

Title 8
HEALTH AND SAFETY

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NUISANCES**

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Article I. General Provisions

8.10.010 Definitions.

As used in this chapter, the following terms mean:

- (1) Nuisance: That which annoys or gives trouble and vexation or that is offensive:
- (2) Person: A natural person, firm, partnership, association or corporation.
- (3) Person in charge of property: An agent, occupant, lessee, contract purchaser or other person having possession or control of property or supervision of a construction project.
- (4) Person responsible: The person responsible for abating a nuisance includes:

- (a) The owner;
- (b) The person in charge of property, as defined in this section;
- (c) The person who caused a nuisance, as defined in this chapter or another ordinance of the city, to come into or continue in existence.

(5) Public place: A building, way, place or accommodation, publicly or privately owned, open and available to the general public. [Ord. 08-794 § 2, 2008]

(6) Hazard: that which may cause an accident, risk, danger, or peril.

Article II. Nuisances Affecting Public Health

8.10.020 Nuisances affecting public health.

No person shall cause or permit a nuisance affecting public health on property owned or controlled by the person. The following are nuisances affecting public health and may be abated as provided in this chapter:

(1) Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with State Health Division regulations.

(2) Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the city.

(3) Stagnant water that affords a breeding place for mosquitoes and other insect pests.

(4) Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.

(5) Decayed or unwholesome food offered for human consumption.

(6) Premises that are in such a state or condition as to cause an offensive odor or that are in an unsanitary condition.

(7) Drainage of liquid wastes from private premises.

(8) Cesspools or septic tanks that are in an unsanitary condition or that cause an offensive odor.

(9) Mastics, oil, grease or petroleum products allowed to be introduced into the sewer system by a user connected to the sewer system. [Ord. 08-794 § 2, 2008]

Article III. Nuisances Affecting Public Safety

8.10.030 Creating a hazard.

No person shall create a hazard by:

(1) Maintaining or leaving, in a place accessible to children, a container with a compartment of more than one and one-half cubic feet capacity and a door or lid that locks or fastens automatically when closed and that cannot be easily opened from the inside. (ie) any appliances.

(2) Being the owner or otherwise having possession of property on which there is a well, cistern, cesspool, excavation, or other hole of a depth of four feet or more, and a top width of 12 inches or more and failing to cover or fence it with a suitable protective construction. [Ord. 637 § 10, 1988]

(3) Being the owner or otherwise having possession of a property or structure that is unoccupied or vacant, that is not secured or may be unlocked or made easily accessible to children or others.

8.10.040 Attractive nuisances.

(1) No owner or person in charge of property shall permit on the property:

(a) Unguarded machinery, equipment or other devices that are attractive, dangerous and accessible to children.

(b) Lumber, logs or pilings placed or stored in a manner so as to be attractive, dangerous

and accessible to children.

(2) This section does not apply to any property exceeding 2 acres that are in the commercial or industrial zone, or any authorized construction projects with reasonable safeguards to prevent injury or death to playing children. [Ord. 08-794 § 2, 2008]

8.10.050 Nuisance vegetation.

(1) No owner or person in charge of real property shall allow nuisance vegetation on the property.

(2) The owner or person in charge of real property shall abate nuisance vegetation from the property. If weeds, grass, brush or other forms of nuisance vegetation are allowed to exceed 10 inches in height after June 1st, the city may cut the vegetation or have it cut by a private contractor, if the owner or person in-charge of the property fails to do so. The owner and the person in charge shall be jointly and severally liable for the cost of abatement as provided in this chapter.

(3) If the owner or person in charge of the property fails to maintain the premises as required by this section and the city causes the vegetation on the property to be cut, there shall be filed with the city clerk an itemized copy of a statement to be sent to the offender based on charges specified in this section. The city clerk shall send a copy to the person by mail together with a notice that the statement is due and owing for the removal of weeds, grass, brush or other nuisance vegetation.

(4) The person shall pay the costs of removal within 30 days from the date of removal. If the payment is not made within 30 days from the date of the billing, the city shall collect a late penalty of 10% of balance, in addition to other charges.

(5) For purposes of this section, "nuisance vegetation" means:

(a) Any vegetation that is,

(i) A health hazard;

(ii) A fire hazard;

(iii) A traffic hazard, because it impairs the view of the public thoroughfare at intersections or otherwise makes use of the thoroughfare hazardous.

(6) No owner or person in charge of property shall allow nuisance vegetation to be on the property or in the right-of-way of a public thoroughfare abutting on the property. An owner or person in charge of property shall cut down or destroy nuisance vegetation as often as needed to prevent it from becoming a health or fire hazard, or, in the case of weeds or other nuisance vegetation, from maturing or going to seed.

(7) The city clerk may cause to be published, in a newspaper of general circulation in the city, a copy of subsections (4 & 5) of this section as a notice to all owners and persons in charge of property of the duty to keep their property free from nuisance vegetation.

