

Chapter 8.20

NUISANCES

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8.20.010 Definitions. As used in 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" means the person responsible for abating a nuisance shall include:

1. The owner;
2. The person in charge of property, as defined in subsection 3, below;
3. The person who caused to come into or continue in existence a nuisance, as defined in the ordinance codified 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.8.20.010--8.20.050

"Right-of-way" means and includes, but is not limited to, public land, either dedicated or deeded to the public for public use and either under the control of a public agency, either occupied or intended to be occupied by street, crosswalk, sidewalk, pedestrian and bike paths, railroad, road, municipal and franchise utilities, street trees or other special use, including other public ways or areas. The right-of-way includes subsurface and air space over these areas. (Ord. 893, 2020; Ord. 718 (part), 2002)

8.20.020 Dangerous animals. No owner or person in charge of an animal shall permit an animal, which is dangerous to the public health or safety, to be exposed in public. If the animal is exposed in public, it may be taken into custody by the city and disposed of in accordance with the procedures provided by ordinance for the impoundment of dogs; except that before the animal is released by the city, the municipal judge must find that proper precautions will be taken to ensure the public health and safety. (Ord. 718 (part), 2002)

8.20.030--8.20.050

8.20.030 Animals at large. No owner or person in charge of an animal shall permit the animal to be at large. Animals at large may be taken into custody by the city and disposed of in accordance with the procedures provided by ordinance for the impoundment of animals. (Ord. 718 (part), 2002)

8.20.040 Removal of carcasses. No person shall permit an animal carcass owned or controlled by him to remain upon public property, or to be exposed on private property, for a period of time longer than twenty-four hours. (Ord. 718 (part), 2002)

8.20.050 Nuisances affecting public health. No owner or person in charge of property shall cause or permit on such property any nuisance affecting public health; nor shall any person cause on any property, public or private, any nuisance affecting public health. The following are nuisances affecting public health and may be abated as provided in this chapter.

A. An accumulation of decomposing animal or vegetable matter; garbage; rubbish; manure; offal; ashes; wood; discarded containers; waste paper; trash; hay, grass or straw; noxious weeds; litter; inoperable equipment; vehicles or appliances or parts thereof;

old home or office furnishings; building materials not being used in a current construction project; or similar items or other refuse matter or substance which, by itself or in conjunction with other substances, is deleterious to public health or safety, or creates an offensive odor or condition;

B. An accumulation of stagnant or impure water, which affords or might afford a breeding place for mosquitoes or other insects;

C. A growth of Russian thistle, Canadian thistle, Chinese thistle, white mustard, cocklebur, silver saltbush, foxtail, or any other noxious weed; and all grass over ten inches in height;

D. The deposition of an animal carcass or part thereof; or any excrement or sewage; or industrial waste; or any putrid, nauseous, decaying, deleterious, offensive, or dangerous substance in a stream, well, spring, brook, ditch, pond, river or other inland waters within the city; or the placing of such substances in such position that high water or natural seepage will carry the same into such waters;

E. An open vault or privy, except those constructed or maintained in connection with construction projects in accordance with the Oregon State Board of Health regulations;

F. Drainage of liquid wastes from private premises;

G. Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor;

H. Decayed or unwholesome food, which is offered for human consumption;

I. Premises which are in such a state or condition as to cause an offensive odor, or which are in an unsanitary condition;

J. A pigsty, slaughterhouse, or tannery;

K. A barn, stable, kennel, corral, pen, chicken coop, rabbit hutch or other place where animals are caged or housed which is in an unsanitary condition or creates a noxious or offensive odor;

L. The sufferance or allowance by the owner or person in charge of property that water from a roof, ditch, canal, flume, reservoir, pipeline or conduit above or below ground should leak, seep, flow, overflow, run back or through, or escape or run upon, over or under any premises, public street, alley, sidewalk or other public property;

M. The existence on property of vector or vermin or the conditions which contribute to the growth or sustenance of vector or vermin;

