

CHAPTER 8.04

NUISANCES

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8.04.010 DEFINITIONS

For the purposes of this title, the following words and phrases mean:

ADVERTISING: Any method, procedure, or substance used to announce, present, or display any fact, opinion, or other information by means of pictures, words, or designs, or otherwise, whether written, printed, painted, or in any other way expressed.

AIR POLLUTION: Repealed.

BUILDING OFFICIAL: The individual(s) designated by the City Administrator to administer and enforce the building codes, and inspect buildings.

CESSPOOL: Septic tanks or other subsurface sewage disposal facilities that are in an unsanitary condition or which cause an offensive odor.

CITY ADMINISTRATOR: That official of the City hired by the Mayor/Council under Chapter 2.08 of this Code or the Administrator's designee.

DEBRIS: Accumulations of rubbish, manure, and other refuse that have the potential to affect the health of residents of the City or the cleanliness or visual attractiveness of the area.

DECAYED FOOD: Spoiled or unwholesome food not fit for human consumption.

DISCARDED VEHICLE: Any vehicle which is in one or more of the following conditions:

- a. Inoperative
- b. Wrecked
- c. Dismantled
- d. Partially dismantled
- e. Abandoned
- f. Junked
- g. Not displaying a current registration plate from a state Department or Division of Motor Vehicles

“Discarded vehicle” also includes major parts of vehicles, including but not limited to bodies, engines, body parts, transmissions, or rear ends.

ENFORCEMENT OFFICER: The individual designated by the City Administrator to enforce the provisions of this Chapter.

JUNK: Motor vehicle parts, machinery, machinery parts, appliances or parts thereof, iron or other metal, glass, paper, lumber, wood, or other waste or discarded material.

LOUD, DISTURBING NOISES: A sound that creates a plainly audible noise within any dwelling unit which does not contain the source of the sound.

NOXIOUS VEGETATION:

- a. Weeds more than 10 inches high;
- b. Grass more than 10 inches high and not within the exception stated in subsection 1 of this Chapter;
- c. Poison oak;
- d. Poison ivy;
- e. Blackberry bushes that extend into a public thoroughfare or across a property line;
- f. Vegetation that is:
 - i. A safety hazard because of the possibility of falling branches;
 - ii. A fire hazard because it is near other combustibles;
 - iii. A traffic hazard because it impairs the view of a public thoroughfare, otherwise makes use of the thoroughfare hazardous, or does not meet the sight distance triangle requirements contained in SMC Section 17.26.020.4.c) and d); or
- g. Dandelions, hawkweed, Queen Ann's lace, tansy ragwort, or other weeds that have gone to seed; or
- h. Scotch broom. (Ord. 984, August 2015)
- i. Noxious vegetation does not include vegetation that constitutes an agricultural crop unless that vegetation is a health hazard, a fire hazard, or a traffic hazard. (Ord. 977, December 2014)

ODOR: Premises that are in such a state or condition as to cause an offensive odor, or that are in an unsanitary condition.

PERSON IN CHARGE OF PROPERTY: An owner, agent, occupant, lessee, contract purchaser, or other person having possession or control of property or the supervision of any construction project.

PERSON RESPONSIBLE: The persons responsible for abating a nuisance, including:

- a. The owner;
- b. The person in charge of property; or
- c. The person who caused a nuisance to come into or continue in existence.

PLAINLY AUDIBLE SOUND: Any sound that is clearly distinguishable from other sounds, such as but not limited to, amplified speech sufficiently loud to be understood by a person with normal hearing, or when a person with normal hearing can readily discern whether an amplified or reproduced human voice is raised or normal, or any

musical sound sufficiently loud to permit the melody or rhythm to be recognized by a person with normal hearing, or any other sound sufficiently loud to materially affect the ability of a person with normal hearing to understand a verbal communication made in a normal conversational tone from a distance of 10 feet or less.

PRIVIES: An open vault or receptacle for human waste constructed and maintained within the City, except those constructed or maintained in connection with construction projects or outdoor, community gatherings of large groups of people, in accordance with the State Health Division regulations.

PUBLIC PLACE: A building, way, place, or accommodation, whether publicly or privately owned, open and available to the general public.

PUBLIC THOROUGHFARE: A street, alley, bicycle path, pedestrian way, or trail that is open to the public.

