

ORDINANCE NUMBER 5-23-13

NUISANCE ABATEMENT ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RAINSVILLE,
ALABAMA, AS FOLLOWS:

Section 1. Purpose.

It is the intention of this Ordinance to prevent public health hazards, public nuisances and eyesores within the City of Rainsville and any construction of this Ordinance shall be consistent with this intention.

Section 2. Definitions. For the purpose of this ordinance, certain terms are defined as follows:

Vehicle: cars, trucks, vans, carts, tractors, mowers, motorcycles, bicycles, boats or other similar devices.

Abandoned Vehicle: Any vehicle which:

- (1) is in a wrecked, dismantled, partially dismantled, discarded, junked or inoperable condition; or
- (2) does not have affixed to it an unexpired license plate and has been parked, stored or left, whether attended or not, upon any public or private property in the city for a period of time in excess of thirty (30) days.
- (3) This term does not include any vehicle:
 - (a) enclosed within a building or properly fitted vehicle cover on private property, or
 - (b) held in connection with a business enterprise, lawfully licensed by the City on property zoned for junkyard, vehicle repair facility or vehicle storage yard, or
 - (c) retained primarily as an antique collector's item and registered under state law as an antique vehicle.
- (4) An abandoned vehicle as defined herein is deemed to be a nuisance.

Accumulation of Debris or Rubbish: An accumulation of storage of debris, refuse, rubbish, brush, used building materials, parts of buildings, remains from building demolition or fire, parts of abandoned or uninhabitable structures, used machinery, used tires, used vehicles, parts of vehicles, or any other materials, including discarded household furniture and appliances, which may provide a breeding place for harmful insects, rodents or snakes, a fire hazard, or is so

unsightly as to be offensive to the surrounding. An accumulation of debris or rubbish as defined herein is deemed to be a nuisance.

Overgrowth of Grass or Weeds: Any abundance of overgrown grass or weeds within the City which is injurious to the general public health, safety and general welfare by providing breeding grounds and shelter for rats, mice, snakes, mosquitoes and other vermin, insects and pests; or attaining such heights and dryness so as to constitute serious fire threat or hazard; or weeds that when mature cause the spread of weeds and, when breathed, irritation to the throat, lungs and eyes of the public; or hiding debris, such as broken glass or metal, which could inflict injury on any person going upon the property; or being unsightly; or any growth of grass or weeds, other than ornamental plant growth, which exceeds 10 inches in height. The overgrowth of grass or weeds is deemed to be a nuisance.

Exceptions: Excepted from such grass and weed nuisance requirements are:

- (1) Any property that is in its natural condition.
- (2) Any property zoned AG (Agriculture District).

Natural Condition: Uncultivated and unseeded land that is in a state of nature. A growth on land that has been cleared or plowed or planted is not a natural condition.

Nuisance: Anything that unlawfully causes hurt, inconvenience or damage; that class of wrongs that arises from 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 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; 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.

Owner of Property: Any person who is in charge, possession or control of said property or is the legal title holder, lessee, occupant of property, agent of legal title holder or lessee.

Unsafe structure: An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible. An unsafe structure as defined herein is deemed to be a nuisance.

Person: individuals, firms, corporations, associations or other legal entity.

Section 3. Maintenance Practices of the City of Rainsville, Alabama

The dedication and existence of a right-of-way for a public road or of an easement for drainage or for public utilities represents the grant of only a limited interest in property and does not change the actual ownership of the property upon which the right-of-way or easement is located. The public authority maintains rights-of-way and easements only to the extent necessary to maintain the public facility and to maintain safety. The owners of the burdened property continue to control the property, except to the extent that such control interferes with the public use. The public authority does not cut grass, weeds, and other growth upon rights-of-way or easement, except to the extent necessary for operation and safety purposes. All other maintenance is the responsibility of the owner of the property upon which the right-of-way or easement is located.

Section 4. It shall be unlawful:

- (1) for any owner of property within the City of Rainsville, Alabama to permit, allow or maintain an overgrowth of grass or weeds on any property under such person's ownership or control.
- (2) for an owner of property within the City of Rainsville, Alabama to allow an abandoned vehicle to remain on any property under such person's ownership or control.

