

ORDINANCE NO. 517

AN ORDINANCE DEFINING NUISANCES; PROVIDING FOR THEIR ABATEMENT; PROVIDING PENALTIES; AND REPEALING ORDINANCE NO. 228.

The City of Columbia City ordains as follows:

Section 1. Definitions.

Junk. The term "junk," as used in this ordinance, includes either old or dilapidated motors, motor parts, abandoned automobiles, machinery and parts, appliances and parts, iron or other metal, glass, paper, lumber, wood or other waste or discarded material.

Person. A natural person, firm, partnership, association, or corporation.

Person in charge of property. An agent, occupant, lessee, contract purchaser, or other person having possession or control of property or supervision of a construction project.

Person responsible. The person responsible for abating a nuisance includes:

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

Public Place. A building, way, place, or accommodation, publicly- or privately-owned, open and available to the general public.

Nuisances Affecting Public Health

Section 2. Nuisances affecting public health. No person shall cause or permit a nuisance affecting public health on property owned or controlled by the person. The following are nuisances affecting public health which may be abated as provided in this ordinance:

- A) Open vaults or privies constructed or maintained within the city, except those constructed or maintained in connection with construction projects.
- B) Accumulations of debris, rubbish, manure, and other refuse that are not removed within a reasonable time and that affect the health of the city.
- C) Stagnant water in an artificial container that affords a breeding place for mosquitoes and other insect pests.
- D) Pollution of the air or a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes, or other substances placed in the air or near the water in a manner that will cause harmful material to pollute the air or water.
- E) Decayed or unwholesome food offered for human consumption.
- F) Premises that are in such a state or condition as to cause an offensive odor or that are in an unsanitary condition.
- G) Drainage of liquid wastes from private premises.

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

I) No person shall permit an animal carcass owned or controlled by that person to remain upon public property, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of the carcass.

(Sections 3 to 9 reserved for expansion)

Nuisances Affecting Public Safety

Section 10. Creating a hazard. No person shall create a hazard by:

A) Maintaining or leaving, in a place accessible to children, a container with a compartment of more than one and one-half cubic feet capacity and a door or lid that locks or fastens automatically when closed and that cannot be easily opened from the inside.

B) Being the owner or otherwise having possession of property on which there is a well, cistern, cesspool, excavation, or other hole of a depth of four feet or more and a top width of twelve inches or more and failing to cover or fence it with a suitable protective construction.

C) This section does not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

Section 11. Attractive nuisances. No owner or person in charge of property shall permit on the property:

A) Unguarded machinery, equipment, or other devices that are attractive, dangerous, and accessible to children.

B) Lumber, logs, or piling placed or stored in a manner so as to be attractive, dangerous, and accessible to children.

C) This section does not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

Section 12. Noxious vegetation.

A) The term "noxious vegetation" does include, at any time between April 15 and September 30 of any year:

1) Weeds more than 10 inches high.

2) Grass more than 10 inches high and not within the exception stated in subsection A) of this section.

3) Poison oak.

4) Poison ivy.

5) Blackberry bushes that extend into a public thoroughfare or across a property line.

6) Vegetation that is:

i) A health hazard.

ii) A fire hazard because it is near other combustibles.

iii) A traffic hazard because it impairs the view of the public thoroughfare or otherwise makes use of the thoroughfare hazardous.

B) Between April 15 and September 30 of any year, no owner or person in charge of property shall allow noxious vegetation to be on the property or in the right-of-way of a public thoroughfare abutting on the property. An owner or person in charge of property shall cut down or destroy grass, shrubbery, brush, bushes, weeds or other noxious vegetation as often as needed to prevent them from becoming unsightly, from becoming a fire hazard, or, in the case of weeds or other noxious vegetation, from maturing or from going to seed.

C) Determination of Nuisance and Notice of Abatement: Upon the City Administrator/Recorder's determination that a noxious vegetation nuisance exists, the City Administrator/Recorder may provide a notice to abate by registered or certified mail to the person responsible at the person's last known address. The notice to abate shall contain:

1) A description of the real property, by street address or otherwise, on which the noxious vegetation nuisance exists.

2) A direction to abate the nuisance within ten 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 the abatement will be charged to the person responsible.

5) A statement that failure to abate a nuisance may warrant imposition of a fine.

6) A statement that the person responsible may protest the order to abate by giving notice to the City Administrator/Recorder within ten days from the date of the notice.

7) If the person responsible is not the owner, an additional notice shall be sent to the owner, stating the cost of abatement not paid by the person responsible may be assessed to and become a lien on the property.

8) An error in the name or address of the person responsible shall not make the notice void.

D) If the notice provided for in subsection C) is used, it shall be in lieu of the notice required by Section 29 of this ordinance.
[Section 12 Amended by Ordinance 04-598-O 8/19/04.]

Section 13. Scattering rubbish. 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.

Section 14. Trees.

A) No owner or person in charge of property that abuts an alley, street, or public sidewalk shall permit trees or bushes on the property to interfere with alley, street or sidewalk traffic. An owner or person in charge of property that abuts an alley, street, or public sidewalk shall keep all trees and bushes 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 twelve feet above the roadway or alley.

B) No owner or person in charge of property shall allow a dead or decaying tree to stand if it is a hazard to the public or to persons or property on or near the property.

Section 15. 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 use of an engine, machine or device which is so loaded, out of repair or operated in such a manner as to create a loud or unreasonable grating, grinding, rattling, or other noise.