N. The burning, either indoors or outdoors, of any wet garbage, plastic, asbestos, diapers, wire insulation, automobile part, asphalt, petroleum product, petroleum treated material, rubber product, animal remains, or animal or vegetable matter resulting from the handling, preparation, cooking or service of food, or of any other material which emits dense smoke or noxious odors. (Ord. 792 §1, 2007; Ord. 730 §1, 2003; Ord. 718 (part), 2002)

8.20.060--8.20.090

8.20.060 Abandoned refrigerators. No person shall leave in any place accessible to children an abandoned or discarded icebox, refrigerator or similar container without first removing the door. (Ord. 718 (part), 2002)

8.20.070 Attractive nuisances. A. No owner or person in charge of property shall permit thereon:

1. Unguarded machinery, equipment or other devices which are attractive, dangerous and accessible to children;
2. Lumber, logs or pilings placed or stored in a manner so as to be attractive, dangerous and accessible to children;
3. An open pit, quarry, cistern or other excavation without safeguards or barriers to prevent such places from being used by children.

B. This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to children. (Ord. 718 (part), 2002)

8.20.080 Dangerous excavations. A. No owner or person in charge of property shall allow an excavation to remain unguarded by suitable barriers.

B. In addition to the barriers required by subsection A of this section, excavations shall be marked by warning lights during the hours of darkness.

C. An obstruction on a street, sidewalk, public way or pathway commonly used by the public shall be marked by warning lights during the hours of darkness. It shall be the responsibility of the person creating, maintaining, or in charge of such obstruction to ensure the installation and operation of the warning lights. (Ord. 718 (part), 2002)

8.20.090 Sidewalk defect or dangerous place. A. No owner of property, improved or unimproved, abutting on a public sidewalk, shall permit the sidewalk to deteriorate to such a condition that, because of cracks, chipping, weeds, settling, holes covered by dirt or similar occurrences, the sidewalk becomes a hazard to persons using it.

B. The city shall not be liable to any person for loss or injury to a person or property suffered or sustained by reason of any accident on sidewalks caused by ice, snow, encumbrances, obstructions, cracks, chipping, weeds, settling, holes covered by dirt or other similar conditions. Abutting property owners shall maintain sidewalks free from such conditions and are liable for any and all injuries to persons or property arising as a result of their failure to so maintain the sidewalks. (Ord. 718 (part), 2002)

8.20.100 Trees. A. No owner or person in charge of abutting property shall allow any brush, bushes, trees, limbs, shrubbery, flowers or other growth, whether grown for food, fuel, shade or ornamentation, to project over a sidewalk at an elevation of less than eight feet above the level of sidewalk, or over a street at an elevation of less than thirteen feet six inches above the level of street.

B. No owner or person in charge of property shall allow to stand a dead or decaying tree that may be a hazard to the public or to persons or property on or near the property.

C. The owner or person in charge of property abutting a parking and/or planter strip shall be responsible to maintain in good order grass, brush, bushes, trees, limbs, shrubbery, flowers or other growth on such parking and/or planter strip.

D. The City Manager or designee shall have the authority to remove or trim any vegetation within the right-of-way that are in violation of any provision of this section. (Ord. 892. 2020; Ord. 718 (part), 2002)

8.20.110 Fences. A. No owner or person in charge of property shall construct or maintain a barbed wire fence along a sidewalk or public way below six feet above the level of the sidewalk or public way.

B. No owner or person in charge of property shall construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person. (Ord. 718 (part), 2002)

8.20.120

8.20.120 Discarded motor vehicles. A. No person shall store or permit the storing of a discarded vehicle upon any private property within the city unless the vehicle is completely enclosed within a building or unless it is in connection with a business enterprise dealing in junked vehicles lawfully conducted within the city.

B. The chief of police shall report to the city manager all cases of nuisances described in this section. He shall promptly examine every such case reported to him; and he shall have the right to enter any premises where he may have reason to believe such nuisance exists, and shall give immediate notice to the occupant or owner of the premises where such may be found to abate the same.