(8) The notice provided for in subsection (7) of this section may be used in lieu of the notice required by BMC 8.10.170. [Ord. 08-794 § 2, 2008]

(9) Violation of this section is a Class D Violation for a first (1) offense, and will be upgraded one level for every offense thereafter within the same calendar year.

8.10.060 Disposal of refuse and garbage.

(1) No person shall deposit or collect for longer than 14 days on public or private property rubbish, trash, debris, refuse or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property, or would be likely to injure a person, animal or vehicle traveling on a public way. [Ord. 08-794 § 2, 2008]

8.10.070 Trees.

(1) No owner or person in charge of property that abuts on a street or public sidewalk shall permit trees or bushes on the property to interfere with street or sidewalk traffic. An owner or

person in charge of property that abuts on a street or public sidewalk shall keep all trees and vegetation on the premises, including the adjoining parking strip, trimmed so that any overhanging portions are at least eight feet above the sidewalk and at least 14 feet above the roadway.

(2) No owner or person in charge of property shall allow dead or decaying trees or any part thereof to stand if it is a hazard to the public or to persons or property on or near the property. [Ord. 08-794 § 2, 2008]

8.10.080 Fences.

(1) No owner or person in charge of property less than two (2) acres in size shall construct or maintain a barbed wire fence, or permit barbed wire to remain as part of a fence, along a sidewalk or public way; except such wire may be placed above the top of other fencing not less than six feet, six inches high.

(2) No owner or person in charge of property shall construct, maintain or operate an electric fence along a sidewalk or public way, or along the adjoining property line of another person without written permission of the other property owner. [Ord. 08-794 § 2, 2008]

8.10.090 Deposit of fuel waste.

No person shall place or deposit any deleterious substance, including but not limited to oil, grease, gasoline, kerosene or diesel fuel, upon any street, public parking or other public way, which mars the appearance or detracts from the cleanliness or safety of the street or public property. [Ord. 08-794 § 2, 2008]

8.10.100 Surface waters – Drainage.

(1) No owner or person in charge of a building or structure shall permit water, ice or snow to fall upon or run from the building or structure onto a public sidewalk.

(2) The owner or person in charge of property shall install and maintain in a proper state of repair an adequate drainpipe or a drainage system, so that overflow water accumulating on the roof or about the building does not fall or run across the sidewalk. [Ord. 08-794 § 2, 2008]

8.10.110 Defective sidewalks – Snow and ice.

(1) No owner or person in charge of property abutting on a public sidewalk, shall permit:

(a) Snow to remain upon a sidewalk during daylight hours after the snow has fallen.

(b) Ice to remain on the sidewalk for more than twelve hours unless the ice is covered with sand, ashes or other suitable material to assure safe travel.

(2) No owner of improved property, or unimproved abutting on a public sidewalk shall permit the sidewalk to deteriorate to such a condition that, because of cracks, chipping, weeds, settling, covering by dirt, or other similar circumstances, the sidewalk becomes a hazard to persons using it.

(3) The city shall have no liability to any person for loss or injury to a person or property suffered or sustained by reason of any condition or occurrence on sidewalks whether caused by ice, snow, encumbrances, obstructions, cracks, chipping, weeds, settling, holes, coverings by dirt or other similar conditions. Abutting property owners shall maintain sidewalks free from all above-mentioned conditions. [Ord. 08-794 § 2, 2008]

Article IV. Nuisances Affecting Public Peace

8.10.120 Radio and television interference.

(1) No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.

(2) This section does not apply to devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission. [Ord. 08-794 § 2, 2008]

8.10.130 Junk.

(1) No person shall keep junk outdoors on public or private property that is not wholly or entirely enclosed by a solid fence.

(2) The term "junk," as used in this section, includes but is not limited to unused or scrap motor vehicles, old motor vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances or appliance parts, old iron or other metal, glass, paper, scrap wood or other waste or discarded material.

(3) This section does not apply to junk or other such material kept in a licensed junkyard or automobile wrecking house. [Ord. 08-794 § 2, 2008]

8.10.140 Notices and advertisements.

(1) No person shall affix or cause to be distributed any placard, bill, advertisement or poster upon any real or personal property, without first securing permission from the owner or person in charge of the property. This section shall not be construed as an amendment to or a repeal of any regulation now or hereafter adopted by the city regulating the use and location of commercial signs and advertising.

(2) This section shall not be construed to prohibit the distribution of material during any parade or public gathering. [Ord. 08-794 § 2, 2008]

Article V. Unenumerated Nuisances

8.10.150 Unenumerated nuisances.

(1) The acts, conditions or objects specifically enumerated and defined in BMC 8.10.020 to 8.10.140 are declared public nuisances and may be abated by the procedures set forth in BMC 8.10.160 to 8.10.220.

