

Chapter 8.12

NUISANCES

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I. GENERAL PROVISIONS

8.12.010 Definitions.

In this Ordinance unless the context otherwise requires:

- A. “Certificate of Fitness” means a certificate issued for a particular property by the Oregon Health Division following a satisfactory site characterization by a licensed drug laboratory decontamination contractor, sampling and testing by an independent, third party approved by the Oregon Health Division, and any necessary contamination reduction of the property by such licensed contractor. The certificate authorizes removal of the property from the State Building Codes Division’s “Unfit for Use” listing and allows reuse of the property.
- B. “Person” means a natural person, firm, partnership, association or corporation.
- C. “Person in charge of property” means an owner, agent, occupant, lessee, contract purchaser or other person having possession or control of property or supervision of a construction project.
- D. “Person responsible” means the owner or person in charge of the property.
- E. “Public Place” means any building, place or accommodation, whether publicly or privately owned, open and available to the public.
- F. “Unfit for Use” is a designation by the Oregon Health Division that means that the property has been found to be, or there are reasonable grounds to believe that the property was, the site of illegal drug manufacture and may be contaminated with hazardous chemicals or substances and therefore is not fit to use until appropriate site assessment and any necessary contamination reduction procedures have been performed by a licensed drug laboratory decontamination contractor.

II. NUISANCES AFFECTING PUBLIC HEALTH

8.12.020 Prohibited Health Hazards.

No person shall allow, cause, create, permit or suffer, a nuisance affecting public health on private or public property. The following are not exclusive but illustrative of nuisances affecting public health and may be abated as provided in this Ordinance.

- A. Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance to State Health Division regulations.
- B. Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time.

- C. Putrescible wastes not removed at least every seven (7) days.
- D. Stagnant water that affords a breeding place for mosquitoes and other insect pests.
- E. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that causes or would be likely to cause harmful material to pollute the water.
- F. Decayed or unwholesome food offered for human consumption.
- G. An outside toilet, cesspool, septic tank, barn, stable, corral, pen, chicken coop, rabbit hutch or other premises that are in such a state or condition as to cause an offensive odor or that are in an unsanitary condition.
- H. Liquid wastes drained from private premises.
- I. Mastics, oil, grease or petroleum products allowed to be introduced into the sanitary or storm water system by a user.
- J. Petroleum-contaminated soil placed or stockpiled on private or public property. Petroleum-contaminated soil shall be defined as material containing benzene, ethylbenzene, toluene, xylene or TPH (total petroleum hydrocarbons) in concentrations equal to or exceeding the minimum concentrations established by the Oregon Department of Environmental Quality for petroleum-contaminated materials.
- K. Animal carcasses on streets or private or public property.
- L. Animals or birds afflicted with communicable diseases.
- M. Animals or birds maintained, kept or housed in such a number to create offensive odors or noise.
- N. Animals or livestock running at large.

III. NUISANCES AFFECTING PUBLIC SAFETY

18.12.030 Attractive Nuisances.

No person shall allow, cause, create, permit or suffer a nuisance affecting public safety on private or public property. The following are not exclusive but illustrative of nuisances affecting public safety and may be abated as provided in this Ordinance.

- A. Woodpiles, wood, lumber, rocks, bricks, blocks or metal within the streets or alleys or upon the sidewalks or planting strips for a period of time longer than 24 hours after placement of such material without first obtaining a permit from the City Engineer.
- B. A container with a compartment of more than one cubic foot capacity with a door or lid that locks or fastens automatically when closed that cannot be easily opened from the inside, which is maintained, left or abandoned, in a place accessible to children.
- C. A well, cistern, cesspool, excavation or other hole of a depth of 4 feet or more and a top width of 12 inches or more uncovered, not fenced or otherwise without a suitable protective construction.
- D. Unguarded machinery, equipment or other device that is appealing, dangerous and accessible to children.

- E. Lumber, logs or piling placed or stored in a manner to be appealing, dangerous and accessible to children.

8.12.040 Noxious Vegetation.

No person shall allow, cause, permit or suffer noxious vegetation on property or in the right of way of a street, alley or sidewalk abutting the property. Noxious vegetation must be cut down or destroyed as often as needed to prevent the creation of a health, fire or traffic hazard, or in the case of weeds or other noxious vegetation, from maturing or from going to seed. Noxious vegetation includes:

- A. Vegetation that is or is likely to become:
 - a. A health hazard;
 - b. A fire hazard;
 - c. A traffic hazard, because it impairs the view of a public right of way or otherwise makes the use of the thoroughfare hazardous; or
 - d. Grass or weeds exceeding 12 inches. Properties used for crop cultivation and livestock grazing are exempt from the tall grass and weeds provision if a five foot wide cut or cleared fire break surrounds the perimeter of the property.
- B. Poison Oak.
- C. Poison Ivy.
- D. Blackberry bushes that extend into a public way or a pathway frequented by children, or cross a property line.

