

AN ORDINANCE RELATING TO NUISANCES;)
PROVIDING FOR ABATEMENT; PROVIDING)
A PENALTY; AND REPEALING ORDINANCES)
NO. 1290, 1296, 1587, and 1624.)

ORDINANCE BILL NO. 48
for 1980

ORDINANCE NO. 1814

THE CITY OF LEBANON ORDAINS AS FOLLOWS:

Section 1. Definitions. Unless the context requires otherwise, the following mean:

(1) Person in charge of property. An agent, occupant, lessee, contract purchaser, or person, other than the owner, having possession or control of the property.

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

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 the following:

(a) Those constructed or maintained in connection with construction projects in accordance with the Oregon State Board of Health regulations.

(b) Those maintained temporarily in conjunction with outdoor carnivals, sporting events, or other public gatherings in accordance with the Oregon State Board of Health regulations.

(2) Debris. Accumulations of debris, rubbish, manure, and other refuse that are not removed within a reasonable time. In no event shall a "reasonable time" be construed to mean more than fifteen (15) days.

(3) Stagnant water. Stagnant water which affords a breeding place for mosquitoes 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.

Section 3. Abandoned Iceboxes. No person shall leave in a place accessible to children an abandoned or discarded icebox, refrigerator, or similar 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.

(d) A used motor vehicle or part thereof without a license plate or with an expired license plate, or a dismantled or wrecked motor vehicle, or any disfunctional machiner, applicances, or parts thereof, metal, glass, paper, wood, or other discarded material which is exposed to view from any public street, sidewalk, or place.

Section 5. Scattering Rubbish. No person shall deposit upon 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 6. Fences:

(1) Barbed Wire. No owner or person in charge of property shall construct a barbed wire fence thereon, or allow barded 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 (6) feet, six (6) inches in height. Such a fence shall be constructed and maintained only upon approval of the Planning Commission when so

required by Article 5 of the Lebanon Land Development Ordinance.

(2) Swimming Pools. Every person in possession or control of land within the City, either as owner, purchaser under contract, lessee, tenant or licensee, upon which is situated a swimming pool, shall at all times maintain a fence on the lot or premises upon which such pool is located.

Said fencing shall completely surround such pool or premises and shall be of substantial construction not less than five (5) feet in height, measured from ground level on the exterior side of the fence. There shall be no openings, gaps, holes or similar openings larger than four (4) inches in any horizontal dimension. Structures or buildings may be used as part of such enclosure.

All gates or doors providing access to such pool, except from buildings or structures, shall be provided with self-latches and self-closing devices capable of keeping such gates or doors securely latched and closed at all times. Such devices shall be located not less than five (5) feet above the exterior grade of such gates or doors.

This section is not intended to prevent the use of other protective devices, subject to approval by the Building Official, provided the degree of protection is not reduced from that specified above.

Section 7. Unnecessary Noise.

(1) No person shall make, assist in making, 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 creation of excessive noise 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 disturbs or unduly annoys the patients.

(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 use or operation of an automatic or electric piano, phonograph, stereophonic equipment, 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 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 festival, or outstanding events of non-commercial nature. In no event shall a permit be granted where any obstruction to the free and interrupted traffic, both vehicular and pedestrian will result.

Section 8. Notices and Advertisements.

(1) No person shall affix or cause to be distributed 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 9. Declaration of Nuisance, General Nuisance.

(1) The acts, conditions, or objects specifically enumerated and defined in Section 2 through Section 8 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 10 through Section 16 of this ordinance.

Section 10. Abatement Notice.

(1) If the City Administrator or his designate 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 administrator shall cause a copy of such notice to be forwarded by registered or certified mail, postage pre-paid, 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 ten (10) days from the date of 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 Administrator within ten (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 or 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 11. Abatement by the Owner.

(1) Within ten (10) days after the posting and mailing of the notice as provided in 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 Administrator 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 ten (10) days after such council determination abate such nuisance.

Section 12. 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 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 Administrator shall keep an accurate record of the expense incurred by the city in abating the nuisance and shall include therein a charge of twenty percent (20%) of the expense for administrative overhead.

Section 13. Assessment of Costs.

(1) The City Administrator, 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 thirty (30) days 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 Administrator not more than ten (10) days from the date of the notice.

(2) Upon the expiration of ten (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 thirty (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 ten (10) percent per annum. Such 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 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.

Section 14. 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 15. Penalties. Violations of this ordinance shall constitute a misdemeanor.

Section 16. Abatement not a penalty. 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 17. Repeal. Ordinances No. 1290, 1296, 1624, and 1587 are hereby repealed.

Section 18. Severability. The sections and subsections of this ordinance are severable. The invalidity of one section or subsections shall not affect the validity of the remaining sections or subsections.

Section 19. 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, an emergency is hereby declared to exist and this ordinance shall be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

Passed by the Council by a vote of 5 for and 0 against and approved by the Mayor this 27th day of August, 1980.

Michael J. Wheaton
Mayor

ATTEST:

Edwin R. Jorg
Recorder