

ORDINANCE NO. 5079

An Ordinance amending Titles 8, 9 and 17 of the McMinnville Municipal Code, relating to public nuisances.

RECITALS:

In order to preserve the health, welfare and safety of the community, the City has adopted various civil code provisions related to public nuisances, which are codified in the McMinnville Municipal Code.

The city desires to consolidate, amend and update the public nuisance code in order to improve the fair, transparent and efficient enforcement of such nuisances.

Now, therefore, THE COMMON COUNCIL FOR THE CITY OF McMINNVILLE ORDAINS AS FOLLOWS:

1. The amendments to the MMC set forth in the attached Exhibit 1, are incorporated into this Ordinance by this reference.
2. This ordinance will take effect September 12, 2019.

Passed by the Council August 13, 2019, by the following votes:

Ayes: Geary, Menke, Peralta, Stassens

Nays: Garvin

Approved August 13, 2019.

Effective Date: September 12, 2019



MAYOR

Approved as to form:



CITY ATTORNEY

Attest:



CITY RECORDER

ORD 5079 – Exhibit 1

Section 1. Add the following provisions of Title 8:

Chapter 8.10
PUBLIC NUISANCES

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8.10.010 Definitions

As used in this chapter:

- A. "Abate" means to repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such manner and to such an extent as the compliance officer in their judgment determines is necessary in the interest of the public health, welfare and safety.
- B. "Compliance officer" means any person designated by the City Manager or designee as having responsibility for enforcing the civil provisions of the McMinnville Municipal Code.
- C. "Person" means a natural person, firm, partnership, association or corporation.
- D. "Person in charge of a premises" means an owner, agent, occupant, guest, tenant, lessee, contract purchaser, contractor, employee, squatter, or any other person having possession or control of a premises, or supervision over a construction project on a premises.
- E. "Person responsible" means the person responsible for permitting, allowing, or causing to exist any public nuisance prohibited by the provisions of this chapter.
- F. "Premises" means any publicly or privately owned building, lot, parcel, real estate, land or portion of land, whether improved or unimproved.
- G. "Public way" means any portion of an alley, street, roadway, highway, or public right-of-way located within the City of McMinnville, and includes all public parking lots owned or operated by any government agency. For the purposes of this Chapter, "public way" includes private roads and driveways that serve two or more lots or parcels under separate ownership.

8.10.100 Declaration of Public Nuisance.

- A. It is unlawful and a public nuisance within the City of McMinnville for any person in charge of a premises to permit, allow or cause to exist, any substance, condition or act on the premises that is injurious or detrimental to the public health, welfare or safety.
- B. It is unlawful and a public nuisance within the City of McMinnville for any person to cause to exist any substance, condition or act on a public way or on a premises that is not under the person's possession or control that is injurious or detrimental to the public health, welfare or safety.
- C. The substances, conditions and acts specifically enumerated and defined in Sections 100 through 490 of this chapter are declared public nuisances and may be abated by any of the procedures set forth in this Chapter.
- D. In case of conflicting code citations in the McMinnville Municipal Code relative to public nuisances, this chapter of the McMinnville Municipal Code will prevail.
- E. Whenever a compliance officer determines that a public nuisance exists upon any premises or public way, the officer may require or provide for the corrective action of the public nuisance pursuant to this title and collect full costs of the corrective action from the responsible person or make the costs of corrective action a lien upon the premises.

- F. The corrective action procedures in MMC Chapter 2.50 are nonexclusive remedies for all public nuisances.

8.10.110 Alleys

- A. A person in charge of a premises that abuts an alley must not permit, allow or cause to exist any substance, condition or act in the area between the property line of the premises and the centerline of the alley, which serves as an impediment to travel through the alley.
- B. For the purposes of this Section, “impediment” includes but is not limited to the following substances, conditions or acts:
 - 1. Any material including, but not limited to, debris, motor vehicles, waste products or firewood;
 - 2. Weeds, grasses or other vegetation more than 10 inches high.
- C. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.120 Animals and Animal Excrement.

- A. It is prohibited for any person to permit, allow or cause any animal owned by, or under the care of, the person to run at large in the city.
- B. It is prohibited for any person to permit, allow or cause excrement from an animal owned by, or under the care of, the person to remain on any public way or premises not owned by the person. A person must remove all excrement from an animal under their ownership or control from the public way premises within a reasonable period of time.
- C. A person in charge of a premises must not permit, allow or cause to exist any accumulation of animal excrement on the premises that is:
 - 1. Injurious or detrimental to the public health, welfare or safety; or,
 - 2. Not removed from the premises within a reasonable time.
- D. The prohibition described in this Section does not apply to animal excrement from livestock that:
 - 1. Is accumulated for farm or agricultural purposes,
 - 2. Does not produce odors on adjacent properties, and
 - 3. Is not otherwise a danger to public health, welfare or safety.
- E. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.130 Animals in Residential Zones

- A. A person in charge of a residential premises must not permit, allow or cause to be kept any exotic, dangerous or wild animals not commonly considered as pets or commonly raised for food or agricultural purposes, which threatens the public health, welfare or

safety, as determined by either the Yamhill County Animal Control Officer or the City Manager or their designees.

- B. A person in charge of a residential premises must not permit, allow or cause to be kept any animals at their residence except for the following:
 - 1. Domestic dogs;
 - 2. Domestic cats;
 - 3. Gerbils, hamsters, rats or similar rodents kept in cages;
 - 4. Non carnivorous fish kept in tanks and ponds;
 - 5. Non venomous reptiles;
 - 6. Domestic rabbits, consistent with the requirements of subsection (D) of this section, provided that rabbits must not be kept for commercial purposes or for food production;
 - 7. Vietnamese potbellied pigs (one per residence);
 - 8. Domestic fowl or birds for non-commercial purposes excluding roosters and peacocks, consistent with the requirements of subsection (D) of this section;
 - 9. Livestock, consistent with the requirements of subsection (D) of this section.
- C. A person in charge of a residential premises must not permit, allow or cause to be kept four (4) or more dogs over six months of age or older for commercial reasons such as breeding, buying, selling or boarding.
- D. A person in charge of a residential premises must not permit, allow or cause to be kept on the premises:
 - 1. More than one (1) horse or cow over six months of age for each half acre (21,780 square feet) over the minimum lot size for the premises.
 - 2. More than two (2) sheep or goats (or similar size livestock) over six months of age for each half acre (21,780 square feet) over the minimum lot size.
 - 3. Any fowl or rabbits on a lot with an area less than five-thousand (5,000) square feet.
 - 4. More than two (2) rabbits or fowl (excluding roosters and peacocks) on a on a lot with an area less than five-thousand (5,000) square feet, provided that one (1) additional rabbit or fowl is allowed per additional one-thousand 1,000 square feet of lot area.
 - 5. Any enclosure or pen for animals:
 - a. In the front yard of the premises;
 - b. Within 70 feet to a front property line;
 - c. Within 15 feet to a side property line; or,
 - d. Within 10 feet to a rear property line.
- E. A person in charge of a residential premises must not permit, allow or cause the cremation or slaughtering of animals on the premises.
- F. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 6 Code Violation.

8.10.140 Attractive Nuisances

- A. A person in charge of a premises must not permit, allow or cause to exist any attractive nuisance that could cause injury or death to children playing on the premises.
- B. For the purposes of this Section, “attractive nuisance” includes but is not limited to the following substances, conditions or acts:
 - 1. Unguarded machinery, equipment or other devices attractive, dangerous and accessible to children.
 - 2. Lumber, logs or piling placed or stored in a manner as to be attractive, dangerous and accessible to children, except for materials that are stored in conjunction with authorized construction projects that have employed reasonable safeguards to prevent injury or death to playing children.
 - 3. Vacant or unoccupied buildings or structures that are open, unlocked, or otherwise accessible.
 - 4. Containers accessible to children with a capacity of more than one cubic foot and a door or lid that locks or fastens when closed and that cannot be easily opened from the inside, unless said containers are securely locked shut.
- C. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 6 Code Violation.

8.10.150 Bees

- A. A person in charge of a premises may maintain or keep not more than three (3) bee hives and/or colonies per nine thousand square feet (rounded down) of contiguous land (lot or parcel) comprising the premises, if the activity is otherwise complies with the provisions of this Section. It is declared a public nuisance for any person to keep a bee hive or colony in a manner that does not comply with the requirements of this Section.
- B. A person must not keep or maintain any bee hives or colonies on any premises comprised of less than nine thousand square feet of contiguous land.
- C. A person in charge of a premises may keep or maintain bee hives or colonies on the ground of the premises in any location that is either:
 - 1. Not less than thirty feet (30') from a public way or other premise, or
 - 2. Not less than fifteen feet (15') from a public way or neighboring premises when there exists a fence, hedge, or structure at the property line that:
 - a. Is not less than six feet (6') in height;
 - b. Is located immediately adjacent to the hive or colony; and
 - c. Is effective at forcing bees from the bee hive or colony to raise their flight path over the neighboring public way or premises.
- D. A person in charge of a premises may maintain or keep bee hives or colonies on premises in any location that is elevated to a height of not less than eight feet (8') and is located not less than fifteen feet (15') from a public way or neighboring premises.
- E. A person in charge of a premises must not permit, allow or cause to exist any unused bee equipment on the premises that is accessible to bees.

- F. A person in charge of a premises must not permit, allow or cause to exist any bee hive or colony on a vehicle that is parked on the premises to be located less than thirty feet (30') from a public way or other premises.
- G. It is prohibited for any person that is transporting bee hives or colonies through the city with a motor vehicle during daylight hours to park the motor vehicle or leave the motor vehicle unattended on a public way or on any premises open to the public use.
- H. A person in charge of a premises must not permit, allow or cause to exist bee hives or colonies on the premises after they have been notified that a person who resides within three hundred feet from the hive or colony has a medically certified allergy to the sting of bees. An individual that is allergic to bee stings may request the enforcement of this provision by:
 - 1. Filing a medical certificate with the Code Compliance officer attesting to their allergy; and,
 - 2. Providing information to the Code Compliance officer concerning the location of the bee hive or colony and its distance from their property.
- I. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.160 Burning

- A. A person in charge of a premises must not permit, allow or cause to exist:
 - 1. An outdoor fire, bonfire, rubbish fire, burn barrel fire, or garbage fire on the premises.
 - 2. A fire for the purpose of burning grass, hay, straw, tree parts or trimmings on the premises.
 - 3. A fire for land clearing operations or for commercial burning.
 - 4. Any other type of open burning, except as allowed in this Section.
- B. The prohibition described in subsection (A) of this Section does not apply to the following situations:
 - 1. Burning of yard debris between March 1 and June 15, and between October 1 and December 1, or other time period designated by the Fire Chief or designee, when the burning is conducted on a day that is designated by the Department of Environmental Quality as an approved burn day.
 - 2. Outdoor recreation fires conducted in accordance with the provisions of the Oregon Fire Code and McMinnville City Code.
 - 3. Fires set and maintained for firefighting training or training fire protection personnel.
 - 4. Fire requested by law enforcement personnel for the destruction of evidence when the evidence is no longer needed for law enforcement purposes.
 - 5. Fire used to remove a fire hazard, when authorized by a permit issued by the Fire Chief or designee.

