engines, transmissions, wheels, tires and doors, cut or uncut timber, pipes, or other junk or debris; or
- d) Material that is no longer of value for its original purpose.
- e) Construction and/or remodeling materials on residential property which are not being currently utilized.

Subd. 16. Unreasonable Quantities. Amounts such that the health, safety or welfare of the public is damaged or threatened.

Subd. 17. City Official / Enforcement Officer. Rothsay City Council, City Staff, and / or Wilkin County Sheriff

Section 3. Obstructing City Officials or Enforcement Officers. No person will willfully oppose or obstruct a City Official or enforcement officer charged with the enforcement of the health laws of the City of Rothsay or with the performance of any legal duty.

Section 4. Diseased Animals. No person will negligently or willfully permit diseased animals to escape control or to run at large.

Section 5. Nuisances Affecting Health, Safety, Peace and General Welfare. The following are declared to be nuisances affecting health, safety, peace and general welfare and are prohibited:

Subd. 1. Accumulations of manure, rubbish and garbage which might constitute a nuisance by reason of appearance, odor, sanitation, possible littering of neighboring properties or a fire hazard.

Subd. 2. The pollution of any water supply, stream, lake, or body of water by sewage, industrial wastes or other pollutants.

Subd. 3. Dense smoke, noxious fumes, gas and soot or cinders in unreasonable quantities.

Subd. 4. Barbed and Electrified Wire Fences. All barbed wire or electrified fences.

a) Except those located in or on:

1. Rural Residential and Agricultural zoned districts;
2. Commercial or industrial zoned area and used in connection with security fencing, and having the first strand at least six feet above normal grade;
3. Property owned or leased by federal, county, state, city or other government subdivisions.

Subd. 5. Abandoned Excavation. To leave any abandoned basement, well, shaft, wall, cesspool, or septic tank, or other excavation unless covered or filled or otherwise protected as to prevent people from accidentally falling into the same or being injured.

Subd. 6. Abandoned Refrigerator. To leave any unused refrigerator or other container with doors that fasten automatically when closed.

Subd. 7. Dangerous Machinery, Etc. All unguarded dangerous machinery, equipment or other property in any public place or so situated or operated on private property as to attract minor children.

Subd. 8. Electrical Disturbances. All interference and disturbance of radios and television sets caused by electrical appliances and equipment.

Subd. 9. Dust in Parking Lots. To operate any private parking lot without keeping the same reasonably free from dust.

Subd. 10. Indoor furniture use outdoors. No person shall place, use, keep, store or maintain any upholstered furniture not manufactured for outdoor use, including, without limitation, upholstered chairs, upholstered couches and mattresses, in outdoor areas, in or on any porch, patio or other unenclosed structure where such furniture is visible from a public right-of-way or from the ground level of adjacent property, and no property owner shall permit any such activity to occur on property owned by them.

a) Exemptions:

1. That such furniture was placed in the refuse pick-up area as part of a trash or recycling program and is scheduled for removal;
2. That such furniture was temporarily placed in order that it be offered for sale at a yard or garage sale for no more than four days in any six-month period and a sign is placed on or near the furniture indicating that it is for sale.
3. That such furniture was temporarily placed in order that it be offered for sale at a commercial tent sale upon property occupied by a furniture retailer for no more than 60-days in any six-month period.

Subd. 11. Placement or storage of ice fish houses, skateboard ramps, playhouses or other similar non-permanent structures or equipment outside continuously for longer than 24 hours in the front yard area of residentially-zoned property.

Subd. 12. Placement or storage of non-commercial pipe, lumber, forms, steel, machinery, or similar materials outside on residentially-zoned property, unless shielded from ordinary public view by means of a fence, shrubbery or trees.

Section 6. Abandoned and Junk Vehicles. The presence, accumulation, or improper storage of abandoned and junk motor vehicles on public or private property and the public streets and highways of this city is hereby found to create an unsightly condition tending to reduce the value of real property, to invite plundering, to create fire and safety hazards, and to constitute an attractive nuisance creating a hazard to the health and safety of minors. The accumulation and outside storage of such motor vehicles is further found to promote blight and deterioration in the community in many instances. It is further found that such abandoned and junk motor vehicles are often in the nature of rubbish, litter and unsightly debris. Therefore, the accumulation and storage of such motor vehicles on real property, except as hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such, which remedy shall be in addition to any remedy provided in this or other ordinances of this city or by state law.