This section further prohibits the parking, storage, repair or dismantling of such a vehicle on private or public property or public right-of-way except that this section shall not apply to:

- (a) a vehicle in an enclosed building;
 - (b) a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city or on private property in connection with the business of a licensed vehicle dealer or junkyard;
 - (c) a vehicle in operable condition specifically adapted or designed for operation on drag strips or raceways; or
 - (d) a vehicle retailed primarily as an antique collector's item and registered under state law as an antique vehicle.
- (3) for any owner of property within the City of Rainsville, Alabama to permit, allow or maintain an unsafe structure on property under such person's ownership or control.
 - (4) for any owner of property within the City of Rainsville, Alabama to resist or ignore notification to demolish or rehabilitate an unsafe structure.
 - (5) for any owner of property within the City of Rainsville, Alabama to permit or maintain the existence of any nuisance on any property under such person's ownership or control.

- (6) for any owner of property within the City of Rainsville, Alabama to fail to keep such premises in a clean and sanitary condition; or fail to keep accessory buildings well ventilated and cleaned and free from all filth and water that would be offensive or liable to cause disease.
- (7) for any owner of property within the City of Rainsville, Alabama to permit or allow, whether or not vacant, an accumulation of debris or rubbish on any property under such person's ownership or control.
- (8) for any owner of property within the City of Rainsville, Alabama to use indoor furniture outside on porches which may harbor vermin and constitute a fire hazard or the decaying of such accumulations so as to create an obnoxious odor on any property under such person's ownership or control.
- (9) for any owner of property within the City of Rainsville, Alabama to leave in any place accessible to children whether in a building, on the premises of a building, or upon an unoccupied lot:
- (a) any abandoned wells, shafts, basements, or excavations;
 - (b) abandoned, unattended or discarded vehicle, appliance or other container of any kind, including any garbage or trash container that:
 - i. is large enough to enclose a human being; or
 - ii. has a snap lock or other devices without first removing the snap lock or doors there from; or
 - iii. is a providing device which will allow the doors to be readily opened from inside the container.
 - (c) any unsafe structure or fence; or
 - (d) any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors; or
 - (e) any public nuisance, including overcrowding a room with occupants, unsanitary sewage or plumbing, uncleanliness, or whatever is dangerous to human life or detrimental to health.
- (10) for any owner of property within the City of Rainsville, Alabama to allow any damage to an adjoining property, public or private roads, drives, sidewalks, drainage ditches, or drainage structures caused by land-disturbing activities such as: obstruction of drainage ways, erosion of land, deterioration of paved surfaces, or sedimentation.

In the event that sedimentation and litter escapes onto adjoining property, roadways, drainage structures, etc., it shall be promptly removed, in the interest of the public's welfare and safety, the debris may be removed by the city forces and the cost of such clean up charged to the person responsible for the land-disturbing activity.

(11) for any persons engaged in or by construction firms to allow the depositing of construction materials and/or debris on City of Rainsville, Alabama streets or property. This is not to mean the delivering of construction material, but the littering of streets or property with construction material or debris while entering or leaving construction sites or while traveling on city streets. This is to include the construction site and the tracking or spilling of mud, dirt, and debris or construction material on city streets. Commercial tree trimmers and landscapers are required to remove and properly dispose of all limbs and trees cut by them or may be charged as responsible for trash and debris.

Section 5. Enforcement by the City of Rainsville, Alabama

(1) Whenever in the opinion of the enforcing official a violation exists based upon the standard of proof as any other criminal act, the official shall order the owner of the property on which the violation is located to abate the condition.

(2) The enforcing official shall give the owner written notice in person or by certified mail, return receipt requested. The notice shall require the owner to comply with this ordinance within the time stated in the notice.

(3) The notice shall be sent to that person shown by the records of the county tax collector to have been the last person assessed for payment of ad valorem tax on the property where the violation is situated.

(4) The notice shall require the owner to complete abatement of the violation within the following periods, provided the enforcing official may stipulate additional time, but in no case more than a total of 150 days:

(a) Fourteen (14) days from the date of notice if it is an overgrowth of grass or weeds.

