

## Chapter 8.24 NUISANCES

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### **8.24.010 Definitions generally**

The following words and phrases used in this chapter, unless the context otherwise clearly indicates, shall have the following meanings:

A. "Abate" means to repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner and to such an extent as the applicable department director, enforcement officer, or other authorized official determines is necessary in the interest of the general health, safety, and welfare of the community. For purposes of abating nuisances defined in OMC Section [8.24.020](#)(L), the enforcement officer shall not allow broken or defective windows to be covered up with plywood or other like materials, except for a temporary time determined by the official to effect repair of the window or window frame. Further, any condition found under OMC Section [8.24.020](#)(L) as falling below minimum exterior building standards shall be abated by repairing the defect in accordance with the Uniform Building Code or the Uniform Code for Building Conservation unless the whole building is removed.

B. "Building materials" means and includes lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing material, cans of paint and similar materials.

C. "Enforcement Officer" means the building official of the city or his or her designee or any police officer.

D. "Notice of abatement" or "notice to abate" means a notice to abate an unsafe or unlawful condition as provided in this code.

E. "Owner" means and includes any agent, lessee, owner, tenant, or other person occupying or having charge or control of any premises, or other party in interest as revealed by the records of the Thurston County Auditor. An owner or agent is deemed to have control if he or she has actual or constructive knowledge of the maintenance upon the premises of any nuisance as defined in this chapter.

F. "Person" means and includes individuals, firms, partnerships, corporations, and all associations of natural persons, whether acting by themselves or by any agent or employee.

G. "Premises" means any building, lot, parcel, real estate, or land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips and any lake, river, stream, drainage way, or wetland.

H. "Public nuisance" and "nuisance" each mean and consist of doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition, or thing either:

1. Unreasonably injures or endangers the comfort, repose, health, or safety of others,  
or
2. Offends public decency, or
3. Is offensive to the senses of reasonable persons or use of property.

I. "Shall" means a mandatory obligation except when used in reference to a city employee or official in which case it shall be directory in meaning.

(Ord. 5914 §2, 1999; Ord. 5905 §1, 1999; Ord. 5702 §1, 1997; Ord. 3957 §10(B)(1), 1976).

#### **8.24.020 Public nuisance declared**

Without limitation, the following specific acts, omission, places, and conditions are declared to be public nuisances:

A. Erecting, continuing, or using any building or other place in the city for the exercise of any trade, employment, or manufacture, which by noxious exhalation, offensive smells, or other annoyances, become reasonably offensive or dangerous to the health, comfort, or property of individuals or the public;

B. Causing or allowing any human or animal waste, poison, poison oak or ivy, or noxious substance to be collected or to remain in any place, street, highway, or alley in the city in a manner which is reasonably offensive to the public;

C. All houses or premises kept for the purpose of prostitution or for the performance of lewd acts as that term is defined in Olympia Municipal Code Section [9.24.010](#);

D. Keeping howling or barking animals which unreasonably disturb the peace of the public;

E. Obstructing or encroaching upon or rendering unsafe for passage any public highway, private way, street, sidewalk, trail, alley, park, square, driveway, lake, or stream in the city;

F. Excavating or maintaining on public or private property any hole, excavation or pit which is reasonably dangerous to the public or adjacent property;

G. Except as authorized by law or regulation, placing or maintaining on public or private property any accumulation of garbage, trash, junk, or recyclable materials which unreasonably interfere with the health, safety, or welfare of the public.

H. Except as authorized by law or regulation, keeping or maintaining any abandoned, unattended, or discarded icebox, refrigerator, freezer, storage locker, or other container having a capacity of one and one-half (1-1/2) cubic feet or more, whether manufactured, custom-made, or homemade, having a door or lid, and a snap lock or other latching or locking device which has not had the latching mechanism removed to prevent the latching or locking of the door or lid;

I. Laying out, exposing, or leaving exposed, in an unenclosed place known to be accessible to domestic animals or children, any substances or devices known to be a poison, poisonous, or injurious if consumed by a human, animal, or fowl;

J. The emitting of loud and raucous noise, from whatever the source or location, in a manner which, under the circumstances, unreasonably disturbs others;

K. Activity upon or emanating from property which involves repeated and significant occurrences of any one or a combination of the following:

- a. Harassment;
- b. Reckless endangerment;
- c. Intimidation;
- d. Disorderly conduct;
- e. Trespass;
- f. Gang activity;
- g. Receiving stolen property;
- h. Theft;
- i. Property damage or vandalism;
- j. Aiming, discharging, or unlawful possession of firearm;

- k. Pedestrian interference;
- l. Depositing or allowing to be deposited drug paraphernalia or other drug related items on the property or property of others;
- m. Harboring of runaway children;
- n. Hindering law enforcement;
- o. Allowing unusually high volumes of automobile traffic to frequent the property at hours which cause unreasonable disruption to the neighborhood; or
- p. Other similar conduct.