Subd. 1. Open storage of abandoned and junk vehicles. No person shall park, store, leave or permit the parking, storing or leaving of any abandoned or junk vehicle upon any real property, including private property, within the city for a period of 14 successive days, unless such motor vehicle is completely enclosed in a building or unless such motor vehicle is so stored on private property in connection with a duly licensed business or commercial enterprise operated and conducted pursuant to law when such parking or storing of motor vehicles is necessary to the operation of the business or commercial enterprise.

Subd. 2. Notice to remove.

- a) Whenever the enforcement officer ascertains that an abandoned or junk vehicle is present on real property within the city, they shall cause notice to be placed upon such abandoned or junk vehicle using substantially the following words:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED MOTOR VEHICLE AND TO THE OWNER OR PERSON(S) IN LAWFUL POSSESSION OR CONTROL OF THIS LAND.

This motor vehicle (setting forth a brief description), located at (setting forth a brief description of the location), is improperly stored, and its present storage will be in violation of Section 1005:70 of the Code of Ordinances on (setting forth a date 14 days from the date of this notice) unless such motor vehicle is removed and stored within a building. Failure to remove and store said motor vehicle is a misdemeanor. In addition, this motor vehicle shall be removed and disposed of in accordance with the provisions of Minnesota Statutes Chapter 168B;

- b) The notice set forth in subsection (a) of this section shall not be less than eight inches by ten inches and shall be sufficiently weatherproofed to withstand normal exposure to the elements.
- c) In addition to the posting, the enforcement officer(s) shall mail on the day of posting or within a reasonable timeframe, a copy of the written notice to the last registered owner of said motor vehicle and to the owner or persons in lawful possession of the real property upon which the motor vehicle is located.

Subd. 3. Failure to remove. Failure by the owner of the motor vehicle or owner or person in lawful possession of the real property upon which the motor vehicle is located to removed and store the motor vehicle after notice had been given and the 14 day period has expired, shall constitute a misdemeanor.

Section 7. Enforcement. It is the duty of the **City Officials or Enforcement Officers** to enforce the provisions of this ordinance, including the power to inspect private premises and issue orders for abatement.

Subd. 1. Abatement of Nuisance, Abatement of Abandoned Vehicle, and Abatement of Junk Vehicle Violations. If, after service of notice, the person served fails to abate a nuisance, abandoned vehicle or junk vehicle violation or make the necessary repairs, alterations or changes as required by the order of the Health and Inspections Department, the same may be abated under the direction of the Health Director. The expenses for abatement will include a \$150.00 administrative fee in addition to the actual costs of abatement. Abatement actions that require the presence of City staff for more than one hour during the abatement or other extraordinary coordination efforts will be additionally billed to the affected property owner at the rate of \$75.00 per hour. Abatement expenses will be levied against the property as a special assessment and collected as in the case of other special assessments.

- a) Removal and disposal of abandoned and junk vehicles. The removal and disposal of said motor vehicles shall be made in accordance with the provisions set forth in Minnesota Statutes Chapter 168B.

Subd. 2. Certification fee: A \$150.00 charge will be added to all accounts certified to the County Auditor's office for collection. This fee is to be considered separate and distinct from any penalty or interest that may be charged by the County as a result of the certification.

Subd. 3. Assessment. If costs are not recovered from the owner of the property where the nuisance was abated by the City Council, the actual cost, as mentioned in Subd.1 of this Section, plus a twenty-five (25) percent penalty fee, shall be certified by the City of Rothsay to the County Auditor's Office, and thereupon will become, and be a lien upon the property on which said nuisance existed. These costs shall be added

to, and become, and form part of the taxes next to be assessed and levied upon such lot or parcel, and shall bear interest at the same rate as taxes, and shall be collected and enforced by the same office and in the same manner as taxes.

FIRST REVISION PASSED BY UNANIMOUS CITY COUNCIL VOTE: JUNE 1995
SECOND REVISION PASSED BY UNANIMOUS CITY COUNCIL VOTE: DECEMBER 1997
THIRD REVISION PASSED BY UNANIMOUS CITY COUNCIL VOTE: AUGUST 2008

Passed by the City Council of _____, Minnesota this _____ day of Month, Year.

Mayor

Attested:

City Clerk