

A BILL FOR AN ORDINANCE AMENDING) **Ordinance Bill No. 9**
CHAPTER 8.04 OF THE LEBANON) **for 2006**
MUNICIPAL CODE CONCERNING)
NUISANCES IN THE CITY) **Ordinance No. 2700**

THE PEOPLE OF THE CITY OF LEBANON ORDAIN AS FOLLOWS:

Section 1. Chapter 8.04 of the Lebanon Municipal Code is hereby amended to read as follows:

8.04.010 Definitions.

Unless the context of this chapter or other provision of this code requires otherwise, the following mean:

A. "Owner" means:

Any person, agent, firm, corporation, association or partnership including a mortgagee in possession in whom is vested:

- a. All or part of the legal title to the property, or
- b. All or part of the beneficial ownership and a right to present use and enjoyment of the premises; or
2. An occupant of that structure.

B. "Person" means every natural person, firm, partnership, association or corporation.

C. "Person in charge of property" means any owner, agent, lessee, contract purchaser, or other person having the possession or control of property, both real and personal.

D. "Public place" means any building, place or accommodations, whether publicly or privately owned, open and available to the general public.

E. "Residence" means any building which is used primarily for the habitation of any person. The term "residence" also includes any outbuildings located at the same location as a residence, such as a garage (whether or not attached to the residence), storage shed, or other like structures.

As used in this chapter, the singular includes the plural, and the masculine includes the feminine.

8.04.020 Declaration of acts--Abatement.

The acts, conditions or objects specifically enumerated and defined in this chapter are declared to be public nuisances and such acts, conditions or objects are subject to the enforcement provisions of this code.

8.04.030 Public health nuisances prohibited. No person shall cause or permit on property owned or controlled by him a nuisance affecting public health.

- A. The acts, conditions or objects specifically enumerated and defined in this Chapter are declared public nuisances; and such acts, conditions or objects may be abated by the procedures set forth in of this ordinance or shall be subject to the enforcement provisions of this Code.

- B. In addition to the nuisances specifically enumerated within 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 enforcement procedures set forth in this ordinance.
- C. A condition, thing, substance, or activity declared to be a nuisance by another ordinance of this city is subject to the abatement procedures of this ordinance, if no abatement procedures are provided by such ordinance and subject to the enforcement provisions of this Code.

8.04.040 Privies and open vaults.

An open vault or privy constructed and maintained within the city is a nuisance affecting the public health and may be abated as provided in Chapter 8.08 of this code, 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.

8.04.050 Refuse accumulations.

Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time are a nuisance affecting the public health and are subject to the enforcement provisions of this code. In no event shall a "reasonable time" be construed to mean more than fifteen days.

8.04.060 Stagnant water.

Stagnant water which affords a breeding place for mosquitoes and other insect pests is a nuisance affecting the public health and is subject to the enforcement provisions of this code.

8.04.070 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 is a nuisance affecting the public health and is subject to the enforcement provisions of this code.

8.04.080 Unwholesome or decayed food.

Decayed or unwholesome food which is offered for human consumption is a nuisance affecting the public health and is subject to the enforcement provisions of this code.

8.04.090 Odorous or unsanitary premises.

Premises which are in such a state or condition as to cause an offensive odor or which are in an unsanitary condition are a nuisance affecting the public health and are subject to the enforcement or abatement provisions of this code.

8.04.095 Surface water drainage.

No person in charge of any building or structure shall suffer or permit rainwater to fall from any such building or structure onto any street or sidewalk or to flow across such sidewalk, and every such person in charge shall at all times keep and maintain in a proper state of repair adequate drainpipes or a drainage system so that any overflow water accumulating on the roof or about such building will not be carried across or upon any sidewalk, or the property of another person.

8.04.100 Drainage.

Drainage of liquid wastes from private premises is a nuisance affecting the public health and is subject to the enforcement provisions of this code.

8.04.110 Cesspools or septic tanks.

Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor are a nuisance affecting the public health and are subject to the enforcement provisions of this code.

8.04.120 Refrigerators and similar containers.

No person shall leave in a place accessible to children an abandoned or discarded icebox, refrigerator or similar container without first removing the door.