In order to constitute a public nuisance, the cumulative impact of any or a number of these activities must interfere with the reasonable health, safety, and peace of the adjoining areas. It is not necessary that arrests or convictions result from this activity so long as a record of conduct and its effect can be demonstrated by a preponderance of the evidence.

L. The keeping of any building, whether occupied or not, which falls below minimum external building standards, as described herein, and shall likely, without immediate repair or abatement, experience progressive deterioration and become an unsafe or unfit building within the scope of Chapter [16.10](#) of the Olympia Municipal Code as amended. For this purpose, "progressive deterioration" shall mean, as determined by the enforcement officer, a worsening of the condition of the structure to the degree it will become unsafe within an unreasonably short period of time.

For purposes of this subsection, a building fails to meet minimum external building standards if the enforcement officer determines in his or her discretion that the building to a significant degree:

- a. Is open to unauthorized entry;
- b. Has a roof that leaks or is covered by material insufficient to prevent leaks;

- c. Has storm gutters in need of repair or replacement;
- d. Has defective exterior walls which allow water to leak into the building or contains holes, missing siding, or other defects which would render the building unfit or unsafe over time if not repaired;
- e. Has a foundation that is broken or cracked so that water can enter the crawl space or basement;
- f. Has a porch, deck, or balcony which due to broken or damaged materials is unsafe or unsightly;
- g. Has attached overhangs or cornices containing breaks, holes, or other defects which allow water to enter or seep into the building;
- h. Has windows which are broken, ajar, or otherwise defective so as to allow water to enter the building;
- i. Has window frames which need repair or replacement to prevent water from entering the building;
- j. Has exterior doors or door framework which are insecure or in need of repair or replacement to avoid water from entering or damaging the building;
- k. Is inadequately painted so that water and other elements can damage the building;  
or
- l. Contains any other external feature which is defective, rotted, or which in any way contributes to the degradation of the building and is likely to make that building unsafe or unfit under Chapter [16.10](#) if not repaired.

(Ord. 5914 §1, 1999; Ord. 5905 §2, 1999; Ord. 5803 §1, 1998; Ord. 5756 §1, 1997; Ord. 3957 §10(A), 1976).

#### **8.24.040 Radio reception and interference**

A. Exceptions. The provisions of this section shall not apply to any radio transmitting station licensed by the government of the United States or to any public utility lines and equipment used for general public service.

B. Enforcement. The department of inspection and maintenance of the city, hereinafter called the department, is empowered to enforce the provisions of this chapter. It shall be the duty of the department to adopt rules and regulations to carry out and enforce the purposes and intent of this chapter and by said rules to provide the manner for the inspection, examination and abatement of the electrical device, appliance or equipment mentioned in this section when the same interfere with the reception of radio or television signals; which rules and regulations shall be in furtherance of the provisions of this chapter and not in conflict herewith. Before adopting such rules and regulations, the department shall hold a hearing or hearings as to the kind and character of the rules to be adopted, and notice of the time and place of the hearing shall be given by one publication of such notice in the official newspaper of the city, and any person interested shall be given the opportunity to be heard at the meeting. The department shall have power to continue any such hearing from time to time without further notice, save except the announcement of the continuance of such hearing. Upon the adoption of said rules, a copy thereof shall remain on file with the department and shall be effective in five days after the date of the filing thereof.

C. Notice--Order to Discontinue--Inspection.

1. When any electrical device, appliance or equipment which causes, generates or produces high frequency electrical oscillations or other electrical disturbances which interfere with the reception of radio or television signals is found to exist, the department shall give notice, in writing, to the person owning, operating or maintaining the device, appliance or equipment to remedy and eliminate the cause of the interference. When any person owning, operating or maintaining any such device, appliance or equipment fails to remedy such defect or cause of the interference within a period of five days after the giving of the notice, the department may take the necessary steps to eliminate the interfering conditions. In cases of interference with police and fire department radio equipment, the department may require the

immediate discontinuance of the operation of the device, appliance or equipment causing the interference.

