

A BILL FOR AN ORDINANCE DEFINING)
CERTAIN NUISANCES, PROVIDING FOR)
THEIR ABATEMENT, AND PRESCRIBING)
PENALTIES, AND DECLARING AN EMER-)
GENCY.)

ORDINANCE BILL NO. 60
FOR 1967.

ORDINANCE NO. 1290

THE PEOPLE OF THE CITY OF LEBANON DO ORDAIN AS FOLLOWS:

Section 1. Defintions. Unless the context requires otherwise, the following mean;

- (1) City. The city of Lebanon.
- (2) Council. The governing body of the City .
- (3) Person. A natural person, firm, partnership, association, or corporation, whether he or it is acting for himself or itself, or as the Clerk, servant, employe, or agent of another,
- (4) Person in charge of property. An agent occupant, lessee, contract purchaser, or person, other than the owner, having possession or control of the property.
- (5) Public place. A building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.

NUISANCES AFFECTING THE PUBLIC HEALTH

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

- (1) Privies. An open vault or privy constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the Oregon State Board of Health regulations.
- (2) Debris. Accumulation 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. Stagnant water which affords a breeding place for mosquitos and other insect pests.
- (4) Water pollution. Pollution of a body of water, well, spring, stream, or drainage ditch by sewage, industrial wastes, or other substances placed in or near such water in a manner that will cause harmful material to pollute the water.
- (5) Food. Decayed or unwholesome food which is offered for human consumption.
- (6) Odor. Premises which are in such a state or condition as to cause an offensive odor or which are in an unsanitary condition.
- (7) Surface drainage. Drainage of liquid wastes from private premises.
- (8) Cesspools. Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor.

NUISANCES AFFECTING PUBLIC SAFETY

Section 3. Abandoned Iceboxes. No person shall leave in a place accessible to children an abandoned or discarded icebox, regrigerator, or similiar container without first removing the door.

Section 4. 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 piling 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 5. Weeds and Noxious Growth. No owner or person in charge of property shall permit weeds or other noxious vegetation to grow upon his property. It shall be the duty of an owner or person in charge of property to cut down or to destroy weeds or other noxious vegetation as often as needed to prevent the weeds or noxious vegetation from becoming unsightly, from becoming a fire hazard, from maturing, or from going to seed.

Section 6. Scattering Rubbish. No person shall deposit upon a public or private property any kind of rubbish, trash, debris, refuse, or any substance that would mar the appearance, create a stench, create a fire hazard, or detract from the cleanliness or safety of such property.

Section 7. Fences. No owner or person in charge of property shall construct or maintain a barbed-wire fence thereon, or allow a barbed wire to remain as a 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.

NUISANCES AFFECTING THE PUBLIC PEACE

Section 8. Radio and Television Interference.

(1) No person shall operate or use an electrical, mechanical, or other devices, apparatus, instrument, or machine that causes reasonably preventable interference with radio or television reception by 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 9. 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 or 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 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 noises.

(d) The sounding of a horn or signaling device on a vehicle on 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 city recorder for a period not to exceed 10 days. Such permit may be renewed for periods of five days while such 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 any 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 such work were permitted within those hours, the council may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m. upon application therefor being made at the time the permit for the work is awarded, or during the progress of the work.

The actual owner of 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 piano, phonograph, gramophone, victrola, 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 permit be granted where any obstruction to the free and uninterrupted 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, except as may otherwise be provided by ordinance.

(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.

Section 10. Notices and Advertisements.

(1) No person shall affix or cause to be disturbed any placard, bill, advertisement, or poster upon real or personal property, public or private property, without first securing permission from the owner or person in control of the 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 the location of signs and advertising.

(2) This section does not prohibit the distribution of advertising material during a parade or approved public gathering.

Section 11. Declaration of Nuisance, General Nuisance.

(1) The acts, conditions, or objects specifically enumerated and defined in Section 2 through Section 10 are hereby declared to be public nuisances and such acts, conditions, or objects may be abated by any of the procedures set forth in Section 12 through Section 16 of this ordinance.

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

ABATEMENT PROCEDURE

Section 12. Abatement Notice.

(1) Upon determination by the Council that a nuisance as defined in this or any other ordinance of the city exists, the council shall forthwith cause a notice to be posted on the premises where the nuisance exists, directing the owner or person in charge of the property to abate such nuisance.

(2) At the time of posting, the city recorder shall cause a copy of such notice to be forwarded by registered or certified mail, postage prepaid, to the owner or person in charge of the property at the last-known address of such owner or other person.

(3) The notice to abate shall contain;

(a) A description of the real property, by street address or otherwise, on which such 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 such nuisance is removed, the city may abate the nuisance and the cost of abatement shall be a lien against the property.

(e) A statement that the owner or other person in charge of the property may protest the abatement by giving notice to the city recorder within 10 days from the date of the notice.

(4) Upon completion of the posting and mailing, the person posting and mailing the notice shall execute and file a certificate stating the date and place of such mailing and posting.

(5) An error in the name of address of the owner or person in charge of the property or the use of a name other than that of the owner or other person shall not make the notice void and in such a case the posted notice shall be sufficient.

Section 13. Abatement by the Owner.

(1) Within 10 days after the posting and mailing of the notice as provided in the Section 12, the owner or person in charge of the property shall remove the nuisance or show that no nuisance exists.

(2) The owner or person in charge protesting that no nuisance exists shall file with the city recorder a written statement which shall specify the basis for so protesting.

(3) The statement shall be referred to the council as a part of the council's regular agenda at the next succeeding meeting. At the time set for consideration of the abatement, the owner or other person may appear and be heard by the council, and the council shall thereupon determine whether or not a nuisance in fact exists, and such 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 owner or other person shall within 10 days after such council determination abate such nuisance.

Section 14. Abatement by the City.

(1) If within the time allowed the nuisance has not been abated by the owner or person in charge of the property, the council may cause the nuisance to be abated.

(2) The officer charged with the abatement of such 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 city recorder shall keep an accurate record of the expense incurred by the city in abating the nuisance and shall include therein a charge of 20 per cent of the expense for administrative overhead.

Section 15. Assessment of Costs.

(1) The city recorder, by registered or certified mail, postage prepaid, shall forward to the owner or person in charge of the property 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 from the date of the notice.

(c) That if the owner or person in charge of the property objects to the cost of the abatement as indicated, he may file a notice of objection with the city 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 to be 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 the 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 improvement are enforced and shall bear interest at the rate of 6 per cent per annum. Such interest shall commence to run from date of the entry of the lien docket.

(5) An error in the name of the owner or person in charge of the property 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.

GENERAL

Section 16. 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 17 Penalties. Violation of this ordinance shall constitute a misdemeanor.

Section 18. Separate Violation.

(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 a nuisance.

Section 19. Severability. The sections and subsections of this ordinance are not severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections or subsections.

Section 20. Emergency Clause. Inasmuch as the provisions of this ordinance are necessary for the immediate preservation of the peace, health, and safety of the people of the city of Lebanon, and emergency is hereby declared to exist, and this Ordinance shall be in full force and effect immediately upon its passage by the Council and approved by the Mayor.

Passed by the Council and approved by the Mayor this 19 th day of December, 1967



Mayor

ATTEST:



City Recorder