

ORDINANCE NO. 59117

Introduced by Commissioner James D. Calkins
Leslie W. Norton

AN ORDINANCE DEFINING NUISANCES; PROHIBITING SAME; PROVIDING FOR THEIR ABATEMENT; PROVIDING PENALTIES; AND REPEALING ORDINANCES.

THE CITY OF WARRENTON does ordain as follows:

Section 1. Definitions.

(1) Person. A natural person, firm, partnership, association or corporation.

(2) Person in charge of property. An agent, occupant, lessee, contract purchaser, or other person having possession or control of property or the supervision of any construction project.

(3) Person responsible. The person responsible for abating a nuisance shall include:

(a) The owner.

(b) The person in charge of property as defined in subsection (2).

(c) The person who caused to come into or continue in existence a nuisance as defined in this ordinance or another ordinance of this city.

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

ANIMALS

Section 2. 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 insure the public health and safety.

Section 3. Livestock and Poultry. Except for household pets and as otherwise permitted by ordinance, no person shall keep or maintain livestock, bees, or poultry within the city.

Section 4. Animals at Large. Except for household pets, 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 dogs.

Section 5. 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 24 hours.

NUISANCES AFFECTING PUBLIC HEALTH

Section 6. 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 ordinance.

(1) Debris. An accumulation of decomposed animal or vegetable matter, garbage, rubbish, manure, offal, ashes, discarded containers, waste, paper, debris, trash, hay, grass, straw, weeds, litter, or other refuse matter or substance which, by itself or in conjunction with other substances, is deleterious to public health or comfort, or is unsightly, or creates an offensive odor.

(2) Stagnant water. An accumulation of stagnant or impure water which affords or might afford a breeding place for mosquitos or other insects.

(3) Noxious weeds. A growth of Russian thistle, Canadian thistle, Chinese Thistle, white mustard, cocklebur, silver saltbush, fox tail, or any other noxious weed; and all grass over 10 inches in height.

(4) Animal Carcasses. The deposition of an animal carcass or part thereof; of 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.

(5) Privies. 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.

(6) Surface drainage. Drainage of liquid wastes from private premises.

(7) Cesspools. Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor.

(8) Food. Decayed or unwholesome food which is offered for human consumption.

(9) Odors. Premises which are in such a state or condition as to cause an offensive odor, or which are in an unsanitary condition.

(10) Slaughterhouses. A pigsty, slaughterhouse, or tannery.

(11) Housing of animals. A barn, stable, corral, pen, chicken coop, rabbit hutch, or other place where animals are caged or housed which is an unsanitary condition or creates a noisome or offensive odor.

(12) Water. 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.

NUISANCES AFFECTING PUBLIC SAFETY

Section 7. Abandoned Refrigerators. No person shall leave in any place accessible to children an abandoned or discarded ice box, refrigerator, or similar container without first removing the door.

Section 8. Attractive Nuisances.

(1) No owner or person in charge of property shall permit thereon:

(a) Unguarded machinery, equipment, or other devices which are attractive, dangerous, and accessible to children.

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

(c) An open pit, quarry, cistern, or other excavation without safeguards or barriers to prevent such places from being used by children.

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

Section 9. Dangerous Excavations.

(1) No owner or person in charge of property shall allow an excavation to remain unguarded by suitable barriers.

(2) In addition to the barriers required by subsection (1) of this section, excavations shall be marked by warning lights during the hours of darkness.

(3) 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 insure the installation and operation of the warning lights.

Section 10. Trees.

(1) 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 8 feet above the level of the sidewalk or over a street at an elevation of less than 13 feet 6 inches above the level of the street.

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

(3) The owner or occupant of property abutting a parking strip shall be responsible for brush, bushes, trees, limbs, shrubbery, flowers, or other growth on such parking strip; and subsections (1) and (2) of Section 10 shall be applicable to such owner or occupant and to abutting parking strips.

Section 12. Fences.

(1) No owner or person in charge of property shall construct or maintain a barbed wire fence along a sidewalk or public way below 6 feet above the level of the sidewalk or public way.

(2) 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.

NUISANCES AFFECTING THE PUBLIC PEACE

Section 12. Radio and Television Interference.

(1) 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.

(2) This section does not apply to devices licensed, approved, and operated under the rules and regulations of the Federal Communications Commission.

Section 13. Unnecessary Noise.

(1) 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.

(2) Loud, disturbing, and unnecessary noises in violation of this section include, but are not limited to, the following:

(a) The keeping of any bird or animal which by causing frequent or long-continued noise shall disturb the comfort and repose of any person in the vicinity.

(b) The attaching of a bell to an animal or allowing a bell to remain on an animal.

