

ORDINANCE NO. 304
AN ORDINANCE DECLARING CERTAIN CONDITIONS RELATING TO
AUTOMOBILES, JUNK, GARBAGE AND THE MAINTENANCE OF PRIVATE
PROPERTY TO BE A PUBLIC NUISANCE AND PROVIDING FOR THE
ABATEMENT THEREOF

It was moved by Hoffman and seconded by Waldera that the following ordinance be adopted:

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ALEXANDRIA THAT:

1. Required Actions. The following actions and items are required to be done within the corporate limits of the City of Alexandria:
 - (a) Waste Petroleum Products: Waste petroleum products from any vehicle or internal combustion engine shall be removed and disposed of at the expense of the person controlling the same in the manner and by the method directed by the laws of the State of South Dakota.
2. Prohibited Matters. The following actions, omissions and items are prohibited within the corporate limits of the City of Alexandria:
 - (a) No person in charge of or in control of any property shall allow accumulations of heavy materials or items such as brush, broken concrete, ashes, sand or gravel, automobile frames, dead trees or other bulky heavy materials thereon.
 - (b) No person in charge of or in control of any property shall maintain or allow to exist thereon, any condition that is dangerous to human health, whatever renders the ground, the water, the air or food a hazard or an injury to human health.
 - (c) No person shall create, commit, maintain or permit to be created, committed or maintained any nuisance as defined herein.
 - (d) No person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow any unlicensed, partially dismantled, non operating, wrecked, junked or discarded vehicle to remain on such property longer than ten days, nor leave any such vehicle on any property within the city for a longer time than ten days. This section shall not apply to a vehicle in an enclosed building, or to a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise, or to a vehicle in an

appropriate storage place or depository maintained in a lawful place and manner by the city or authorized by the city.

- (e) No person shall abandon or discard any vehicle within the City. No persons shall leave any vehicle at any place within the city for such time and under such circumstances as to cause the vehicle reasonably to appear to have been abandoned.
- (f) No vehicle shall be parked on any street or public ground including a municipal public parking lot for a longer period of time than forty-eight (48) hours at on location.

3. Definitions of Terms. Where ever used in this ordinance, the following terms shall be defined as follows:

- (a) General: All terms used in this ordinance shall be defined as the same are from time to time defined under the laws of the state of South Dakota. For those terms which are specifically defined in this ordinance and also in the codified laws of the State of South Dakota, where possible both definitions shall be used, to the extent that they described different facts, requirements or situations. In the event that there is a conflict between two definitions preference shall be given to the definition contained in this ordinance for the purpose of resolving such conflict.
- (b) Garbage: All animal and vegetable wastes resulting from the handling, cooking and consumption of foods originating in kitchens, stores, markets, restaurants, and other places where food is stored, cooked or consumed.
- © Junk: Old or scrap copper, brass, rope, rages, batteries, paper, trash, rubber debris, waste or junk, dismantled or wrecked automobiles, or parts thereof, iron, steel and other old and scrap ferrous or ferrous material.
- (d) Occupant: The person that has the use of or occupies any building or lot, or a portion thereof, whether the actual owner, tenant or subtenant. In the case of vacant buildings or lots, or any portion thereof, the owner, agent or other person having custody of the building or lot shall have the responsibility of the occupant of the building or lot.
- (e) Owner: The actual owner of the property, the agent of the owner in charge of the property or the person to whom the rental upon the property is paid.
- (f) Premises: Any place within the city where refuse, either garbage or rubbish accumulates.

- (g) Property: Any real property within the City which is not a street or highway.
- (h) Public Nuisance: A public nuisance consists of unlawfully doing an act or omitting to perform a duty within the city or in any public grounds or parks belonging to the city or within one mile of the city, which act or omission either:
 - /1/ annoys, injures or endangers the comfort, repose, health or safety of others, or
 - /2/ offends decency, or
 - /3/ unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any lake or navigable river, bay, stream, canal or basin or any public park, square, street or highway or
 - /4/ in any way renders others persons insecure in life, or in the use of property; and
 - /5/ which effects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal.
- (i) Refuse: All solid wastes, including garbage and rubbish.
- (j) Rubbish: Includes all combustible and non-combustible waste materials from households, stores, and institutions, consisting of tin cans, bottles, papers, straw, leaves, ashes, lawn cuttings, and tree limbs from any premises within the city.
- (k) Street, Highway: 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.
- (l) Vehicle: 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, but is not necessarily limited to: automobile, truck, trailer, motorcycle or tractor.

4. Determination To Be Public Nuisance. It is the finding of the Common Council of the City of Alexandria that a violation of this ordinance may be both

- (a) a criminal violation as is provided herein, and

(b) a public nuisance. Public nuisances may be proceeded against in the manner provided for under the laws of the State of South Dakota.

© By way of example, the following specific situations are determined to be a public nuisance and a violation of this ordinance. Each of the following specific acts, conditions and things are hereby declared to constitute nuisances:

/1/ Garbage and Refuse: Depositing, maintaining or permitting to be maintained or to accumulate upon any public or private property, any garbage, trash or refuse.

