

Chapter 8.06 VEGETATION MANAGEMENT

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8.06.010 Purpose.

The purpose of this chapter is to reduce the risk of damage to property and persons by fire and to reduce hazards to public health, agriculture, recreation, and wildlife by controlling the growth of noxious vegetation. The city intends to prioritize enforcement and abatement under this chapter based upon the degree of fire risk or other hazard caused by the violation and the availability of resources.

Permitting such noxious vegetation is unreasonable in an urban area and constitutes a public nuisance. Any person who owns or has the right to control real property assumes an obligation to the rest of the community and is therefore chargeable with knowledge of the growth of noxious vegetation on that property and has a duty to remove any nuisance which reasonable inspection would reveal.

8.06.020 Definitions.

For purposes of this chapter, the following definitions shall apply:

“20-Foot fire break” is a strip of untilled bare land, green belt of vegetation not to exceed six inches, or gravel that slows down fire. Firebreaks help protect soil, water, air, plant, animal, and human resources by preventing the spread of wildfire or controlling prescribed fires.

“100-foot fire break” is a strip of land that has been mowed to control vegetation to a height of 6 inches during the summer season and 10 inches during the non-summer season.

“Fire hazard” is determined by the city manager, in consultation with the Fire Chief, when the quality, condition, and/or location of vegetation creates a risk of fire.

“Noxious vegetation” includes, at any time:

1. Weeds or grass more than six inches high in the summer season as defined in this section;
2. Weeds or grass more than 10 inches high in the nonsummer season;

3. Puncture vine;
4. Poison oak, poison ivy, or other poisonous or dangerous vegetation;
5. Blackberry bushes, bamboo, cacti, Russian olive, or similar invasive vegetation that extend into a public right-of-way, crosses a property line, obstructs travel, or creates concealment conducive to unlawful occupancy;
6. All other vegetation listed on the Morrow County Weed List;
7. Vegetation that is: (a) a health hazard; (b) a fire hazard, as determined in the definition of "fire hazard" in this section; (c) a traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous.

"Occupant" means any person in lawful possession, or with a lawful right to store or keep personal property on any real property; or, in case of corporate ownership, that officer, employee or agent of a corporate owner having the authority or duty to control or operate the property on behalf of the corporation.

"Owner" shall mean and include any person with an ownership interest or with any leasehold or other possessory interest, of record or otherwise, which gives them, either alone or jointly with others, a right to occupy, possess or control real property. Any person who appears as owner on the records of the county assessor shall be presumed to be one of the owners of the property; but such presumption may be rebutted.

"Person" means any natural person, partnership or corporation.

"Summer season" is between April 1st and October 31st of any year.

8.06.030 Weeds and noxious vegetation declared nuisance.

A. During the summer season for developed lots or vacant lots under 1 acre, it shall be unlawful and a public nuisance for any owner(s) or occupant(s) of real property in Boardman to allow noxious vegetation over the height of six inches to remain upon such real property, or within the right-of-way or a public thoroughfare abutting the property.

During the summer season for vacant lots or tracts over one acre, it shall be a requirement for any owner(s) or occupant(s) of real property in Boardman to establish and maintain a 20-foot fire break along property boundaries, fences, and structures. Additionally, a further area of 100-foot needs to be maintained at a height of 6 inches.

B. During the nonsummer season, it shall be unlawful and a public nuisance for any owner(s) or occupant(s) of real property in Boardman to allow noxious vegetation over the height of 10 inches to remain upon such real property, or within the right-of-way or a public thoroughfare abutting the property.

For vacant lots or tracts over one acre, both the 20-foot fire break and the additional 100-foot corridor shall be maintained.

8.06.040 Exemptions to nuisance.

A. The term “noxious vegetation” does not include vegetation that constitutes an agricultural crop or decorative residential landscaping, unless that vegetation is a fire, health, or traffic hazard.

B. It shall not be a violation of this chapter for property owners to maintain wetland or upland native vegetation in its natural state either on their property or in common areas when required to do so pursuant to the requirements of state law, city ordinance or land use approval. Nothing herein prohibits a property owner from preserving native vegetation in its natural state in excess of the requirements of state law or city ordinance, provided the owner prepares and implements a management plan for maintenance of the natural area and said plan is approved and on file with the planning department.