B) The use of a mechanical device operated by compressed air, steam or otherwise, unless the noise created is muffled.

C) The construction, including excavation, demolition, alteration, or repair of a building, vehicle, or equipment between the hours of 6:00 p.m. and 7:00 a.m. A resident is bound by the provisions of this subsection, except that: a resident may conduct the aforementioned activities on property which the resident resides until 8:00 p.m. [Section 15, Subsection C amended by Ordinance No. 03-583-O 6/6/03]

D) The use or operation of an automatic or electric piano, 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. Sounds produced in conjunction with officially-organized sporting events, parades, festivals, fairs, and other events issued a permit from the City Council are exempt from the noise limitations.

Section 16. Surface waters, drainage.

A) No owner or person in charge of a building or structure shall permit rainwater, ice, or snow to fall from the building or structure onto an alley, street, or public sidewalk or to flow across the sidewalk.

B) The owner or person in charge of property shall install, and maintain in a proper state of repair, adequate drain pipes or a drainage system, so that overflow water accumulating on the roof or about the building is not carried across or onto the sidewalk.

C) The owner or person in charge of property shall install and maintain in a proper state of repair such facilities and improvements as are necessary to prevent soil from eroding and flowing onto or across public streets, alleys and sidewalks or into public storm drain systems.

Nuisances Affecting the Public Peace.

Section 17. 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 does not apply to devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission.

Section 18. 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 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, or location of, signs and advertising.

B) This section shall not be construed to prohibit the distribution of material during any parade or public gathering.

Section 19. Junk. No person shall keep junk, rubbish, trash, or debris outdoors on an alley, street, lot, or premises or in a building that is not wholly or entirely enclosed except for doors used for ingress and egress.

Section 20. Fireworks. The following sections of the Oregon Fireworks law are adopted by reference and made a part of this ordinance: ORS 480.110, 480.120, 480.130, 480.140(1), 480.150, and 480.165.

(Sections 21 to 27 reserved for expansion)

Unenumerated Nuisances.

Section 28. Unenumerated Nuisances.

A) The acts, conditions or objects specifically enumerated and defined in Sections 2 to 27 are declared nuisances and may be abated by the procedure set forth in Sections 29 to 40.

B) In addition to the nuisances specifically enumerated in this ordinance, every other thing, substance or act that is determined by the Council to be injurious or detrimental to the public health, safety, or welfare of the city is declared a nuisance and may be abated as provided in this ordinance.

Abatement Procedure

Section 29. Notice.

A) On determination by the Council that a nuisance exists, the Council 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 Administrator shall cause a copy of the notice to be forwarded by registered or certified mail to the person responsible at the person's 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 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 the abatement will be charged to the person responsible.

5) A statement that failure to abate a nuisance may warrant imposition of a fine.

6) A statement that the person responsible may protest the order to abate by giving notice to the City Administrator within ten days from the date of notice.

7) If the person responsible is not the owner, an additional notice shall be sent to the owner, stating the cost of abatement not paid by the person responsible may be assessed to and become a lien on the property.

8) 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.

9) 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.

Section 30. Abatement by the person responsible.

A) Within ten days after the posting and mailing of notice as provided in Section 29, the person responsible shall remove the nuisance or show that no nuisance exists.

B) A person responsible, protesting that no nuisance exists, shall file a written statement that specifies the basis for the protest with the City Administrator.

C) The statement shall be referred to the 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 may determine whether 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 cases where a written statement has been filed as provided.

D) If the Council determines that a nuisance in fact exists, the person responsible shall abate the nuisance within ten days after the Council determination.

Section 31. 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.

Section 32. Abatement by the city.

A) If the nuisance has not been abated by the person responsible within the time allowed, the Council may cause the nuisance to be abated.

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 the removal of a nuisance.

C) The City Administrator shall keep an accurate record of the expense incurred by the city in physically abating the nuisance and shall include a charge of \$10 or 10 percent of those expenses, whichever is greater, for administrative costs.

Section 33. Assessment of costs.

A) The City Administrator shall forward to the owner and the person responsible, by registered or certified mail, a notice stating:

1) The total cost of abatement, including the administrative costs.

2) That the costs as indicated will be assessed to and will become a lien against the property unless paid within thirty days from the date of the notice.

3) That if the owner or person responsible objects to the cost of the abatement as indicated, a notice of objection may be filed with the City Administrator not more than ten days from the date of the notice.

B) No sooner than thirty days after the date of the notice, the Council, in the 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 thirty days from the date of the notice, 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 an 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 are enforced and shall bear interest at the rate of 12 percent per annum. The interest 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 the proposed assessment will not void the assessment, and it shall remain a valid lien against the property.

Section 34. Summary abatement. The procedure provided by this ordinance is not exclusive, but is in addition to procedure provided by other ordinances. Any city official may proceed summarily to abate a health or other nuisance which immediately exists and which imminently endangers human life or property.

(Sections 35 to 40 reserved for future expansion)

General

Section 41. Penalty. A violation of a provision of this ordinance, or of an order issued under authority of this ordinance, is punishable by a fine not to exceed \$500.

Section 42. 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 violating this ordinance, 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 ten days of the date of notice to abate, or if a written protest has been filed, then abatement within ten days of Council determination that a nuisance exists, will relieve the person responsible from the imposition of a fine under Section 41 of this ordinance.

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[Section 43. Severability.]

[Section 44. Repealer.]

Passed by the council and approved by the mayor November 20, 1997.