

**Subject: Nuisance Legislation Package
 Ordinance Nos. 1517, 1518, &
 1519**

Proposed Council Action:

These Ordinances are on for Second Reading
 And Adoption. Adopt Ordinance Nos. 1517,
 1518 and 1519 or provide alternative direction
 To staff.

Dept. Origin: Code Enforcement Office

**Prepared by: Jennifer Robertson,
 City Attorney's Office**

For Agenda of: February 19, 2019

**Exhibits: Ordinance Nos. 1517,
 1518, & 1519**

Initial & Date

Concurred by Mayor: _____

Approved by City Planner: _____

Approved as to form by City Atty: JSR/2-12-19

Approved by Finance Director: _____

Approved by Department Head: _____

INFORMATION / BACKGROUND

A recent issue with regard to code enforcement has arisen which caused the Code Enforcement Officer to review the City's nuisance code. The nuisance code (Chapter 9.03 RMC) was adopted in 1968 and with the exception of one small change in 1980, has not been updated since. The Code Enforcement Officer requested the City Attorney's office review and update the code. In doing so, the City Attorney is recommending a package of legislation to address nuisances in the City. These are described below:

1. Ordinance 1517 – Update to Chapter 9.03 Nuisance Code.

This ordinance which will fully replace the current Chapter 9.03 incorporates current state law to describe nuisances, including providing definitions (section 9.03.010), outlining prohibited conduct (9.03.020), and identifying types of "public nuisances" (9.03.030). The Ordinance also provides for joint liability by property owners and renters or responsible parties (9.03.040). The Ordinance also provides for chronic criminal nuisances (9.03.050) which allows the city to take enforcement action against properties with chronic criminal activity. The Ordinance is enforced through either the code enforcement procedures in Chapter 12.40 RMC, through a criminal complaint, or through the civil infraction process contained in Chapter 9.22 RMC.

2. Ordinance 1518 – New Chapter 9.05 "Junk Vehicles".

State law allows cities to take enforcement action against junk vehicles which are stored on private property. Most cities have junk vehicle codes, but Ruston did not. Junk vehicles are defined by state law¹ as follows:

¹ RCW 46.55.010(5).

A vehicle meeting at least three (3) of the following requirements:

1. Is three (3) years old or older;
2. Is extensively damaged, such damage including, but not limited to any of the following: A broken window or windshield or missing wheels, tires, motor or transmission;
3. Is apparently inoperable;
4. Has an approximate fair market value equal only to the approximate value of the scrap in it.

This definition is adopted in RMC 9.05.020. There are exemptions to this definition. RMC 9.05.040. Vehicles meeting this definition are declared a public nuisance (9.05.030) and the City may require their removal. RMC 9.05.050. This code is enforced using the code enforcement procedures in Chapter 12.40 RMC, filing a criminal citation or issuing a civil infraction (Ch. 9.22 RMC).

3. Ordinance 1519 – New Chapter 9.09 – Litter Control.

While the City has provisions regarding how solid waste is to be stored for pick up, etc. in Title 6, it does not have a general litter code. A new chapter 9.09 RMC provides for additional tools for enforcement for litter in public places, parks, private property, etc. The chapter prohibits littering in public places (9.09.030) and requires litter to be placed into receptacles (9.09.040). The ordinance also prohibits littering in parks (9.09.050) or in lakes, ponds, streams, fountains, etc. (9.09.060). The ordinance provides a tool for enforcement against trucks that are causing litter (9.09.070) and for litter thrown from vehicles (9.09.080). This ordinance prohibits sweeping litter into gutters and requires merchants to keep their sidewalks free of litter. (9.09.090). The ordinance also prohibits keeping litter on private property. (9.09.100). Finally, the chapter also prohibits the posting of notices on public facilities. (RMC 9.09.110). This chapter is enforced using the code enforcement procedures in Chapter 12.40 RMC, filing a criminal citation or issuing a civil infraction (Ch. 9.22 RMC).

FISCAL CONSIDERATION

None.

RECOMMENDATION / MOTION

These Ordinances are on for Second Reading and Adoption. The Motions for each ordinance are listed below.