/2/ Weeds: Permitting weeds to grow to maturity on any private property, including vacant lots.

/3/ Garbage Handled Improperly: Throwing or letting fall on or permitting remain on any street, alley, or public ground any manure, garbage, rubbish, filth, petroleum product or wood while engages in handling or removing any such substance.

/4/ Rodents and wild animals: Allowing or keeping accumulations of junk, old iron, automobiles or parts thereof, or allowing any building to deteriorate to such the extent that rodents or wild animals may live or breed or accumulate therein.

/5/ Deteriorating Influence On Neighborhood: Allowing, permitting or having any accumulation of furniture, appliances, junk, garbage, refuse, vehicles, vehicle parts, wood, debris, objects or materials that has a blighting or deteriorating influence on the neighborhood.

/6/ Junk Cars On Private Property: A vehicle shall be declared a nuisance on private property when the vehicle is junked, wrecked, partially dismantled, inoperative, and/or unlicensed. This shall not apply to vehicles under repair for a period of not more than 10 days or those completely enclosed in a garage or building for purposes of storage.

/7/ Empty or Vacant Buildings: Empty or vacant buildings which have door, windows or openings that allow entrance of vermin or invite vandalism or create a health or safety hazard.

5. Miscellaneous Provisions.

(a) All actions which are to be undertaken, or which are to be stopped or ceased, and items which are to be disposed of under this ordinance at the direction of the city shall be done under the direction of the city mayor, who shall be the city representative for such matters. In the event that it is necessary to do so, the Mayor may appoint such other person or persons as he may from time to time deem necessary to act on behalf of the city and in lieu of the city mayor in such matters.

(b) Power To Abate Nuisance Violations. Where a person has been given proper notice of non-conforming condition under this ordinance, and has refused or failed to abate the same within the grace period provided, the City may hire a private individual or firm to perform the work necessary to remedy the condition.

© Payment Of Disposal Costs. If, in any situation, enforcement actions are undertaken under the auspices of this ordinance, items shall be disposed of at the expense of the owner or person controlling the same under the direction of the city mayor.

(d) Administrative Procedures.

/1/ Any person permitting conditions to exist which are contrary to the requirements of this Ordinance or any section thereof, shall be given written notice of the same.

/2/ This written notice shall contain:

/a/ s statement of the act, acts, condition or conditions which are not in conformity with this Ordinance;

/b/ notification that the person has ten (10) days in which to comply with the ordinance;

/c/ notification of the title of this Ordinance, and of where he may read or obtain a copy of it.

/3/ The "Notice" may be served by certified mail with a return receipt or may be served personally upon the person by any law enforcement officer authorized to act within the State of South Dakota

/4/ Where the nuisance constitutes a health or safety hazard, the notice may require abatement of the nuisance to be immediate, or within such time as shall be deemed by the Mayor to be reasonable and practical under the circumstances.

(e) Levy Of Special Assessment For Costs. Costs incurred by the City for bringing any property into compliance with the terms of this ordinance may be assessed against the property as a "special assessment" on the property's taxes. Such costs may include any legal fees and costs incurred by the city, as allowed by the court having jurisdiction over

the case, and all reasonable and necessary clean up or disposal costs. This special assessment levy may be made in addition to fines imposed under or pursuant to this Ordinance.

- (f) Paragraph Heading, Gender, Singular, Plural. Throughout this ordinance, paragraph headings are meant for ease of locating the provisions of the ordinance, and are not meant to be a part of the body of the agreement to the exclusive of any of the paragraph provisions. Nouns and pronouns used throughout the document, whether in the masculine or feminine, shall be construed to include both. The singular shall be construed to include the plural, and the plural construed to include the singular where required by the provisions hereof.
- 6. Penalty Provision. A violation of this Ordinance may be punished by a fine of not more than Two Hundred (\$200.00) Dollars or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.
- 7. Repealer.
 - (a) Effective upon the completion of the process of adoption of this ordinance, all other previous ordinances and sections of ordinances in conflict with this ordinance are hereby repealed.
 - (b) The following ordinance is specifically repealed by the enactment of this ordinance: #219.
- 8. Severability Provision. If a part of this ordinance is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this ordinance is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Justification For Ordinance: This ordinance is adopted for the purposes of:

- (a) promoting the public safety;
- (b) promoting the health, welfare;
- (c) prevent the accumulation of any furniture, appliances, junk, car parts, wood, debris, objects or materials that has a blighting or deteriorating influence on the neighborhood;
- (d) promoting the convenience and enjoyment of public travel;
- (e) to protect the public investment in the streets;
- (f) to preserve and enhance the beauty of property within the corporate limits of the city;
- (g) it is hereby declared to be in the public interest to regulate and restrict the storage, abandoning or discarding of motor vehicle, junk, garbage, and other items of useless or worthless personal property, and the

maintenance of the real property in those areas within the City limits
of the City of Alexandria.

City of Alexandria, By
Lyle Weber, Mayor

Attest:
Janice Wolf, Finance Officer

Votes for: 5 Votes against:0
Motion carried

First Reading: April 3, 1995
Second Reading: May 1, 1995
Effective Date: May 11, 1995 10 days after 1st publication