

ORDINANCE NO. 236

ORDINANCE REPEALING, AMENDING, AND REPLACING SECTIONS OF CHAPTER 50 AND CHAPTER 51 OF THE CODE OF ORDINANCES OF THE CITY OF ROLFE, IOWA, 2008”

BE IT ENACTED By the City Council of the City of Rolfe, Iowa.

SECTION 1. SECTION MODIFIED. Section 50.01 of the Code of Ordinances of the City of Rolfe, Iowa is repealed and following adopted in lieu thereof:

50.01 DEFINITION OF NUISANCE. Whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstruction to the free use of property so as essentially to interfere unreasonably with the comfortable enjoyment of life or property is a nuisance. (Code of Iowa, Sec 657.1)

1. Enclosed structure. Means any permanent structure built for the enclosure of personal property, consisting of a roof, at least four exterior walls, and one or more properly functioning doors for ingress and egress, and is constructed in such a manner as to obscure contents from view from any street or adjacent property.

2. Junk. Means material items kept in outdoor areas or in partially enclosed sheds, lean-tos, or other structures that do not meet the definition of enclosed structure. These items include, but are not limited to: broken or discarded household furnishings, hardware, and plumbing fixtures, or parts of such; waste or salvaged building construction and demolition material; unstacked firewood; broken, toys, bicycles and tricycles; old, scrap or reclaimed ferrous and non-ferrous metals; old or discarded metal and plastic cans, pails and barrels; old or discarded rope, rags, paper, glass, tinware, plastic, and packing, crating or shipping materials; and inoperable, unused, neglected, dismantled or otherwise unassembled vehicles, machinery and appliances, or parts of such.

3. Keeping. Means parked or stored.

4. Machinery. Means a self-powered or towable or attachable device or implement consisting of inter-related parts with separate functions, used to perform some kind of task.

5. Noisome. Means offensive or disgusting.

6. Offal. Means rubbish, trash, or butchering waste.

7. Trash. Means worthless, unwanted material that is rejected or thrown out.

8. Vehicle. Means any private, public, and commercial implement of conveyance designed for or used for the transportation of people or materials, or performing tasks, excepting devices moved by human power or used exclusively upon stationary rails or tracks, including, but not limited to, automobiles, trucks, tractors, trailers, wagons, restoration, and recreational vehicles of any kind, and commercial and farm machinery, or any combination thereof.

SECTION 2. SECTION MODIFIED. Section 50.02 of the Code of Ordinances of the City of Rolfe, Iowa by modifying and adding in additional subsections:

50.02 NUISANCES ENUMERATED. The following subsections include but to not limit the conditions that are deemed to be nuisances in the City: (Code of Iowa, Sec. 657.2). Any activity

or condition which, left unabated, may possibly and unreasonably endanger the health, safety, life, or property to residents of the City; or detract from the beneficial use and enjoyment of neighboring properties is deemed a nuisance under the City's Code of Ordinances:

13. Keeping an accumulation of any loose or uncontained recyclable materials; junk; or other forms of solid waste that is visible from the public right-of-way or adjoining property. (See also Chapters 51 and 105)

14. Keeping an accumulation of trash piles or yard waste which may harbor or attract vermin, rodents, or other disease-carrying pests, animals, or insects, or spread or harbor disease; or emit unpleasant odors or harmful gas; or create a fire hazard. (See also Chapter 41). Such materials kept in containers customarily used for composting, shall be excluded from this portion of the ordinance.

15. Keeping any enclosed structure with broken, missing, or nonfunctional doors and/or windows, or other damage that fails to reasonably secure against unauthorized access where such access may threaten the health or safety of individuals, children, and domestic pets; or that fails to obscure contents from view from any street or adjacent property.

16. Keeping any neglected structure that invites infestation by animals, birds, rodents, reptiles, and other vermin such as rats, mice, skunks, snakes, bats, starlings, pigeons, wasps, cockroaches, or flies.

17. Lack of sufficient maintenance for any building or structure, or fence, which is in a sagging leaning, fallen, decayed or other dilapidated or unsafe condition, including the use of tarpaulins, plastic sheeting or other materials to mask the condition of said building, structure, or fence. (See also Chapters 41 and 145)

18. Keeping, with exceptions, any vehicles that are found to detract from the beneficial use of the public right-of-way or neighboring properties. (See also Chapter 51)

19. Keeping any vehicle used as a repository for junk or other forms of solid waste. (See also Chapter 51). Coverage with a tarpaulin does not abate the nuisance.

