

ORDINANCE NO. 348-A

Introduced by Commissioner all City Commissioners

AN ORDINANCE DEFINING NUISANCES; PROVIDING FOR THEIR ABATEMENT; PROVIDING PENALTIES; AND REPEALING ORDINANCE NO. 591-A AND ANY CONFLICTING ORDINANCE.

The City of Warrenton, ordains as follows:

Section 1. DEFINITIONS.

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:

- (1) The owner
- (2) The person in charge of property, as defined in this ordinance or another ordinance of the city, to come into or continue in existence.
- (3) 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 and may be abated as provided in this ordinance.

- (1) Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with State Health Division regulations.
- (2) Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the city.
- (3) Stagnant water in an artificial container that affords a breeding place for mosquitoes and other insect pests.
- (4) 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 will cause harmful material to pollute the water.
- (5) Decayed or unwholesome food offered for human consumption.
- (6) Premises that are in such a state or condition as to cause an offensive odor or that are in an unsanitary condition.
- (7) Drainage of liquid wastes from private premises.
- (8) Cesspools or septic tanks that are in an unsanitary condition or that cause an offensive odor.
- (9) Mastics, oil, grease or petroleum products allowed to be introduced into the sewer system by a user connected to the sewer system.

(Sections 3 to 9 reserved for expansion)

NUISANCES AFFECTING PUBLIC SAFETY

Section 10. CREATING A HAZARD

No person shall create a hazard by:

- (1) 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 open from the inside.
- (2) 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 4 feet or more, and a top width of 12 inches or more and failing to cover or fence it with a suitable protective construction.

Section 11. ATTRACTIVE NUISANCES

- (1) 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 store in a manner so as to be attractive, dangerous and accessible to children.
- (2) This section does not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

Section 12. NOXIOUS VEGETATION

- (1) No owner or person in charge of real property shall allow noxious vegetation on the property. Noxious vegetation is declared a nuisance.
- (2) The owner or person in charge of real property shall abate noxious vegetation from the property. The owner and the person in charge shall be jointly and severally liable for the cost of abatement as provided in this ordinance.
- (3) For purposes of this section, "noxious vegetation" means:
 - (a) Vegetation that is, or is likely to become:
 1. A health hazard;
 2. A fire hazard;
 3. A traffic hazard, because it impairs the view of the public thoroughfare, or otherwise makes use of the thoroughfare hazardous.
 - (b) Poison oak.
 - (c) Poison ivy.
 - (d) Blackberry bushes that extend into a public way, a pathway frequented by children, cross a property line, or that are used for a habitation by trespassers.

- (4) 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 noxious vegetation as often as needed to prevent it from becoming a health or fire hazard, or, in the case of weeds or other noxious vegetation, from maturing or from going to seed.
- (5) The City Auditor may cause to be published, in a newspaper of general circulation in the city, a copy of subsection (4) as a notice to all owners and persons in charge of property of the duty to keep their property free from noxious vegetation.
- (6) The notice provided for in subsection (5) may be used in lieu of the notice required by section 32 of this ordinance.

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

(1) No owner or person in charge of property that abuts on a street or public sidewalk shall permit trees or bushes on the property to interfere with street or sidewalk traffic. An owner or person in charge of property that abuts on a 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 12 feet above the roadway.

(2) 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. FENCES

(1) No owner or person in charge of property shall construct or maintain a barbed-wire fence, or permit barbed wire to remain as part of a fence, along a sidewalk or public way; except such wire may be placed above the top of other fencing not less than six feet, six inches high.

(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, without written permission of the Manager.

Section 16. SURFACE WATERS, DRAINAGE

(1) 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 a street or public sidewalk or to flow across the sidewalk.

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

Section 17. DEFECTIVE SIDEWALKS; SNOW AND ICE.

- (1) No owner or person in charge of property, improved or unimproved, abutting on a public sidewalk, shall permit:
 - (a) Snow to remain on the sidewalk for a period longer than the first two hours of daylight after the snow has fallen.
 - (b) Ice to remain on the sidewalk for more than two hours of daylight after the ice has formed, unless the ice is covered with sand, ashes or other suitable material to assure safe travel.
- (2) 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, covering by dirt, or other similar occurrences, the sidewalk becomes a hazard to persons using it.
- (3) 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 reason of any accident on sidewalks caused by ice, snow, encumbrances, obstruction, cracks, chipping, weeds, settling, holes covered by dirt or other similar condition. 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.