(b) One Hundred Twenty (120) days from the date of notice if it is an unsafe structure.

(c) Thirty (30) days from the date of notice if it is any other type of violation including, not limited to, any other type of nuisance.

(5) The following officials of the City of Rainsville, Alabama are hereby designated to give notice, issue a summons and complaint, and such other actions as may be necessary to carry out the intent of this Ordinance: City Clerk, Police Chief or Administrative Officer of Zoning Ordinances.

Section 6. Failure to Comply.

If the owner fails, neglects or refuses to comply with the notice to abate the violation, the enforcing official may proceed to prosecute said person for a violation of the provisions of this

ordinance. The enforcing official may issue a summons and complaint to the owner of the property, requiring the owner to appear in the Municipal Court of Rainsville, Alabama to answer the charges for the violation of this ordinance. The summons and complaint shall name the party charged, the address of the property where the alleged violation is located, and the nature of the offense or violation. It shall also apprise the owner of the date, time and place at which to appear for court. The summons and complaint, returnable to the Municipal Court, shall be served on the owner by any enforcing official, who shall forthwith appear and make oaths as to the alleged offense before a judge or magistrate to the municipal court. This provision for the issuance of a summons or complaint to Municipal Court shall not prevent any enforcing official from appearing before a Municipal Court judge or magistrate and making oaths as to the facts and applying for a warrant with respect to any alleged offense, in lieu of issuing a summons and complaint.

- (1) The enforcing official may institute the enforcement procedure set forth above and those set out below. The institution of one procedure does not preclude the subsequent or simultaneous institution of other procedure, provided the criminal procedure is not used to collect any outstanding civil assessments against the subject property.
- (2) If the owner fails, neglects or refuses to comply with the notice to abate an overgrowth of grass or weeds, the enforcing official shall cause the cutting of the offending grass or weeds.
- (3) Should the owner of property subject to the condition described in this ordinance fail or refuse to abate such violation or to remove said abandoned appliances, furniture, rubbish, wrecked or non-operating vehicles or fails to abate an unsafe structure upon being notified to do so as forth herein, the city is hereby authorized to do such work at the expense of the owner of such property, the cost thereof shall be a lien upon the property as any other debts are collected or liens enforced.
- (4) Each day the owner or person in charge of any premises shall allow such unsanitary conditions or nuisance to continue, after having received written notice to abate same, shall constitute a separate offense and distinct offense for each day the nuisance is allowed to remain, and upon conviction thereof such owner or person in charge shall be punished as herein provided.

Section 7. Penalties. All violations of the provisions of this chapter shall be a misdemeanor and punishable as follows:

- (1) A fine in the minimum sum of fifty dollars (\$50.00) up to a maximum of Five Hundred Dollars (\$500).
- (2) Imprisonment in the municipal jail for a term not to exceed six (6) months, or
- (3) Both such fine and/or imprisonment; and
- (4) An order to abate the nuisance.

Section 8. Severability.

That each and every provision of the ordinance is hereby declared to be an independent provision and the holding of any provision hereof to be void and invalid shall not affect any other provision hereof, and it is hereby declared that the other provisions of this ordinance would have been enacted regardless of any provision which might have been held invalid.

Section 9. This ordinance does not apply to property zoned AG (Agriculture District).

Section 10. All Ordinances or parts of Ordinances heretofore adopted which are in conflict with this Ordinance are hereby repealed.

Section 11. Effective Date. This Ordinance shall become effective upon its adoption and publication

DONE this 23rd day of May, 2013

CITY OF RAINSVILLE, ALABAMA BY:

Rich Jones
Mayor

Attest:

Dudy Lewis
Clerk

CLERK'S CERTIFICATE OF PUBLICATION

I hereby certify that the above and foregoing ordinance was duly adopted at a regular meeting of the City Council of the City of Rainsville, Alabama, at which a quorum was present, and that it has been published one time in the Mountain Valley News, a newspaper of general circulation published in the City of Rainsville, Alabama, in its publication dated the 30th day of May, 2013.

Dudy Lewis
Clerk