6. Ceremonial fires, when authorized by a permit issued by the Fire Chief or designee.
- C. A person in charge of a premises must not permit, allow or cause to exist any burning on the premises that:
 1. Causes smoke emissions to leave the premises to the injury or detriment of persons and property surrounding the premises;
 2. If the burning is determined to be hazardous by the Fire Chief or designee; or,
 3. If the burning is determined to be detrimental to the public health by the City Manager or designee.
- D. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 4 Code Violation.

8.10.170 Commercial Notices and Advertisements

- A. It is prohibited for any person to place or cause to be placed any advertising paper, handbill, circular, poster or any other form of commercial advertising on any premises without permission from a person in charge of the premises.
- B. It is prohibited for any person to place or cause to be placed any advertising paper, handbill, circular, poster or any other form of commercial advertising on any motor vehicle standing or parked in any public way in the City without permission from the owner or occupant of the motor vehicle.
- C. The prohibitions described in subsections (A) and (B) of this Section do not apply to
 1. The distribution or delivery of any newspaper of general circulation;
 2. The delivery of any such commercial advertising material through the United States Postal Service or a commercial postal carrier.
 3. The delivery of commercial advertising material enclosed within a personally addressed envelope on the porch or stoop of any occupied residence.
- D. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 6 Code Violation.

8.10.180 Construction Dust and Debris

- A. A person in charge of a premises that is being developed for construction or where construction is in progress, must not permit, allow or cause to exist any construction debris of any kind to blow, spread, or otherwise disseminate from the premises onto nearby properties or public ways.
- B. For the purposes of this section, "construction debris" includes, but is not limited to, lumber, roofing materials, cans, glass, bottles, garbage, trash, and any other materials brought onto the property or created by or through construction, remodeling or demolition activities.

- C. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.190 Debris, Junk and Garbage

- A. A person in charge of a premises must not permit, allow or cause to exist any accumulation of debris, junk, or garbage on the premises that is:
 - 1. Injurious or detrimental to the public health, welfare or safety; or,
 - 2. Not removed from the premises within a reasonable time.
- B. A person in charge of a premises must not permit, allow or cause to exist any accumulation of debris, junk, or garbage on the premises that constitutes a fire hazard, as determined by the Fire Chief or designee.
- C. The prohibitions described in subsections (A) Section do not apply to:
 - 1. Yard cuttings, other than grass clippings, that are accumulated to be burned during the first available open burning season and that meet the size and location requirements of the fire code.
 - 2. Yard cuttings and other organic material that are accumulated for composting, if the material:
 - a. Is not visible from a street or sidewalk,
 - b. Is maintained in a manner that does not attract vermin, and
 - c. Does not produce an offensive odor.
 - 3. Garbage or recycling material that is accumulated in order to be hauled by a licensed solid waste hauler or to be taken by the person to a landfill, if the garbage:
 - a. Is secured within a covered or sealed container that is kept clean and in good repair, and
 - b. Is removed within 14 days.
 - 4. Debris or junk that is kept in a building that is wholly or entirely enclosed except for doors used for ingress or egress.
 - 5. Debris or junk that is stored in a back yard of a residential property if the debris or junk:
 - a. Is screened by a sight-obscuring fence so that it is not visible from adjoining properties, streets and public right of ways, and
 - b. The debris or junk is maintained in a manner that does not attract vermin, produce an offensive odor, or otherwise become a danger to public health or safety.
 - 6. Debris or junk that is kept in a licensed and/or permitted junkyard or automobile wrecking house, in compliance with the terms of the license and/or permit.
- D. As used in this section, "junk," means any machinery, machinery part, appliance or appliance part, iron or other metal, glass, paper, lumber, wood, or other waste or discarded material.

- E. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.200 Excavations and Open Pits

- A. A person in charge of a premises must not permit, allow or cause to exist a well, cistern, pit, quarry, excavation, or other hole of a depth of three feet or more with a top width of 12 inches or more on the premises, unless:
 - 1. It is fenced or securely covered; or
 - 2. The excavation is part of an authorized construction project and during the course of construction reasonable safeguards are maintained to prevent injury.
- B. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.210 Fences

- A. A person in charge of a premises must not permit, allow or cause to exist:
 - 1. A fence located in a required front yard of the premises that exceeds three feet (3') in height, as measured from grade, unless the fence either:
 - a. conforms to the front yard setback requirements set forth in MMC, Title 17, or
 - b. is set back to the front building line of the existing building.
 - 2. A fence located in a required exterior side yard of a corner lot premises that exceeds three feet (3') in height, as measured from grade, unless the fence:
 - a. would allow adequate vision clearance for vehicles travelling on all public ways adjacent to the premises,
 - b. is not more than six feet (6') in height, as measured from grade, and
 - c. the Planning Director or designee has authorized construction of the fence.
 - 3. A fence located in a required interior side or rear yard of the premises that exceeds seven feet (7') in height, as measured from grade.
 - 4. A fence on any portion of the premises that exceeds seven feet (7') in height, as measured from grade, unless the fence is authorized by a building permit issued by the City.
 - 5. A fence located in a sloped property that exceeds ten feet (10') in height, as measured from the downhill side of the fence.
- B. The height restrictions set forth in subsection (A) of this section do not apply to public utility fences or to chain link fences enclosing schools and public playgrounds.
- C. A person in charge of a premises must not permit, allow or cause to exist an electric fence:
 - 1. Along any sidewalk or public way abutting the premises; or,

2. Along the boundary of any real property abutting the premises.
- D. A person in charge of a premises must not permit, allow or cause to exist barbed wire on any fence:
1. Along any sidewalk or public way abutting the premises in a residential or commercial zone; or
 2. Unless placed on top of a fence that is not less than six feet, six inches (6'6") in height, as measured from grade, on a premises used for public utilities or located in an industrial zone.
- E. A person in charge of a premises must not permit, allow or cause to exist a fence on the premises that is structurally unstable, or otherwise determined by the City Manager or designee to be injurious or detrimental to the public health, welfare or safety.
- F. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.220 Graffiti

- A. A person in charge of a premises must not permit, allow or cause the premises to be a graffiti nuisance property.
- B. For the purposes of this section, the following definitions apply:
1. "Graffiti" means any inscription, word, figure, design painting, writing, drawing or carving that is marked, etched, scratched, drawn, painted, or otherwise applied to property without the prior authorization of the owner of the property, and/or is not allowed per the McMinnville City Code, regardless of the graffiti content, or nature of the material used in the commission of the act, of the material of the property.
 2. "Graffiti Nuisance Property" means property to which graffiti has been applied, if the graffiti is visible from any public right of way, from any other public or private property or from any premises open to the public, and if the graffiti has remained for at least ten days.
- C. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.230 Hazardous and Noxious Vegetation

- A. A person in charge of a premises that abuts a public way must not permit, allow or cause to exist vegetation on the premises that:
1. Is a hazard to pedestrian use of a public sidewalk or is a hazard to bicycle or vehicular use of a public or private street by impeding passage or vision per MMC Section 17.58.120(D) and 17.54.080;

2. Obstructs drainage facilities in the public way, including but not limited to roadside ditches, street curbs and gutters, catch basins or culverts;
 3. Has roots that have cracked or displaced a sidewalk, curb or street; or,
 4. Is a weed, grass or dead plant more than 10 inches high and is located the area between the property line and the back edge of curb or the edge of an improved roadway or right-of-way.
- B. A person in charge of a premises must not permit, allow or cause to exist vegetation on the premises that is a weed or grass more than 10 inches high at any time during the year.
- C. The prohibition described in subsection (B) does not apply to the following types of vegetation unless the vegetation obstructs, blocks, or impedes any visual sight lines or signs required to ensure safe and efficient vehicular and pedestrian movement upon City streets, or the vegetation creates a safety hazard as determined by the City Manager or designee:
1. Agricultural grasses that are not a fire hazard and are actively used for grazing livestock;
 2. Crops that are being commercially grown;
 3. Areas identified by the McMinnville Zoning Ordinance as open space or natural resource areas;
 4. Portions of lots used for flower or vegetation gardens, or shrubbery;
 5. Naturally wooded or native forest remnant area;
 6. Wetlands;
 7. Lands within a designated 100-year floodplain;
 8. Lands encumbered by Conservation easements;
 9. Public parks or private or municipal golf courses;
 10. Drainage ponds or ditches designed to meet City storm water conveyance requirements.
 11. Any vegetation that the City Manager or designee determines would not create a public hazard; or otherwise be detrimental to the public safety, health or welfare of the public. In making this determination, the City Manager may seek input from the Fire Chief, Fire Marshall, or other appropriate staff. The City Manager may also place appropriate conditions upon such approval.
- D. A person in charge of a premises must not permit, allow or cause to exist vegetation on the premises that the City Manager or designee has declared to be a fire hazard or potential fire hazard to other properties.
- E. A person in charge of a premises must not permit, allow or cause to exist the growth of noxious vegetation on the premises. As used in this section, “noxious vegetation” means all plants identified by the City Manager or designee on an official list of noxious vegetation maintained by the City’s Code Compliance office, which may incorporate by reference all of part of any existing list developed by any state or county entity, including the plant varieties listed in Oregon Department of Agriculture Noxious Weed Policy and Classification System.
- F. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil

penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.240 Human Waste

- A. A person in charge of a premises must not permit, allow or cause to exist any privies, cesspools, septic tanks, septic drain fields or other outdoor accumulation of human waste that:
 - 1. Is not constructed or maintained in compliance with State Health Code regulations;
 - 2. Is kept in an unsanitary condition;
 - 3. Causes the waste to drain into a body of water, well, spring, stream, drainage ditch or storm water outflow; or,
 - 4. Causes an offensive odor.
- B. It is prohibited for a person to permit, allow or cause human waste, sewage, industrial wastes or other substances to enter any body of water or drainage ditch.
- C. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 4 Code Violation.

8.10.250 Motor Vehicles

- A. A person in charge of a premises must not permit, allow or cause to exist any discarded motor vehicle (including motor vehicles parts such as bodies, engines, transmissions and rear ends) on the premises, except that a person may store a discarded motor vehicle:
 - 1. Within in a building that is wholly or entirely enclosed except for doors used for ingress or egress
 - 2. In a back yard of a residential property if the discarded motor vehicle:
 - a. Is screened by a sight-obscuring fence so that it is not visible from adjoining properties, streets and public right of ways, and
 - b. Is maintained in a manner that does not attract vermin, produce an offensive odor, or otherwise become a danger to public health or safety.
 - 3. In connection with an authorized and permitted business dealing in junked vehicles.
- B. For the purpose of this section, "discarded motor vehicle" means any motor vehicle that:
 - 1. Has been inoperative for a period of more than 30 days;
 - 2. Is wrecked;
 - 3. Is dismantled, in whole or part;
 - 4. Is junked or abandoned; or,
 - 5. Has a vehicle registration sticker expired for more than two (2) months.
- C. A person in charge of a premises in a residential zone must not permit, allow or cause to exist motor vehicles, RVs, boats or trailers to be parked or placed in front yards or

exterior side yards of the premises, unless the area used for parking or storage consists of non-erodible surfaces such as asphalt, concrete or pavers.