2. Whenever the department has reason to believe that any electrical device, appliance or equipment is causing interference with the reception of radio or television signals, the department shall have the right to enter the premises wherein such device, appliance or equipment is operated or maintained for the purpose of inspecting the same as well as for the purpose of abating or discontinuing the operation of such device, appliance or equipment.

D. Discontinuance of Electrical Service. The department shall, in addition to the authority stated above, have the power and the authority to cause the discontinuance of electrical power and lighting service to any electrical device, appliance, or equipment which causes, generates or produces high frequency electrical oscillations, or other electrical disturbances which interfere with the reception of radio or television signals.

(Ord. 3957 §10(D)(1), 1976).

#### **8.24.050 Overhanging vegetation –Abatement**

If any tree, shrub, plant or vegetation, or parts thereof overhang any public street or alley or sidewalk at a height of less than fourteen feet above the street or alley surface or less than ten feet above the sidewalk or other public installations, the same is declared to be a public nuisance. The city, through the director of public works, may require the owner thereof to remove, prune or trim such tree, shrub or vegetation on private property or on a parking strip abutting such owner's property. Such proceedings shall be initiated by a resolution of the city council, adopted after not less than five days' notice to said owner, and shall require such owner to so remove or trim such tree, shrub or vegetation within thirty days of passage of the resolution, after which time, the director of public works shall cause such trimming, pruning or removal to be done with the cost of such work to be charged against the owner and a lien against his property. Notice of the lien authorized herein shall be in substantially the same form, filed with the same officer within the time and manner and enforced and foreclosed as is provided by law for liens for labor and materials.



(Ord. 5043 §1, 1989; Ord. 3957 §10(D)(2), 1976).

#### **8.24.060 Noxious weeds**

A. Duty of Owner. It shall be the duty of every owner, lessee, occupant or agent thereof or of any person having the care and charge of any land or lands, improved or unimproved, enclosed or not enclosed, in the city, to control or cause to be controlled using methods acceptable/recommended by the Thurston County Weed Control Board all thistles, tansy ragwort, or other such noxious weeds, growing thereon, or on any road, street or highway bordering thereon, to the center thereof, so often and in each and every year as is necessary to prevent such weeds from going to seed. If the City owns the road in fee simple, the adjacent owner is not subject to the duty referenced above.

B. Public Works Department to Declare Weeds to be Controlled--Notice. It shall be the duty of the City Engineer or designee to see that the provisions of this section are carried out, and he shall give notice to the owner, lessee, occupant, agent or person having the care or charge of any land or lots within the city, or of any road, street or highway bordering thereon, upon which any noxious weeds, as described above, are growing requiring such owner, lessee, occupant, agent or person having the care or charge thereof, to cause the same to be controlled within ten days from the service of such notice; and in case the owner, lessee, occupant, agent or person having the care and charge thereof refuses or neglects to control the noxious weeds within the ten days, the Public Works Department shall enter upon the land, lots or any road, and cause all such weeds to be controlled with as little damage as possible to any growing crops there may be thereon; provided, that when the noxious weeds are growing upon any land or lots, or any road, street or highway bordering thereon, of a nonresident of the city, and such owner has no known agent in the city, the notice shall be posted in a conspicuous place on the land, in view of the traveling public; and, provided further, that in case of noxious weeds growing on the rights-of-way of any railroad within the city, the notice may be served on the section foreman in charge of the portion of the rights-of-way within the city or it may be served upon any agent of the company within the city.

C. Collection of Expenses. The City Engineer or designee shall keep an account of the expenses incurred by him to carry out the provisions of this chapter with respect to each lot or parcel of

land entered upon therefor, and shall author and send by mail a statement of such expense, including a description of the lands, verified by oath, to the owner, lessee, occupant, agent or person having the care or charge thereof, if known, requiring him to pay the same within thirty days. In case payment thereof is not made within said time, several amounts as shown to be due by such statements shall be a lien upon the premises, and collected, and the lien enforced by suit in the name of the city in any court of competent jurisdiction.

(Ord. 6465 §1, 2007; Ord. 3957 §10(D)(3), 1976).