REFUSE/RUBBISH: Any material discarded or rejected as useless or worthless.

SLAUGHTERHOUSES: An establishment where animals are killed and processed for meat, where animal byproducts are rendered, or where animal hides are tanned. For purposes of this Chapter, an establishment where livestock are kept in a confined manner shall also be considered a slaughterhouse.

SOUND PRODUCTION OR REPRODUCTION DEVICE: Any radio, stereo, loudspeaker, amplifier, television, tape player, or other similar machine or mechanical or electrical device intended for the production, reproduction, or amplification of sound.

STAGNANT WATER: Water that affords a breeding place for mosquitoes and other insect pests.

SURFACE DRAINAGE: Drainage of liquid wastes from private premises.

VEHICLE: Any device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

WATER POLLUTION: Repealed. (Ord. 899, October 1, 2007)

WEED: Any plant on Marion County Weed District's list of plants categorized as "Educate and Control" or "Immediate Action / Eradicate." (Ord. 984, August 2015)

8.04.020 PUBLIC HEALTH NUISANCES

No person shall cause or permit on property owned or controlled by that person any nuisance affecting the public health. Cesspools, debris, decayed food, odor, privies, slaughterhouses and other similar establishments, stagnant water, and surface drainage are nuisances affecting the public health and shall be abated as provided in Sections 8.04.240 through 8.04.290. (Ord. 899, October 1, 2007)

8.04.030 ATTRACTIVE NUISANCES

1. No person shall create an attractive nuisance or hazard by:
 - a. Maintaining or leaving in a place accessible to children a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside, including specifically any used icebox, refrigerator or freezer of any size or shape; or
 - b. Being the owner or otherwise having possession of property upon 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 or refusing to cover or fence it with a suitable protective construction.
2. No owner or person in charge of property shall permit on the property:
 - a. Unguarded machinery, equipment, or other devices that is attractive, dangerous, and accessible to the public;
 - b. Lumber, logs, or piling placed or stored in a manner so as to be attractive, dangerous, or accessible to the public;
 - c. An open pit, quarry, cistern, or other excavation without safeguards or barriers to prevent such places from being accessed by the public.

This subsection shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to the public. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.040 SNOW AND ICE

No owner or person in charge of property, improved or unimproved, abutting on a public sidewalk shall permit:

1. Snow to remain on the sidewalk for a period longer than the first 12 hours after daybreak after the snow has fallen;
2. Ice to remain on the sidewalk for more than 12 hours after daybreak after the ice has formed unless the ice is covered with sand, ashes, or other suitable material to assure safe travel. (Ord. 711, November, 1992)

8.04.050 SCATTERING RUBBISH

No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse, or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property, or would be likely to injure a person, animal, or vehicle traveling upon a public way. (Ord. 711, November, 1992) (Ord. 977, December 2014)

8.04.055 ODOR

No owner or person in charge of property shall conduct an activity which produces a strong and offensive odor perceptible off of the premises. A business is required to utilize air filtration which, to the greatest extent feasible, confines all objectionable odors associated with the facility to the premises. For the purpose of this provision, the standard for judging

e. Repealed. (Ord. 899, October 1, 2007)

8.04.070 BARBED WIRE OR ELECTRIC FENCES

1. No owner or person in charge of property shall construct or maintain a barbed wire fence, or permit barbed wire to remain as a part of a fence, within three feet of a sidewalk or public way, except such wire may be placed above the top of other fencing not less than 6 feet high.
2. No owner or person in charge of property shall construct, maintain, or operate an electric fence except to contain livestock permitted under Section 6.04.185. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.080 INADEQUATE DRAINAGE

1. No owner or person in charge of property shall cause or permit any water from any ditch, canal, flume, reservoir pipeline, or conduit above or below the ground to leak or flow over or under any premises, public street, sidewalk, or other public property where such leak or flow shall endanger the public health, safety, welfare, or convenience.
2. No owner or person in charge of a building or structure shall cause or permit rainwater, ice, or snow to fall from the building or structure onto a public sidewalk or to flow across the sidewalk. The owner or person in charge of any structure shall install and maintain in proper repair adequate drainpipes or a drainage system, so that any overflow water accumulating on the roof or about the building is not carried across or upon the sidewalk. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.090 OBSTRUCTION OF SIDEWALKS AND ALLEYS

