

CITY OF ROBERTS
ORDINANCE NO. 524-A

AN ORDINANCE REPEALING ORDINANCE 524 RELATING TO NUISANCES;
DEFINING TERMS; LIABILITY, ABATEMENT, COMPLIANCE, JURISDICTION,
PENALTIES AND PROVIDING EFFECTIVE DATE

WHEREAS, the City of Roberts, Idaho, the "City" herein, under and pursuant to the powers vested in it by Idaho Code, in order to promote the public health and welfare, deems it necessary to repeal City Ordinance 524; defines the procedure for handling complaints of excessive noise and prohibit nuisances within the City; and

WHEREAS, the exercise of all such powers vested in the City is appropriately exercised by the passage of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROBERTS, IDAHO:

Section 1. TITLE: This Ordinance shall be known as the CITY OF ROBERTS NUISANCE ORDINANCE.

Section 2. PURPOSE: This ordinance has been created for the purpose of regulating and controlling nuisances within the City of Roberts in a manner that will promote public health, safety and general welfare.

Section 3. NUISANCE - DEFINED: Anything which is injurious to the health or morals or is indecent or offensive to the sense or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property is a nuisance.

Section 4. NUISANCES - ENUMERATIONS OF: The following are specifically declared to be public nuisances:

1. Any automobile body which is not properly and currently licensed and which is not in operating condition or has not been used for a period of six (6) months or more, whether left on public or private property, which is offensive to the sight of the community or neighborhood.
2. Any salvage or auto wrecking yard which does not have a neat appearance and a solid fence, at least six feet high, around all the area containing salvage or auto wrecking items.

3. The depositing of any filth or any foul, offensive, unwholesome, nauseous, or injurious substances upon any public thoroughfare or other public place or upon any private property.
4. All cellars, vaults, drains, pools, cesspools, privies, sewers, pig pens, livestock feed lots, yards, grounds or premises which for any cause have become foul, nauseous or injurious to health or a menace to health, or which give forth odors which are offensive to adjacent residents.
5. The keeping of horses, mules, cattle, sheep, goats, pigs, fowl, or similar livestock within the City limits of the City of Roberts, Idaho.
6. Excessive noise: Without an Idaho Statute stating the maximum decibel standard to determine the otherwise subjective meaning of "excessive", the City of Roberts will rely on the judgment of the Sheriff Deputy taking the *formal complaint* from the citizen with a grievance. A formal complaint to the Sheriff Dept. is required before action can be taken. Noise resulting from the normal operation of authorized business activity, municipal or utility maintenance shall not be considered a nuisance.

Section 5. WHO IS LIABLE: Any person who creates or maintains any nuisance, or causes the same to exist, or to continue to exist, or any person who knowingly permits a nuisance to be created, maintained or to exist on premises owned by him or under his control, shall be liable.

Section 6. PROPERTY OWNER TO ABATE: It shall be the duty of the owner and/or tenant of any lot, building or premises whereon any nuisance exists or the lessee, manager or person in charge thereof to remove, abate or destroy the same without delay.

Section 7. PUBLIC WORKS DIRECTOR OR OTHER DULY AUTHORIZED REPRESENTATIVE OF THE CITY TO ABATE: Whenever any nuisance exists for the abatement, creation or removal of which no person can be found who is responsible therefore, it shall be the duty of the Public Works Director or other duly authorized representative of the City to remove, abate or destroy the same, or cause the same to be done.

Section 8. NOTICE: The Public Works Director, the City Clerk, or other duly authorized representatives shall notify in writing the owner of any such lot, place, or area within the City, or the agent of such owner, to abate the nuisance indicated in the notice; provided that such written notice shall be by certified mail, addressed to said owner, or agent of such owner, to abate the listed nuisance within ten (10) days after the date of such notice or in the event the same is returned to the City by the post office department as unable to make delivery thereof, the City is hereby authorized and empowered to abate the nuisance and remove it at the expense of the property owner.

Section 9. FAILURE OF OWNER TO COMPLY WITH NOTICE:

- A. Whenever the City has paid for the abatement of the nuisance or has used its own employees and equipment for the abatement of a nuisance as set forth in this ordinance, the actual costs thereof, plus interest at the rate set forth for lawful judgments, as set by the Secretary of the State, per annum, from the date of completion of the work, shall be charged to the owner of such property. The owner of the property shall be given thirty (30) days written notice to make such payment, and if not paid, such charges shall be a lien against such property in the same manner as mechanic's and material man's liens provided for by Idaho law.
- B. The Public Works Director shall, at his option, either (1) cause such lien to be recorded in the County Recorder's Office in the manner provided by law for mechanic's and material man's liens, or (2) certify such charges to the proper City officer for collection.

Section 10. JURISDICTION: The jurisdiction of this ordinance relating to public nuisance shall be upon all property inside of the incorporated limits of the City of Roberts, a municipal corporation, both public and private, within the county limits of the County of Jefferson.

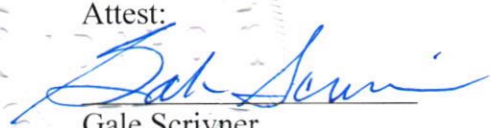
5-6-11: PENALTY: Failure to abate a nuisance listed in Section 2 within the City limits after reasonable notice to the landowner, tenant or person responsible for the nuisance shall be a misdemeanor and shall be subject to the penalties provided in Idaho Code Section 18-113, as amended.

Section 12. This ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the City Council and APPROVED by the mayor of the City of Roberts, Idaho, this 8 day of April, 2008.

Gary Mitchell, Mayor

Attest:



Gale Scrivner
City Clerk

Approved as to form:

City Attorney