Ordinance #1517 – Nuisance Code:

MOTION: I move adoption of Ordinance #1517 updating the City's Nuisance Chapter 9.03 by repealing and replacing the same, adopting new sections 9.03.010, 9.03.030, 9.03.030, 9.03.040, 9.03.050, 9.03.060, and 9.03.070, incorporating the code enforcement procedures contained in Chapter 12.40 RMC for use in enforcement of nuisances.

Ordinance #1518 – Junk Vehicles:

MOTION: I move adoption of Ordinance #1518 relating to removal of junk vehicles from private property, declaring junk vehicles to be nuisances and unlawful, defining junk vehicles, describing the procedure for issuance of notices of violation to the property owner and owner of the vehicle, hearing, abatement, imposition of civil penalties and collection of penalties, adding a new Chapter 9.05 to the Ruston Municipal Code.

Ordinance #1519 – Litter Control:

MOTION: I move adoption of Ordinance #1519 creating a new Chapter 9.09 in the Ruston Municipal Code regarding litter control to ensure the health, welfare and cleanliness of the city and creating regulations and enforcement procedures to ensure the same.

ORDINANCE NO. 1518

AN ORDINANCE OF THE CITY OF RUSTON, RELATING TO REMOVAL OF JUNK VEHICLES FROM PRIVATE PROPERTY, DECLARING JUNK VEHICLES TO BE NUISANCES AND UNLAWFUL, DEFINING JUNK VEHICLES, DESCRIBING THE PROCEDURE FOR ISSUANCE OF NOTICES OF VIOLATION TO THE PROPERTY OWNER AND OWNER OF THE VEHICLE, HEARING, ABATEMENT, IMPOSITION OF CIVIL PENALTIES AND COLLECTION OF PENALTIES, ADDING A NEW CHAPTER 9.05 TO THE RUSTON MUNICIPAL CODE, INCLUDING THE FOLLOWING SECTIONS 9.05.010 (PURPOSE), 9.05.020 (DEFINITIONS), 9.05.030 (PUBLIC NUISANCE DECLARED), 9.05.040 (EXEMPTIONS), 9.05.050 (ABATEMENT AND REMOVAL OF JUNK VEHICLES ON PRIVATE PROPERTY), 9.05.060 (VIOLATION-PENALTY), AND 9.05.070 (RULES AND PROCEDURES), INCORPORATING THE CODE ENFORCEMENT PROCEDURES CONTAINED IN CHAPTER 12.40 RMC FOR USE IN ENFORCEMENT OF UNLAWFUL JUNK VEHICLES, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the presence of public nuisances has a detrimental effect on the health safety and welfare of the community; and

WHEREAS, the presence of junk or inoperable vehicles on either public or private property within the City present inherent safety and health concerns; and

WHEREAS, an exemption from the application of this ordinance for an individual's personal vehicle restoration of up to two vehicles on property is appropriate because such use is reasonably associated with the primary use of property; and

WHEREAS, no exemption is available for vehicle restoration on vacant property, as such activity is either not associated with any primary use of the property, or in those zones where vehicle restoration is allowed, the necessary facilities must also be available for restoration to take place; and

WHEREAS, the legislature of the State of Washington allows cities to abate abandoned or junk vehicles as nuisances, in accordance with RCW 46.55.240; and

WHEREAS, RCW 46.55.240 requires that the City include certain statutory provisions in any local ordinance; and

WHEREAS, the City Council finds that it is in the public interest to create a junk vehicle ordinance for use in cleaning up the City and removing nuisances and enforcing its codes; and

WHEREAS, on February 5, 2019, the City Council held first reading of this ordinance; and

WHEREAS, on February 19, 2019, the City Council held the second reading of this Ordinance and adopted this Ordinance during its regular meeting; **NOW, THEREFORE**

THE CITY COUNCIL OF THE CITY OF RUSTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. A new Chapter 9.05 RMC entitled “Junk Vehicles” is added to Title 9 of the Ruston Municipal Code to read as follows:

Chapter 9.05
JUNK VEHICLES

Sections:

- 9.05.010 Purpose.
- 9.05.020 Definitions.
- 9.05.030 Public nuisance declared.
- 9.05.040 Exemptions.
- 9.05.050 Abatement and removal of junk vehicles on private property.
- 9.05.060 Violation – Penalty.
- 9.05.070 Rules and procedures.