C. The city manager may, after receiving said report, direct that notice be given to the owner of the discarded motor vehicle and to the owner of the property upon which said vehicle is located, directing that said motor vehicle be placed in compliance with this section. If compliance is not affected within ten days from the date of the notice, the chief of police is authorized to remove said nuisance and dispose of said nuisance as allowed by law.

D. For purposes of this section, "discarded" means any vehicle which does not have lawfully affixed thereto an unexpired license plate or is in one or more of the following conditions:

1. Inoperative;
2. Wrecked;
3. Dismantled;
4. Partially dismantled;
5. Abandoned;
6. Junked. Discarded vehicles may be deemed to include major parts thereof, including but not limited to bodies, engines, transmissions and rear ends. (Ord. 718 (part), 2002)

8.20.130 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 (FCC). (Ord. 718 (part), 2002)

8.20.140 Unnecessary noise. A. No person shall 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, at a volume of 55 decibels or greater, between 10:00 pm and 6:00 am. The decibels must be read with a sound meter located at the property boundary line of the property in question. The decibel level will be taken with a sound meter operated by the Scappoose Police Department. This also applies to the operation of equipment requiring a Commercial Driver's License or Commercial Learning Permit, between 10:00 pm and 6:00 am, if the equipment is being operated in residential zones, unless the City has granted a temporary permit for the operation of the equipment, or the equipment is being operated by a unit of government responding to an emergency.

B. Any violation of Section 9.12.040 Offenses relating to noise, is a violation of this chapter. (Ord. 881, 2019; Ord. 718 (part)).

8.20.150 Noise variance permit and application. A. Permit. An application for a noise variance permit for relief on the basis of undue hardship from a noise level or time limits designated in Scappoose Municipal Code may be submitted in writing to the City Manager or designee. The fee for such permit shall be set by Council resolution.

B. Conditions for granting. A noise variance permit granted by the City Manager shall contain all conditions upon which the permit has been granted and shall specify a reasonable time the permit shall be effective. The City Manager or designee shall grant the relief based on one or more of the following conditions:



1. That strict compliance with such rule, regulation, or order is inappropriate because of conditions beyond the control of the persons requesting the variance.
2. Because of special circumstances which would render strict compliance unreasonable or impractical due to special conditions or causes.
3. Because strict compliance would result in substantial curtailment or closing down of a business, plant, or operation, or no other alternative facility or method of compliance is yet available.
4. Because compliance with noise regulations from which the variance is sought would produce hardship greater than the benefit that would be produced by the granting of the variance.
5. Because there is a compelling public purpose or interest that is served by granting a variance.

C. Approval. Except where the city manager has submitted the matter to the city council for consideration, or the city manager has determined that more information is necessary to make a decision, they shall have 10 business days to consider the variance and may approve, deny or condition the variance with such terms as they, in the exercise of reasonable discretion, believes will advance the public's interest and the purposes of these regulations. Any decision of the city manager shall be in writing. After a variance permit is granted, the City of Scappoose shall notice the public via social media that a permit has been granted and detail the time and location the variance will occur.

D. Conditions. A noise variance permit may include conditions the City Manager or designee deems necessary to protect the public health and welfare.

E. Revocation or modification. In the case of failure to comply and/or an emergency or safety hazard, the City Manager or designee may revoke or modify a noise variance permit by setting forth the reason for revocation and/or the nature of the emergency or hazard in a certified letter mailed to the holder of the variance permit. This letter shall provide the reason why the variance is revoked or modified. (Ord. 903, 2022).

8.20.160 Unenumerated nuisances. A. In addition to the acts and conditions specifically enumerated in this chapter, any condition, thing, substance, conduct or activity which is detrimental to, injurious to, or constitutes a danger to the public health, safety or welfare is declared to be a nuisance and is subject to the abatement procedures set forth in this chapter.