20. Keeping any junk; yard waste; trash; operable vehicles or machinery; building materials; or any other debris or materials on the area between the sidewalk and the curb of any street, except for bagged or containerized solid waste for a period of not to exceed twenty-four (24) hours while awaiting City collection; or forty-eight (48) hours for items to be disposed of in conjunction with City Clean up activity. (See also Chapters 105 & 106)

21. Keeping unfenced private swimming pools, ponds, or excavations, each of which may pose an attractive nuisance danger for children. (See also Chapters 41, 135 and 155)

22. Any trees on public or private real property infected with Emerald Ash Borer disease, or other disease or decay. (See also Chapter 151)

23. Cotton-bearing cotton wood trees and all other cotton-bearing poplar trees.

24. All junk or salvage operations except those permitted by ordinance and operating in full compliance with the City's Code of Ordinances.

SECTION 3. SECTION REPEALED. The Code of Ordinances of the City of Rolfe, Iowa is hereby amended by repealing Section 50.03 OTHER CONDITIONS and renumbering concurrent sections.

SECTION 4. SECTION ADDED. 50.06 Abatement of Nuisance By Written Notice. Adding in Section 51.06 #9. Repeat Violations to the Code of Ordinances of the City of Rolfe, Iowa by adding in new section

9. Repeat Violations: Any person who commits the same offense within the same calendar year after the initial notification and abatement may be charged with a municipal infraction, without notice, and the violation may be abated without further notice.

SECTION 5. SECTION MODIFIED. Renaming Chapter 51 Junk and Junk vehicles to Nuisance Vehicles.

SECTION 6. SECTION MODIFIED. Section 51.01 Definitions of the Code of Ordinances of the City of Rolfe, Iowa by modifying and adding in additional subsections:

1. "Enclosed structure" means any permanent structure built for the enclosure of personal property, consisting of a roof, at least four exterior walls, and one or more properly functioning doors for ingress and egress, and is constructed in such a manner as to obscure contents from view from any street or adjacent property.
2. "Residential garage" means an enclosed building, used for the shelter of vehicles or other items, in which no occupation or business for profit is conducted.
3. "Commercial garage" means an enclosed building used for the shelter and licensed repair of vehicles.
4. "Park, Parked" means the placement of any vehicle on public or private real property, for any period of time not exceeding 48 hours.
5. "Store, Stored" means the placement of any vehicle on public or private real property for consecutive period of time exceeding 48 hours.
6. "Surfaced area" means any area covered by concrete, asphalt or three (3) inches of gravel, rock, or related material to eliminate the growth of vegetation.
7. "Keep, Kept" means parked or stored.
8. "Vehicle" means any implement of conveyance designated for, or used for, the transportation of people or materials, or performing tasks, excepting devices moved by human power or used exclusively upon stationary rails or tracks, including, but not limited to, automobiles; trucks; trailers or wagons; commercial, restoration and recreational vehicles of any kind; and commercial and farm machinery, or any combination thereof.
9. "Commercial Vehicle" means a vehicle or combination of vehicles designed principally to transport passengers or property of any kind *if any* of the following apply:
 - a. The vehicle or any combination of vehicles has a gross weight or combined gross weight of ten thousand one (10,001) or more pounds
 - b. The vehicle or any combination of vehicles has a gross vehicle weight or combined gross combination weight rating of ten thousand one (10,001) or more pounds.
 - c. The vehicle is designed to transport sixteen or more persons, including the driver.
 - d. The vehicle is used in the transportation of hazardous material of a type or quantity requiring vehicle placarding.
10. "Nuisance vehicle" means any licensed, unlicensed, unregistered or uninsured vehicle kept within the corporate limits of the City, exhibiting any one of the following characteristics.
 - a. Incomplete, dismantled, defective or otherwise obsolete condition to include, broken or cracked or missing components that render any vehicle inoperative or unfit for lawful operation on a public roadway, or where applicable, off-road use.