9.05.010 Purpose.

The purpose of this chapter is to preserve the character and safety of the city’s neighborhoods by eliminating as nuisances, junk vehicles from private property, and to provide procedures for the removal of junk vehicles as authorized by RCW 46.55.240.

9.05.020 Definitions.

For the purposes of this chapter, the following words shall have the following meaning:

Director means the director of the department in charge of code enforcement or his or her designee or any designated alternate who is empowered by ordinance or by the mayor to enforce this chapter including assigned code enforcement officials.

Junk vehicle means a vehicle meeting at least three (3) of the following requirements: (RCW 46.55.010(5))

1. Is three (3) years old or older;
2. Is extensively damaged, such damage including, but not limited to any of the following: A broken window or windshield or missing wheels, tires, motor or transmission;
3. Is apparently inoperable;
4. Has an approximate fair market value equal only to the approximate value of the scrap in it.

Landowner means an owner of private property, or a person in possession or control of private property.

9.05.030 Public nuisance declared.

All junk vehicles certified as such by a law enforcement officer or code enforcement officer designated by the director according to RCW 46.55.230 and found on private property are declared to constitute a public nuisance subject to removal, impoundment and disposal. It is unlawful for any individual firm, entity or corporation to allow, cause to allow or place a junk vehicle on any premises.

9.05.040 Exemptions.

a. A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

b. A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to the provisions of RCW 46.80.130.

9.05.050 Abatement and removal of junk vehicles on private property.

a. *Voluntary correction.* Whenever the code enforcement officer determines that a vehicle is a public nuisance and in violation of this chapter, a reasonable attempt shall be made to secure voluntary correction from the landowner and the vehicle's registered owner.

b. *Issuance of notice of civil violation.* If the code compliance officer does not obtain voluntary correction of the public nuisance, the officer may issue a notice of civil violation to the landowner of record and the vehicle's last registered owner of record in accordance with the provisions of Chapter 12.40 RMC.

c. *Content.* For violations of this chapter, the notice of civil violation shall contain the information as outlined in Section 12.40.030, and shall also include the following information about the vehicle(s):

1. The name and address of the landowner of record upon whose property the vehicle is located;
2. The name and address of the vehicle's last registered owner of record provided license or vehicle identification numbers are available;
3. The vehicle description including: the license plate number and/or the vehicle identification number (to the extent known); the model year; the make; and the factors which render the vehicle a public nuisance;
4. The street address of a description sufficient for identification of the property where the vehicle is located; and
5. The required corrective action and a date and time by which the correction must be completed.

9.05.060 Violation – Penalty.

a. *Civil code enforcement action.* Any violation of any provision of this chapter is a civil violation as provided for in Chapter 12.40 RMC for which a monetary penalty may be assessed and abatement may be required as provided therein.

b. *Criminal offense.* In addition to or as an alternative to any other penalty provided in this chapter or by law, any person who violates any provision of the Ruston City Code may be charged criminally, pursuant to RMC 12.40.080(b).

c. *Civil infraction.* In addition to or as an alternative to any other penalty provided in this chapter or by law, any person who violates any provision of this chapter may be issued a class 1 civil infraction pursuant to RCW 7.80.120, as currently enacted or hereafter amended, and Chapter 9.22 RMC.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 3. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 4. Effective Date. This Ordinance shall be effective five days after publication as provided by law.

ADOPTED by the City Council of the City of Ruston and attested by the City Clerk in authentication of such passage on this 19th day of February, 2019.

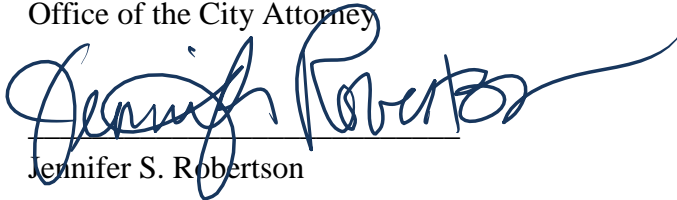
APPROVED by the Mayor this 19th day of February, 2019.

Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:

Judy Grams, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney



Jennifer S. Robertson

FILED WITH THE CITY CLERK: _____

PASSED BY THE CITY COUNCIL: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

ORDINANCE NO: 1518