8.06.050 Responsibility of owner(s) and/or occupant(s).

The owner(s) and/or occupant(s) of any lot or parcel of land within the limits of the city of Boardman shall cut and/or remove noxious vegetation growing thereon, and on adjacent and abutting rights-of-way throughout the year in accordance with BMC [8.06.030](#).

8.06.060 Notice of violation.

A. *Notices During Summer Season.* Prior to the start of the summer season, the city shall cause to be published in a newspaper of general circulation and in the city printed utility bill a public notice that the conditions prescribed in BMC [8.06.030](#) constitute a public health and safety hazard, and directing that all growth which constitutes such a nuisance be cut or removed prior to the start of the summer season as defined in BMC [8.06.020](#). This notice shall serve as the first notice of record.

Property owners and/or occupants in charge of property that is out of compliance with this chapter during the summer season shall be given a second and final notice of violation by door hanger or other posted notice on developed property and by certified mail to property owners of vacant property. Subsequent violations on the same property shall be treated as a continuation of the initial violation and shall receive no additional warning. The second and final notice shall state that it is unlawful and a public nuisance for any owner or occupant of real property in the city of Boardman to allow noxious vegetation over the height of six inches to remain upon such real property, or within the improved right-of-way or a public thoroughfare abutting the property. The notice shall include the following:

1. *Occupied Properties.* Conditions shall be corrected within 48 hours from the date of the notice, or the owner(s) and/or occupant(s) may be cited for violation in accordance with BMC [8.06.070](#). If the occupant(s) are not the owner, the owner shall be notified via certified mail of the citation issued to the occupant(s).

2. *Vacant Properties.* Conditions shall be corrected within 14 days from the service thereof, or the owner(s) may be cited for violation in accordance with BMC [8.06.070](#).

B. *Nonsummer Season.* During the nonsummer season, noxious vegetation violations are handled on a complaint basis. Once an official written complaint has been received, the city manager or designee shall send notice to the owner(s) and/or occupant(s) of the violating

property by first class mail, at the address identified in records of the county assessor of Morrow County, Oregon, or those of the city of Boardman's utility billing system. The notice:

1. Shall be directed to the owner(s) and/or occupant(s);
2. Shall refer to the premises involved with convenient certainty, the street address(es), if any, and the map and tax lot number;
3. Shall notify the owner(s) and/or occupant(s) of the violation of this chapter; and
4. Shall inform the owner(s) and/or occupant(s) that, if the condition is not corrected within 14 days from the service thereof, the owner(s) and/or occupant(s) may be prosecuted for violation in accordance with BMC [8.06.090](#); and that the city may, at its discretion, in lieu thereof or in addition thereto, proceed to remove the unlawful condition and thereafter charge the owner with the reasonable cost of such removal in accordance with the city's abatement procedures.

8.06.070 Issuance of citation and abatement.

If the condition is not corrected, the city manager or designee may proceed as follows:

- A. Direct the chief of police to issue a citation to occupant(s) in accordance with the city's general penalties ordinance. If the occupant(s) are not the owner, the owner shall be notified via certified mail of the citation issued to the occupant(s).
- B. Determine it to be necessary to abate the nuisance by removing the noxious vegetation from the property in accordance with the city's abatement procedures.

8.06.080 Search and inspection.

If it is necessary to go upon property for inspection thereof, hereunder, and if access is specifically denied by the owner(s) or occupant(s) in lawful control of the property, application shall be made by the Boardman chief of police for a search warrant.

8.06.090 Penalty.

A person violating a provision of this chapter shall, upon conviction thereof, be assessed a fine in accordance with the city's general penalties ordinance.

8.06.100 Separate violations.

- A. Each day's violation of a provision of this chapter constitutes a separate offense.
- B. The abatement of a nuisance is not a penalty for violating 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 14 days of the date of the notice to abate, or if a written protest has been filed, then abatement within 14 days of council determination that a nuisance exists, will relieve the person responsible from the imposition of any fine.