8.04.130 Unguarded machinery, equipment or devices.

No owner or person in charge of property shall permit thereon unguarded machinery, equipment or other devices which are attractive, dangerous and accessible to children.

8.04.140 Lumber, logs or piling.

No owner or person in charge of property shall permit thereon lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.

8.04.150 Excavations.

No owner or person in charge of property shall permit thereon an open pit, quarry, cistern or other excavation without safeguards or barriers to prevent such places from being used by children.

8.04.160 Discarded material.

No owner or person in charge of property shall permit thereon 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 dysfunctional machinery, appliances or parts thereof, metal, glass, paper, wood or other discarded material outdoors on any street, lot or premises or in a building that is not wholly or entirely enclosed, except doors used for ingress and egress.

8.04.170 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.

8.04.175 Open storage at residences.

A. At a residence, no person shall store parts of vehicles, machinery or equipment; lumber, plywood or building materials; buckets, cans or bottles; truck canopy, bicycles or toys; household furniture, and household furnishings manufactured, built or designed for inside use (out of the elements) and other personal property manufactured, built or designed for inside use or interior use (out of the elements); and personal property that is manufactured, built or designed for attachment to a structure as shutters, doors and windows, outdoors on any street, lot or premises or in a building that is not wholly or entirely enclosed, except doors used for ingress and egress.

B. At a residence, no person shall store an appliance, such as but not limited to washer, dryer, icebox, freezer, refrigerator, dishwasher, stove, water heater or other household appliance or any plumbing fixture, operable or inoperable, outdoors on any street, lot or premises or in a building that is not wholly or entirely enclosed, except doors used for ingress and egress.

C. At a residence, no person shall leave a burn barrel exposed to the public on any street, lot or premises when burn season, as declared by the Fire Marshal of the state or Lebanon Rural Fire District, is closed.

D. At a residence, no person shall store lumber, plywood or building materials outdoors on any street, lot or premises or in a building that is not wholly or entirely enclosed, except doors used for ingress and egress, unless each type of item is stacked in a uniform formation one upon another with edges flush.

E. At a residence, no person shall leave oil, fuel, chemical barrels or similar containers outdoors on any street, lot or premises or in a building that is not wholly or entirely enclosed, except doors used for ingress and egress for a period in excess of three days. This section does not prohibit barrels, containers or tanks which are attached to a residential unit and which are used as a reservoir for oil or fuel.

F. At a residence, no person shall leave accumulations of limbs, branches, and/or brush on property for longer than one entire burn season that can be seen from the public street. This section is in addition to any other provision of this chapter or other city ordinance and not a limit thereon.

G. It shall be prima facie evidence in any trial or abatement procedure concerning this section that the offending property is inoperative, discarded or stored, upon public or private property contrary to the location provisions of this section for a period in excess of the time limit specified herein, or seven days if no time limit is specified.

8.04.180 Fences.

A. No owner or person in charge of property shall construct a barbed wire fence thereon or allow barbed wire to remain as a part of a fence along a sidewalk or public way; except, that such wire may be placed above the top of other fencing not less than six feet, six inches in height. Such a fence shall be constructed and maintained only upon approval of the planning commission when so required in Chapter 17.36 of this code.

B. No person shall install, maintain or operate an electric fence within the city limits except for agricultural purposes, and upon the approval of the city.

8.04.190 Swimming pools--Fencing--Required.

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.

8.04.200 Swimming pools--Fencing--Specifications.

The fencing provided for in Section 8.04.190 shall completely surround such pool or premises and shall be of substantial construction not less than five 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 inches in any horizontal dimension. Structures or buildings may be used as part of such enclosure.

8.04.210 Swimming pools--Gates and doors.

All gates or doors providing access to a pool such as is provided for in Section 8.04.190, 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 feet above the exterior grade of such gates or doors.

8.04.220 Swimming pools--Other protective devices.

Sections 8.04.190 through this section are not intended to prevent the use of other protective devices, subject to approval by the building official; provided, that the degree of protection is not reduced from that specified in Sections 8.04.190, 8.04.200 and 8.04.210.

