

## Title 8 HEALTH AND SAFETY

### Chapter 8.04 NUISANCES

#### 8.04.010 Definitions.

For purposes of this chapter:

"Owner" includes 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 a natural person, firm, partnership, association or corporation, whether he is acting for himself or as the clerk, servant, employee or agent of another.

"Person in charge of property" means an agent, occupant, lessee, contract purchaser or other person having possession or control of property or the supervision of any construction project.

Person responsible. The person responsible for abating a nuisance shall include:

- A. The owner;
- B. The person in charge of property, as defined in this section;
- C. The person who caused to come into or continue in existence a nuisance as defined in this chapter or another ordinance of this city.

"Private place" means any place other than a public place as defined in this section.

"Public place" means a building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.

(Prior code § 4-1.1)

#### 8.04.020 Nuisances affecting ~~the public~~ public health.

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

- A. Privies. An open vault or privy constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the ~~Oregon State Board of Health~~ State Health Division regulations.
- B. Debris or Private Property. Accumulations of debris, rubbish, manure, and other refuse located on private property that are not removed within a reasonable time and that affect the health, safety, or welfare of the city.
- C. Stagnant Water. Stagnant water which affords a breeding place for mosquitoes and other insect pests as determined by the North Morrow Vector Control.

**Commented [CM1]:** Consider adding clarity - Public Health, Public Safety, and Public Peace.

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- D. Water Pollution. Pollution of a body of water, well, spring, stream, or drainage ditch by sewage, industrial wastes, or other substances placed in or near such water in a manner that will cause harmful material to pollute the water.
  - E. Food. Decayed or unwholesome food which is offered for human consumption.
  - F. Odor. Premises which are in such a state or condition as to cause an offensive odor or which are in an unsanitary condition.
  - G. Surface Drainage. Drainage of liquid wastes from private premises.

H. Cesspools or septic tanks that are in an unsanitary condition or that cause an offensive odor.

I. Mastics, oil, grease or petroleum products to be introduced into the sewer system by a user connected to the sewer system.

(Prior code § 4-1.2)

#### **8.04.030 Abandoned iceboxes.**

No person may leave in a place accessible to children an abandoned, unattended or discarded icebox, refrigerator, or similar container which has an airtight door with a lock, snap lock, or other mechanism which may not be released for opening from the inside, without first removing such lock or door from such icebox, refrigerator, or similar container.

(Prior code § 4-1.3)

#### **8.04.040 Attractive nuisances.**

- A. No owner or person in charge of property may permit:
  - 1. Unguarded machinery, equipment, or other devices on such property which are attractive, dangerous, and accessible to children;
  - 2. Lumber, logs, or piling placed or stored on such property in a manner so as to be attractive, dangerous, and accessible to children;
  - 3. An open pit, quarry, cistern, or other excavation without erecting adequate safeguards or barrier to prevent such places from being used by children.
- B. This section shall not apply to authorized construction projects, if during the course of construction reasonable safeguards are maintained to prevent injury or death to playing children.

(Prior code § 4-1.4)

#### **8.04.050 Snow and ice removal.**

No owner or person in charge of property, improved or unimproved, abutting on a public sidewalk may permit:

- A. Snow to remain on the sidewalk for a period longer than the first two hours of daylight after the snow has fallen.
- B. Ice to cover or remain on a sidewalk after the first two hours of daylight after the ice has formed.

Such person shall remove ice accumulating on the sidewalk or cover the ice with sand, ashes, or other suitable material to assure safe travel.

(Prior code § 4-1.5)

#### **8.04.060 Illegal residential occupancy.**

No owner, or person in charge of property, shall allow an illegal residential occupancy, consisting of occupancy of tents, campers, motor homes, recreational vehicles, or other structures or spaces not intended for permanent residential use or occupancy of spaces constructed or converted with permit. Illegal residential occupancy shall be abated or the structure brought into compliance with the provisions of the city's development code.

(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016)

Editor's note(s)—Ord. No. 2-2016, §§ 2, 3(Exh. A), adopted Sept. 6, 2016, added a new § 8.04.060 as set out herein and renumbered former §§ 8.04.060—8.04.220 as §§ 8.04.070—8.04.230. The historical notes of said sections have been preserved for reference purposes.

#### **~~8.04.070 Weeds and noxious growth.~~**

~~No owner or person in charge of property may permit weeds or other noxious vegetation to grow upon his or her property. It is the duty of an owner or person in charge of property to cut down or to destroy weeds or other noxious vegetation as often as needed in order to prevent the weeds or noxious vegetation from becoming unsightly, from becoming a fire hazard, from maturing, or from going to seed.~~

~~(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Prior code § 4-1.6)~~

Note(s)—See note at § 8.04.060.