8.12.045 Hazardous Vegetation.

- A. No owner or person in charge of property shall allow vegetation which constitutes a fire hazard to be on said property or in the right-of-way of a public thoroughfare abutting the property from June 15th through November 1st of each year. Hazardous vegetation shall be cut down or destroyed as often as needed to prevent the creation of a fire hazard. Hazardous vegetation includes but is not limited to the following which is in a dry and combustible state or which in the opinion of the City Manager or his designate otherwise constitutes a fire hazard (the Fire Chief or his designate at the South Lane County Fire and Rescue District may be consulted to determine a fire hazard):
 - 1. Wild blackberry bushes;
 - 2. Weeds more than twelve inches in height;
 - 3. Grass more than twelve inches in height;
 - 4. Vegetation that
 - a) Is near combustibles; or
 - b) Is likely to endanger buildings or other property if fired; or
 - c) Increases or may cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by the City Manager.

- B. Exclusion of Agricultural Crops. The term “hazardous vegetation” does not include an agricultural crop, unless that crop is determined by the City Manager or his designate to be a fire hazard as defined by this Chapter.
- C. The City Manager or his designate may waive the requirements of this Chapter where in his opinion strict compliance with the requirements would be impracticable as they apply to certain types of vegetation or to a certain parcel of real property. The requirements may only be waived as they apply after inspection of the property with the Fire Chief or his designate. For example, terrain, natural boundaries, and other factors may warrant cutting less than one hundred percent of the hazardous vegetation if doing so abates the fire hazard.

8.12.050 Unauthorized Dumping.

- A. No person shall deposit, on public or private property, rubbish, trash, debris, refuse or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property or would be likely to injure a person, animal or vehicle traveling on a public way.
- B. No person shall deposit trash, rubbish, debris, or refuse which was generated from a residence or business that did not result from a sanctioned park activity into public trash receptacles located in City Parks.

8.12.060 Trees, Bushes and Shrubs.

- A. No person in charge of property shall allow or permit trees, bushes or shrubs on property abutting a street, alley or sidewalk to interfere with vehicular or pedestrian traffic. A person in charge of property shall keep all trees, bushes or shrubs on the premises, including the adjoining parking strip, trimmed so that any overhanging portions are at least eight feet above the sidewalk and at least 13’6” feet above the roadway.
- B. Trees, hedges and other shrubbery on corner lots shall be trimmed and maintained so as to permit the minimum vision clearance prescribed by the zoning ordinance.

8.12.070 Fences.

- A. No person shall allow, construct, permit or maintain a barbed wire fence in violation of the following:
 - a. Residential zones. Fences which contain any barbed wire are prohibited except if allowed as a condition related to use of residential property as a cottage industry or other specially permitted use. Where permitted, the barbed wire portion may be located no closer than six feet from the ground. If the fence is immediately adjacent to a sidewalk or public street, the barbed wire must be angled away from public areas and/or located entirely inside of the property.

- b. Commercial, Industrial or Quasi-Public Zones. Fences which contain barbed wire are prohibited unless the barbed wire portion is located a minimum of six feet from the ground.
- B. No person shall allow, construct, permit, maintain or operate an electric fence in the city.

8.12.080 Surface Waters and Drainage.

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

8.12.090 Duty to clean sidewalks.

- A. No owner or person in charge of any premises, improved or unimproved, abutting upon any public sidewalk, shall permit snow or ice to remain on such sidewalk for a longer period than the first two hours of daylight after the snow has fallen. It shall be the duty of the person to remove any ice or snow accumulating on such sidewalk or to properly cover it with sand, ashes or other suitable material to assure safe travel.
- B. No owner or person in charge of any premises, improved or unimproved, abutting upon any sidewalk shall permit leaves, rubbish, dirt and other litter or obstructions on such sidewalk. The provisions of this subsection do not apply to authorized construction projects, provided that during the course of construction reasonable safeguards are maintained to prevent injury or death to persons.

