

CHAPTER 1.16: CODE COMPLIANCE

1.16.010 Purpose

The purpose of this chapter is to assist the citizens of the community to comply with the provisions of the Boardman Municipal Code (BMC) and the Boardman Development Code (BDC). Further, this chapter is intended to protect the citizens from unhealthy or dangerous conditions; to protect the property values of the homes and businesses within the community; to carry out the policies of the city as they are embodied elsewhere in this code; to provide a fast, fair, and impartial adjudication of alleged city code violations; and to provide persons adversely impacted by administrative determinations and decisions with an effective and impartial appeal and review of the legality and appropriateness of the determination.

1.16.020 Code Provisions Enforceable Under this Chapter; Division Staffing.

- A. The following code provisions shall be enforced under the provisions of this chapter:
 - 1. Transient Merchants under Section 5.04 of the BMC;
 - 2. Animal Control under Section 6.04 of the BMC;
 - 3. Public Nuisances under Section 8.04 of the BMC;
 - 4. Water Service System under Section 13.04 of the BMC;
 - 5. Sewer Service System under Section 13.08 of the BMC;
 - 6. Underground Wiring Control District under Section 13.12 of the BMC;
 - 7. Solid Waste under Section 13.20 of the BMC; and
 - 8. Building Code under Section 15.04 of the BMC.
- B. Division Staffing.
 - 1. Staff for the code compliance program will be assigned by the city manager. The lead role in administration and oversight of the code compliance program shall be vested in the city manager who may assign the lead role to a city department head.
 - 2. Police department officers will also enforce certain areas of the Boardman Municipal Code under the oversight of the police chief of the Boardman Police Department. Police officers shall report to their designated supervisors within the police department.

1.16.030 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates otherwise:

“City” means the City of Boardman.

“Code violation” means commission of an act or omission to act that constitutes a violation of a provision of the code and which is required to be enforced in accordance with the procedures established under this chapter.

“Code” means the Boardman Municipal Code (BMC) and Boardman Development Code (BDC), including as amended.

“Code compliance officer” means a designated employee or contractor of the city who works to ensure code compliance and otherwise enforce against code violations under this chapter.

“Person” means any natural person or persons, firm, partnership, association or corporation.

“Responsible party” means the person(s) responsible for curing or remedying a code violation and may include:

- A. The owner(s) of the property or the owner's manager or agent or other person in control of the property on behalf of the owner;
- B. The person(s) occupying the property including bailee, lessee, tenant or other person having possession; and/or
- C. The person(s) alleged to have committed or authorized the commission of the code violation

1.16.040 Complaint of Code Violations.

Whenever a violation of the code occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the code compliance officer. The code compliance officer shall record properly such complaint, immediately investigate, and take action thereon as provided in this chapter.

1.16.050 Investigation; Notice.

Inspections. The code compliance officer shall have authority to inspect and investigate potential code violations. The provisions of this chapter shall not be deemed to restrict the right of the city to inspect any property pursuant to any applicable federal, state, or local laws or regulations.

Entering Private Property; Administrative Warrants. The code compliance officer may enter any property or building at any reasonable time for the purpose of inspection of an alleged code violation. The code compliance officer must obtain the consent of the legal occupant of the property before entering private property or a private building. If the code compliance officer cannot obtain consent, the code compliance officer shall seek an administrative warrant from the Morrow County Justice Court, or other court of competent jurisdiction, to inspect the property based upon cause, supported by an affidavit and motion describing with particularity:

- A. The position and authority of the person applying for the administrative inspection warrant;
- B. The code or other legal authority requiring or authorizing the inspection or investigation;
- C. The place, building or property to be inspected or investigated; and
- D. The purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect or investigate.
 - 1. Cause shall be deemed to exist when there is probable cause to believe that a code violation exists.
 - 2. Prior to seeking an administrative inspection warrant, the code enforcement official shall consult with the city attorney and obtain approval and assistance in preparing the affidavit and warrant documents.

Notice of Violation. Upon becoming aware of a code violation, the code compliance officer shall serve notice of such violation on the responsible party via first class and classified mail. If the responsible party is not the property owner, a copy of the notice shall also be sent to the owner. Such notice shall, at minimum, contain the following:

- A. A description of the real property, by street address or otherwise, on which the violation is occurring;
- B. A description of the alleged violation and the relevant code provisions;
- C. A description of the corrective action required;
- D. A deadline to complete the corrective actions;
- E. A statement that, unless the violation has been corrected by the stated deadline, the city may initiate a formal complaint as provided in Section 1.20; and
- F. Contact information for the code compliance officer.

1.16.060 Voluntary Compliance.

A. The city promotes voluntary compliance and prompt correction of violations in a consistent and fair practice. The code compliance officer may enter into a written agreement with the responsible party to resolve the problems which gave rise to the reported code violation. The agreement shall be known as a voluntary compliance agreement. A voluntary compliance agreement shall be binding on the responsible party.

B. If the responsible party enters into a voluntary compliance agreement, the responsible party's signing of such agreement shall not be considered an admission of having committed an infraction for any purpose.

C. The city shall hold further processing of the alleged code violation in abeyance for the responsible party to complete the necessary correction action during the time specified in the voluntary compliance agreement. If all terms of the voluntary compliance agreement are satisfied during the time specified, the city shall take no further action concerning the alleged code violation other than the steps necessary to terminate the case.

D. All voluntary compliance agreements shall be reviewed by the city manager prior to execution.

E. The failure to comply with any term of the voluntary compliance agreement constitutes a code violation and shall be handled in accordance with the procedures established in this chapter.