(2) In addition to the nuisances specifically enumerated in this chapter, every other thing, substance or act that is determined by the court or council to be injurious or detrimental to the public health, safety or welfare of the city is declared a nuisance and may be abated as provided in this chapter. [Ord. 08-794 § 2, 2008]

8.10.160 Notice of nuisance determination.

At least ten days prior to the meeting at which the nuisance determination described in BMC 8.10.170(1) is made, the clerk shall notify the owner or person in charge of the property involved of the time and place of the meeting. For the purposes of this section, notice is sufficient if it is:

(1) Mailed to the last known address of the owner or person in charge; or

(2) Posted at the site of the property involved. [Ord. 08-794 § 2, 2008]

Article VI. Abatement Procedure

8.10.170 Notice to abate.

(1) On determination by the council that a nuisance exists, a notice shall be posted on the premises or at the site of the nuisance directing the person responsible to abate the nuisance.

(2) At the time of posting, the city manager shall cause a copy of the notice to be forwarded by certified mail to the person responsible at the person's last known address.

(3) The notice to abate shall contain:

(a) A description of the real property, by street address or otherwise, on which the nuisance exists.

(b) A direction to abate the nuisance within 10 days from the date of the notice.

(c) A description of the nuisance.

(d) A statement that, unless the nuisance is eliminated, the city may abate the nuisance

and the cost of abatement charged to the person responsible.

(e) A statement that failure to abate a nuisance may warrant imposition of a fine.

(f) A statement that the person responsible may protest the order to abate by giving notice to the city manager within 10 days from the date of the notice.

(4) If the person responsible is not the owner, an additional notice shall be sent to the owner, stating that the cost of abatement not paid by the person responsible may be assessed to and become a lien on the property.

(5) Upon completion of the posting and mailing, the persons posting and mailing shall execute and file certificates stating the date and place of the mailing and posting.

(6) An error in the name or address of the person responsible shall not make the notice void, and in such case the posted notice shall be sufficient. [Ord. 08-794 § 2, 2008]

8.10.180 Abatement by the person responsible.

(1) Within 10 days after the posting and mailing of notice as provided in BMC 8.10.170, the person responsible shall remove the nuisance or file a protest, as described in subsection (2) of this section.

(2) A person protesting that no nuisance exists shall file a written statement that specifies the basis for the protest with the city manager. [Ord. 08-794 § 2, 2008]

8.10.190 Joint responsibility.

If more than one person is a person responsible, all such persons shall be jointly and severally liable for abating the nuisance or for the costs incurred by the city in abating the nuisance. [Ord. 08-794 § 2, 2008]

8.10.200 Abatement by the city.

(1) If the person responsible does not remove the nuisance within the time allowed, the city may cause the nuisance to be abated.

(2) The officer charged with abatement of the nuisance shall have the right to enter into or upon property at reasonable times to investigate or cause the removal of a nuisance.

(3) The city clerk shall keep an accurate record of the expense incurred by the city in abating the nuisance and shall include a charge of not less than five percent of those expenses for administrative costs. [Ord. 08-794 § 2, 2008]

8.10.210 Assessment of costs.

(1) The city clerk shall forward to the owner and the person responsible, by certified mail, a notice stating:

(a) The total cost of abatement, including the administrative costs.

(b) That the costs as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice.

(c) That if the owner or the person responsible objects to the cost of the abatement as indicated, a notice of objection may be filed with the city manager not more than 10 days from the date of the notice. Any objector shall be notified of any hearing on the matter and may be heard personally by the counsel

(2) No sooner than 30 days after the date of the notice, the council, in the regular course of business, shall hear and make a decision on the objections to the costs assessed.

(3) The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the current statutory interest rate. The interest shall begin to run from the date of entry of the lien in the lien docket.

(4) An error in the name of the owner or the person responsible or a failure to receive the notice of the proposed assessment will not void the assessment, and it shall remain a valid lien against the property. [Ord. 08-794 § 2, 2008]

Article VII. General – Violation, Penalty

8.10.220 Summary abatement.

The procedure provided by this chapter is not exclusive, but is in addition to procedures provided by other ordinances. The chief of the fire department, a law enforcement officer, or any other city official may proceed summarily to abate a health or other nuisance which unmistakably exists and which presents an imminent danger to human life or property. [Ord. 08-794 § 2, 2008]

8.10.230 Penalties.

A violation of a provision of this chapter is punishable by a fine not to exceed \$721.00 per day. [Ord. 08-794 § 2, 2008]

- (1) A violation of sections 8.05, 8.10.090, or 8.10.150 is a Class A violation. ORS 153.018
- (2) A violation of sections 8.10.020, 8.10.030, 8.10.100, 8.10.110 (1), 8.10.130, is a Class B violation. ORS 153.018
- (3) A violation of sections 8.10.040, 8.10.060, 8.10.110 (2), is a Class C violation. ORS 153.018
- (4) A violation of sections 8.10.050, 8.10.070, 8.10.080, 8.10.120, 8.10.140, is a Class D violation. ORS 153.018

8.10.240 Separate violations.

- (1) Each day's violation of a provision of this chapter constitutes a separate offense.
- (2) The abatement of a nuisance is not a penalty for violation of this chapter, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance. However, abatement of a nuisance within 10 days of council determination that a nuisance exists will relieve the person responsible from the imposition of a penalty under BMC 8.10.230. [Ord. 08-794 § 2, 2008]