8.04.230 Neglected or Abandoned Buildings or Dwellings. Any building, including a dwelling, located within the city limits and which is neglected or abandoned and in such disrepair so as to present an eyesore, or danger to the general welfare of the community is declared to be a nuisance and is subject to the enforcement provisions of this code. For purposes of this section, and by way of illustration, "abandoned" means, but is not limited to, uninhabited or having not been occupied or used on a regular basis for a period of six continuous months. For purposes of this section, and by way of illustration, "neglected" means, but is not limited to meaning, lacking in repairs, uninhabitable, overgrown, unsafe, unsightly, dilapidated, or existing in a condition that is or may constitute a danger to the public.

8.04.250 Advertising distribution-- Restriction and penalty.

A. No person shall affix, cause to affix or cause to be distributed any placard, bill, advertisement or poster upon real or personal property, public or private property, pole, post, wire or cable, fixture, telephone system or traffic control system 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 adopted as of August 27, 1980, or adopted after that date by the city regulating the

use and location of signs and advertising. Any placard, bill advertisement or poster found to be in violation of this section may be removed by a peace officer.

B. In addition to any other penalties or procedures to enforce this section and not in lieu thereof, this section may be enforced by any peace officer of the city by the issuance and delivery of a citation to any person who is referred to in any placard, bill advertisement, or poster mentioned in section A of this section. In any prosecution under this section, it shall be prima facie evidence that any person named on such advertisement, or any person in control of property listed as an address on such advertisement has placed such advertisement or caused to have such advertisement placed in violation of section A of this section.

8.04.260 Advertising distribution--During parades and gatherings.

Section 8.04.250 does not prohibit the distribution of advertising material during a parade or public gathering.

8.04.270. Trees--Interference with traffic.

No owner or person in charge of property that abuts upon any street or public sidewalk shall permit trees or bushes on the person's property to interfere with street or sidewalk traffic. It shall be the duty of an owner or person in charge of property that abuts upon a street or public sidewalk to keep all trees and bushes on the person's premises, including the adjoining parking strip, trimmed to a height of not less than eight feet above the sidewalk and not less than thirteen feet above the street surface, or fourteen feet above the street surface on property adjacent to designated truck routes. Any street tree planted that does not comply with said policy may be removed by the city at the discretion of the director of public works or his designee. The cost of such removal will be borne by the person or persons who planted the tree.

8.04.280 Abatement not penalty.

The abatement of 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 of the duty to abate a nuisance

8.04.320 Summary Abatement.

The procedure provided by this ordinance is not exclusive, but is in addition to procedures provided by other ordinances; and the chief of the fire department, the chief of police, 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.

8.04.340 Penalties.

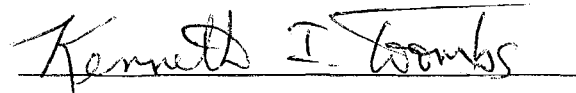
A person violating any provision of this ordinance shall, upon conviction, be punished by a fine not to exceed \$600. Upon a second conviction, the court shall assess a mandatory minimum sentence of \$350. Upon a third or subsequent conviction, a mandatory minimum fine of \$500 shall be imposed. Each 24-hour period that the nuisance continues constitutes a separate occurrence. It shall be within the authority of the municipal judge to require abatement of any action or condition found to be a

nuisance under this ordinance. It shall further be within the authority of the municipal judge to assess all costs associated with the abatement against the property owner or person responsible, in addition to any fine imposed, pursuant to the provisions of Chapter 8.03 of this Code.

Section 2. Savings Clause. The amendments contained in this ordinance shall not affect a punishment, fine or penalty incurred before these amendments take effect, nor a suit, prosecution or proceeding pending at the time of the amendments for an offense committed under the previous ordinance section.

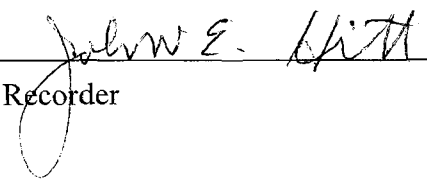
Section 3. Severability. Invalidity of a section or part of a section of this ordinance shall not affect the validity of the remaining sections or parts of sections.

0 Passed by the Lebanon City Council on the 8th day of March, 2006 by a vote of 4 for and against.



Mayor

ATTEST:



City Recorder