- D. A person in charge of a premises in a residential zone must not permit, allow or cause to exist parking or storage areas consisting of non-erodible surfaces in front or exterior side yards of the premises to use more than 40% of the yard area. For the purposes of this section, "yard area" is measured as the space between the front and side building lines to the property line of the premises.
- E. A person in charge of a premises in a residential zone must not permit, allow or cause to exist parking or storage areas that are less than twenty feet in depth from the property line of the premises when the parking or storage area is perpendicular to the property line.
- F. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.260 Noise

- A. A person in charge of a premises must not permit, allow or cause to exist any loud, disturbing or unnecessary noise that is injurious or detrimental to the health, safety or peace of other persons or property.
- B. It is prohibited for any person on a public way to cause to exist any loud, disturbing or unnecessary noise that either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of other persons or property.
- C. For the purposes of this Section, noise exceeding the following thresholds when measured twenty-five feet (25') from the source if in the right of way or twenty-five feet (25') from the property line if the source is on private property, is presumed to be a nuisance in violation of Subsection (A) of this section:

ZONE	7:00 a.m. to 8:00 p.m.	8:00 p.m. to 7:00 a.m.
Residential	55 dBA	50 dBA
Commercial	60 dBA	55 dBA
Light Industrial	70 dBA	65 dBA
Industrial	80 dBA	75 dBA

- D. For the purposes of this Section, "loud, disturbing or unnecessary noise" includes but is not limited to the following substances, conditions or acts:
 1. *Animals and Birds.* The keeping of any bird or animal that disturbs the comfort and repose of any person in the vicinity by causing frequent or long continued noise;
 2. *Dog Barking.* The keeping of a dog that barks for more than ten minutes during any one-hour period when such barking is audible off the premises of the dog's owner or keeper;

3. *Animal Bells.* The attaching of a bell to any animal or allowing a bell to remain on any animal that is disturbing to any person in the immediate vicinity;
4. *Vehicle Noises.* The use of any vehicle or engine, either stationary or moving, in a manner that causes or creates any loud or unnecessary grating, grinding, rattling or other noise, including the discharge in the open air of the exhaust of any steam engine, internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises and the emission of annoying smoke;
5. *Horns and Signaling Devices.* The sounding of any horn or signaling device on any vehicle on any street, public or private place, except as a necessary warning of danger;
6. *Nonemergency Signaling Devices.* The sounding of any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for nonemergency purposes, from any place for more than ten consecutive seconds in any hourly period, except that the reasonable sounding of such devices by houses of religious worship, ice cream trucks, seasonal contribution solicitors or by the City for traffic control purposes are exempt;
7. *Construction Noise.* The erection, including excavation, demolition, alteration or repair, of any building in residential districts, other than between the hours of seven a.m. and eight p.m., except upon special permit granted by the City Manager or designee;
8. *Noise Sensitive Areas: Adjacency to Schools, Churches and Hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court of justice while the same are in use, or adjacent to any hospital or institution for the care of the sick or infirm which unreasonably interferes with the operation of such institution, or which disturbs or unduly annoys patients;
9. *Loudspeakers, Amplifiers, Public Address Systems and Similar Devices.* The use or operation of any automatic or electric piano, phonograph, 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; provided, however, that upon application to the City Manager, permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches or general entertainment;
10. *Blowers, and Similar Devices.* The operation of any noise-creating blower, power fan, power tools, or any internal combustion engine in a manner the operation of which causes noise due to the explosion of operating gases or fluids:
 - a. In a residential district or noise sensitive areas between the hours of 8:00 p.m. and 7:00 a.m., and
 - b. In a manner that can be heard by persons on nearby residential property.
11. *Commercial Establishments Adjacent to Residential Property.* Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment,

between the hours of 10:00 p.m. and 7:00 a.m., that is plainly audible to persons on any nearby residential property.

- E. The prohibition described in this Section do not apply to:
 - 1. Activities occurring within the scope of any permit exempting a use from this section of the McMinnville City Code issued by the City under the provisions of the McMinnville Municipal Code.
 - 2. Emergency response activities;
 - 3. Vehicles performing repairs or upgrades in the right-of-way, including but not limited to street sweeping, sewer cleaning, construction and maintenance activities as authorized by the City Manager or designee.
- F. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.270 Public Health

- A. It is prohibited for any person to offer decayed or unwholesome food for human consumption on any premises or public way.
- B. A person in charge of a premises must not permit, allow or cause to exist any offensive odor to emanate from the premises that is injurious or detrimental to the health, safety or peace of other persons or property;
- C. A person in charge of a premises must not permit, allow or cause any sewage, industrial wastes or other harmful substances to drain from the premises onto any surrounding premises or public way.
- D. A person in charge of a premises must not permit, allow or cause any stagnant water to exist on the premises that affords a breeding place for mosquitoes, insects or other disease carrying animals.
- E. It is prohibited for any person to permit, allow or cause the carcass of an animal owned or controlled the person to remain exposed upon a public way or premises for a period of time longer than is reasonably necessary to remove or dispose of the carcass.
- F. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 4 Code Violation.

8.10.280 Radio and Television Interference.

- A. It is prohibited for any person to 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.
- B. The prohibitions described in this section do not apply to devices licensed, approved, and operated under the rules and regulations of Federal Communications Commission.

- C. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 6 Code Violation.

8.10.290 Rats

- A. A person in charge of a premises must not permit, allow or cause to exist any substance, act or condition that allows for the harborage of rats.
- B. Each person in charge of a premises has an independent duty to maintain the premises in a rat-free condition and to repair all breaks or leaks that may occur in the rat proofing.
- C. A person in charge of a premises must institute
 - 1. Ratproofing measures within fifteen (15) days after they have discovered or been notified by the City Manager or designee of evidence of the need of ratproofing the premises.
 - 2. Rat eradication measures within five (5) days after they have discovered or been notified by the City Manager or designee of an actual or suspected rat infestation on the premises, and must continuously maintain the measures until the premises is declared free of rat infestation by the City Manager or designee.
- D. A person in charge of a premises must not permit or allow the removal of ratproofing from any premises that is not closed or sealed against the entrance of rats.
- E. For the purposes of this Section, "rat harborage" includes but is not limited to the following substances, conditions or acts on a premises that provide shelter or protection for rats, thus favoring their multiplication and continued existence on the premises:
 - 1. Floors in basements of buildings that are not constructed from cement or similar ratproofing material.
 - 2. Animal food and feed that is not stored in rat-free and ratproof containers, compartments, rooms or building.
 - 3. Accumulated garbage, trash, dead animals, waste vegetables, or animal matter of any kind.
 - 4. Accumulated lumber, boxes, barrels, bricks, stones, scrap metal, motor vehicle bodies or parts, or similar materials, rubbish or articles of junk.
- F. For the purposes of this Section:
 - 1. "Rat eradication" means the elimination or extermination of rats within buildings of any kind by any of all measures, such as poisoning, fumigation, trapping or clubbing.
 - 2. "Ratproofing" means and applies to a form of construction to prevent the ingress of rats into buildings from the exterior or from one building to another. It consists of the closing of all actual or potential openings in the exterior walls, ground or first floors, basements, roofs and foundations that may be reached by rats from the ground by climbing or by burrowing, with material or equipment impervious to rat-gnawing.

- G. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 4 Code Violation.

8.10.300 Sidewalks

- A. A person in charge of a premises must maintain all sidewalks adjacent to that premises in good repair and safe condition.
- B. A person in charge of a premises must not permit, allow or cause to exist on a public sidewalk adjoining the premises any defective or dangerous condition that impedes the public use of the sidewalk, including but not limited to the following:
 - 1. Any accumulations of snow and/or ice on sidewalks on commercial property.
 - 2. Sand or cinders (except when temporarily used to cover ice), rocks, leaves, or other debris.
 - 3. Cracks, holes, unevenness that impairs pedestrian traffic per the Americans with Disability Act (ADA) standards.
 - 4. Drainage, drainpipes or a drainage system that permit, allow or cause water accumulating on the premises to flow or be carried across the sidewalk.
 - 5. Property, debris, or any other accumulation or activity.
- C. A person in charge of a premises must not permit, allow or cause to exist on a public sidewalk adjoining the premises any substance, condition or act that the City Manager or designee deems injurious or detrimental to the public health, welfare or safety.
- D. A person in charge of a premises must not permit, allow or cause to exist any dumping or storage of dirt, sand, rocks, gravel, bark dust, or other similar material on any sidewalk adjacent to the premises.
- E. A person in charge of a premises must not permit, allow or cause to exist any ice or snow to fall onto any public way adjacent to the premises from any building or structure located on the premises.
- F. The city is not 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 ice, snow, encumbrances, obstructions, cracks, chipping, weeds, settling, holes covered by dirt or other similar conditions.
- G. All sidewalk repairs made by any person must be performed in accordance with all requirements of the City.
- H. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.310 Trash, Recycling and Yard Debris Containers.

- A. A person in charge of a premises must not permit, allow or cause any trash, recycling or yard debris collection container serving the premises to:
 - 1. Obstruct sidewalks or bike lanes.

2. Blow, spread, or otherwise disseminate from the container any garbage, rubbish, waste, debris or other materials onto nearby properties or public ways.
 3. Remain on a public way for more than 24 hours before and after the scheduled collection time for the premises.
- B. For the purposes of this section, “collection container” means a bin that is provided by a waste collection company to service a premises and that is placed by a person in charge of the premises on a public way adjacent to the premises to be serviced by the company.
- C. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 6 Code Violation.

8.10.320 Trees

- A. A person in charge of a premises must not permit, allow or cause to exist a dead or decaying tree to stand on the premises that is a hazard to the public or to persons or property on or near the premises.
- B. A person in charge of a premises must not permit, allow or cause to exist a tree that is diseased or insect infested, if the disease or infestation:
1. Compromises the tree’s health or longevity;
 2. Is capable of being transmitted to other trees; and,
 3. Is a hazard to persons, trees or property located on any public way or real property adjacent to the premises.
- C. In addition to any corrective action ordered by the City, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

8.10.490 Other Public Nuisances

- A. In addition to the public nuisances specifically enumerated within this Chapter, every other substance, condition or act that is determined by the City Council to be injurious or detrimental to the public health, welfare or safety of the City may be declared a public nuisance by the City Manager or designee and may be abated by any of the procedures set forth in this Chapter.
- B. Unless otherwise specified by the Council in its determination, a person found to have violated the provisions of this section may be assessed a civil penalty. The amount of the civil penalty assessed for each day of continuing violation will not exceed the amount established for a Class 5 Code Violation.

