**CHAPTER 92: NUISANCES; WEEDS**

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**GENERAL PROVISIONS**

**92.01 DEFINITIONS**

1. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**JUNK:** All unused old vehicles (not legally operable on state streets and highways), old vehicle parts, old appliances, mobile homes, boats and other watercraft and parts of all the above, old iron or other metal, glass, paper, old lumber, old wood, waste material, discarded material or abandoned personal property of any nature.

**LIQUID WASTE:** Any liquid contents, filth, poison or other polluting substance from a sink, sewer, cesspool, drain or private sewage disposal system or from any accumulation on real property.

**PERSON:** Every natural person, firm, partnership, association or corporation.

**PERSON IN CHARGE OF PROPERTY:** An agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of the property or the supervision of a construction project on the property.

**PERSON RESPONSIBLE:**

1. The owner or person in charge of property on which the nuisance exists or which abuts a public way where a nuisance exists.

(2) The person who causes the nuisance to come into or continue in existence.

**PERSON IN CHARGE:** Any agent, occupant, lessee, contract purchaser or person other than the owner, having possession or control of property.

**PUBLIC PLACE:** Any building, place of accommodation, whether publicly- or privately- owned, open and available to the general public.

(B) As used in this subchapter, the singular includes the plural and the masculine includes the feminine.

**92.02 NUISANCES PROHIBITED; RESPONSIBILITY**

(A)(1) No person responsible shall cause or permit a nuisance on public or private property.

(2) The person responsible shall be liable for injury, damage or loss to person or property caused by the negligent failure to abate any nuisance described in this subchapter.

(3) The city shall not be liable for injury, damage or loss to any person or property caused in whole or in part by the failure of the person responsible to comply with division (A)(1).

(4) Neither the duty of the person responsible to keep property free of nuisances nor his or her failure to do so is dependent upon notice from the city to abate the nuisance.

(5) The person responsible shall defend and hold harmless the city from all claims for loss or damage arising from the failure to comply with division (A)(1).

 (B)(1) Any of the conditions or acts which constitute a violation of this subchapter is hereby declared to be a nuisance and is subject to abatement as provided in this subchapter.

(2) In addition to the nuisances enumerated in this subchapter, any condition, thing, substance or activity which is prohibited by state law or common law or 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 is subject to abatement as provided in this subchapter.

Violation of this section is a class “B” violation as defined by the Oregon Revised Statutes.

Penalty, see  10.99

**92.03 NUISANCES AFFECTING THE PUBLIC**

The following nuisances are prohibited and may be abated as provided in this subchapter:

(A) A privy, vault, cesspool, septic tank, drain or other private sewage disposal system constructed or maintained within the city, except those constructed and operated in accordance with applicable state regulations and city ordinances;

(B) Junk kept outdoors on a street, lot or premises or in a building that is not wholly or entirely enclosed, except for doors used for ingress and egress;

(C) Junk vehicles parked, stored or otherwise left for a period of time in excess of 30 days, whether attended to or not, upon any public or private property within the city, other than a licensed junk yard or automobile wrecking house, unless the same is either completely enclosed or visually obscured from view from a public right-of-way; except that this 30-day limitation shall not apply to recreational vehicles, such as travel trailers, campers, motor homes, boats, all-terrain vehicles and the like, which are properly licensed and maintained;

(D) (1) Any accumulation of stagnant or impure water which affords or might afford a breeding place for insect pests;

(2) Any unmounted tires are not allowed anywhere they can collect water;

(E) The pollution of any body of water, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water;

(F) All decayed or unwholesome food which is offered for human consumption;

(G) Any premises which causes an offensive odor or which is in an unsanitary condition;

(H) Any drainage of liquid waste from a private premises;

(I) Erection or placement of any metal structure, tower or antenna in a manner that may allow hazardous contact with any electrical transmission line;

(J) Any vegetation on public or private property that:

(1) Is a hazard to pedestrian or vehicular use of a sidewalk or street by obstructing passage or vision, including:

(a) Vegetation that encroaches upon or overhangs a pedestrian way or parking strip lower than nine feet or overhangs a street lower than 14 feet; and

(b) Vegetation which obstructs motor or pedestrian view of traffic, traffic signs and signals, street lights and name signs or other safety fixtures or markings placed in the public way.