IV. NUISANCES AFFECTING PUBLIC WELFARE

8.12.100 Radio and Television Interference.

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

8.12.110 Unreasonable Noise.

No person shall allow, cause, create or permit the continuance of unreasonable noise. The following enumerated noises are not exclusive but illustrative of unreasonable noises:

- A. The keeping of an animal that by loud and frequent or continued noise disturbs the comfort and repose of a person in the vicinity.
- B. The use of an engine, machine or device which is so constructed, out of repair or operated in such a manner as to create a loud or unreasonable grating, grinding, rattling or other noise.
- C. The use of a mechanical device operated by compressed air, steam or otherwise unless the noise created is muffled.
- D. The construction, including excavation, demolition, alteration or repair of a building, vehicle or equipment other than between the hours of 7:00 a.m. and 9:00 p.m. except with a permit issued by the City Manager.
- E. The use or operation of an automatic piano, electric instrument, phonograph, loudspeaker, stereo or sound amplifying device so loudly as to disturb persons at least five feet beyond the property on which the sound originates as per allowed decibel levels designated in ORS 467.
- F. Sound produced in conjunction with officially organized sporting events, parades, festivals, fairs and other events issued a permit from the City Manager are exempt from the noise limitations.

8.12.120 Accumulation of Debris and Materials.

No person shall allow, cause, permit or suffer any old or scrap copper, brass, pipe, rope, wire, rags, batteries, paper, plastic, rubber, trash, debris, waste, or junked, dismantled, wrecked, scrapped or ruined appliances, motor vehicle parts, iron, steel, or other old or scrap ferrous or nonferrous material, metal or nonmetal materials to accumulate on private property within the sight of the public.

8.12.130 Notices and Advertisements.

- A. No person shall affix or cause to be distributed any placard, bill, advertisement or poster upon any real or personal property, public or private, without first securing permission from the owner or person in charge of the property.
- B. No person shall either as principal or agent scatter, deposit or distribute on the streets, sidewalks or other public places or upon any private property any placards or advertisements whatsoever.
- C. Any placard, bill, advertisement or poster found posted or otherwise affixed, upon any public property contrary to the provisions of this section may be removed by any employee of the City. The person responsible for such illegal posting shall be liable for the cost incurred in its removal.
- D. 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 location of signs and advertising.
- E. This section shall not be construed to prohibit the distribution of advertising material during any parade or approved public gathering.

8.12.140 Properties Declared “Unfit for Use” Due to Illegal Drug Manufacturing Contamination.

- A. Property placed on the Oregon Health Division “Unfit for Use” list pursuant to ORS 453.879 because it has been used for the manufacture of illegal drugs shall be considered a nuisance 90 days after it has been listed and shall remain a nuisance until such time as it is issued a “Certificate of Fitness” by the Oregon Health Division, and no responsible person shall cause or permit such a condition to exist.
- B. A failure to comply with this section shall be cause for a responsible person to be subject to the administrative enforcement procedures set forth in this chapter. The imposition of a penalty does not relieve a responsible person of the duty to abate the nuisance.

V. UNENUMERATED NUISANCES

8.12.150 Unenumerated Nuisances.

- A. The acts, conditions or objects specifically enumerated and defined in 8.12.010 through 8.12.140, inclusive, are declared public nuisances and may be abated by the procedures set forth in this Ordinance.

VI. ABATEMENT PROCEDURE

8.12.160 Notice to Abate.

- A. On determination that a nuisance exists by a City Official or designee, the City shall cause that written notice via certified mail shall be served upon the person responsible for the nuisance.
- B. 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 a specified time frame.
 - 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 failure to abate a nuisance may warrant citation into Municipal Court with the imposition of a fine.
 - f. A statement that the person responsible may protest the notice to abate by giving written notice to the City Manager within one working day or 24 hours from the receipt or posting of the notice.
- C. If the person responsible is not the owner, an additional notice shall be sent to the owner by certified mail, additionally stating that the cost of abatement not paid by the person responsible may be assessed to and become a lien on the property.

- D. If the notice is not received by the property owner or person responsible for the nuisance a notice shall be posted on the premises or at the site of the nuisance.
- E. If the notice is posted or personally delivered, the person posting or delivering the notice shall execute and file a certificate stating the date and place of the posting or delivery.
- F. An error in the name or address of the person responsible shall not make the notice void.