(c) The use of a vehicle or engine, either stationary or moving, so out of repair, loaded, or operated as to create any loud or unnecessary grating, grinding, rattling, or other noise.

(d) The sounding of a horn or signaling device on a vehicle on a street, public place, or private place, except as a necessary warning of danger.

(e) The blowing of a steam whistle attached to a stationary boiler, except to give notice of the time to begin or stop work, as a warning of danger, or upon request of proper city authorities.

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

(g) The erection, including excavation, demolition, alteration, or repair of a building in residential districts other than between the hours of 7:00 a.m. and 6:00 p.m. except in case of urgent necessity in the interest of the public welfare and safety and then only with a permit granted by the recorder for a period not to exceed 10 days. The permit may be renewed for periods of five days while the emergency continues to exist. If the council determines that the public health, safety, and welfare will not be impaired by the erection, demolition, alteration, or repair of a building between the hours of 6:00 p.m. and 7:00 a.m., and if the council shall further determine that loss or inconvenience would result to any person unless the work is permitted within those hours, the council may grant permission for such work to be done within specified hours between 6:00 p.m. and 7:00 a.m., upon application therefore being

made at the time the permit for the work is awarded or during the progress of the work.

The actual owner of property may do work on property actually occupied by him between the hours of 6:00 p.m. and 10:00 p.m. without obtaining a permit as herein required.

(h) The use of a gong or siren upon a vehicle, other than police, fire, or other emergency vehicle.

(i) The creation of excessive noise on a street adjacent to a school, institution of learning, church, or court of justice, while the same are in use, or on a street adjacent to a hospital, nursing home, or other institution for the care of the sick or infirm, which unreasonably interferes with the operation of such institution or disturbs or unduly annoys patients.

(j) The discharge in the open air of the exhaust of a steam engine, internal combustion engine, motorboat, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises and the emission of annoying smoke.

(k) The use or operation of an automatic or electric musical instrument, phonograph, tape recorder, stereo radio, television, loudspeaker, or any instrument for sound producing or any sound amplifying device so loudly as to disturb persons in the vicinity thereof or in such a manner as renders the use thereof a nuisance. However, upon application to the council, permits may be granted to responsible persons or organizations for the broadcast or amplification of programs of music, news, speeches, or general entertainment as a part of a national, state, or city event, public festivals, or outstanding events of a noncommercial nature. The broadcast or amplification shall not be audible for a distance of more than 1,000 feet from the instrument, speaker, or amplifier; and in no event shall a permit be granted where any obstruction to the free and uninterrupted flow of traffic, both vehicular and pedestrian, will result.

(l) The making of a noise by crying, calling, or shouting or by means of a whistle, rattle, bell, gong, clapper, horn, hammer, drum, musical instrument, or other device for the purpose of advertising goods, wares, or merchandise, attracting attention, or inviting patronage of a person to a business. However, newsboys may sell newspapers and magazines by public outcry.

(m) The conducting, operating, or maintaining of a garage within 100 feet of a private residence, apartment, rooming house, or hotel in such manner as to cause loud or disturbing noises to be emitted therefrom between the hours of 11:00 p.m. and 7:00 a.m.

(Sections 17 through 29 reserved for expansion)

NUISANCES AFFECTING THE OLFACTORY SENSES

Section 14. Fish Rendering Plants. No person or persons, firm, company, corporation or association shall within the corporate limits of the City of Warrenton, Clatsop County, Oregon, conduct, carry on, or engage in, or cause to be conducted, carried on or engaged in the business of rendering, heating, or steaming of any animal, fish or vegetable product or substance, or carry on, conduct, or engage in, or cause to be carried on, conducted or engaged in the manufacture of fish meal, and/or fish oil made and/or derived from fish or any part thereof generating noisome or unwholesome odors or gaseous vapors, unless the same shall be conducted under such method as shall entirely condense, decompose, deodorize, and/or destroy the odors, vapors or gaseous products, and no person, persons, firm, company, corporation or association shall within the corporate limits of the city of Warrenton, be permitted to burn, cook, prepare or manufacture upon his, its or their premises, or in any street, alley, or other place, any animal, fish or vegetable substance which shall create noisome or unwholesome odor.

Section 15. Fish Meal and Oil Production. No person, persons, firm, company, corporation or association shall within the corporate limits of the city of Warrenton, accumulate or cause to be accumulated fish or any parts of fish in its raw state or otherwise for the purpose of cooking the same for the manufacture of fish meal and fish oils or any other product made from fish, fish heads, or from offal from fish from which shall emanate noisome or unwholesome odor and putrid stench.