(2) Is a hazard to the public or to persons or property on or near the property where the vegetation is located; and/or

(3) Is an obstruction of access to and use of any public facilities placed within the public way.

 (K) Any accumulation of leaves, rubbish and other litter or any obstruction upon a sidewalk.

 (L) On public or private property no person may allow the accumulation of garbage or refuse.

 (M) Garbage or refuse that is put in trash receptacles must be bagged.

Violation of this section is a class “B” violation as defined by the Oregon Revised Statutes.

Penalty, see  10.99

**92.04 ABANDONED REFRIDGERATORS**

No person shall leave in any place including public or private property which may be accessible to children any abandoned or unattended ice box, refrigerator or container which has an airtight door or lock or other mechanism which may not be released for opening from the inside, without first removing the door from the ice box, refrigerator or container.

Violation of this section is a class “B” violation as defined by the Oregon Revised Statutes.

Penalty, see  10.99

**92.05 ATTRACTIVE NUISANCES**

(A) No person responsible for real property shall permit thereon:

(1) Any machinery, equipment or other devices which are attractive, dangerous and accessible to children; or

(2) Any lumber, logs or pilings placed or stored in a manner so as to be attractive, dangerous and accessible to children.

(B) This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

Violation of this section is a class “B” violation as defined by the Oregon Revised Statutes.

Penalty, see  10.99

**92.06 SNOW AND ICE REMOVAL**

(A) No person responsible for any real property abutting upon any public sidewalk shall permit:

(1) Any snow to remain on the sidewalk for a period longer than the first eight hours of daylight after the snow has fallen; or

(2) Any sidewalk to be covered with ice.

(B) It shall be the duty of any person within the first eight hours of daylight after the ice has formed to remove any ice accumulating on the sidewalk or to properly cover it with sand, ashes or other suitable material to assure safe travel.

Violation of this section is a class “D” violation as defined by the Oregon Revised Statutes.

Penalty, see  10.99

**92.07 SCATTERING RUBBISH**

No person shall throw, dump or deposit upon any street, alley, private property of another or public place, any injurious or offensive substance or any sort of rubbish, trash, debris or refuse or any substance which would mar the appearance, create a stench, or detract from the cleanliness or safety of the public place, or would be likely to injure any animal, vehicle or person traveling upon the public way.

Violation of this section is a class “C” violation as defined by the Oregon Revised Statutes.

Penalty, see  10.99

**92.08 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 and location of signs and advertising.

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

Violation of this section is a class “D” violation as defined by the Oregon Revised Statutes.

Penalty, see  10.99

**92.09 ABATEMENT PROCEDURES**

(A)(1) If the Police person, Code Ordinance Person, or other authorized member of the City Council declares a nuisance exists, the enforcing person shall cause a notice to be posted either on the premises or at the site of the nuisance directing a person responsible to abate the nuisance. The period for abatement shall commence on the date of the posted notice.

(2) At the time of posting, the code enforcing person shall cause a copy of the notice to be personally served upon or to be forwarded by registered or certified mail to any person responsible at the person’s last known address, and to the owner of the property as provided in the property records of Umatilla County, if the owner is not the person responsible.

1. 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 30 days from the date of the notice;

(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 shall be charged to the person responsible and/or assessed against the property;

(e) A statement that failure to abate a nuisance may result in a court prosecution; and

(f) A statement that the person responsible may appeal the order to abate by giving notice to the code ordinance person within ten (10) days from the date of the notice.

(4) Upon completion of the posting and mailing, the code enforcing person shall execute and file certificates stating the date and place of the posting, mailing or serving respectively.

(5) An error in the name or address of a person responsible shall not make the notice void and in the case, the notice shall be sufficient.

 (B)(1) Within 30 days after the posting of the notice, as provided in subsection (A), a person responsible shall remove the nuisance or show that no nuisance exists.

 (2) A person responsible appealing the order to abate shall file with the code enforcing person a written statement specifying the basis for appealing.