1. Except as specifically provided in this section, no person shall place or maintain any item obstructing a sidewalk or alley that extends more than 36 inches into the public right-of-way.
2. No person may obstruct any portion of a sidewalk, street, or alley with any building material in connection with the alteration or construction of buildings without first obtaining a permit from the City Administrator.
3. If obstruction is permitted under subsection 2 of this section, not more than one-third of the street or alley shall be occupied or obstructed with material, and only in front of the property where the building is being altered or constructed.
4. Any person who maintains an obstruction under subsection 2 of this section shall, upon request of the City Administrator, give written proof of carrying liability insurance to cover any hazard.
5. If a permit is granted to allow obstruction, the person so obstructing shall maintain a substantial temporary sidewalk around the construction. A guard railing and amber light as a danger signal shall be kept at each end of the obstruction during the hours between sunset to sunrise.
6. Nothing in this section shall be construed to prohibit the display of goods and materials upon private property, nor shall it apply to persons receiving or discharging goods or merchandise across a sidewalk or alley in accordance with all applicable laws. (Ord. 711,

November, 1992; Ord. 899, October 1, 2007)

8.04.100 OBSTRUCTING WATERWAYS OR PUBLIC THOROUGHFARES

No person shall interfere with, obstruct, create a congested condition or render dangerous for passage any stream, canal, waterway, or any public park, square, sidewalk, public way, alley, street, or highway. (Ord. 727, February 1993. '1; Ord. 899, October 1, 2007)

8.04.110 UTILITY WIRES STRUNG TOO LOW

No wires used for the transmission of electricity or for any communication purposes shall be strung less than 15 feet above the surface of the ground. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.120 DAMAGED, DERELICT AND DANGEROUS STRUCTURES

1. No property shall contain any dangerous or derelict structure as described in this Chapter. All such buildings or structures shall be repaired or demolished.

2. Derelict Structures

- a. A derelict structure is any unoccupied nonresidential building, structure, or portion thereof that meets any of the following criteria or any residential building which is at least 50% unoccupied and meets any of the following criteria:
 - i. Has been ordered vacated by the Enforcement Officer pursuant to SMC Section 8.04.235.2; or,
 - ii. Has been issued a notice of infraction by the Enforcement Officer pursuant to SMC Section 8.04.230; or,
 - iii. Is unsecured; or,
 - iv. Is boarded unless the boarding is required by the Enforcement Officer; or,
 - v. Has, while vacant, had a nuisance declared by the City on the property upon which it is located.
- b. Any property which has been declared by the Building Official to include a derelict structure shall be considered in violation of this Chapter until:
 - i. The structure has been lawfully occupied;
 - ii. The structure has been demolished and the lot cleared and graded after approval is issued by the City, with final inspection and approval by the Building Official, or,
 - iii. The owner has demonstrated to the satisfaction of the Building Official that the property is free of all conditions causing its status as a derelict structure. (Ord. 899, October 1, 2007)

3. Dangerous Structures

- a. Any structure which through damage, neglect or lack of maintenance, has any or all of the following conditions or defects to the extent that life, health, property or safety of the public or the structure's occupants are endangered, shall be deemed to be a dangerous structure, declared a nuisance, and such condition or defects shall be abated pursuant to SMC Section 8.04.230.

- i. *High loads.* Whenever the stress in any materials, member, or portion of a structure, due to all dead and live loads, is more than 1-1/2 times the working stress or stresses allowed by the current Oregon building codes for new buildings of similar structure, purpose, or location.
- ii. *Weakened or unstable structural members or appendages.*
 - a. Whenever any portion of a structure has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability is materially less than it was before such catastrophe and is less than the minimum requirements of the current Oregon building codes for new buildings of similar structure, purpose, or location; or
 - b. Whenever appendages including parapet walls, cornices, spires, towers, tanks, statuary, or other appendages or structural members which are supported by, attached to, or part of a building, and which are in a deteriorated condition or otherwise unable to sustain the design loads which are specified in the current Oregon building codes.
- iii. *Buckled or leaning walls, structural members.* Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
- iv. *Vulnerability to earthquakes, high winds*
 - a. Whenever any portion of a structure is wrecked, warped, buckled, or has settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction; or
 - b. Whenever any portion of a building, or any member, appurtenance, or ornamentation of the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the current Oregon building codes for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted in the current Oregon building codes for such buildings.
- v. *Insufficient strength or fire resistance.* Whenever any structure which, whether or not erected in accordance with all applicable laws and ordinances:
 - a. Has in any non-supporting part, member, or portion, less than 50% of the strength or the fire-resisting qualities or characteristics required by law for a newly constructed building of like area, height, and occupancy in the same location; or
 - b. Has in any supporting part, member, or portion less than 66% of the strength or the fire-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.
- vi. *Risk of failure or collapse*
 - a. Whenever any portion or member or appurtenance thereof is likely to fail, or to

become disabled or dislodged, or to collapse and thereby injure persons or damage property; or