Section 2. Delete the following provisions of Titles 8, 9 and 17:

Chapter 8.04

BARN AND STABLES

Sections:

- ~~8.04.010 — Unsanitary conditions prohibited.~~
- ~~8.04.020 — Removal of offensive matter.~~
- ~~8.04.030 — Complaint filing.~~
- ~~8.04.040 — Violation — Penalty — Nuisance declared when.~~

~~8.04.010 — Unsanitary conditions prohibited. It is unlawful for any person or persons, firm or corporation, either as owner, proprietor, lessee or manager thereof to maintain or use any barn, stable, stall or place within the corporate limits of the city where any horse or horses, cow or cattle, or other domestic animals of any kind are kept, in any place or upon any premises within the corporate limits of the city in such a manner or under conditions such as to constitute an unclean or unsanitary place. (Ord. 2017 §1, 1941).~~

~~8.04.020 — Removal of offensive matter. Any barn, stable stall or place mentioned in section 8.04.010 shall be conclusively deemed and considered to be unsanitary where any excreta from animals, manure decaying animal or vegetable matter or filth of any kind is allowed to accumulate or remain in any barn, stable, stall or place, or upon any adjacent premises thereto for a period of twenty four hours, so as to make an offensive odor or a breeding place for flies, or any other insect, microbe or germ which shall in any way be injurious, detrimental or offensive to any of the inhabitants of said city or to the traveling public. All excreta from such animals, manure, decaying animal or vegetable matter or filth of any kind shall be removed from such barn, stable stall or place each and every twenty four hours, and shall be placed in a container sufficiently tight and covered over in such a manner as to prevent the escape of any offensive or obnoxious odor therefrom, and to prevent the same from becoming a breeding place for flies or any other insect, microbe or germ which will in any way be injurious, detrimental or offensive to any inhabitants of the city. Said container shall not be permitted to remain within twenty five feet of any dwelling house or other building or place occupied by human inhabitants, and each and every said container shall be emptied and cleaned out at least once in every three days during the months of May, June, July, August, September and October of each year, and shall be emptied and cleaned out at least once in every ten days during the remaining portion of the year. The contents of the container shall be removed out of the city, and the container shall at all times be kept in such sanitary condition as may be necessary to prevent the same becoming a breeding place for flies or other insects, microbes or germs and to prevent the same from giving off offensive or obnoxious odor, or in any way being injurious to~~

the health, safety, convenience or sanitation of any person or persons within the corporate limits of the city. (Ord. 2017 §2, 1941).

~~8.04.030 — Complaint filing. Any resident of the city feeling aggrieved by reason of the existence of any barn, stable, stall or place in an unsanitary condition and in violation of the provisions of this chapter shall make written complaint which shall be addressed to the owner, occupant or party in charge of or responsible for such barn stable, stall or place so complained of, setting forth the conditions then existing for which such complaint is made. The same shall be signed and verified by the complainant, and the recorder of the city shall attach thereto a notification to such owner, occupant or party in charge of or responsible for the condition of said barn, stable, stall or place of lodging of said complaint, that said barn, stable, stall or place and the premises surrounding same shall be put in such sanitary condition as required by this chapter within twenty four hours from the date of the service of such notice. The complaint made by such citizen, as well as said notification, shall be served upon such owner, occupant or party in charge of or responsible for said barn, stable, stall or place by the chief of police or other police officer or the street commissioner of the city. If said barn, stable, stall or place and the surrounding premises are not put in a sanitary condition to comply with the requirements of this chapter within said period of twenty-four hours, the owner, occupant or party in charge of or responsible for the condition of said premises shall thereupon be subject to arrest for violation of the provisions of this chapter, and upon conviction shall be subject to the penalties as provided by Section 8.04.040A. (Ord. 2017 §3, 1941).~~

~~8.04.040 — Violation — Penalty — Nuisance declared when.~~

~~A. — Any person or persons, firm or corporation who maintains any barn, stable, stall or place within the corporate limits of the city where horse or horses, cow or cattle, or other domestic animals of any kind are kept contrary to the provisions of this chapter is guilty of a misdemeanor, and upon conviction thereof before the city recorder shall be punished by a fine of not less than ten dollars nor more than fifty dollars, and in default in the payment thereof shall be imprisoned in the city jail one day for each two dollars of such fine; each additional day in which such condition is permitted to remain or continues to exist thereafter shall constitute a new offense.~~

~~B. — In addition to the penalties provided in subsection A of this section for violation of this chapter and for failure on the part of the owner, occupant or party in charge of or responsible for the conditions of said building to comply with the terms of this chapter, in causing such barn, stable stall or place to be put into such sanitary condition as by this chapter required, said barn, stable, stall or place shall be deemed a nuisance. (Ord. 2017 §4, §5, 1941).~~

RAT CONTROL

Sections:

~~8.08.010 — Definitions.~~

~~8.08.020 — Eradication — Required.~~

- ~~8.08.030 — Eradication — Notice — Compliance required.~~
- ~~8.08.040 — Ratproofing — Time limit for compliance.~~
- ~~8.08.050 — Ratproofing — Maintenance required.~~
- ~~8.08.060 — Ratproofing — Removal prohibited.~~
- ~~8.08.070 — Cement floors required when.~~
- ~~8.08.080 — Feed storage.~~
- ~~8.08.090 — Garbage accumulation and dumping prohibited.~~
- ~~8.08.100 — Rubbish or junk accumulation prohibited — Exception.~~
- ~~8.08.110 — Inspection authority.~~

~~8.08.010 — Definitions. For the purposes of this chapter the following definitions shall apply:~~

~~A. — "Building" means any structure or dwelling, whether public or private, which is devoted to or designed for occupancy, or for the transaction of business, for the rendering of professional service, for amusement, for the display, sale or storage of goods, wares or merchandise, or for the performance of work or labor, including hotels, apartment buildings, roominghouses, motels, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, abattoirs, warehouses, workshops, factories and all other houses, outhouses, sheds, barns and other structures on premises used for business or dwelling purposes, whether the same are occupied or not.~~

~~B. — "Health officer" means the city health officer or any duly authorized representative.~~

~~C. — "Occupant" means the individual, partnership or corporation using or occupying any building or part thereof, whether owner or lessee. In the case of a vacant building, the term "occupant" means the owner or the person who as agent of the owner undertakes to care for the same for the owner.~~

~~D. — "Owner" means the actual owner or owners of a building within the city, whether individuals, partnerships or corporations and the agent thereof, and also the lessee or lessees thereof when, under the terms of a lease, the lessee is responsible for maintenance and repairs.~~

~~E. — "Rat eradication" means the elimination or extermination of rats within buildings of any kind by any of all measures, such as poisoning, fumigation, trapping or clubbing.~~

~~F. — "Rat harborage" means any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside a building of any kind.~~

~~G. — "Ratproofing" means and applies to a form of construction to prevent the ingress of rats into buildings from the exterior or from one building to another. It consists essentially of the closing of all actual or potential openings in the exterior walls, ground or first floors, basements, roofs and foundations that may be reached by rats from the ground by climbing or by burrowing, with material or equipment impervious to rat gnawing. (Ord. 2396 §1, 1950).~~

~~8.08.020 — Eradication — Required. It is ordained and required that buildings or structures in the city shall be freed of rats, and maintained in a rat-free condition to the satisfaction of the chief of police. (Ord. 2396 §2, 1950).~~

~~8.08.030 — Eradication — Notice — Compliance required. Whenever the chief of police notifies the occupant or occupants of a building in writing that there is evidence of rat infestation of the building, said occupant or occupants shall immediately institute rat eradication measures, and shall continuously maintain such measures in a satisfactory manner until the premises is declared by the chief of police to be free of rat infestation. Unless aid measures are undertaken within five days after receipt of notice, it shall be construed as a violation of the provisions of this chapter and the occupant shall be held responsible therefor. (Ord. 2396 §3, 1950).~~

~~8.08.040 — Ratproofing — Time limit for compliance. Whenever the chief of police notifies the owner of any building in writing that there is evidence of the need of ratproofing of the building, said owner shall take immediate measures for ratproofing the building, and unless said work and improvements have been completed by the owner in the time specified in the written notice, in no event to be less than fifteen days, or within the time to which a written extension may have been granted by the health officer, then the owner shall be deemed guilty of an offense under the provisions of this chapter. (Ord. 2396 §4, 1950)~~

~~8.08.050 — Ratproofing — Maintenance required. The owner, agent or occupant in charge of all rat freed and/or ratproofed buildings or structures shall maintain them in a rat-free and/or ratproof condition and repair all breaks or leaks that may occur in the ratproofing without a specific order of the chief of police. (Ord. 2396 §5, 1950).~~

~~8.08.060 — Ratproofing — Removal prohibited. It is unlawful for the owner, occupant, contractor, public utility company, plumber or any other person to remove the ratproofing from any building or structure for any new openings that are not closed or sealed against the entrance of rats. (Ord. 2396 §6, 1950).~~

~~8.08.070 — Cement floors required when. Whenever conditions inside or under any building or structure provide such extensive harborage for rats that the chief of police deems it necessary to eliminate such harborage, he may require the owner or occupant in charge of any such building or structure to install suitable cement floors in basements, or to require such owner or occupant to correct such rat harborage as may be necessary in order to facilitate the eradication of rats. (Ord. 2396 §7, 1950)~~

~~8.08.080 — Feed storage. All food and feed within the city for feeding chickens, cows, pigs, horses and other animals shall be stored in rat-free and ratproof containers, compartments or rooms unless stored in a ratproof building. (Ord. 2396 §8, 1950).~~

~~8.08.090 — Garbage accumulation and dumping prohibited. It is unlawful for any person to place, leave, dump or permit to accumulate any garbage or trash in any building, structure or premises so that the same affords food or harborage for rats, or to~~

~~dump or place on any premises, land or waterway any dead animals or waste vegetable or animal matter of any kind. (Ord. 2396 §9, 1950)~~

~~8.08.100 — Rubbish or junk accumulation prohibited — Exception. It is unlawful for any person to accumulate or permit the accumulation on any open lot, or other premises, of any lumber, boxes, barrels, bricks, stones, scrap metal, motor vehicle bodies or parts, or similar materials, rubbish or any articles of junk which provide rat harborage, unless the same are placed on open racks that are elevated not less than eighteen inches above the ground, evenly piled or stacked. (Ord. 2396 §10, 1950).~~

~~8.08.110 — Inspection authority. The chief of police is empowered to make such inspections of the interior and exterior of any building or structure as in his opinion may be necessary to determine full compliance with this chapter. The chief of police may make periodic inspections at intervals of not more than forty five days of all ratproofed buildings to determine evidence of rat infestation and the existence of new breaks or leaks in the ratproofing. When any evidence is found indicating the presence of rats or openings through which rats may enter such buildings again, the chief of police shall serve the owner or occupants with written notice to abate the conditions found. (Ord. 2396 §11, 1950).~~

~~8.08.120 — Violation — Penalty. Any person who violates any provision of this chapter shall be punished by a fine of not more than three hundred dollars or imprisonment of not more than ninety days or both constitute a separate offense. Each day's violation shall (Ord. 2396 §12, 1950).~~

Chapter 8.12

WEED CONTROL

Sections:

~~8.12.005 Intent~~

Sections: (Continued)

~~8.12.010 Cutting weeds required when — Notice.~~

~~8.12.020 Duty to cut weeds.~~

~~8.12.030 Notice to cut and service.~~

~~8.12.040 Noncompliance — Code Enforcement Officer or Designee to take action when.~~

~~8.12.050 Removal by city — Cost assessment.~~

~~8.12.060 Source and disposition of funds for city work.~~

~~8.12.070 Violation — Procedure — Penalty.~~

~~8.12.005 — Intent. The provisions of this Chapter are intended to reduce the problems associated with uncontrolled vegetation growth including fire hazards, rodents, insects, and its effect on the appearance of the community. (Ord. 4923 §1, 2010).~~

