

Chapter 8.04

NUISANCES

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8.04.010 **Definitions.**

A. “Nuisance” means any condition or use of premises, building exteriors, public place or property which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the vicinity of the condition or use, or which promotes blight, deterioration and unsightliness, invites plundering, creates fire hazards, constitutes an attractive nuisance creating a hazard to the health and safety of minors, creates offensive odor or unsanitary conditions, creates harborage for rodents and insects and/or is injurious to the health, safety and general welfare of the residents of this city.

B. “Person” means a natural person, firm, partnership, association or corporation.

C. “Person in charge of property” means and agent, occupant, lessee, contract purchaser or other person having possession, control or supervision of property or construction project.

D. “Person responsible” means the person or persons responsible for abating a nuisance shall include:

1. The person who owns the property, as defined in subsection B of this section.
2. The person in charge of property, as defined in subsection C of this section.
3. The person who caused a nuisance, as defined in this chapter, to come into or continue in existence.

E. “Public place” means a publicly or privately owned building, city sidewalk or street, public easement, public right-of-way, place or accommodation open and available to the general public. (Ord. 97-04 § 1, 1997)

8.04.020 **Nuisances affecting public health.**

No person responsible shall cause or permit on property owned or controlled by that person the accumulation of debris rubbish, refuse, stagnant water, decayed food, garbage or other state or condition such that it affects the health of the city. (Ord. 97-04 § 2, 1997)

8.04.030 **Nuisances affecting public safety**

A. No person responsible shall cause or permit on property owned or controlled by that person any condition listed below which affects the public safety or general welfare of the residents of this city.

1. Refuse; abandoned or inoperable materials, furniture, household items, machinery, equipment, stoves, freezers, refrigerators; stripped or junked automobiles; other personal

property which causes a fire hazard, offensive odor, detriment to surrounding property or that is a danger to a person, animal or vehicle traveling upon a public way.

2. Any material or object placed or stored outdoors in a manner so as to be attractive, dangerous and accessible to children.

3. Any construction site, open pit or other excavation without safeguards or barriers to prevent injury or death.

4. Trees, brush or their root systems which cause damage to city property, sidewalks or streets.

5. Water or other materials to flow onto streets or across sidewalks so as to cause a hazard to pedestrians or vehicular traffic or require undue maintenance by the city.

6. Brush, weeds, briars, thistles, grass or other vegetation becoming a fire hazard or detriment to surrounding property. (Ord. 97-04 § 3, 1997)

8.04.040 Nuisances affecting public peace.

No person responsible shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes noise which exceeds Oregon Department of Environmental Quality standards. (Ord. 97-04 § 4, 1997)

8.04.050 Unenumerated nuisances.

In addition to the nuisances specifically enumerated in this chapter, every other thing, substance or act which the common council or the city of Port Orford determines 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. 97-04 § 5, 1997)

8.04.060 Courtesy notice.

A. Upon determination by the Police Chief,

his/her designee, or the council that a nuisance exists, the Police Chief shall cause a courtesy notice to be posted on the premises or at the site of the nuisance directing the person responsible to abate the nuisance within ten days. (ORD 2006-04 § 6, 2006)

B. At the time of the posting, the Police Chief or his/her designee shall cause a copy of the courtesy notice to be mailed to the last known address of the owner of the property upon which the nuisance exists. (ORD 2006-04 § 6, 2006)

C. If the person responsible and/or owner fails to abate the nuisance in accordance with the courtesy notice, the city shall take the applicable abatement actions listed below.

D. An error in the name of the owner or a failure to receive the courtesy notice to abate the nuisance shall not void the city's subsequent action or requirements. (Ord. 97-04 § 6, 1997)

8.04.070 Abatement procedure.

A. 1. Notice

a. Upon the failure of the person responsible and/or owner to comply with abatement or a nuisance in accordance with the courtesy notice, the Police Chief or his/her designee shall cause a notice to be posted on the premises or at the site of the nuisance, directing the person responsible to abate the nuisance. (ORD 2006-04 § 7, 2006)

b. At the time of posting, the city recorder shall cause a copy of the notice to be forwarded by registered or certified mail, return receipt requested, to all persons responsible at that person's last known address.

c. The notice to abate shall contain:

i. A description of the real property, by street address or otherwise, on which the nuisance exists.

ii. A description of the nuisance.

