

## **Chapter 8.04 NUISANCES**

### **8.04.010 Definitions.**

For purposes of this chapter:

"Person" means a natural person, firm, partnership, association or corporation.

"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.

"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 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 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.
- 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.

(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 uncleanliness 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.

#### **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.

#### **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.

#### **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.

(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.
- 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.

---

#### **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.