- b. Whenever the structure, or any portion thereof, is likely to partially or completely collapse as a result of any cause, including but not limited to:
 - 1. Dilapidation, deterioration, or decay;
 - 2. Faulty construction;
 - 3. The removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such structure; or
 - 4. The deterioration, decay, or inadequacy of its foundation.

vii. *Excessive damage or deterioration.* Whenever the structure exclusive of the foundation:

- a. Shows 33% or more damage or deterioration of its supporting member or members;
- b. 50% damage or deterioration of its non-supporting members; or
- c. 50% damage or deterioration of its enclosing or outside wall coverings.

viii. *Demolition remnants on site.* Whenever any portion of a structure, including unfilled excavations, remains on a site for more than 30 days after the demolition or destruction of the structure;

ix. *Fire hazard.* Whenever any structure is a fire hazard as a result of any cause, including but not limited to dilapidated condition, deterioration, or damage; inadequate exits; lack of sufficient fire-resistive construction; or faulty electric wiring, gas connections, or heating apparatus.

x. *Other hazards to health, safety, or public welfare*

- a. Whenever, for any reason, the structure, or any portion thereof, is manifestly unsafe for the purpose for which it is lawfully constructed or currently is being used; or
- b. Whenever a structure is structurally unsafe or is otherwise hazardous to human life, including but not limited to whenever a structure constitutes a hazard to health, safety, or public welfare by reason of inadequate maintenance, dilapidation, unsanitary conditions, obsolescence, fire hazard, disaster, damage, or abandonment.

xi. *Public nuisance.* Whenever the structure has been so damaged by fire, wind, earthquake or flood or any other cause, or has become so dilapidated or deteriorated as to become an attractive nuisance or a harbor for vagrants or criminals.

xii. *Chronic dereliction.* Whenever a derelict structure remains unoccupied for a period in excess of 6 months or period less than 6 months when the structure or portion thereof constitutes an attractive nuisance or hazard to the public.

xiii. *Violations of codes, laws.* Whenever any structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such structure provided by the building regulations of this City, as specified in the

current Oregon building codes or any law or ordinance of this State or City relating to the condition, location, or structure of buildings. (Ord. 899, October 1, 2007)

4. Abatement of Dangerous Structures

All structures or portions thereof which are determined after inspection by the Building Official to be dangerous as defined in this Chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures specified herein. If the Building Official determines that a structure is dangerous, as defined by this Chapter, the Enforcement Officer shall commence proceedings to cause the repair, vacation or demolition of the structure. (Ord. 899, October 1, 2007)

8.04.130 NOXIOUS VEGETATION

1. No owner or person in charge of property shall allow noxious vegetation to be on the property or in the public right-of-way abutting on the property. An owner or person in charge of property shall cut down or destroy grass, shrubbery, brush, bushes, weeds, or other noxious vegetation as often as needed to prevent them from becoming noxious vegetation. (Ord. 977, December 2014)
2. Between March 1st and April 15th of each year, the City Administrator may publish three times, in a newspaper of general circulation in the City, a copy of subsection 1 as a notice to all owners and persons in charge of property of the duty to keep their property free from noxious vegetation. The notice shall state that the City is willing to abate the nuisance on a particular parcel of property at the request of the owner or person in charge of the property for a fee sufficient to cover the City's abatement costs. The notice shall also state that, in the absence of request, the City intends to abate all nuisances 10 or more days after the final publication of the notice and to charge the cost of doing so to the owner or the person responsible for the property, or on the property itself.
3. In lieu of providing notice as provided in subsection 2 of this section, between March 1st and April 15th of each year, the City Administrator may obtain a list of property owners within the City and may then mail a notice to each listed property owner. The notice shall include a copy of subsection 1 advising property owners of their duty to keep their property free from noxious vegetation. The notice shall also state that the City is willing to abate the nuisance on a particular parcel of property for a fee sufficient to cover the City's abatement costs. The notice shall also state that, in the absence of such request, the City intends to abate all such nuisances at any time and the City will charge the cost of abating the nuisance on a particular parcel of property to the owner or the person responsible for the property, or on the property itself.
4. During any time of each year, the City Administrator may provide notice for abatement of noxious vegetation as provided in SMC Section 8.04.240.
5. If the notices provided for in subsections 2 or 3 are used, they shall be in lieu of the notice required by Section 8.04.240. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.140 NOISE AND VIBRATIONS