iii. A reference to the ordinance codified in this chapter by number, a statement advising the person responsible to review such

ordinance, and a statement advising the person responsible where a copy of such ordinance may be obtained. If the person responsible requests a copy of such ordinance may be obtained. If the person responsible requests a copy or such of such ordinance, the city may require a reasonable charge for photocopying such ordinance.

iv. A direction to abate the nuisance within ten days from the date of the notice.

v. A statement that unless the nuisance is removed, the city may abate the nuisance and all costs associated with the abatement shall be charged to the person responsible. Further, that the costs not paid by the person responsible may be assessed to and become a lien on the property.

vi. A statement that failure to abate the nuisance may warrant imposition of a fine against the person responsible who caused the creation of and/or continued existence of the nuisance.

vii. A statement that the person responsible may protest the order to abate by giving notice, in writing, to the city recorder within ten days from the date of the notice.

2. Upon completion of the posting and mailing, the city recorder shall execute and file certificates stating the date and place of the mailing and posting.

3. An error in the name or address of the person responsible or failure to receive the notice of the abatement shall not make the notice void, and in such case the posted notice shall be sufficient.

4. In lieu of posting such notice and forwarding such notice by registered or certified mail as provided in subsection 1 of this section, the Police Chief may cause the notice to abate to be served personally and in person by a police officer or the city or other person designated by the Police Chief upon all persons responsible. The officer or person so serving said notice shall make the return on a copy thereof and file the same with the city recorder and no further notice shall be required. (Ord. 97-04 § 7, 1997)(*ORD 2006-04 § 7, 2006*)

8.04.080 Assessment of fine.

A. If the Police Chief determines that a fine is warranted the Police Chief shall cause a police officer of the city of Port Orford to issue a citation to the person who caused the creation and/or continued existence of the nuisance. (*ORD 2006-04 § 8, 2006*)

B. This citation shall be handled by the city court system in the same manner as other citations. (Ord. 97-04 § 8, 1997)

8.04.090 Abatement by the person responsible.

A. Within ten days of the posting and mailing or personal service of the notice, as provided in Section 8.04.070, the person responsible shall remove the nuisance or file a written protest to the abatement order with the city recorder. The statement shall specify the basis for so protesting.

B. The statement shall be referred to the city council as part of its regular agenda at its next regularly scheduled meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the council. The council shall determine whether or not a nuisance in fact exists, and the determination shall be entered in the official minutes of the council.

C. If the council determines that a nuisance does exist, the person responsible shall abate the nuisance within ten days of the council's determination. No further notification of persons responsible shall be required. (Ord. 97-04 § 9, 1997)

8.04.100 Joint responsibility.

If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance and for the costs incurred by the city in abating the nuisance. This provision does not invalidate the city's authority to assess a lien on the property where the nuisance exists. (Ord. 97-04 § 10, 1997)

8.04.110 Abatement by the city.

A. If the nuisance has not been abated within the time allowed, the Police Chief may designate a person or persons to cause the nuisance to be abated. (*ORD 2006-04 § 11, 2006*)

B. The designated person or persons charged with abatement of the nuisance shall have the right, at reasonable times, to enter into or upon the property to investigate or cause the removal of the nuisance.

C. The city recorder shall keep an accurate record of the expense incurred by the city in abating the nuisance, including administrative expenses. (Ord. 97-04 § 11, 1997)

8.04.120 Assessment of costs.

A. The city recorder shall forward to person responsible, by registered or certified mail, return receipt requested, a notice stating:

1. The total cost of abatement.
2. That the costs will be assessed to and become a lien against the property unless paid within thirty (30) days from the date of this notice.
3. That if the person responsible objects to the cost of the abatement, a written notice of objection may be filed with the city recorder within ten days of the date of this notice.

B. The objection shall be referred to the city council as part of its regular agenda at its next regularly scheduled meeting. At the time set for consideration of the objection, the person objecting may appear and be heard by the council. The council shall hear and make a decision on the objections to the costs assessed, and the determination shall be entered in the official minutes of the council.

C. The cost determined by the council shall be paid within thirty (30) days of the decision. Nor further notification of persons responsible is required.

D. If the costs of the abatement are not paid within thirty (30) days of the date of notification, or the date of a council decision in the case of an objection, an assessment of the costs, as stated or as decided by the

council, shall be made by resolution and shall be entered in the docket of city liens.

When the entry is made, it shall constitute a lien on the property from which the nuisance was abated.

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

F. An error in the name of the owner or person responsible or a failure to receive the notice of the assessment, and it shall remain a valid lien against the property. (Ord. 97-04 § 12, 1997)