#### **8.24.070 Abatement procedure**

A. Upon receipt of information or upon personal observation that a nuisance exists as defined in this chapter, the enforcement officer shall cause an investigation of the matter and premises involved. All entries upon premises for the purpose of this chapter shall be subject Section [8.24.120](#) of the Olympia Municipal Code, and made in such manner as to cause the least possible inconvenience to the persons in possession. If the enforcement officer determines that a nuisance exists he or she shall file a written finding to that effect with the Director of Community Planning and Development or his or her designee. If the nuisance to be abated is an unsafe or unfit dwelling as defined in Chapter [16.10](#) of the Olympia Municipal Code, or any other unsafe or unfit structure as defined in Chapter [16.10](#) having an estimated value of Two Thousand Five Hundred Dollars and No Cents (\$2,500.00) or more, or if the estimated cost of abatement in the case of any such structure or premises is Two Thousand Five Hundred Dollars and No Cents (\$2,500.00) or more, proceedings for abatement of that nuisance, if necessary, including but not limited to notices, hearings, and appeals, shall be taken as prescribed in Chapter [16.10](#) of the Olympia Municipal Code.

B. Abatement procedure. After having filed a finding that a nuisance exists, the enforcement officer shall require the owner of the premises involved to abate the nuisance at his or her own cost and expense, in whole or in part. The enforcement officer shall give written notice to the owner prescribed in this section, describing the property involved, the condition to be corrected, and a specified reasonable time within which the owner must correct the condition, which shall be not less than (14) days from the date of service by mail as evidenced by the postmark on the notice. In the event of emergency condition of which the enforcement officer

shall be the sole judge, the time of compliance may be reduced. The notice must further specify (1) that if the owner fails to abate the nuisance within the specified period of time, the city shall cause the work to be performed and shall assess all or any portion of the cost thereof against the owner; (2) that the owner may be liable for civil penalties for each day or part of day that the condition continues to exist following the notice, (3) that the owner alternatively may be liable to criminal prosecution, as provided in this chapter; and (4) that the owner has a right to appeal the notice as provided in subsection E of this section. The required notice shall be in substantially the following form:

NOTICE TO ABATE UNSAFE OR UNLAWFUL CONDITION (NUISANCE)

(Name and address of person notified)

As owner, agent, lessee, or other person occupying or having charge of control of the building, lot, or premises at

\_\_\_\_\_ you are hereby notified that the enforcement officer of the City of Olympia has determined, pursuant to Chapter [8.24](#) of the Olympia Municipal Code, that there exists upon or adjoining said premises or you have otherwise caused, maintained, or permitted the following condition contrary to the provisions of Section [8.24.020](#) of the Olympia Municipal Code:

(Describe condition(s) in detail)

Such condition is a public nuisance. You are hereby further notified to abate that condition to the satisfaction of the city within \_\_\_\_\_ days of the date of this notice. If you do not abate the condition within fourteen (14) days of the postmark of this notice, the city will abate the condition at your expense. In addition, your failure to abate the condition will be considered a civil infraction violation for which you may incur monetary penalties as provided in Section [8.24.110](#) of the Olympia Municipal Code, for each day or part of day that the condition continues to exist.

Alternatively, failure to abate a nuisance may be prosecuted as a misdemeanor under Section [8.24.110](#) of the Olympia Municipal Code.

You have the right to appeal this notice within five (5) days of personal service, or within ten (10) days from the date of service by mail, as evidenced by the postmark on the notice.

Thank you for your immediate attention to this matter.

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Enforcement Officer

Date

C. The notice given by the enforcement officer to the owner shall be deposited in the United States mail with a return receipt requested or shall be personally served by delivering a copy thereof to the owner or by leaving the same with a person of suitable age and discretion at the owner's place of residence. If the owner is not a resident of the city, the notice shall be served by leaving the same with the tenant in possession of the property or, if there is no such tenant, by posting a copy of the notice in a conspicuous place on the property involved, and by mailing a copy thereof to the owner at his or her last known address, if any. Service by mail will be deemed complete at the end of the third full day following its deposit in the U.S. Mail, postage prepaid.