B. A condition, thing, substance, conduct or activity declared to be a nuisance by another ordinance of this city is subject to the abatement procedures of this chapter, if no abatement procedures are provided by such ordinance. (Ord. 718 (part), 2002)

8.20.170 Enforcement procedures. A. If the chief of police or designee is satisfied that a nuisance exists, they may cause either a warning or a citation into the municipal court to be issued to the person responsible for the nuisance charging the person with violating this chapter. (Ord. 893, 2020; Ord. 718 (part), 2002)

8.20.180 Abatement by the city. A. If a nuisance is found by the court and said nuisance is not abated within the time ordered by the court, the municipal court may cause the nuisance to be abated.

B. The chief of police or designee shall have the right, by warrant or as otherwise allowed by law, to enter any premises where they may have reason to believe such nuisance exists, and shall give immediate notice to the occupant or owner of the premises where such may be found to abate the same.

C. The chief of police or other city official charged with the abatement shall keep an accurate record of all expenses incurred by the city in abating the nuisance. (Ord. 8963, 2020; Ord. 730 §2, 2003; Ord. 718 (part), 2002)

8.20.190 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. 718 (part), 2002)

8.20.200--8.20.210

8.20.200 Assessment of costs. A. Upon abatement of a nuisance by the city, the city recorder, by registered or certified mail, postage prepaid, shall forward to the person responsible a notice stating:

1. The total cost of abatement, including a charge of fifteen percent of those expenses for administrative overhead;

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

3. That if the person responsible objects to the cost of the abatement as indicated, he/she may file a notice of objection with the city recorder not more than ten days from the date of the notice.

B. At the next regular meeting of the city council after the date of the notice of objection, the council, in the regular course of business, shall hear and determine 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 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 the rate of nine percent per annum. The 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 person responsible shall not void the assessment, nor will failure to receive the notice of the proposed assessment render the assessment void; but it shall remain a valid lien against the property. (Ord. 893, 2020; Ord. 792 §2, 2007; Ord. 718 (part), 2002)

8.20.210 Summary abatement. The abatement procedure provided by this chapter is not exclusive, but is in addition to any procedure provided by other ordinances; and the chief of police may proceed summarily to abate a health or other nuisance which is reasonably found to exist and which imminently endangers human life or property. (Ord. 718 (part), 2002)

8.20.220 Penalties. A. The acts and conditions described in Section 8.20.020 through Section 8.20.150 of this chapter are declared to be public nuisances subject to abatement and penalty pursuant to this chapter.

B. A person violating Sections 8.20.130 or 8.20.140 of this chapter shall be guilty of a Class B civil violation, as described in ORS Chapter 153. Such violation shall be punishable by a fine fixed by the court not less than fifty dollars nor more than two hundred fifty dollars, plus court assessments.

C. A person violating any provisions of this chapter other than Sections 8.20.130 or 8.20.140 shall be guilty of a Class A civil violation as described in ORS Chapter 153. Such violation shall be punishable by a fine fixed by the court not less than two hundred fifty dollars nor more than six hundred dollars, plus court assessments.

D. In addition to other penalties, the court may order the nuisance abated and establish time limits for compliance with an abatement order. Failure to timely comply with an abatement order of the court shall be a separate Class B violation subject to a fine of two hundred fifty dollars. Each day of such noncompliance shall be a separate violation.

E. Upon conviction of a civil violation under this chapter, the court shall assess, in addition to penalties, reimbursement to the city for the city's reasonable costs in investigating and processing the city's nuisance citation and abatement. (Ord. 730 §3, 2003; Ord. 718 (part), 2002)

8.20.230 Affirmative defense. It shall be an affirmative defense to any charge of violation of any section of this chapter, other than Sections 8.20.130 or 8.20.140, that the alleged nuisance was satisfactorily abated by the defendant not more than ten calendar days after the issuance of the citation to appear in court for the nuisance, except that such defense shall not excuse the defendant from reimbursement of costs as required by this chapter. (Ord. 730 §4, 2003; Ord. 718 (part), 2002)

8.20.240--2.20.250

8.20.240 Separate violations. A. Each day's violation of a section of this chapter is a separate offense.

B. The abatement of a nuisance by the city 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. (Ord. 718 (part), 2002)

8.20.250 Severability. The sections and subsections of this chapter are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections and subsections. (Ord.718 (part), 2002)