1.16.070 Failure to Correct.

Hearings Officer Complaint. If a responsible party fails to correct a code violation as required or otherwise fails to comply with the provisions of a voluntary compliance agreement authorized hereunder, the code compliance officer may initiate a formal complaint against the responsible party as provided in Section 1.20 Code Hearings Officer or initiate abatement as outlined below at 1.16.080.

Citation under ORS 153. In lieu of a Hearings Officer Complaint as provided in Section 1.20, the city may cite into a court of competent jurisdiction any responsible party that fails to correct a code violation hereunder pursuant to the provisions of ORS 153.

1.16.080 Abatement Procedure

A. Notice

1. Upon determination by the city manager or designee 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, a copy of the notice shall be forwarded by registered or certified mail, postage prepaid, to the person responsible at his or her 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 ten (10) days from the date of the notice;
 - c. A description of the nuisance;
 - d. A statement that, unless the nuisance is removed, the city may abate the nuisance, and the cost of abatement will be charged to the person responsible;
 - e. A statement that the person responsible may protest the order to abate by giving notice to the city clerk within ten (10) days from the date of the notice;
 - f. A statement that failure to abate a nuisance will warrant issuance of a citation to appear in court.
4. If the person responsible is not the owner, 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, respectively.
6. An error in the name or address of the person responsible, or a claim that mailed notice to abate was not received, shall not make the notice void, and in such case the posted notice shall be sufficient.

B. Abatement by the person responsible

1. Abatement Procedure.

- a. Within ten (10) days after the posting and mailing of such notice, as provided in Boardman Municipal Code Section 1.16.080(A) Notice, the person responsible shall remove the nuisance or show that no nuisance exists.
- b. To protest that no nuisance exists, a person responsible must file with the city clerk a written statement that specifies the basis for protesting. The written protest statement must be filed within ten (10) days from the date of the notice to abate.
- c. Any written protest statement properly filed in response to a notice to abate shall be referred to the Code Hearings Officer. At the time set for consideration of the abatement, the person protesting may appear and be heard by the Code Hearings Officer. The Code Hearings Officer shall determine whether a nuisance, in fact, exists and the determination shall be entered in the official minutes of the Code Hearings Officer. Determination shall be required only in those cases where a written statement has been filed as provided, within ten (10) days from the date of the notice to abate.
- d. If the Code Hearings Officer determines that a nuisance does, in fact, exist, the person responsible shall, within ten (10) days after the determination, abate the nuisance.

2. Joint Responsibility. If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the city in abating the nuisance.

C. Abatement by the city.

1. If within the time allowed, the nuisance has not been abated by the owner or person in charge of the property, the Code Hearings Officer may cause the nuisance to be abated.
2. The city official(s) charged with abatement of such nuisance shall have the right at reasonable times to enter into or upon property in accordance with all laws, including search and seizure laws, to investigate or cause the removal of a nuisance.
3. The city clerk shall keep an accurate record of the expenses incurred by the city in abating the nuisance and shall include therein a charge of twenty (20) percent of the expenses for administrative overhead.
4. The city shall have the authority to dispose of all seized property in any lawful manner and shall, if practical, attempt to obtain salvage value for material that has a fair market value of more than \$100 per item.

D. Assessment of costs.

1. The city clerk, by registered or certified mail, postage prepaid, shall forward to the owner and person in charge of the property a notice stating:

- a. The total cost of abatement, including the administrative overhead;
 - b. That the cost as indicated will be assessed to and become a lien against the property unless paid within thirty (30) days from the date of the notice;
 - c. That if the owner or person in charge of the property objects to the cost of the abatement as indicated, he or she may file a notice of objection with the city clerk not more than ten (10) days from the date of the notice.
2. Upon the expiration of ten (10) days after the date of the notice, the Code Hearings Officer in the regular course of business shall hear and determine the objections to the costs to be assessed.
 3. If the costs of the abatement are not paid within thirty (30) days from the date of the notice, an assessment of the costs as stated or as determined by the Code Hearings Officer shall be forwarded to the City Council for action by resolution and shall thereupon be entered in the docket of city liens, and, upon such entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated.
 4. The lien shall be enforced in the same manner as liens for street improvements are enforced, and shall bear interest at the rate of ten (10) percent per annum. Such interest shall commence to run from date of the entry of the lien in the lien docket.
 5. An error in the name of the owner or person in charge of the property shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

E. Other methods of collecting abatement costs.

The costs assessed for abatement of a violation may be collected pursuant to ORS [30.310](#) or [30.315](#).

F. Summary abatement.

1. The city may summarily abate any violation or nuisance on any property or premises which a city manager or designee, in the exercise of reasonable discretion, determines poses an imminent danger or threat to the public's health, safety or welfare. In the event a city manager or designee makes such a determination, it shall be set out in writing and at a minimum include information on the following:
 - a. The location of the property where the violation constituting the imminent threat or danger is located;
 - b. The nature of said violation or condition; and
 - c. The attempts, if any, to contact the owner of the property and the reason(s) why said owner or responsible person did not abate the violation.

2. In the event the city manager or designee makes the above written determination, the city need not provide pre-abatement notice; however, the city shall provide notice to the owner of the property within 10 days after the city's abatement of the violation. Said notice shall include the following:
 - a. A copy of the written determination;
 - b. A brief description of the action(s) the city took to abate the violation; and
 - c. The costs, if known, incurred by the city to abate the violation.
3. The city manager or designee shall have the right at reasonable times to enter into or upon property in accordance with all laws, including search and seizure laws, to investigate or cause the removal of a violation. The city shall have the authority to dispose of all seized property in any lawful manner and shall, if practical, attempt to obtain salvage value for material that has a fair market value of more than \$100.00 per item.