

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 prohibited and 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 or prohibited 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 as determined by the city manager, in consultation with the City Fire Chief, when the quality, condition, and/or location of vegetation creates a risk of fire.

“Non-summer season” is November 1 through March 31 of any given year.

“Noxious vegetation” means:

1. Puncture vine;

2. Poison oak, poison ivy, or other poisonous or dangerous vegetation that is a health hazard;
3. 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; or
4. Any other vegetation listed on the Morrow County Weed List.

Noxious Vegetation does not include an agricultural crop or decorative residential landscaping.

“Occupant” means any person in lawful possession of, 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 holding an ownership, 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.

“Prohibited Vegetation” means:

1. Weeds or grass more than six inches high in the summer season;
2. Weeds or grass more than 10 inches high in the non-summer season;
3. Vegetation that is a fire hazard;
4. Vegetation that is a traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous.

“Summer season” is from April 1 through October 31 of any given year.

8.06.030 Noxious vegetation declared nuisance.

- A. Noxious vegetation is hereby declared a nuisance. No owner(s) or occupant(s) of real property in Boardman shall allow noxious vegetation to grow on such real property.
- B. The owner(s) and/or occupant(s) of any real property within the limits of the city of Boardman shall remove noxious vegetation growing thereon, including on adjacent and abutting rights-of-way, throughout the year.

8.06.040 Prohibited vegetation declared nuisance.

- A. It shall be unlawful for any owner(s) or occupant(s) of real property in Boardman to allow prohibited vegetation to remain upon such real property. Prohibited vegetation is hereby declared a nuisance.

- B. The owner(s) and/or occupant(s) of any real property within the limits of the city of Boardman shall mow, or otherwise trim, prohibited vegetation growing thereon, including on adjacent and abutting rights-of-way, throughout the year.
- C. For vacant lots or parcels over one acre in size (43,560 square feet), 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, with a 100-foot fire break further required running adjacent to all such 20-foot fire breaks.

8.06.050 Exemptions to nuisance.

- A. 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.
- B. 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.

8.06.060 Notice of violation.

- A. *Notices During Summer Season.*
 - 1. **First Notice:** Prior to the start of the summer season, the city shall cause to be published in a newspaper of general circulation, in the city utility bill, and on the city website a 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.
 - 2. **Second and Final Notice:** Owner(s) and/or occupant(s) of any real property that have been determined to be 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 the property, and by certified mail 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. 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 the owner or occupant is unlawfully allowing a public nuisance to remain upon real property under their ownership or control, or within the improved right-of-way or a public thoroughfare abutting the property, and the city requires immediate abatement as provided in this chapter. The second and final notice shall further include the following:

Occupied Properties. Conditions shall be corrected within 7 days 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).

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. *Non-summer Season.* During the non-summer season, prohibited vegetation and noxious vegetation violations shall be 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 shall:
1. Be directed to the owner(s) and/or occupant(s);
 2. Refer to the premises involved with convenient certainty, the street address(es), if any, and the map and tax lot number;
 3. Notify the owner or occupant that they are unlawfully allowing a public nuisance to remain upon real property under their ownership or control, or within the improved right-of-way or a public thoroughfare abutting the property, and the city requires immediate abatement as provided in this chapter; and
 4. Inform the owner(s) and/or occupant(s) that, if the nuisance is not abated within 14 days from the date of service, the owner(s) and/or occupant(s) may be prosecuted for violation in accordance with BMC [8.06.090](#); and
 5. Advise that the city may, at its discretion, proceed with abating the nuisance and charging the owner or occupant with the reasonable cost of such abatement in accordance with the city's abatement procedures.

8.06.070 Issuance of citation and abatement.

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

- A. Direct the Code Enforcement Officer to issue a citation to occupant(s) in accordance with Title 1 General Provisions Chapter 1.16 General Penalty, Violations and Fines of the Boardman Municipal Code. 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 for the city to abate the nuisance by removing the noxious vegetation from the property in accordance with Title 1 General Provisions Chapter 1.20 Code Compliance of the Boardman Municipal Code.

8.06.080 Penalty.

A person violating a provision of this chapter shall, upon conviction thereof, be assessed a fine in accordance with a Class D Violation as outlined in Title 1 General Provisions Chapter 1.16 General Penalty, Violations and Fines of the Boardman Municipal Code

8.06.090 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 City Council's determination that a nuisance exists, will relieve the person responsible from the imposition of any fine.