#### **~~8.04.071 Large lot vegetative growth creating fire hazards.~~**

~~Owners of large parcels (two acres or greater) or owners of vacant parcels as part of many lots where vegetative growth presents a structural (fences, buildings, etc.), fire hazard exposure, as determined by the city manager, after consultation with the fire chief, shall mow a twenty-foot firebreak to reduce this structural fire hazard.~~

~~(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Ord. No. 4-2013, § 3(Exh. A), 6-18-2013)~~

Note(s)—See note at § 8.04.060.

#### **8.04.080 Scattering rubbish.**

No person may throw, dump, or deposit upon public or private property an injurious or offensive substance of any kind of rubbish, trash, debris, refuse, or any substance that would mar the appearance, create a stench, detract from the cleanliness or safety of such property, or would be likely to injure an animal, vehicle, or person traveling upon a public way.

(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Prior code § 4-1.7)

Note(s)—See note at § 8.04.060.

**Commented [CM2]:** Previously updated and moved to the new Vegetative Management Chapter 8.06.

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#### 8.04.090 Trees.

- A. No owner or person in charge of property that abuts upon any street or sidewalk may permit trees or bushes on his or her property to interfere with street or sidewalk traffic. It is the duty of an owner or person in charge of property that abuts upon a street or sidewalk to keep all trees and bushes on his or her premises and on the adjoining parking strip trimmed to a height of not less than eight feet above the sidewalks and not less than ten (10) feet above the streets.
- B. No owner or person in charge of property may allow to stand any dead or decaying tree that is a hazard to the public or to person or property on or near the property.

(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Prior code § 4-1.8)

Note(s)—See note at § 8.04.060.

#### ~~8.04.100 Fences.~~

- ~~A. No person may construct or maintain a barbed-wire fence or allow barbed-wire to remain as a part of a fence along a sidewalk or public way, unless such wire is placed not less than six inches above the top of a board or picket fence which is not less than six feet high.~~
- ~~B. No person may install, maintain, or operate an electric fence along a street or sidewalk, or along the adjoining property line of another person.~~

~~(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Prior code § 4-1.9)~~

~~Note(s)—See note at § 8.04.060.~~

**Commented [CM3]:** To be relocated to a new Title 14  
Fences and Signs.

#### 8.04.110 Surface waters, drainage.

- A. No owner or person in charge of any building or structure may suffer or permit rainwater, ice, or snow to fall from such building or structure onto a street or public sidewalk or to flow across such sidewalk.
- B. The owner or person in charge of property shall install and maintain in a proper state of repair adequate drainpipes or a drainage system so that any overflow water accumulating on the roof or about such building is not carried across or upon the sidewalk.

(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Prior code § 4-1.10)

Note(s)—See note at § 8.04.060.

#### 8.04.120 Dirt, dust, sand.

- A. No owner or person in charge of property, improved or unimproved, shall permit dirt, dust or sand to erode or blow from the property. To reduce erosion and dust, a suitable groundcover shall be maintained on the property.
- B. No person, whether or not he or she is the owner of the property, may perform acts of construction, alteration, or repair upon the property in such a manner as to permit dirt, dust or sand to erode or blow from the property.

(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Prior code § 4-1.11)

Note(s)—See note at § 8.04.060.

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#### **8.04.130 Radio and television interference.**

- A. No person may operate or use an electrical, mechanical, or other device, apparatus, instrument, or machine that causes reasonably preventable interference with radio or television reception, provided that the radio or television receiver interfered with is of good engineering design.
- B. This section does not apply to electrical and radio devices licensed, approved and operated under the rules and regulations of the Federal Communication Commission.

(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Prior code § 4-1.12)

Note(s)—See note at § 8.04.060.