NUISANCES AFFECTING WATER FLOWS

Section 16. No person, persons, firm, company, corporation or association shall within the corporate limits of the city of Warrenton, Clatsop County, Oregon, interfere with, obstruct, fill, drain, or tend to obstruct or render dangerous for passage or change the course of a lake, navigable river, stream, ditch, drainage ditch, drain, natural drain, canal or any flow of water without the permission of all applicable governmental bodies, including this City.

UNENUMERATED NUISANCES

Section 30. Unenumerated Nuisances.

(1) In addition to the acts and conditions specifically enumerated in this ordinance, any condition, thing, substance, 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 ordinance.

(2) A condition, thing, substance, or activity declared to be a nuisance by another ordinance of this city is subject to the abatement procedures are provided by such ordinance.

ABATEMENT PROCEDURE

Section 31. Procedures.

(1) If the chief of police or his delegate is satisfied that a nuisance exists, he 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.

(2) At the time of posting, the city recorder shall cause a copy of the notice to be forwarded by registered mail or certified mail, postage prepaid, to the person responsible at his last known address.

(3) 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 10 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 charged to the person responsible.

(e) A statement that failure to abate a nuisance may warrant imposition of a fine or jail sentence.

(f) A statement that the person responsible may protest the order to abate by giving notice to the recorder within 10 days from the date of the notice.

(4) 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, respectively.

(5) 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 32. Abatement By The Person Responsible.

(1) Within 10 days after the posting and mailing of such notice as provided in Section 31, the person responsible shall remove the nuisance or show that no nuisance exists.

(2) A person responsible, protesting that no nuisance exists, shall file with the recorder a written statement which shall specify the basis for so protesting.

(3) The statement shall be referred to the city 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; and the council shall determine whether or not 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 those cases where a written statement has been filed as provided.

(4) If the council determines that a nuisance does in fact exist, the person responsible shall, within 10 days after the council determination, abate the nuisance.

Section 33. Abatement by the City.

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

(2) The officer charged with abatement of the nuisance shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance.

(3) The recorder shall keep an accurate record of the expense incurred by the city in physically abating the nuisance, and shall include therein a charge of \$10.00 or 10 per cent of those expenses (whichever is greater) for administrative overhead.

Section 34. 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 35. Assessment of Costs.

(1) The recorder, by registered or certified mail, postage prepaid, shall forward to the person responsible a notice stating:

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

(b) That the cost 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 person responsible objects to the cost of the abatement as indicated, he may file a notice of objection with the recorder not more than 10 days from the date of the notice.

(2) Upon the expiration of 10 days after the date of the notice, the council, in the regular course of business, shall hear and determine the objections to the costs assessed.

(3) If the costs of the abatement are not paid within 30 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.

(4) The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at

the rate of 6 per cent per annum. The interest shall commence to run from date of the entry of the lien in the lien docket.

(5) 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.

GENERAL

Section 36. Summary Abatement. The procedure provided by this ordinance is not exclusive, but is in addition to procedure provided by other ordinances; and the health officer, the chief of the fire department, or the chief of police may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.

Section 37. Penalties. A person violating a provision of this ordinance or an order issued under authority of this ordinance shall, upon conviction, be punished by imprisonment in the city jail for a period not to exceed 180 days, or by a fine not to exceed \$500, or by both such fine and imprisonment.

Section 38. Separate Violations.

(1) Each day's violation of a provision of this ordinance constitutes a separate offense.

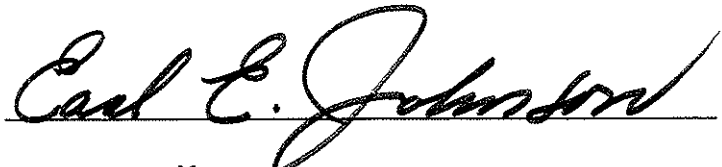
(2) The abatement of a nuisance is not a penalty for violating this ordinance, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within 10 days of the date of notice to abate, or if a written protest has been filed, then abatement within 10 days of council determination that a nuisance exists will excuse the person responsible from the imposition of any fine or imprisonment under Section 23 of this ordinance.

Section 39. Severability. The sections and subsections of this ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections and subsections.

Section 40. Repeal. That Ordinances No. 23A, passed and approved May 15, 1925, No. 200A, passed and approved April 15, 1940, Ordinance 304A passed and approved September 15, 1921, Ordinance 344A passed and approved January 16, 1956 and Ordinance No. 509A, be and the same are hereby repealed.

Passed by the City Commission of the City of Warrenton
this 12 day of February, 1973.

Approved by the Mayor of the City of Warrenton this
12 day of February, 1973.



Mayor

ATTEST:



Auditor and Police Judge