~~8.12.010 — Cutting weeds required when — Notice. Unless otherwise provided in this Chapter, the owner or occupant of any lot or parcel of land in the city shall cut close to the ground and remove or destroy all brush, weeds, thistles, grass, or other rank or noxious vegetation (as classified by the Oregon State Weed Board) growing to a height greater than 10 (ten) inches upon said lot or parcel of land when directed to do so in accordance with this Chapter. (Ord. 4923 §1, 2010; Ord. 4138 §1, 1981).~~

~~8.12.020 — Duty to cut weeds.~~

~~A. Any person, firm or corporation owning, possessing, or having the care or custody of any lot or parcel of land within the city shall be in violation of this chapter if he fails or neglects to remove those items enumerated in Section 8.12.010 upon receipt of notice from the City. (Ord. 4923 §1, 2010; Ord. 4138 §2, 1981).~~

~~B. Provided the vegetation does not obstruct, block, or impede any visual sight lines or signs required to ensure safe and efficient vehicular and pedestrian movement upon City streets, or create a safety hazard as determined by the Fire Department, the provisions shall not apply to vegetation located upon or within:~~

- ~~1. Portions of lots used for flower or vegetation gardens, or shrubbery.~~
- ~~2. Naturally wooded or native forest remnant area.~~
- ~~3. Wetlands.~~
- ~~4. Lands within a designated 100-year floodplain.~~
- ~~5. Conservation easements.~~
- ~~6. Public parks or private or municipal golf courses.~~
- ~~7. Drainage ponds or ditches designed to meet City stormwater conveyance requirements. (Ord. 4923 §1, 2010)~~

~~C. An exemption from the requirements of this ordinance may be made by the City Manager upon determining that the vegetation would not create a public hazard, or otherwise be detrimental to the public safety, health or welfare. In making this determination, the City Manager may seek input from the Fire Chief, Fire Marshal, or other appropriate staff. The City Manager may also place appropriate conditions upon such approval. (Ord. 4923 §1, 2010)~~

~~8.12.030 — Notice to cut and service.~~

~~A. Notice shall be provided by the City in a written form directing the person to remove said brush, grass, or weeds, etc., within five days of receipt of the communication or the city will cause the same to be done and it shall charge the cost thereof as a lien against the property. Notice to so perform may be served upon the owner or occupant in person if he be found upon the premises or within the city.~~

~~B. As an alternative to personal service, such notice shall be mailed by certified mail to the last known address of such owner or occupant as shown by the records of the Yamhill County assessor's office. In the event the said owner or~~

occupant or person having the care or custody of any lot or parcel of land within the city cannot be located or refuses service of said certified mail, such notice shall be posted in a conspicuous place upon said premises and a copy thereof mailed to the last known address of said owner or occupant. (Ord. 4923 §1, 2010; Ord. 4138 §3, 1981).

~~8.12.040 — Noncompliance — Code Enforcement Officer or designee to take action when.~~ If any person, firm or corporation owning, possessing, or having care or custody of any lot or parcel of land within the city fails or neglects to destroy the brush, grass or weeds within 10 (ten) days of the notice specified in Section 8.12.030, the Code Enforcement Officer or designee may go upon such lots or parcels with such assistance as he may deem necessary and destroy and eradicate said brush, grass or weeds in such manner as in his judgment shall be most effective. (Ord. 4923 §1, 2010; Ord. 4138 §4, 1981).

~~8.12.050 — Removal by city — Cost assessment.~~

~~A.~~ Upon the completion of the work, the Code Enforcement Officer or designee shall file with the City Finance Department an itemized statement of the cost thereof plus 25 (twenty five) percent to cover the expense of inspection, overhead, enforcement of this chapter and the service or posting of the notice required in Section 8.12.030, but the minimum charge for any lot or parcel of land shall be 50 (fifty) dollars.

~~B.~~ The City Finance Department, after having received an itemized statement from the Code Enforcement Officer or designee, shall place a lien upon the property involved to be enforceable against said property in the same manner as provided for the enforcement of liens for street improvements. (Ord. 4923 §1, 2010; Ord. 4138 §5, 1981).

~~8.12.060 — Source and disposition of funds for city work.~~ The cost of the cutting and removal of brush, grass, and weeds shall be paid from the Police Department abatement fund and all income resulting from the enforcement of this chapter and the collection of the cost of such cutting and removal shall be credited to said fund. (Ord. 4923 §1, 2010; Ord. 4138 §6, 1981).

~~8.12.070 Violation — Procedure — Penalty.~~

~~A.~~ A uniform complaint or citation to appear may be issued to the owner or occupier of property used in violation of this ordinance, requiring said owner or occupier to appear in court regarding a violation of the Weed Control Ordinance.

~~B.~~ A trial shall be held before the judge without a jury. No appeal from the decision may be taken. The standard of proof required shall be by a preponderance of the evidence.

~~C.~~ A person convicted of violating a provision of this ordinance shall, upon conviction, be punished by a fine of not more than 500 (five hundred) dollars for each day that the violation continues. (Ord. 4923 §1, 2010)

Chapter 8.16

NUISANCES*

Sections:

ARTICLE I. DEFINITIONS

8.16.010 Definitions.

ARTICLE II. MISCELLANEOUS NUISANCES

Sections: (continued)

8.16.020 Bees.

8.16.060 Burning and Accumulation of Materials Constituting a Fire Hazard.

8.16.150 Unnecessary noise.

ARTICLE III. ANIMALS

8.16.152 Removal of carcasses.

8.16.155 Fowl.

ARTICLE IV. NUISANCES AFFECTING PUBLIC HEALTH

8.16.158 Nuisances affecting public health.

ARTICLE V. NUISANCES AFFECTING PUBLIC SAFETY

8.16.160 Creating a hazard.

8.16.162 Attractive nuisances.

8.16.165 Defective sidewalks.

8.16.168 Scattering rubbish.

8.16.170 Trees.

8.16.172 Fences.

8.16.175 Surface waters, drainage.

ARTICLE VI. NUISANCES AFFECTING PUBLIC PEACE

8.16.178 Radio and television interference.

8.16.180 Junk.

ARTICLE VII. UNENUMERATED NUISANCES

* For statutory provisions on city power to control noise, see ORS 467.100(1); for provisions on city dog control see ORS 609.015(1).

~~8.16.182 — Unenumerated nuisances.~~

~~ARTICLE VIII. ABATEMENT PROCEDURE~~

~~8.16.185 — Abatement procedure — Notice issuance.~~

~~8.16.188 — Abate procedure — Contents of notice.~~

~~8.16.190 — Entry on private property.~~

~~8.16.192 — Hearing by the court.~~

~~8.16.195 — Abatement by the city and appraisal.~~

~~8.16.198 — Public sale notice.~~

~~8.16.200 — Public sale.~~

~~8.16.210 — Redemption before sale.~~

~~8.16.220 — Assessment of costs.~~

~~8.16.230 — Applicability — Officers' powers.~~

~~ARTICLE IX. PENALTY~~

~~Sections: (continued)~~

~~8.16.240 — Violation — Penalty~~

~~ARTICLE I.
DEFINITIONS~~

~~8.16.010 — Definitions. As used in this chapter:~~

~~A. "Person" means a natural person, firm, partnership, association or corporation.~~

~~B. "Person in charge of property" means an agent, occupant, lessee, contract purchaser or other person having possession or control of property or supervision of a construction project.~~

~~C. "Person responsible" means the person responsible for abating a nuisance including:~~

~~1. The owner;~~

~~2. The person in charge of property, as defined in this section;~~

~~3. The person who caused a nuisance to come into or continue in existence, said nuisance being defined in this chapter or another ordinance of the city.~~

~~D. "Public place" means a building, way, place or accommodation, publicly or privately owned, open and available to the general public. (Ord. 4409 §1, 1987; Ord. 2963 §1, 1961).~~

~~ARTICLE II.
MISCELLANEOUS NUISANCES~~

8.16.040 — Bees.

~~A. — Beehives or bee colonies shall not be maintained or kept on the ground closer than thirty feet from a public right of way, alley, public property, private building or place open to the public other than that of the beehive or bee colony keeper.~~

~~1. — Bees may be kept on the ground not closer than fifteen feet from neighboring property provided there exists a six foot or higher fence, hedge, or structure at the property line immediately adjacent to the hive or colony to force the bees to raise their flight path over the neighboring property.~~

~~2. — A hive or colony may be maintained not closer than fifteen feet from the above enumerated places on a deck, attic, roof or balcony at least eight feet above ground.~~

~~B. — Not more than three bee colonies shall be kept on a city lot of nine thousand square feet or less. Three additional hives may be kept on each additional nine thousand square feet of property that constitutes a part of one lot.~~

~~1. — Unused bee equipment shall not be left out in the open where accessible to bees.~~

~~C. — Bees shall not be kept on a property where a person who resides within three hundred feet from the hive or colony has a medically certified allergy to the sting of bees.~~

~~1. — An individual who is allergic to bee stings shall file with the city police a medical certificate attesting to his allergy and shall provide information concerning the location of the beehive or colony and its distance from his property.~~

~~2. — The city shall attempt to resolve the matter before commencing any legal action authorized under this chapter, however, failure to so attempt shall not be a defense to a violation filed under this section.~~

~~D. — Beehives or colonies being transported through or within the city shall not be left on a vehicle which is parked or left unattended during daylight hours on a city street, public parking lot, or private property left open to the general use of the public. Beehives or colonies on a vehicle which is parked on private property shall be more than thirty feet from a public right of way, alley, public property, private building, or place open to the public other than that of the beehive or bee colony keeper.~~

~~E. — Penalty. An individual convicted of violating this chapter shall be fined not less than twenty five dollars nor more than one hundred dollars for each day that the violation occurs. Trial shall be before the judge without a jury. The city may seek a mandatory injunction to enforce the terms of this chapter in a court of competent jurisdiction, (Ord 4151 §I §5, 1981).~~

8.16.060 — Burning and Accumulation of Materials Constituting a Fire Hazard.