#### **8.04.140 Unnecessary noise.**

- A. No person may make, assist in making, continue, or cause to be made any loud, disturbing, or unnecessary noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, safety, or peace of others.
- B. Loud, disturbing, and unnecessary noises in violation of this section include, but are not limited to the following:
  - 1. The keeping of any bird or animal which by causing frequent or long-continued noise shall disturb the comfort and repose of any person in the vicinity;
  - 2. The attaching of a bell to an animal or allowing a bell to remain on an animal;
  - 3. The use of a vehicle or engine, either stationary or moving, so out of repair, loaded, or operated as to create any loud or unnecessary grating, grinding, rattling, or other noise;
  - 4. The sounding of a horn or signaling device on a vehicle on a street, public place, or private place, except as a necessary warning of danger;
  - 5. The blowing of a steam whistle attached to a stationary boiler, except to give notice of the time to begin or stop work, as a warning of danger, or upon request of proper city authorities;
  - 6. The use of a mechanical device operated by compressed air, steam, or otherwise, unless the noise thereby created is effectively muffled;
  - 7. The erection, including excavation, demolition, alteration, or repair of a building in residential districts, other than between the hours of seven a.m. and six p.m., except in case of urgent necessity in the interest of the public welfare and safety and then only with a permit granted by the city clerk for a period not to exceed ten (10) days. Such permit may be renewed for periods of five days while such emergency continues to exist. If the council determines that the public health, safety, and welfare will not be impaired by the erection, demolition, alteration, or repair of any building between the hours of six p.m. and seven a.m. and if the council shall further determine that loss or inconvenience would result to any person unless such work were permitted within those hours, the council may grant permission for such work to be done within the hours of six p.m. and seven a.m. upon application therefor being made at the time the permit for the work is awarded or during the progress of the work.

The actual owner of property may do work on property actually occupied by him or her between the hours of six p.m. and ten p.m. without obtaining a permit as herein required;
  - 8. The use of a gong or siren upon a vehicle, other than police, fire, or other emergency vehicle;

9. The creation of excessive noise on a street adjacent to a school, institution of learning, church, or court of justice, while the same are in use, or on a street adjacent to a hospital, nursing home, or other institution for the care of the sick or infirm, which unreasonably interferes with the operation of such institution or disturbs or unduly annoys patients;
10. The discharge in the open air of the exhaust of a steam engine, internal combustion engine, motorboat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises and the emission of annoying smoke;
11. The use or operation of an automatic or electric piano, phonograph, gramophone, victrola, radio, television, loudspeaker, or any instrument for sound producing or any sound-amplifying device so loudly as to disturb persons in the vicinity thereof or in such a manner as renders the use thereof a nuisance. However, upon application to the council, permits may be granted to responsible persons or organizations for the broadcast or amplification of programs of music, news, speeches, or general entertainment as a part of a national, state, or city event, public festivals, or outstanding events of a noncommercial nature. The broadcast or amplification shall not be audible for a distance of more than one thousand (1,000) feet from the instrument, speaker, or amplifier and in no event shall a permit be granted where any obstruction to the free and uninterrupted traffic, both vehicular and pedestrian, will result;
12. The making of a noise by crying, calling, or shouting or by means of a whistle, rattle, bell, gong, clapper, horn, hammer, drum, musical instrument, or other device for the purpose of advertising goods, wares, or merchandise, attracting attention, or inviting patronage of a person to a business. However, newsboys may sell newspapers and magazines by public outcry;
13. The conducting, operating, or maintaining of a garage within one hundred (100) feet of a private residence, apartment, rooming house, or hotel in such manner as to cause loud or disturbing noises to be emitted therefrom between the hours of eleven p.m. and seven a.m.

(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Prior code § 4-1.13)

Note(s)—See note at § 8.04.060.

#### **8.04.150 Notices and advertisements.**

No person may affix or cause to be affixed any placard, bill, advertisement, or poster upon real or personal property, public or private property, without first securing permission from the owner or person in control 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 of and the location of signs and advertising.

(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Ord. 3-2001 § 2 (part); prior code § 4-1.14)

Note(s)—See note at § 8.04.060.

#### **8.04.160 Declaration of nuisance, general nuisance.**

- A. These acts, conditions, or objects specifically enumerated and defined in Section 8.04.020 through Section 8.04.140 are declared to be public nuisances and such acts, conditions, or objects may be abated by any of the procedures set forth in Section 8.04.160 through Section 8.04.200 of this chapter.
- B. In addition to those nuisances specifically enumerated within this chapter, every other thing, substance, or act which is determined by the city council to be injurious or detrimental to the public health, safety, or welfare of the city is declared to be a nuisance and may be abated as provided in this chapter.

**Commented [CM4]:** Relocate to earlier in the Title/Chapter.

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(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Prior code § 4-1.15)

Note(s)—See note at § 8.04.060.