(Sections 18 to 20 reserved for expansion)

NUISANCES AFFECTING PUBLIC PEACE

Section 21. 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 22. JUNK

- (1) No person shall keep junk 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.
- (2) The term "junk," as used in this section, includes all old motor, old motor vehicle parts, abandoned automobiles, old machinery, old machinery parts old appliances, parts, old iron or other metal, glass paper, lumber, wood or other waste or discarded material.
- (3) This section does not apply to junk kept in a licensed junk yard or automobile wrecking house.

Section 23. NOTICES AND ADVERTISEMENTS

- (1) 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 an location of signs and advertising.
- (2) This section shall not be construed to prohibit the distribution of material during any parade or public gathering.

(Sections 24 to 29 reserved for expansion)

UNENUMERATED NUISANCES

Section 30. UNENUMERATED NUISANCES

(1) The acts, conditions or objects specifically enumerated and defined in sections 2 to 29 are declared public nuisances and may be abated by the procedures set forth in sections 31 to 37.

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

Section 31 NOTICE OF NUISANCE DETERMINATION

At least five days prior to the meeting at which the nuisance determination described in section 32 (1) is made, the Auditor shall notify the owner or person in charge of the property involved of the time and place of the meeting. For the purposes of this section, notice is sufficient if it is:

- (1) Mailed to the last known address of the owner or person in charge; or
- (2) Posted at the site of the property involved.

ABATEMENT PROCEDURE

Section 32. NOTICE TO ABATE

(1) On determination by the Commission that a nuisance exists, the Commission shall cause a notice to be posted on the premises or at the site ~~of the site~~ of the nuisance, directing the person responsible to abate the nuisance.

(2) At the time of posting, the City Auditor shall cause a copy of the notice to be forwarded by registered or certified mail to the person responsible at the person's last know 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 will be charged to the person responsible.

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

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

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

(5) 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.

(6) 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 33. ABATEMENT BY THE PERSON RESPONSIBLE

(1) Within 10 days after the posting and mailing of notice as provided in section 32, the person responsible shall remove the nuisance or file a protest, as described in subsection (2).

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

(3) The statement shall be referred to the Commission 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 Commission. The Commission shall determine whether a nuisance in fact exists, and the determination shall be entered in the official minutes of the Commission. Commission determination shall be required only in cases where a written statement has been filed as provided.

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

Section 34. JOINT RESPONSIBILITY

If more than one person is 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. ABATEMENT BY THE CITY

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

(2) 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.

(3) The City Auditor shall keep an accurate record of the expense incurred by the city in physically abating the nuisance and shall include a charge equal to 5 percent of those expenses for administrative cost.

Section 36. ASSESSMENT OF COSTS

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

(a) The total cost of abatement, including the 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 of the person responsible objects to the cost of the abatement as indicated, a notice of objection may be filed with the City Auditor not more than 10 days after the date of the notice.

(2) No sooner than 30 days after the date of the notice, the Commission, in the regular course of business, shall hear and make a decision on 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 decided by the Commission, 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.

(4) The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the current statutory interest rate. The interest shall begin to run from the date of entry of the lien in the lien docket.

(5) 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.

GENERAL

Section 37. SUMMARY ABATEMENT

The procedure provided by this ordinance is not exclusive, but is in addition to procedure provided by other ordinances. The chief of the fire department, a law enforcement officer, or any other city official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.

Section 38. PENALTIES

A violation of a provision of this ordinance is punishable by a fine not to exceed \$ 1000.00.

Section 39. 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 violation 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 Commission determination that a nuisance exists, will relieve the person responsible for the imposition of a penalty under section 38 of this ordinance.

Section 40. SEVERABILITY

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

Section 41. REPEAL

Ordinance No. 591-A adopted February 12, 1973, 638-A adopted May 23, 1977, 738-A adopted December 6, 1982, 810-A, adopted October 21, 1987 and all conflicting ordinances or amendments are repealed.

Section 42. SAVING CLAUSE

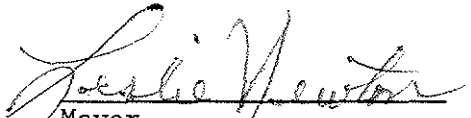
Notwithstanding section 41, ordinances repealed thereby shall remain in force for the purpose of authorizing the arrest, prosecution, conviction and punishment of a person who violated those ordinances prior to the effective date of this ordinance.

First reading: 4/19/89

Second Reading: 5/3/89

PASSED by the City Commission of the City of Warrenton, Oregon, this 3rd day of May 19 89.

APPROVED by the Mayor of the city of Warrenton, Oregon, this 3rd day of May 19 89.



Mayor

ATTEST:



City Manager/Auditor