8.12.170 Time Frame for Abatement.

- A. If abatement is required within 24 hours of receipt of the notice, the notice must be personally delivered to the person responsible or posted on the premises or at the site or the nuisance in two conspicuous locations.
- B. If the notice of abatement allows more than 24 hours to abate the nuisance the notice may be personally delivered, posted on the premises or at the site of the nuisance or mailed by certified mail.
- C. The concerns for the public's health, safety and welfare and the extent of the nuisance shall be considered by the City in determining the time frame for abatement.

8.12.180 Abatement by the Person Responsible.

- A. Within the time frame specified in the notice to abate the person responsible shall remove the nuisance or file a protest within 24 hours of receipt or of posting.
- B. The person responsible or property owner may request an extension of time from the Community Development Director. The Community Development Director may grant reasonable extensions or accommodations to the specified time frames.
- C. The person responsible or the property owner, protesting that no nuisance exists, shall file a written statement that specifies the basis for the protest with the City Manager.
- D. The City Manager shall review whether a nuisance in fact exists and set a time frame for the abatement of the nuisance. The person responsible or the property owner shall be notified within 5 working days of the City Manager's determination. City Manager determination shall be required only in cases where a written protest has been filed as provided.
- E. The person responsible may appeal the City Manager's determination by giving written notice to the City Recorder within one working day or 24 hours from the receipt or posting of the determination.
- F. The appeal shall be referred to the City Council as a part of its next meeting. At the same time set for consideration of the abatement, the person protesting may appear and be heard by the Council. The Council shall determine whether a nuisance in fact exists and set a time frame for the abatement of the nuisance. The determination shall be entered in the official minutes of the

Council. Council determination shall be required only in cases where a written appeal has been filed as provided.

- G. If the Council determines that a nuisance in fact exists, the person responsible shall abate the nuisance within the time frame specified.

8.12.190 Joint Responsibility.

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

8.12.200 Abatement by the City.

- A. If the nuisance has not been abated by the person responsible within the time allowed, the City Manager or City Officer may cause the nuisance to be abated.
- B. The City Officer charged with abatement of the nuisance shall have the right to enter into or upon property at reasonable times to investigate or cause removal of a nuisance.
- C. The City Manager shall keep an accurate record of the expense incurred by the City in physically abating the nuisance and shall include a charge for administrative costs equal to \$50 or 10 percent of those expenses, whichever is greater.

8.12.210 Assessment of Costs.

- A. The City Manager shall forward to the owner and the person responsible, by certified mail, a notice of assessment stating:
 - a. The total cost of the abatement, including administrative costs.
 - b. That the costs as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice.
 - c. That if the owner or the person responsible objects to the cost of the abatement as indicated, a notice of objection may be filed with the City Manager not more than five (5) days from the date of the notice of assessment.
- B. No later than 30 days after the date of objection, the Council, in regular course of business, shall hear and make a decision on the objections to the costs assessed.
- C. If the costs of the abatement are not paid within 30 days from the date of the notice of assessment, an assessment of the costs, as stated or as decided by the Council, shall be made by resolution and shall be entered in the docket of City liens. When the entry is made, it shall constitute a lien on 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, utility bills and other City liens and shall bear interest at the

current statutory interest rate. The interest rate shall begin to run from the date of entry of the lien in the lien docket.

- E. An error in the name of the owner or the person responsible or a failure to receive the notice of assessment will not void the assessment, and it shall remain a valid lien against the property.

8.12.220 Summary Abatement.

- A. On determination that a health or other nuisance that imminently endangers human life or property exists by the City Manager or City Officer, the City may proceed to summarily abate such a nuisance. The person responsible for such a nuisance shall reimburse the City for costs incurred in abating the nuisance.
- B. The officer charged with abatement of the nuisance shall have the right to enter into or upon property at reasonable times to investigate or cause removal of a nuisance.
- C. The City Manager shall keep an accurate record of the expense incurred by the City in physically abating the nuisance and shall include a charge for administrative costs equal to \$50 or 10 percent of those expenses, whichever is greater.

VII. GENERAL

8.12.230 Penalties.

A violation of any provision of this Ordinance is punishable by a fine upon conviction of not less than \$100 and not more than \$500 for each offense, or by imprisonment in jail for a period not to exceed thirty days, or both.

8.12.240 Separate Violations.

- A. Each day's violation of a provision of this Ordinance constitutes a separate offense.
- B. The abatement of a nuisance is not a penalty for violation of this Ordinance, but is an additional remedy. The imposition of a fine does not relieve a person of the duty to abate the nuisance.