#### **8.04.170 Abatement procedure—Notice.**

- A. Upon determination by the city manager that a nuisance exists, the administrator shall cause a notice to be posted on the premises or at the site of the nuisance, directing the person responsible to abate the nuisance.
- B. At the time of posting, the city clerk shall cause a copy of the notice to be forwarded by registered or certified mail, postage prepaid, to the person responsible at his or her last-known address.
- C. The notice to abate shall contain:
  - 1. A description of the real property, by street address or otherwise, on which the nuisance exists;
  - 2. A direction to abate the nuisance within ten (10) days from the date of the notice;
  - 3. A description of the nuisance;
  - 4. 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;
  - 5. A statement that failure to abate a nuisance may warrant imposition of a fine or jail sentence;
  - 6. 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.
- D. 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.
- E. 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.
- F. 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. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Amended during 11-01 supplement; Prior code § 4-1.16)

Note(s)—See note at § 8.04.060.

#### **8.04.180 Abatement by the person responsible.**

- A. 1. Within ten (10) days after the posting and mailing of such notice, as provided in Section 8.04.160, the person responsible shall remove the nuisance or show that no nuisance exists.
- 2. A person responsible, protesting that no nuisance exists, shall file with the city clerk a written statement which shall specify the basis for protesting.
- 3. The statement shall be referred to the city council as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the council. The council shall determine whether or not a nuisance in fact exists, and the determination shall be entered in the official minutes of the council. Council determination shall be required only in those cases where a written statement has been filed as provided.
- 4. If the council determines that a nuisance does in fact exist, the person responsible shall, within ten (10) days after the council determination, abate the nuisance.

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- B. 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.

(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Prior code § 4-1.17)

Note(s)—See note at § 8.04.060.

#### **8.04.190 Abatement by the city.**

- A. If within the time allowed, the nuisance has not been abated by the owner or person in charge of the property, the council may cause the nuisance to be abated.
- B. The officer charged with abatement of such nuisance shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance.
- C. The city clerk shall keep an accurate record of the expense incurred by the city in abating the nuisance and shall include therein a charge of five percent of the expense for administrative overhead.

(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Ord. No. 1-2016, §§ 2, 3(Exh. A), 4-5-2016; Prior code § 4-1.18)

Note(s)—See note at § 8.04.060.

#### **8.04.200 Assessment of costs.**

- A. 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:
1. The total cost of abatement, including the administrative overhead;
  2. 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;
  3. 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.
- B. Upon the expiration of ten (10) days after the date of the notice, the council in the regular course of business shall hear and determine the objections to the costs to be assessed.
- C. 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 council shall be made 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.
- D. The lien shall be enforced in the same manner as liens for street improvements are enforced, and shall bear interest at a percentage rate determined by the city council on a per annum basis. Such interest shall commence to run from date of the entry of the lien in the lien docket.
- E. 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.

(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Ord. No. 1-2016, §§ 2, 3(Exh. A), 4-5-2016; Prior code § 4-1.19)

Note(s)—See note at § 8.04.060.



#### 8.04.210 Summary abatement.

The procedure provided by this chapter is not exclusive but is in addition to procedure provided by other ordinances and the health officer, the chief of the fire department, or chief of police may proceed summarily to abate a health or other nuisance which unmistakably exists and from which there is imminent danger to human life or property.

(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Prior code § 4-1.20)

Note(s)—See note at § 8.04.060.

**Commented [CM5]:** Abatement to be codified in Title 1 in relation to 1.16 and 1.20.

#### 8.04.220 Penalties.

A person violating any of the provisions of this chapter shall, upon conviction thereof, be issued a citation to appear in court for a Class D violation consistent with Boardman Municipal Code Chapter 1.16.

(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Ord. No. 4-2013, § 3(Exh. A), 6-18-2013; Prior code § 4-1.21)

Note(s)—See note at § 8.04.060.

#### 8.04.230 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. This imposition of a citation does not relieve a person of the duty to abate a nuisance.

(Ord. No. 2-2016, §§ 2, 3(Exh. A), 9-6-2016; Ord. No. 4-2013, § 3(Exh. A), 6-18-2013; Prior code § 4-1.22)

Note(s)—See note at § 8.04.060.

### ***Chapter 8.08 LITTER***

**Commented [CM6]:** Incorporate into Chapter 8.04. ORS 164.775- 164.805.

#### 8.08.010 Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

"Aircraft" means any contrivance now known or hereafter invented, used, or designated for navigation or for flight in the air. "Aircraft" includes helicopters and lighter-than-air dirigibles and balloons.

"Authorized private receptacle" means a litter storage and collection receptacle that will contain litter generated on the property where located and will present a pleasant view to the neighborhood and the public.