~~A. — No person shall kindle, maintain, or allow to be maintained, an outdoor fire, bonfire, rubbish fire, burn barrel fire, or garbage fire, nor shall any person kindle, maintain or allow to be maintained a fire for the purpose of burning grass, hay, straw, tree parts or trimmings, nor shall any person kindle, maintain, or allow to be maintained a fire for land clearing operations or for commercial burning, nor shall any person kindle, maintain, or allow to be maintained any other type of open burning with the following exceptions:~~

~~1.—Between October 15 and November 15 and between May 1 and May 31, burning of yard debris is allowed on any day which is a Department of Environmental Quality approved burn day. These time periods may be extended by the Fire Chief, at his or her sole discretion.~~

~~2.—Outdoor recreation fires shall be allowed in accordance with the provisions of the Uniform Fire Code.~~

~~3.—Fires set and maintained for fire fighting training or training fire protection personnel.~~

~~4.—Fire requested by law enforcement personnel for the destruction of evidence when the evidence is no longer needed for law enforcement purposes.~~

~~5.—In cases of fire hazard that can not, in the judgment of the Fire Chief or designee, be removed or disposed of in any other practical manner, a fire may be allowed by written permit only. This permit is to be issued by the Fire Chief or designee.~~

~~6.—The Fire Chief or designee is authorized to issue special permits for ceremonial fires.~~

~~7.—The Fire Chief or designee is authorized to require that burning be immediately discontinued if it is determined that smoke emissions are offensive to occupants or surrounding property, if the burning is determined to be hazardous, or if the burning is determined to be detrimental to the public health.~~

~~A.—No person shall accumulate or suffer or allow to accumulate material which, in the judgment of the Fire Chief or designee, constitutes a fire hazard.~~

~~B.—Violation of this ordinance shall be considered an infraction and may be punishable by a fine of not less than \$50.00 for the first cited violation, not less than \$100.00 for the second cited violation, and not less than \$250.00 for each subsequent cited violation. Any act prohibited by this ordinance shall be a nuisance and shall be subject to immediate summary abatements as provided in this code. Costs of abatement shall be assessed against any person who violates the provisions of this ordinance and shall be imposed in addition to any fine. (Ord. 4742 §1, 2001).~~

~~8.16.150 — Unnecessary noise.~~

~~A.—No person shall make, assist in making or permit any loud, disturbing or unnecessary noise which either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of others.~~

~~B.—The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but the enumeration shall not be construed to be exclusive:~~

~~1.—The keeping of any bird or animal which by causing frequent or long continued noise disturbs the comfort and repose of any person in the vicinity;~~

~~2.—The attaching of any bell to any animal or allowing a bell to remain on any animal which is disturbing to any person in the immediate vicinity;~~

~~3.—The use of any vehicle or engine, either stationary or moving, so operated as to create any loud or unnecessary grating, grinding, rattling or other noise;~~

~~4.—The sounding of any horn or signaling device on any vehicle on any street, public or private place, except as a necessary warning of danger;~~

~~5.—The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of danger, or upon request of proper city authorities;~~

~~6.—The use of any mechanical device operated by compressed air, steam or otherwise, unless the noise thereby created is effectively muffled;~~

~~7.—The erection, including excavation, demolition, alteration or repair, of any building in residential districts, other than between the hours of seven a.m. and six p.m., except upon special permit granted by the common council;~~

~~8.—The use of any gong or siren upon any vehicle, other than a police, fire or other emergency vehicle;~~

~~9.—The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court of justice while the same are in use, or adjacent to any hospital or institution for the care of the sick or infirm which unreasonably interferes with the operation of such institution, or which disturbs or unduly annoys patients;~~

~~10.—The discharge in the open air of the exhaust of any steam engine, internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises and the emission of annoying smoke;~~

~~11.—The use or operation of any automatic or electric piano, phonograph, 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; provided, however, that upon application to the common council, permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches or general entertainment;~~

~~12.—The making of any noise by crying, calling or shouting, or by any means of any whistle, rattle, bell, gong, clapper, horn, hammer, drum, musical instrument or other device for the purpose of advertising goods, wares or merchandise or of attracting attention or of inviting patronage of any person to any business whatsoever; provided, that newsboys may sell newspapers and magazines by public outcry, and persons having a valid permit to do so under the ordinances of the city may vend merchandise in the streets by public outcry;~~

~~13.—The conducting, operating or maintaining of any garage within one hundred feet of any private residence, apartment, roominghouse or hotel in such manner as to cause loud or offensive noises to be emitted therefrom between the hours of eleven p.m. and seven a.m. (Ord. 2963 §17, 1961).~~

ARTICLE III. ANIMALS

~~8.16.152 — 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 is reasonably necessary to remove or dispose the carcass. (Ord. 4409 §2, 1987).~~

~~8.16.155~~ — ~~Fowl.~~ No person shall permit any or controlled by him to run at large in the city. (Ord. 4409 §3, 1987).

ARTICLE IV. NUISANCES AFFECTING PUBLIC HEALTH

~~8.16.158~~ — ~~Nuisances affecting public health.~~ No person cause or permit a nuisance affecting public health on property owned or controlled by him. The following is a nonexclusive list of nuisances affecting public health that may be abated as provided in this chapter:

- ~~A.~~ — ~~Open vaults or privies constructed and maintained with the city, except those constructed or maintained in connection with construction projects in accordance with State Health Division regulations;~~
- ~~B.~~ — ~~Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the city;~~
- ~~C.~~ — ~~Stagnant water that affords a breeding place for mosquitoes and other insect pests;~~
- ~~D.~~ — ~~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;~~
- ~~E.~~ — ~~Decayed or unwholesome food offered for human consumption;~~
- ~~F.~~ — ~~Premises that are in such a state or condition as cause an offensive odor or that are in an unsanitary condition;~~
- ~~G.~~ — ~~Drainage of liquid wastes from private premises;~~
- ~~H.~~ — ~~Cesspools or septic tanks that are in an unsanitary condition or that cause an offensive odor;~~
- ~~I.~~ — ~~Mastics, oil, grease or petroleum products allowed to be introduced into the sewer system by a user connected to the sewer system. (Ord. 4409 §4, 1987).~~

ARTICLE V. NUISANCES AFFECTING PUBLIC SAFETY

~~8.16.160~~ — ~~Creating a hazard.~~ No person shall create a hazard by:

- ~~A.~~ — ~~Maintaining or leaving, in a place accessible to children, a container with a compartment of more than one an one-half cubic feet capacity and a door or lid that locks or fastens automatically when closed;~~
- ~~B.~~ — ~~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 four feet or more and a top width of twelve inches or more, and failing to cover or fence it with a suitable protective construction. (Ord. 4409 §5, 1987).~~

8.16.162 — Attractive nuisances.

A. ~~No owner or person in charge of property shall permit on the property:~~

1. ~~Unguarded machinery, equipment or other devices that are attractive, dangerous and accessible to children;~~

2. ~~Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.~~

B. ~~This section does not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children. (Ord. 4409 §6, 1987).~~

8.16.165 — Defective sidewalks.

A. ~~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 danger to persons using it.~~

B. ~~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 ice, snow, cumbrances, obstructions, cracks, chipping, weeds, settling, holes covered by dirt or other similar conditions. Abut property owners shall maintain sidewalks free from such conditions and are liable for any and all injuries to personal property arising as a result of their failure to so main the sidewalks. (Ord. 4409 §7, 1987).~~

8.16.168 — Scattering rubbish.

A. ~~No person shall deposit, permit, or allow, on public or private property, bush, trash, debris, refuse or any substance that would ate a stench or fire danger, detract from the cleanliness safety of the property or would be likely to injure a pet, animal, or vehicle traveling on a public way.~~

B. ~~Rubbish, trash, debris, or refuse in sealed containers or in plastic bags placed for collection by the soil waste collector or recyclable material collector is not within the terms of this chapter unless left on private property for more than one week. (Ord. 4409 §8, 1987).~~

8.16.170 — Trees. ~~No owner or person in charge of property shall allow all or a part of a dead or decaying tree stand if it is a danger to the public or to persons or property on or near the property. (Ord. 4409 §9, 1987).~~

8.16.172 — Fences.

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

B. ~~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 another person. (Ord. 4409 §10, 1987).~~

8.16.175 — Surface waters, drainage.

~~A.—The owner or person in charge of a building or structure shall not permit ice or snow to fall from the building or structure onto street or public sidewalk.~~

~~B.—The owner or person in charge of property shall stall 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. (Ord. 4409 §11, 1987).~~

~~ARTICLE VI. NUISANCES AFFECTING PUBLIC PEACE~~

~~8.16.178 — Radio and television interference.~~

~~A.—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.~~

~~B.—This section does not apply to devices licensed, approved, and operated under the rules and regulations of Federal Communications Commission. (Ord. 4409 §12, 1987).~~

~~8.16.180 — Junk.~~

~~A.—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 or egress.~~

~~B.—The term "junk," as used in this section, include all nonoperative motor vehicles, motor vehicle parts, abandoned automobiles, machinery, machinery parts, appliances or appliance parts, iron or other metal, glass, paper, lumber, wood, or other waste or discarded material.~~

~~C.—This section does not apply to junk kept in a licensed junkyard or automobile wrecking house. (Ord. 4409 §13, 1987).~~

~~ARTICLE VII. UNENUMERATED NUISANCES~~

~~8.16.182 — Unenumerated nuisances.~~

~~A.—The acts, conditions or objects specifically enumerated and defined in Sections 8.16.152 to 8.16.180 are declared public nuisances and may be abated by the procedures set forth in Sections 8.16.185 to 8.16.220.~~

~~B.—In addition to the nuisances specifically enumerated in this or any other ordinance, every other thing, substance or act that is determined by the council to be injurious or detrimental to the public health, safety, or welfare of the city is declared a nuisance and may be abated as provided in this chapter. (Ord. 4409 §14, 1987).~~

ARTICLE VIII.
ABATEMENT PROCEDURE

~~8.16.185 — Abatement procedure — Notice issuance. A police officer or employee of the city designated as the nuisance abatement officer, when alleging that a nuisance exists, shall:~~

- ~~A. Attempt to discover the person(s) responsible for the nuisance; and~~
- ~~B. Give written notice to the person(s) responsible b posting, or personal service, or by certified mail, or any combination of the above that a condition on the property is a nuisance and is in violation of this chapter. (Ord. 4409 §15, 1987).~~

~~8.16.188 — Abatement procedure — Contents of notice. A notice issued under Section 8.16.185 shall contain:~~

~~A. A description of the conditions found upon the property that are in violation of this chapter and that within seven days after notice is given (personal service, posting or certified mail) the nuisance must be abated. The notice shall also contain:~~

- ~~1. A description of the real property, by street address or otherwise, on which the nuisance exists;~~
- ~~2. A description of the nuisance;~~
- ~~3. 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;~~
- ~~4. If the person responsible is not the owner, an additional notice (if none was originally given) shall be sent to the owner, stating that if the cost of abatement is not paid by the person responsible, it (the cost) may be assessed to and become a lien on the property.~~

~~B. Upon completion of the posting or mailing or personal service, the person or persons posting, or mailing, or making the personal service shall execute and file certificates stating the date and place at which said actions occurred.~~

~~C. That the alternative to compliance with subsection of this section is to petition the court clerk within the seven day period described in subsection A by making a written request to appear before the McMinnville municipal court to show the nuisance doesn't exist or why the nuisance should not be immediately abated.~~

~~D. That failure to comply with this chapter authorizes the city to abate the nuisance, charge the abatement costs against the real property from which it was abated, and to dispose of any property seized at a public sale to reduce an costs incurred in the abatement process. (Ord. 4409 §16, 1987).~~

~~8.16.190 — Entry on private property.~~

~~A. A law enforcement or nuisance abatement officer is authorized to enter onto private property at all reasonable times and examine the alleged nuisance to determine whether it is in violation of this chapter. Except when an emergency exists, before entering onto private property, the officer shall obtain the consent of an occupant or a warrant of the municipal court authorizing entry for inspection.~~