- b. Any motor vehicle which cannot be immediately started and moved under its own power around one city block, thus unfit for operation on public roadways, or where applicable, off-road use as demonstrated by the owner to the Code Enforcement Officer, Law Enforcement Officer, or other designated official.
- c. Left unattended on blocks, jacks or elevated in any other way, thereby constituting a threat to public health and safety.
- d. Used as a repository for chemicals, junk, recyclables, trash, or yard waste, or for flammable fluids or fuels, other than in the vehicle fuel system.
- e. Has the potential to, or has become the habitat for rats, mice, or snakes, or any other animals, vermin, or insects.
- f. Has the potential to or has become an attractive danger for children through entrapment, or injury from sharp or broken metal, glass, or other rigid materials.
- g. Has become a source of soil contamination from petroleum products or other toxic liquids discharged or otherwise leaking from the vehicle.
- h. Has become a point of collection for stagnant water.
- i. Has heavy growth of weeds or other noxious vegetation under, or immediate to it.
- j. Has not been used as an operating motor vehicle, driven in a legal manner on public street or highway, for a period of fifteen (15) days or more.

Change in ownership; or relocation of a nuisance vehicle to other properties within the corporate limits; or use of tarpaulin or similar material to mask an accumulation of chemicals, junk, recyclables, trash or yard waste, or other nuisance condition, shall not constitute a defense to the finding of a nuisance vehicle.

- 11. "Recreational vehicle" means any vehicle including but not limited to racing vehicles of any kind, all-terrain vehicles, boats, dune buggies, golf carts, snowmobiles, go-carts, competition pulling farm or garden tractors, motor homes, and fifth wheel or mounted or conventional-tow campers.
- 12. "Restoration vehicle" means an unlicensed, antique, or classic vehicle actively undergoing restoration.
- 13. "Unlicensed or unregistered" means any vehicle not displaying a valid current license plate as required by the laws of the State; or not displaying a current permit for awful operation, if required from the City, County or State; or not having current insurance required from the City, County or State.
- 14. "Gross weight" means the empty weight of a vehicle plus the maximum load to be carried by the vehicle. The maximum load to be carried by a passenger-carrying vehicle shall be determined by multiplying one hundred fifty pounds by the number of passenger seats carried by such vehicle.
- 15. "Junk" refers to definitions in Chapter 50 in the Rolfe Code of Ordinances.

SECTION 7. SECTION MODIFIED. Section 51.02 Junk and Junk Vehicles Prohibited and Section 51.03 Junk and Junk Vehicles a Nuisance of the Code of Ordinances of the City of Rolfe, Iowa by modifying and combing the sections.

51.02 NUISANCE VEHICLES PROHIBITED. The existence of a nuisance vehicle as defined in Section 51.01(10), kept upon public or private real property, unless excepted by Section 51.04, is hereby deemed unreasonably offensive to the senses, and constitutes a threat to the health and safety of the citizens, and is a nuisance within the meaning of Section 657.1 of the *Code of Iowa*.

If any nuisance vehicle is kept upon private or public real property in violation hereof, the owner of said vehicle shall be prima facie liable for said violation.

(Code of Iowa, Sec, 364.12[3a])

SECTION 8. SECTION ADDED. 51.03 OUTDOOR STORAGE OF VEHICLES. Adding in Section 51.03 Outdoor Storage of Vehicles to the Code of Ordinances of the City of Rolfe, Iowa by adding in new section.

51.03 OUTDOOR STORAGE OF VEHICLES. Being that the outdoor storage of a vehicle which is not deemed to be a nuisance as defined in Section 51.01(9), but may still detract from the beneficial use and enjoyment of neighboring properties, certain special regulations are established as follows:

1. No person shall keep any vehicle on other than a surfaced area within the corporate limits.
2. No person shall keep any vehicle on any vacant real property within the corporate limits.
3. No person shall keep any unlicensed or unregistered, or uninsured vehicles on real property within the corporate limits.
4. No person shall keep one or more recreational or restoration vehicles on real property within the corporate limits.
5. No person shall keep one or more motor vehicles on real property within the corporate limits for no more than fifteen (15) days without movement and use as an operating vehicle.