"City" means the city of Boardman, Oregon.

"Commercial handbill" means any printed or written matter, and sample, or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature:

1. Which advertises for sale any merchandise, product, commodity, or thing; or

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2. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or
  3. Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

"Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

"Litter" means "garbage," "refuse," and "rubbish" as defined herein and all other waste material which, if thrown or deposited herein prohibited, tends to create a danger to public health, safety and welfare.

"Newspaper" means any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with federal statutes or regulations, and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, means and includes any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

"Noncommercial handbill" means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

"Park" means a park, reservation, playground, beach, recreation center or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

"Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

"Private premises" means any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

"Public place" means any and all streets, sidewalks, boulevards, alleys, or other public ways and any and all public parks, squares, spaces, grounds and buildings.

"Refuse" means all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial

"Rubbish" means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials.

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

(Ord. 3-2001 § 2 (part); prior code § 4-5.1)

#### **8.08.020 Offensive littering.**

- A. A person commits the crime of offensive littering if he or she creates an objectionable stench or degrades the beauty or appearance of property or detracts from the natural cleanliness or safety of property by intentionally:
  1. Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission of the owner, or upon any public way; or

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2. Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank, recreational or camping vehicle waste holding tank or other contaminated source, upon the land of another without permission of the owner, or upon public ways; or
  3. Permitting any rubbish, trash, garbage, debris or other refuse to be thrown from a vehicle which he or she is operating; except that this subsection shall not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Interstate Commerce Commission or the Public Utility Commissioner of Oregon or a person operating a school bus subject to ORS 485.010 to 485.060.
- B. As used in this section, "public way" includes, but is not limited to, roads, streets, alleys, lanes, trails, beaches, parks and all recreational facilities operated by the state, county or a local municipality for use by the general public.

(Prior code § 4-5.2)

#### **8.08.030 Placement of litter in receptacles.**

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place.

(Prior code § 4-5.3)

#### **8.08.040 Sweeping litter into gutters prohibited.**

No person shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

(Prior code § 4-5.4)

#### **8.08.050 Merchants' duty.**

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the city shall keep the sidewalk in front of their business premises free of litter.

(Prior code § 4-5.5)

#### **8.08.060 Litter thrown from vehicles.**

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city.

(Prior code § 4-5.6)

#### **8.08.070 Truck loads causing litter.**

No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load or contents of litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the city, the wheels or tires of which

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carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances or foreign matter of any kind.

(Prior code § 4-5.7)

#### **8.08.080 Litter in parks.**

No person shall throw or deposit litter in any park within the city except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

(Prior code § 4-5.8)

#### **8.08.090 Lakes and fountains.**

No person shall throw or deposit litter in any fountain, pond, lake, stream, bay, or any other body of water in a park or elsewhere within the city.

(Prior code § 4-5.9)

#### **8.08.100 Placing on vehicles.**

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle, provided however, that it is not unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

(Prior code § 4-5.11)

#### **8.08.110 Depositing on uninhabited or vacant premises.**

No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.

(Prior code § 4-5.12)

#### **8.08.120 Prohibiting distribution where posted.**

No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if required by anyone thereon not to do so, or if there is placed on the premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of the premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises.

(Prior code § 4-5.13)

#### **8.08.130 Distributing at inhabited private premises.**

- A. No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner,

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occupant, or other person then present in or upon such private premises. Provided, however, that in case of inhabited private premises which are not posted, as provided in this chapter, such person, unless requested by anyone upon the premises not to do so, shall have the authority to place or deposit any such handbill in or upon such inhabited private premises, if the handbill is so placed or deposited as to secure or prevent the handbill from being blown or drifted about the premises or sidewalks, streets, or other public places, and except that mailboxes may not be so used when prohibited by federal postal law or regulations.

- B. Exemption for Mail and Newspapers. The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers (as defined herein).

(Prior code § 4-5.14)

#### **8.08.140 Dropping litter from aircraft.**

No person in an aircraft shall throw out, drop or deposit within the city any litter, handbill or any other object.

(Prior code § 4-5.15)

#### **8.08.150 Posting notices prohibited.**

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole or shade tree, or upon any public structure or building, except as may be authorized or required by law.

(Prior code § 4-5.16)

#### **8.08.160 Owner of property referred to in sign responsible.**

When any sign or notice has been posted as prohibited in Section 8.08.150 it should be presumed that the owner or occupant of the premises referred to in the sign, notice, or poster, has caused the sign to be posted.