~~B.— No search warrant shall be issued under the terms of this chapter until an affidavit has been filed with the municipal court showing probable cause for the inspection by stating the purpose and extent of the proposed inspection, citing this chapter as the basis for the inspection, stating whether it is an inspection instituted by complaint, or giving other specific or general information concerning the nuisance in question or the property on which it is located.~~

~~C.— No person shall interfere with or attempt to prevent a law enforcement officer from entering onto private premises and inspecting the alleged nuisance when an emergency exists or when the officer exhibits a warrant authorizing entry. (Ord. 4409 §17, 1987).~~

~~8.16.192 — Hearing by the court.~~

~~A.— Following a request the court clerk shall fix a time for a hearing before the municipal judge to show cause why the nuisance should not be immediately abated and to receive evidence and the testimony of the law enforcement officer and other interested persons concerning the existence, location, and condition of said nuisance. After the hearing, the judge may order the nuisance abated by the city in accordance with the provisions of this chapter after determining that actual or constructive notice has been accomplished as set forth in Sections 8.16.185 and 8.16.188.~~

~~B.— The court shall make its order in the form of a court order declaring the condition to be a public nuisance. The court order may order the abatement of more than one nuisance and may consolidate the hearings and orders relating to a specific parcel or parcels under common ownership or control. Persons receiving the notice specified in Sections 8.16.185 and 8.16.188 shall be sent copies of the court order.~~

~~C.— The court may impose conditions and take other action it considers appropriate under the circumstances to carry out the purposes of this chapter. It may delay the time for the abatement of the nuisance when, in its opinion, circumstances justify such action. It shall refuse to order the abatement of a condition when, in the opinion of the court, it is not subject to the provisions of this chapter. The court shall not be bound by technical rules of evidence in conducting the hearing. (Ord. 4409 §18, 1987).~~

~~8.16.195 — Abatement by the city and appraisal.~~

~~A.— Seven days after giving the notice required in Section 8.16.185, or, if a hearing is held, seven days after the entry of a court order declaring a condition to be a public nuisance as required in Section 8.16.188, the city will have jurisdiction to abate the nuisance and may remove the nuisance by use of city employees or authorized independent contractors. No person shall interfere with, hinder, or refuse to allow authorized persons to enter onto private property for the purpose of removing a nuisance under the provisions of this chapter. (Ord. 4409 §19, 1987).~~

~~8.16.198 — Public sale notice.~~

~~A.— If the value of any property exceeds seven hundred fifty dollars, the law enforcement officer shall publish a notice of sale in a news paper of general circulation within the city. The notice of sale shall state:~~

1. ~~The sale is of property in possession of the city which has been recovered in a nuisance abatement procedure;~~
2. ~~A description of the property and any other information that will aid in accurately identifying the material to be sold;~~
3. ~~The terms of the sale;~~
4. ~~The date, time, and place of the sale.~~

B. ~~The notice of sale shall be published two times. The first publication shall be made not less than fifteen days before the date of the proposed sale, and the second shall be made not less than seven days before the date of the proposed sale. (Ord. 4409 §20, 1987).~~

~~8.16.200 — Public sale.~~

A. ~~If material or goods seized or removed is appraised over seven hundred fifty dollars, the law enforcement officer shall hold a sale at the time and place appointed, within view of the material to be sold;~~

B. ~~The material or goods shall be sold to the highest and best bidder. However, if no bids are entered or the bids entered are less than the costs incurred by the city, the law enforcement officer may enter a bid on behalf of the city in an amount equal to the costs;~~

C. ~~At the time the purchase price is paid, the law enforcement officer shall execute a certificate of sale in duplicate; the original shall be delivered to the purchaser and a copy filed with the city recorder;~~

D. ~~The certificate of sale shall be on a form provided by the city recorder. (Ord. 4409 §21, 1987).~~

~~8.16.210 — Redemption before sale.~~

A. ~~Material or goods impounded under the provisions of this chapter may be redeemed by its owner or by the person in charge of the property from which the material or goods was removed by applying to the law enforcement officer before sale or disposition has taken place. The person shall:~~

1. ~~Submit satisfactory evidence of ownership or interest in the material or goods to the law enforcement officer;~~
2. ~~Pay the costs owing at the time the application to redeem is made;~~
3. ~~Give evidence that the nuisance character of the material or goods will not be resumed.~~

B. ~~Upon compliance with subsection A of this section, the law enforcement officer shall execute a receipt and cause the material to be returned. (Ord. 4409 §22, 1987).~~

~~8.16.220 — Assessment of costs.~~

A. ~~After disposing of any material and goods and crediting any money received from sale or said goods and material to the costs, the city recorder shall give notice by personal service or by certified mail to the person in charge of the property and the owner the property from which the material was removed:~~

1. ~~Of any refund of excess funds derived from the sale;~~
2. ~~Of the unpaid costs of abatement.~~

~~a. That the costs as indicated will be assessed to and become a lien against the real property unless paid within thirty days from the date of the notice,~~

~~b. That if the person in charge of the property objects to the indicated costs of the abatement, a written notice of objection may be filed with the city recorder with in twenty days from the date of the notice of unpaid costs;~~

~~B. Within forty days after the date of the notice of objection, objections to any proposed assessment shall be heard and determined by the council.~~

~~C. If the costs of the abatement are not paid within thirty days from the date of the notice, or within ten days of a council determination made under subsection B of this section, assessment of the costs shall be made by council resolution and be entered in the docket of city liens. When the entry is made, it shall constitute a lien on the real property from which the nuisance was removed or abated.~~

~~D. The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of nine percent per year. Interest shall accrue from the date of the entry of the lien into the lien docket.~~

~~E. An error in the name of the person in charge of the property shall not void the assessment, nor will a failure to receive notice of the proposed assessment render the assessment void. The assessment shall remain a valid lien against the property. (Ord. 4409 §23, 1987).~~

~~8.16.230 — Applicability — Officers' powers. The procedure provided by this chapter is not exclusive but is in addition to procedure provided by other ordinances, and furthermore, the health officer, the chief of the fire department and the police officers of this city may proceed summarily to abate a sanitary or other nuisance which unmistakably exists and from which there is imminent danger to human life or property.~~

ARTICLE IX. PENALTY

8.16.240 — Violation — Penalty.

~~A. Any person violating 8.16.240 any of the provisions of this chapter shall, upon conviction thereof, be punished by imprisonment for a period not to exceed ninety days, or by a fine not to exceed three hundred dollars, or both. Each day's violation of a provision of this chapter shall constitute a separate offense.~~

~~B. The abatement of a nuisance as provided in chapter shall not constitute a penalty for violation chapter, but shall be in addition to any penalty imposed a violation of the chapter. (Ord. 2963 §§26, 27, 1961).~~

Chapter 8.28

DISCARDED VEHICLES

Sections:

- 8.28.010 — Definitions.
- 8.28.020 — Declaration of public nuisance.
- 8.28.030 — Prohibited action.
- 8.28.040 — Investigation.
- 8.28.050 — Contents of notice.
- 8.28.060 — Entry on private property.
- 8.28.070 — Hearing by the court.
- 8.28.080 — Abatement by the city and appraisal.
- 8.28.090 — Low value vehicle.
- 8.28.100 — Public sale notice.
- 8.28.110 — Public sale.
- 8.28.120 — Redemption before sale.
- 8.28.130 — Assessment of costs.

8.28.010 — Definitions. As used in this chapter:

A. ~~"Costs" means the expense of removing, storing, or selling a discarded vehicle.~~

B. ~~"Discarded vehicle" means:~~

1. ~~A vehicle in one or more of the following conditions:~~

a. ~~Inoperative;~~

b. ~~Wrecked;~~

c. ~~Dismantled;~~

d. ~~Partially dismantled;~~

e. ~~Junked;~~

f. ~~Any other vehicle not described in the above sections and stored on a residential lot (not including a driveway or trailer storage pad area) for more than thirty days without being operated away from the premises.~~

2. ~~Discarded vehicles include major parts of vehicles, including but not limited to bodies, engines, transmissions, and rear ends.~~

C. ~~"Law enforcement officer" includes any authorized law enforcement officer of the city.~~

D. ~~"Person in charge of property" means an agent, occupant, lessee, contract purchaser, owner, or person having possession, control, or title to property where a vehicle is located.~~

E. ~~"Vehicle" means every device in, upon, or by which person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.~~

F. ~~"Vehicle owner" means an individual, firm, corporation, or unincorporated association with a claim, either individually or jointly, of ownership or an interest, legal or equitable, in a vehicle. (Ord. 4384 §1, 1986).~~

8.28.020 — Declaration of public nuisance. ~~The open accumulation and storage of discarded vehicles is found to create a condition tending to reduce the value of private property; promote blight, deterioration, and unsightliness; invite plundering; create fire hazards; constitute an attractive nuisance causing a hazard to the health and~~

safety of miners; create a harborage for rodents and insects; and to injurious to the health, safety, and general welfare of the community. Therefore, the presence of a discarded vehicle private property is declared to be a public nuisance which may be abated in accordance with the provisions of this chapter. (Ord. 4384 §2, 1986).

~~8.28.030 — Prohibited action. No person shall store or permit the storage of a discarded vehicle upon private property within the city unless the vehicle is completely enclosed within a building or unless it is in connection with lawfully conducted business dealing in junked vehicles. (Ord. 4384 §3, 1986).~~

~~8.28.040 — Investigation.~~

~~A. When a law enforcement officer investigates a discarded vehicle on private property and determines that a nuisance exists which should be abated the officer shall:~~

~~1. Attempt to discover the owner of the vehicle, the person in charge of the property, the owner of the property on which the vehicle is located; and~~

~~2. Give written notice to them by personal service or by certified mail that the vehicle is in violation of this chapter.~~

~~B. If the owner of the vehicle is not found, the officer shall place a notice on the windshield or some other part of the vehicle where it can be easily seen. (Ord. 4384 §4, 1986).~~

~~8.28.050 — Contents of notice. A notice issued under Section 8.28.040 shall state:~~

~~A. That a certain discarded vehicle is in violation of this chapter and that within ten days after sending or posting the notice:~~

~~1. The vehicle must be removed from the city or to the storage yard of a lawfully conducted business dealing in junked vehicles; or~~

~~2. The vehicle must be completely enclosed within a building.~~

~~B. That the alternative to compliance with subsection of this section is to petition the court clerk within the ten-day period described in subsection A of this section and make a written request to appear before the court to show why the vehicle should not be immediately abated.~~

~~C. That failure to comply with this chapter authorizes the city to remove the vehicle, charge the cost against the property from which it was removed, and to sell the vehicle to satisfy the casts of removal and storage. (Ord. 4384 §5, 1986).~~

~~8.28.060 — Entry on private property.~~

~~A. A law enforcement officer is authorized to enter onto private property at all reasonable times and examine a vehicle to determine whether it is in a discarded condition. Except when an emergency exists, before entering onto private property, the officer shall obtain the consent of an occupant or a warrant o the municipal court authorizing entry for inspection.~~

~~B. No search warrant shall be issued under the terms o this chapter until an affidavit has been filed with the municipal court showing probable cause for the inspection by stating the purpose and extent of the proposed inspection, citing this chapter as the basis for the inspection, stating whether it is an inspection instituted by~~

complaint, or giving other specific or general information concerning the vehicle in question or the property on which it is located.