D. Upon serving the notice prescribed in this chapter, the enforcement officer shall file with the Thurston County Auditor a certificate of service, in the following form:

#### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the attached Notice to Abate Unsafe or Unlawful Condition was served upon the person(s) to whom it was addressed by (check one or more of the following):

\_\_\_\_\_ Delivering the copy to each of the addressees personally;

\_\_\_\_\_ Leaving the copy at the owner's place of residence with a person of suitable age and discretion; or

\_\_\_\_\_ Mailing a copy, certified mail with return receipt requested, to the owner at his (her) last known address, postage prepaid; or

\_\_\_\_\_ Leaving a copy posted on the vacant premises and mailing a copy, certified mail with return receipt requested, to the owner (who is not a city resident) at his (her) last known residence, postage prepaid.

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Signature

Date

E. A person to whom a notice of abatement has been issued may appeal the issuance of the notice by filing a written notice appeal with the hearing examiner within fourteen (14) calendar days from the date of service of the notice. Such time period begins to run three days after deposit of the notice prepaid in the U. S. mail or, as the case may be, on the day after personal service. The notice of appeal need not be in a particular form but must clearly state that the person identified in the notice of appeal is the person to whom a notice of abatement was given, the date of the notice of abatement and the notice of appeal, and the reason or reasons why the person believes the notice to be in error. An appeal is not deemed perfected until a filing fee which has been set forth in the then existing fee schedules for appeals to the Hearing Examiner accompanies the notice of appeal. The Director of Community Planning and Development or his/her designee may waive the filing fee on a showing that appellant is indigent. The hearing examiner shall review the appeal and make a determination, after considering all pertinent facts, within fourteen (14) days. The procedure for review by the hearing examiner including rules of evidence shall follow the rules prescribed for hearings under Chapter [16.10](#) of the Olympia Municipal Code. The hearing examiner's decision shall be in writing, and shall be filed with the Thurston County Auditor. A copy of the decision shall be mailed promptly to the owner, and, if the decision finds that the nuisance exists, the decision shall notify the owner of the amount of time within which the nuisance must be abated.

F. If the notice is not timely or correctly appealed or if the appeal fails, and if the nuisance has not been abated within the time prescribed in the notice, the city shall cause the nuisance to be abated and shall charge the cost thereof against the property owner plus the actual cost of staff time and disbursements. The charges shall be considered as a personal obligation of the owner to the city, as well as a lien against the subject property, and shall be enforceable by the city in the same manner as other monetary claims.

G. The costs of abatement, when borne by the city, may be assessed against the real property upon which the costs were incurred unless paid. The enforcement officer shall forward such costs to the Director of the Administrative Services Department or his or her designee, who shall certify them to the Thurston County Treasurer for assessment on the tax rolls.

(Ord. 5905 §3, 1999; Ord. 5276 §1, 1992; Ord. 3957 §10(C)(1), 1976).

#### **8.24.090 Liability for continuing nuisance**

Every successive owner or occupant of property who neglects to abate a continuing nuisance upon or in the use of such property caused by a former owner, is liable thereof in the same manner as the owner who created it.

(Ord. 3957 §10(C)(3), 1976).

#### **8.24.100 Cumulative effect of chapter**

The provisions of this chapter shall be cumulative and in addition to the provisions of the now existing ordinances of the city, and shall not have the effect of repealing any ordinance of the city now in effect.

(Ord. 3957 §10(C)(4), 1976).

#### **8.24.110 Violations -- Misdemeanor -- Gross Misdemeanor -- Civil Infraction**

A. Any person, firm, or corporation who knowingly violates or fails to comply with any term or provision of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day

shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty-five (365) days or both such time and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.

B. As an additional concurrent penalty, it shall be a civil infraction for a person, firm, or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, or corporation found to have committed a civil infraction shall be assessed a monetary penalty as follows:

1. First offense: Class 3 (\$50), not including statutory assessments.
2. Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.
3. Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.

See also OMC Chapter [4.44](#), Uniform Code Enforcement.

(Ord. 6081 §27, 2001; Ord. 5905 §4, 1999; Ord. 5276 §2, 1992).

#### **8.24.120 Right of entry for inspection and code enforcement**

Whenever necessary to make an inspection to enforce any provision of this code, or whenever there is reasonable cause to believe that there exists a violation of this code in any building or upon any premises within the jurisdiction of the City, any authorized official of the City may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him or her by this code; provided that, except in emergency situations, he or she shall first give the owner and/or occupant, if they can be located after reasonable effort, seventy-two (72) hours' written notice of the authorized official's intention to inspect. In the event the owner and/or occupant refuses entry,

the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(Ord. 5905 §5, 1999).