(3) The statement shall be referred to the Council or its designee for consideration. The appellant shall be given at least five days’ prior written notice of the time set to consider the abatement. The Council or its designee shall take oral or written testimony at the time and place specified in the notice. If the testimony is taken by the Council’s designee, the designee may request additional information from the appellant or the enforcing person before making the designee’s recommendation to the Council. The Council shall determine whether a nuisance 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 herein.

(4) If the Council determines that a nuisance does in fact exist, a person responsible shall, within 30 days after the Council’s determination, or within the time as the Council determines, abate the nuisance.

 (C)

 (1) If within the time allowed the nuisance has not been abated by a person responsible, the enforcing person may cause the nuisance to be abated.

(2) The person charged with abatement of the nuisance, or contractors acting under the direction of the person shall have the right at reasonable times to enter into or upon property in accordance with law to investigate or cause the removal of the nuisance.

(3) An accurate record of the expense incurred by the city in physically abating the nuisance and shall include therein a reasonable charge for administrative overhead.

(D) If more than one person is responsible, they shall be jointly and severally liable for abating the nuisance.

(E)(1) The City, by registered or certified mail, postage prepaid, shall issue a notice to

 Person responsible, and to the owner of the property as provided in the property

 Records of Umatilla County, if the owner is not person responsible for the

 Nuisance, stating:

(a) The total cost of abatement including the administrative overhead;

(b) 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; and

(c) If the person responsible objects to the cost of the abatement as indicated, he or she may file a written notice of objection with the City not more than ten days from the date of the notice.

 (2) Upon the expiration of ten days after the date of the notice, the Council or its designee, in the regular course of business, shall hear any written objections to the costs assessed and the Council shall determine the costs of abatement by resolution. The resolution shall provide that if the costs of abatement are not paid within ten days from the date of the resolution, the costs shall be entered in the docket of city liens and upon the entry shall constitute a lien upon the property from which the nuisance was removed or abated, or upon the abutting property when the nuisance was removed or abated from the public way.

(3) If no objection is filed and the costs of the abatement are not paid within ten days from the date of the notice, an assessment of the costs as stated shall be made by resolution and shall thereupon be entered in the docket of city liens. Upon entry being made, it shall constitute a lien upon the property from which the nuisance was removed or abated, or upon the abutting property when the nuisance was removed or abated from the adjoining public way.

(4) The lien shall be enforced in the same manner as liens for street improvement and shall bear a reasonable rate of interest. The interest shall commence from the date of the entry of the lien in the lien docket.

(5) An error in the name of a person responsible 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.

(F) The requirement to abate 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 responsible of the duty to abate the nuisance; however, abatement by a person responsible of a nuisance within 30 days of the date of notice to abate, or if a written protest has been filed, then abatement within 30 days of the Council’s determination that a nuisance exists, will excuse the person responsible from prosecution.

(G)(1) The procedure provided in this section is not exclusive, but is in addition to procedures provided by other laws. The city may proceed to summarily abate a nuisance which unmistakably exists and which imminently endangers human life, health or property. The cost of the abatement may be assessed as provided in subsection (E).

(2) The abatement of a nuisance under this section and the assessment of the costs therefor are not a penalty for violating this code, but are additional remedies.

**WEEDS**

**92.30 DEFINITIONS**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ENFORCING PERSON**: Includes any member of the Weston Code Enforcement with law enforcement authority as assigned by the Police Executive Person

**NOXIOUS GROWTHS:**

(1) Weeds more than 12 inches high;

(2) Grass more than 12 inches high;

(3) Poison oak;

(4) Poison ivy;

(5) Vegetation that is:

(a) A health hazard;

(b) A fire hazard; and/or

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

(6) Blackberry bushes that extend into a public way, a pathway frequented by children, cross a property line or that are used for a habitation for trespassers;

(7) Any noxious weeds or growth listed in the U.S., State of Oregon, or Umatilla County noxious weeds lists are not allowed.

**92.31 COMPLIANCE; WAIVER**

Where strict compliance with the requirements of this subchapter is impracticable as they apply to the particular circumstances, the Enforcing Person may waive those requirements.

**92.32 NOXIOUS GROWTHS PROHIBITED**

(A) Noxious growths. No owner or person in charge of real property shall allow noxious growth on the property. Noxious growths are hereby declared a nuisance.