(Prior code § 4-5.17)

#### **8.08.170 Litter on occupied private property.**

No person shall throw or deposit litter on any occupied private property within the city, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

(Prior code § 4-5.18)

#### **8.08.180 Owner to maintain premises free of litter.**

The owner or person in control of any private property shall at all times maintain the premises free of litter. Provided, however, that this section does not prohibit the storage of litter in authorized private receptacle for collection.

(Prior code § 4-5.19)

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#### **8.08.190 Litter on vacant lots.**

No person shall throw or deposit litter on any open or vacant private property within the city whether owned by such person or not.

(Prior code § 4-5.20)

#### **8.08.200 Keeping of litter deemed nuisance.**

It is determined and declared that the keeping of litter on any vacant lots within the city is a nuisance and is unlawful.

(Prior code § 4-5.21)

#### **8.08.210 Notice of property owner—Cost of removal.**

- A. The city manager or his or her designate shall notify any owner or person in charge of real property upon which the litter is located to remove the same within ten (10) days after notice. Notice shall be given by certified mail with return receipt addressed to the owner as shown by the assessment records of Morrow County, Oregon. In the event that the property owner fails to remove such litter within ten (10) days after notice, the city manager or his or her designate shall take action to cause the nuisance to be abated.
- B. If the litter has not been removed within ten (10) days after notice, the city manager or his or her designate may cause the same to be removed either through contract with a private contractor or by city crews and the cost of removal of such litter shall be calculated and be charged to the owner of the property and will become a lien against the property.
  1. Right to Enter. In the event it becomes necessary for the city manager or his or her designate to undertake the removal of the litter from any private lot within the city, the city manager or his or her designate shall have the right at reasonable times to enter into and upon the property to remove the litter.
  2. Cost to Become a Lien. Upon completion of the removal of the litter and in the event that the costs of the removal are not paid within thirty (30) days, the city manager or his or her designate shall file with the city recorder and thereafter present to the city council an itemized statement of the costs thereof. The city council shall, thereafter, by ordinance determine the reasonableness of the cost which shall be an obligation owed to the city by the owner of the real property involved, and the city shall have a lien upon the real property for such sum and the lien shall be entered in the lien docket and enforced against the property in the manner provided for the enforcement of city liens.

(Amended during 11-01 supplement; Prior code § 4-5.22)

#### **8.08.220 Penalties.**

Violations of this chapter shall be punishable by fine of not to exceed five hundred dollars (\$500.00) and/or ten (10) days in jail. Each violation will be considered a separate violation subject to separate penalties.

(Prior code § 4-5.24)

### **~~Chapter 8.12 GARAGE SALE SIGNS~~**

**Commented [CM7]:** To be updated and relocated into Title 14 Fences and Signs.

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### **8.12.010 Definitions.**

~~A "garage sale" means any sale displaying goods for sale, offering to sell used goods, or offering services such as car washes within the city limits by any individual or group of individuals from any private residential, commercial or industrial property.~~

~~(Ord. 5-2004 § 1)~~

### **8.12.020 Compliance.**

~~A. Garage sale signs shall be in compliance with residential sign requirements as set forth in Title 17; Chapter 17.80.040(D); off premises directional signs for such garage sale and similar residential temporary sales, shall have express written owner's permission of property upon which it is located.~~

~~B. Garage sale signs shall not be placed on Main Street between North Front Street and South Front Street in the public right-of-way. Signs may be placed in the right-of-way on all other streets within the city boundaries as long as they do not interfere with properly posted signage, vehicle traffic, pedestrian traffic or any other legal usage of the right-of-way.~~

~~C. All signs must be removed within two hours of termination of the garage sale.~~

~~(Ord. 5-2004 § 2)~~

### **8.12.030 Owner presumption.**

~~In the enforcement of the ordinance codified in this chapter it shall be a presumption an address or telephone number listed on any garage sale sign shall be that of the individual responsible for posting the sign. In addition, any sign directing the public by right of way arrows or other directional signs or phrases to a particular property shall be presumed to have been erected by the owner or occupant of the property.~~

~~(Ord. 5-2004 § 3)~~

### **8.12.040 Penalties.**

~~Any garage sale sign placed in violation of the provisions of the ordinance codified in this chapter shall be immediately removed by the city. As soon, thereafter, as is reasonable, the city shall notify the owner or the owner's representative the sign has been removed, the reason, and if not claimed within twenty-four (24) hours the sign will be deemed abandoned and subject to disposal by the city.~~

~~(Ord. 5-2004 § 4)~~