C. ~~No person shall interfere with or attempt to prevent a law enforcement officer from entering onto private premises and inspecting a vehicle when an emergency exists or when the officer exhibits a warrant authorizing entry. (Ord. 4384 §6, 1986).~~

~~8.28.070 — Hearing by the court.~~

A. ~~Following a request the court clerk shall fix a time for a hearing before the municipal judge to show cause why a vehicle should not be abated immediately and to receive evidence and the testimony of the law enforcement officer and other interested persons concerning the existence, location, and condition of the vehicle. After the hearing, the judge may order the vehicle removed by the city in accordance with the provisions of this chapter after determining that actual or constructive notice has been accomplished as set forth in Section 8.28.040.~~

B. ~~The court shall make its order in the form of a court order declaring the vehicle to be a public nuisance. The court order may order the removal of more than one vehicle and may consolidate the hearing and orders relating to more than one vehicle. Persons receiving the notice specified in Section 8.28.040 shall be sent copies of the court order.~~

C. ~~The court may impose conditions and take other action it considers appropriate under the circumstances to carry out the purposes of this chapter. It may delay the time for removal of the vehicle when, in its opinion, circumstances justify such action. It shall refuse to order removal of the vehicle when the vehicle, in the opinion of the court, is not subject to the provisions of this chapter. The court shall not be bound by technical rules of evidence in conducting the hearing. (Ord. 4384 §7, 1986).~~

~~8.28.080 — Abatement by the city and appraisal.~~

A. ~~Seven days after giving the notice required in Section 8.28.040, or, if a hearing is held, seven days after the entry of a court order declaring a vehicle to be a public nuisance as required in Section 8.28.070, the city will have jurisdiction to abate the nuisance and may remove the vehicle by use of city employees or authorized independent contractors. No person shall interfere with, hinder, or refuse to allow authorized persons to enter onto private property for the purpose of removing a vehicle under the provisions of this chapter.~~

B. ~~After removing the vehicle, the city shall have it appraised. (Ord. 4384 §8, 1986).~~

~~8.28.090 — Low value vehicle.~~

A. ~~If the vehicle is appraised at seven hundred fifty dollars or less, the law enforcement officer shall file an affidavit with the motor vehicles division describing the vehicle, including the license plates, if any, stating the location and appraised value of the vehicle and stating that the vehicle will be junked or dismantled. The law enforcement officer may dispose of the vehicle and execute a certificate of sale without notice and public auction.~~

B. ~~The certificate of sale shall be on a form provided by the city recorder. (Ord. 4384 §9, 1986).~~

8.28.100 — Public sale notice.

A. ~~If the vehicle is appraised over seven hundred fifty dollars, the law enforcement officer shall publish a notice of sale in a newspaper of general circulation within the city. The notice of sale shall state:~~

- ~~1. The sale is of discarded property in possession of the city;~~
- ~~2. A description of the vehicle, including the type, make, license number, identification number, and any other information that will aid in accurately identifying the vehicle;~~
- ~~3. The terms of the sale;~~
- ~~4. The date, time, and place of the sale.~~

B. ~~The notice of sale shall be published two times. The first publication shall be made not less than fifteen days before the date of the proposed sale, and the second shall be made not less than seven days before the date of the proposed sale. (Ord. 4384 S10, 1986).~~

8.28.110 — Public sale.

A. ~~If a vehicle is appraised over seven hundred fifty dollars, the law enforcement officer shall hold a sale at the time and place appointed, within view of the vehicle to be sold.~~

B. ~~The vehicle shall be sold to the highest and best bidder. However, if no bids are entered or the bids entered are less than the costs incurred by the city, the law enforcement officer may enter a bid on behalf of the city in an amount equal to the costs.~~

C. ~~At the time the purchase is paid, the law enforcement officer shall execute a certificate of sale in duplicate; the original shall be delivered to the purchaser and a copy filed with the city recorder.~~

D. ~~The certificate of sale shall be on a form provided by the city recorder. (Ord. 4384 §11, 1986).~~

8.28.120 — Redemption before sale.

A. ~~A vehicle impounded under the provisions of this chapter may be redeemed by its owner or by the person in charge of the property from which the vehicle was removed by applying to the law enforcement officer before sale or disposition has taken place. The person shall:~~

- ~~1. Submit satisfactory evidence of ownership or interest in the vehicle to the law enforcement officer;~~
- ~~2. Pay the costs owing at the time the application to redeem is made;~~
- ~~3. Give evidence that the nuisance character of the vehicle will not be resumed.~~

B. ~~Upon compliance with subsection A, the law enforcement officer shall execute a receipt and cause the vehicle to be returned. (Ord. 4384 §12, 1986).~~

8.28.130 — Assessment of costs.

A. ~~After disposing of the discarded vehicle and crediting any money received from sale of the vehicle to the costs, the city recorder shall give notice by personal~~

service or by certified mail to the person in charge of the property and the owner of the property from which the vehicle was removed:

1. ~~Of any refund of excess funds derived from the sale;~~

2. ~~Of the unpaid costs of abatement,~~

~~a. That the costs as indicated will be assessed to and become a lien against, the real property unless paid within thirty days from the date of the notice.~~

~~b. That if the person in charge of the property objects to the indicated costs of the abatement, a written notice of objection may be filed with the city recorder with in twenty days from the date of the notice of unpaid costs.~~

~~B. Within forty days after the date of the notice of objection, objections to any proposed assessment shall be heard and determined by the council.~~

~~C. If the costs of the abatement are not paid within thirty days from the date of the notice, or within ten days of a council determination made under subsection B of this section, assessment of the costs shall be made by council resolution and be entered in the docket of city liens. When the entry is made, it shall constitute a lien on the real property from which the nuisance was removed or abated.~~

~~D. The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of nine percent per year. Interest shall accrue from the date of the entry of the lien into the lien docket. An error in the name of the person in charge of the property shall not void the assessment, nor will a failure to receive notice of the proposed assessment render the assessment void. The assessment shall r~~

TITLE 9: PUBLIC PEACE, MORALS AND WELFARE

Chapter 9.32

OFFENSES AGAINST PUBLIC PEACE*

Sections:

~~9.32.040 — Unnecessary noise.~~

~~9.32.040 — Unnecessary noise. No person shall create or assist in creating or permit the continuance of loud and disturbing noise in the city. The following enumeration of violations of this section is not exclusive:~~

~~A. — The keeping of an animal which by loud and frequent or continued noise disturbs the comfort and repose of a person in the vicinity;~~

~~B. — The use of an engine, thing or device which is so loaded, out of repair or operated in such a manner as to create a loud or unnecessary grating, grinding, rattling or other noise;~~

~~C. — The use of a mechanical device operated by compressed air, steam or otherwise, unless the noise created thereby is effectively muffled;~~

~~D. — The construction, including excavation, demolition, alteration or repair of a building or other thing other than between the hours of seven a.m. and eight p.m., except upon special permit granted by appropriate authority;~~

~~E. — The conducting, operating or maintaining of any garage within two hundred feet of any private residence, apartment, roominghouse or hotel in such manner as to cause loud or offensive noises to be emitted therefrom between the hours of eight p.m. and seven a.m.~~

~~F. — The use or operation of an automatic or electric piano, phonograph, loudspeaker or sound-amplifying device so loudly as to disturb persons in the vicinity thereof or in such manner as renders the same a public nuisance; provided, however, that upon application to the council, permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches or general entertainment. (Ord. 3623 §10, 1972).~~

* For statutory provisions on city power to regulate noise, see ORS 467.100(1).

Title 17 - ZONING

Chapter 17.54

GENERAL REGULATIONS

Sections:

17.54.090	Fences	136
17.54.140	Keeping of Animals in a Residential Zone	136

~~17.54.090~~ ~~Fences~~. Fence limitations shall be as follows:

- ~~A.~~ A fence placed along an interior side or rear property line shall not exceed the height of seven (7) feet. The construction of a fence greater than six (6) feet in height requires a building permit.
- ~~B.~~ A fence located in a required front yard shall not exceed the height of three (3) feet measured from grade. Fences greater than three (3) feet in height must conform to the front yard setback requirements of that zone or must be set back to the front building line of the existing residence (whichever is less).
- ~~C.~~ On a corner lot, a fence located in a required exterior side yard shall not exceed the height of three (3) feet measured from grade; except when adequate vision clearance exists, the Planning Director may permit a fence up to six (6) feet in height.
- ~~D.~~ In the case of a sloping property, the height of a fence shall be measured from the uphill side, but in no case shall the height exceed 10 (ten) feet when measured from the downhill side of the fence.
- ~~E.~~ Fence height restrictions do not apply to public utility fences or to chain link fences enclosing schools and public playgrounds.

~~17.54.140~~ ~~Keeping of Animals in a Residential Zone~~. It is not permissible to keep exotic, dangerous or wild animals as domestic pets. This includes any mammal, fowl, fish or any other species not commonly considered as pets or commonly raised for food or agricultural purposes which would be a possible threat to the life or health of humans as determined by the Yamhill County Animal Control Officer and the Planning Director. The slaughtering of animals is not permissible in residential zones.

- ~~A.~~ The keeping of the following animals is permitted in residential zones:
 - ~~1.~~ Domestic dogs.
 - ~~2.~~ Domestic cats.
 - ~~3.~~ Gerbils, hamsters, rats or similar rodents kept in cages.
 - ~~4.~~ Non carnivorous fish kept in tanks and ponds.
 - ~~5.~~ Non venomous reptiles.
 - ~~6.~~ Domestic rabbits, consistent with the requirements of Section 17.54.140(B)(3). (Rabbits kept for commercial purposes or for food production are prohibited.)

- ~~7. Vietnamese pot bellied pigs (one per residence).~~
- ~~8. Domestic fowl or birds for non-commercial purposes excluding roosters and peacocks, consistent with the requirements of Section 17.54.140(B)(3).~~
- ~~9. Livestock, consistent with the requirements of Section 17.54.140(B)(2)~~
- ~~B. The following conditions shall apply in a zone when animals are permitted:~~
 - ~~1. A dog kennel or dog facility exists when four (4) or more dogs of licensable age (six months or older) are kept for commercial reasons such as breeding, buying, selling or boarding. Such facilities are prohibited in a residential zone.~~
 - ~~2. In addition to the minimum lot area per family requirement for the zone, a minimum area of one-half acre of land (exclusive of buildings) shall be provided for accommodation of the animals listed in Subsections (a) and (b) below. The following animals are permitted in residential zones and shall not exceed the following density requirements:
 - ~~a. One horse or one cow over six months of age for each additional half acre (21,780 square feet) over the minimum lot size.~~
 - ~~b. Two sheep or two goats (or similar size livestock) over six months of age per each additional half acre over the minimum lot size.~~~~
 - ~~3. A minimum of 5,000 square feet of lot area is required to maintain up to two (2) fowl (excluding roosters and peacocks) or two (2) rabbits, or combination thereof. Each rabbit or fowl in excess of this number shall require an additional 1,000 square feet of lot area.~~
 - ~~4. No enclosure or pen for animals shall be placed in front of the residence nor shall it be closer than 70 feet to a front property line, 15 feet to a side property line or 10 feet to a rear property line.~~