

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

Proposed Council Action:

These Ordinances are on for First Reading. No action requested. Unless directed otherwise, these three ordinances will be brought back on February 19th for Second Reading and Adoption.

Dept. Origin: Code Enforcement Office

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

For Agenda of: February 5, 2019

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

Initial & Date

Concurred by Mayor: _____

Approved by City Planner: _____

Approved as to form by City Atty: JSR/1-29-19

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 First Reading. No action requested. Unless directed otherwise, these three ordinances will be brought back on February 19th for Second Reading and Adoption.

ORDINANCE NO. 1519

AN ORDINANCE OF THE CITY OF RUSTON, RELATING TO LITTER IN THE CITY, CREATING A NEW CHAPTER 9.09 IN THE RUSTON MUNICIPAL CODE TO ENSURE THE HEALTHY, WELFARE AND CLEANLINESS OF THE CITY, ADOPTING THE FOLLOWING SECTIONS: 9.09.010 (SHORT TITLE), 9.09.020 (DEFINITIONS), 9.09.030 (LITTER IN PUBLIC PLACES), 9.09.040 (PLACEMENT OF LITTER IN RECEPTACLES), 9.09.050 (LITTER IN PARKS), 9.09.060 (LITTER IN LAKES AND FOUNTAINS), 9.09.070 (TRUCKLOADS CAUSING LITTER), 9.09.080 (LITTER THROWN BY PERSONS IN VEHICLES), 9.09.090 (SWEEPING LITTER INTO GUTTERS), 9.09.100 (LITTER ON PRIVATE PROPERTY), 9.09.110 (POSTING NOTICES PROHIBITED), 9.09.120 (VIOLATION – PENALTY), 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 City initially adopted a code on nuisances in 1968; and

WHEREAS, that code was last amended in 1980; and

WHEREAS, the City's code enforcement officer has recommended that the nuisance code be brought current and that other codes relating to junk vehicles and litter also be adopted; and

WHEREAS, this ordinance provides an up-to-date chapter on litter and enforcement actions against the same; and

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

WHEREAS, on February 7, 2019, the City Council held first reading of this ordinance; and

WHEREAS, on February 21, 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 9.09 RMC entitled “Litter” is added to Title 9 of the Ruston Municipal Code to read as follows:

**Chapter 9.09
LITTER CONTROL**

Sections:

- 9.09.010 Short title.
- 9.09.020 Definitions.
- 9.09.030 Litter in public places.
- 9.09.040 Placement of litter in receptacles.
- 9.09.050 Litter in parks.
- 9.09.060 Litter in lakes and fountains.
- 9.09.070 Truckloads causing litter.
- 9.09.080 Litter thrown by persons in vehicles.
- 9.09.090 Sweeping litter into gutters.
- 9.09.100 Litter on private property.
- 9.09.110 Posting notices prohibited.
- 9.09.120 Violation – Penalty.

State law reference(s) – Model litter control act, RCW 70.93.010 et seq.

9.09.010 Short title.

This chapter shall be known and may be cited as the “City of Ruston Anti-Litter Ordinance.”

9.09.020 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aircraft is any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word “aircraft” includes helicopters and lighter-than-air dirigibles and balloons.

Authorized private receptacle is a litter storage and collection receptacle as required and authorized in Ch. 6.01 RMC.

Garbage is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Litter is “garbage,” “refuse,” and “rubbish” as these terms are defined in this section and all other waste material which, if thrown or deposited as prohibited in this chapter tends to create a danger to public health, safety and welfare.

Newspaper is any newspaper of general circulation as defined by general law, any newspaper duly entered with the post office of the United States, in accordance with federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law. In addition, the term “newspaper” shall mean and include any periodical or current magazine regularly published with not less than four (4) issues per year, and sold to the public.

Park is a park, public open space, playground, beach, recreation center or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

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

Public place is any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

Refuse is all putrescible and non-putrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

Rubbish is non-putrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

Vehicle is every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

9.09.030 Litter in public places.

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the city except in public receptacles, or in authorized private receptacles for collection.

State law reference(s) – Similar provisions, RCW 70.93.060.

9.09.040 Placement of litter in receptacles.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

State law reference(s) – Similar provisions, RCW 70.93.060(2).

9.09.050 Litter in parks.

No person shall throw or deposit litter in any park within the city except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided in this chapter.

State law reference(s) – Similar provisions, RCW 70.93.060.

9.09.060 Litter in lakes and fountains.

No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere within the city.

State law reference(s) – Similar provisions, RCW 70.93.060.

9.09.070 Truckloads causing litter.

No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place. No person shall drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

State law reference(s) – Similar provisions, RCW 46.61.655.

9.09.080 Litter thrown by persons in vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city, or upon private property.

State law reference(s) – Similar provisions, RCW 73.93.060.

9.09.090 Sweeping litter into gutters.

a. *Prohibited.* No person shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

b. *Merchants' duty to keep sidewalks free of litter.* No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the city shall keep the sidewalk in front of their business premises free of litter.

9.09.100 Litter on private property.

a. *Occupied property.* No person shall throw or deposit litter on any occupied private property within the city, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

b. *Vacant lots.* No person shall throw or deposit litter on any open or vacant private property within the city, whether owned by such person or not.

c. *Owner to maintain premises free of litter.* The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

9.09.110 Posting notices prohibited.

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law.

9.09.120 Violation – Penalty.

a. *Civil code enforcement action.* Any violation of any provision of this chapter constitutes a civil violation under 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 this chapter 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.

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 21st day of February, 2019.

APPROVED by the Mayor this 21st 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: 1519