SECTION 9. SECTION MODIFIED. Section 51.04 Exceptions of the Code of Ordinances of the City of Rolfe, Iowa by modifying and adding in additional subsections:

51.04 EXCEPTIONS. The provisions of this chapter do not apply to the following:

1. Vehicles kept within an enclosed structure or garage.
2. Vehicles kept within a licensed salvage or junk yard.
3. Vehicles kept and displayed for licensed, commercial sales.
4. Vehicles in-use, performing authorized construction or demolition projects or other property maintenance.
5. A motor home, pickup truck with camper top, converted bus or van, or similar recreational vehicle, boat on a boat trailer, or utility trailer, which is operable and currently licensed for use on public roadways, located on a driveway, or other surfaced area within a side or rear yard on residential real property.
6. One unenclosed and unloaded single axle utility trailer, weighing 1,000 pounds or less, which is operable and currently licensed for lawful use on public roadways, may be kept on an unsurfaced area of a side or rear yard on residential real property.
7. A currently licensed, operable motor vehicle owned by a City resident, lawfully parked while the owner is out of the City for more than fifteen (15) days, but not more than one hundred eighty (180) days.
8. Vehicles which are immobilized pursuant to an order of the District Court.
9. Vehicles that are non-operable solely by reason of repair work being done there on, provided that the following conditions are met:
 - a. The vehicle is owned by and registered to the occupier of the premises, or to an immediate family member.

- b. The period of said repair work does not exceed fifteen (15) days in duration.
- c. The work is conducted in a surfaced area.

At City Council discretion, the fifteen (15) day limit in subsection 2, may be extended for unexpected conditions that are beyond the control of the owner.

SECTION 10. SECTION MODIFIED. Section 51.06 Abatement of the Code of Ordinances of the City of Rolfe, Iowa by modifying and adding in additional subsections:

51.06 ABATEMENT. If the person responsible for said vehicle fails to bring the vehicle into compliance with this section, the City may elect to: (a) abate such nuisance by causing the vehicle to be removed and impounded, and sold or disposed of as specified in the *Code of Iowa Sec. 321, 89.-90*, with costs thereof charged against the owner of the vehicle; or (b), pursue legal action against the responsible parties as a municipal infraction.

A municipal infraction is punishable by the following Civil Standard Penalties:

1. First Offense – not to exceed \$750.00
2. Each repeat Offense - not to exceed \$1,000.00

(Code of Iowa, Sec, 364.22[1])

Each day that a violation occurs or is permitted to exist, constitutes a repeat offense.

SECTION 11. SECTION MODIFIED. Section 51.07 Duty to Remove or Repair formerly 51.06 of the Code of Ordinances of the City of Rolfe, Iowa by modifying section:

51.07 DUTY TO REMOVE OR REPAIR. The person responsible for the presence of a nuisance, hobby or recreational vehicle or does not meet the exceptions in Section 51.04 shall, within 30 days after said notice is given, remove the vehicle, or repair the defects that cause said vehicle to be in violation of the provisions of this chapter, including licensing of the vehicle. Any person failing to comply with the provision shall be guilty of a municipal infraction.

SECTION 12. SECTION ADDED. 51.08 IMMINENT DANGER. Adding in Section 51.08 Imminent Danger to the Code of Ordinances of the City of Rolfe, Iowa by adding in new section and renumbering concurrent sections.

51.08 IMMINENT DANGER. If, in the opinion of the Code Enforcement Officer or other designated official, a condition exists which constitutes imminent danger to the public, immediate action may be taken to correct the condition, including entry upon premises, modification of any vehicle or machinery, immediate removal of the same, or any other steps necessary to alleviate the existing danger.

SECTION 13. SECTION MODIFIED. Section 51.09 Interference with Enforcement formerly Section 51.07 of the Code of Ordinances of the City of Rolfe, Iowa by modifying section.

51.09 INTERFERENCE WITH ENFORCEMENT. Any person who interferes in any way with the enforcement of the provisions of this chapter shall be guilty of a simple misdemeanor. A simple misdemeanor is punishable by a fine of at least sixty-five (\$65.00) dollars but not to exceed six hundred twenty-five (\$625.00) dollars. The court may order imprisonment not to exceed thirty (30) days in lieu of a fine, or in addition to a fine.

(Code of Iowa, Sec, 903.1 [a])

SECTION 14. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 15. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 16. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Motion to approve the first reading made by Dan Allen seconded by Lana Pratt .

Ayes: Dan Allen, Lana Pratt, Al Minkler & Connie Dewey

Nays:

Absent: Rob Jackson

Motion: Passed

Motion to waive the second and third reading made by Connie Dewey seconded by Dan Allen to wave second and third reading:

Ayes: Dan Allen, Lana Pratt, Connie Dewey & Al Minkler

Nays:

Absent: Rob Jackson

Motion: Passed

Passed and approved this 10th day of May, 2022.
Mayor Pentico declared Ordinance # 236 duly adopted.

Jim Pentico, Mayor

ATTEST:

Angela Montag, City Clerk