(B) Abatement. It shall be the duty of any owner or person in charge of real property to abate noxious growths from property. The owner and the person in charge shall be jointly and severally liable for the cost of abatement as provided in this subchapter.

(C) Clearance of brush and vegetative growth from electrical transmission lines.

(1) Clearance of brush and vegetative growth from electrical transmission lines shall be according to this section. This section does not authorize persons not having legal right of entry to enter upon or damage the property of others without consent of the owner.

(2) Persons owning, controlling, operating or maintaining electrical transmission lines upon hazardous fire areas shall, at all times, maintain around and adjacent to poles supporting a switch, fuse transformer, lightning arrester, line junction, dead end, corner pole, towers or other poles or towers at which power company employees are likely to work most frequently, an effective firebreak consisting of a clearing of not less than ten feet at each direction from the outer circumference of the pole or tower.

(3) Persons owning, controlling, operating or maintaining electrical transmission lines upon hazardous fire areas shall maintain clearance of four feet in all directions between vegetation and conductors carrying electrical current, or a greater clearance as may be set by the City Council.

(D) Unusual circumstances. If the enforcing person determines that difficult terrain, danger of erosion or other unusual circumstances make strict compliance with the clearance of vegetation provisions hereof undesirable or impractical, enforcement thereof may be suspended and reasonable alternative measures shall be provided.

Violation of this section is a class “C” violation as defined by the ORS chapter 153.

Penalty, see  10.99

**92.33 PUBLIC NOTICE**

(A) Each year during the spring season the City shall cause a notice to be published via posting a sign in public place and/or on the official city website, alerting the public to specific requirements of this subchapter, as notice to all owners and persons in charge of property to abate their property of noxious growths. The notice may also state that the city intends to abate all noxious growths ten (10) or more days after the annual publication/posting of the notice and to charge the cost of doing so on any particular parcel of property to the owner thereof, to the Responsible Person, or place a lien on the property.

(B) In addition to the public notice required in division (A) and before the initiation of abatement activity, the enforcing person shall attempt to notify the property owner of the requirements of this subchapter and the city’s intention to abate the noxious growths. The Enforcing Person may initiate abatement no sooner than ten (10) days after attempting to issue the required notice.

(1) Notice may be mailed, personally served, posted on the property or transmitted via electronic format,

(2) Personal notice to the property owner or person in charge shall not be required.

**92.34 ABATEMENT PROCEDURES**

(A)(1) If the noxious growths have not been abated as ordered, the city shall cause them to be abated.

(2) The Enforcing Person and others assigned to perform the abatement may enter upon the property at reasonable times for the purposes of investigating and abating conditions prohibited by this subchapter.

(B)(1) The Enforcing Person shall cause the owner or Responsible Person or both to be billed for the abatement, including an administrative charge in an amount set by City Council to cover the expenses of administering this subchapter. An additional charge in an amount set by City Council may be charged if the bill is not paid within thirty (30) days of mailing, as provided in the city’s fee schedule.

(2) The bill shall state that it may be appealed in writing to the City Council within ten (10) days after its date. On appeal, the Council shall consider the protest, determine the proper amount of the bill, and notify the appellant of that amount. That determination shall be final.

(3) Within ten (10) days after receiving the bill, if it is not appealed, or if it is appealed, within ten (10) days after the Council’s determination, the Responsible Person shall pay the bill.

(4) If the bill is not paid within thirty (30) days after expiration of the ten (10) days, the City may cause legal action to be brought in court for the amount of the bill, and may cause a lien to be established against the property by recording the amount of the bill, the property description, and the owner, if known, in the city’s lien docket.

(C) The procedures provided by this subchapter are not exclusive, but are addition to any procedure provided in any other ordinance. The Enforcing Person may proceed summarily to abate noxious growths that pose an imminent danger to human life or property. The cost of the abatement shall be assessed and collected as provided herein.

(D)(1) Each day’s violation of a provision of this subchapter shall constitute a separate offense.

(2) The abatement of a nuisance as herein provided shall not constitute a penalty for a violation of this subchapter, but shall be in addition to any penalty imposed for a violation of this subchapter.