1. No person shall make, assist in making, continue, or cause to be made any loud, disturbing or unnecessary noise which either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of others between the hours of 10:00 p.m. and 7:00 a.m. except as otherwise provided. (Ord. 773, 4 August, 1997)
2. Loud, disturbing and unnecessary noises include, but are not limited to:
 - a. The keeping of any animal which, by causing frequent or continued noise, disturbs the comfort and repose of any person in the vicinity.
 - b. The use of a vehicle or engine, either stationary or moving, so out of repair, loaded, or operated as to create any loud or unnecessary grating, grinding, rattling, or other noise.
 - c. The sounding of a horn or signaling device on a vehicle on a street, public place, or private place, except as a necessary warning of danger.
 - d. Repealed. (Ord. 899, October 1, 2007)
 - e. The use of a mechanical device operated by compressed air, steam, or otherwise, unless the noise created thereby is effectively muffled.
 - f. The erection, including excavation, demolition, alteration, or repair of a building in residential districts other than between the hours of 7:00 a.m. and 6:00 p.m., except in case of urgent necessity in the interest of the public welfare and safety, and then only with permit granted by the City Administrator for a period not to exceed 10 days. The permit may be renewed for periods of five days while the emergency continues to exist. If the City Administrator determines that the public health, safety, and welfare will not be impaired by the erection, demolition, alteration, or repair of a building between the hours of 6:00 p.m. and 7:00 a.m., and if the City Administrator shall further determine that loss or inconvenience would result to any person unless the work is permitted within those hours, the City Administrator may grant permission for such work to be done within specified hours between 6:00 p.m. and 7:00 a.m., upon application therefore being made at the time the permit for the work is awarded or during the progress of the work. The owner of property may do work on property actually occupied by the owner between the hours of 6:00 p.m. and 10:00 p.m. without obtaining a permit.
 - g. The use of a gong or siren upon a vehicle other than an emergency services vehicle except when used as part of a community function such as a parade or other special promotion for which a permit has been issued under SMC Chapter 10.36.
 - h. The creation of loud or disturbing noises on a street adjacent to a school, institution of learning, church, or court of justice, while the same are in use, or on a street adjacent to a hospital, nursing home, or other institution for the care of the sick or infirm, which interferes with the safe operation of such institution or disturbs or unduly annoys occupants.
 - i. The discharge in the open air of the exhaust of a steam engine, internal combustion engine, motorboat, or motor vehicle, except through muffler or other device which will effectively prevent loud or explosive noises.

- j. The use or operation of an automatic or electric piano, phonograph, radio, television, loudspeaker, or any instrument for sound producing, or any sound production device so loudly as to disturb persons in the vicinity thereof, or in such a manner as renders the use thereof a nuisance. However, upon application to the Chief of Police, permits may be granted to responsible persons or organizations for the broadcast or amplification of programs of music, news, speeches, or general entertainment as a part of a national, state, or municipal event, public festivals, or outstanding events of a noncommercial nature.
 - k. The making of a noise by crying, calling, or shouting or by means of a whistle, rattle, bell, gong, clapper, horn, hammer, drum, musical instrument, or other device for the purpose of advertising goods, wares, or merchandise, attracting attention, or inviting patronage of a person to a business.
 - l. The conducting, operating, or maintaining of a commercial or industrial business within 100 feet of a private residence, apartment, rooming house, or hotel in such manner as to cause loud or disturbing noises to be emitted there from between the hours of 10:00 p.m. and 7:00 a.m.
3. No person shall make, assist in making, continue, or cause to be made any loud, disturbing, or unnecessary noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, safety or peace of others at any time in the following manner: (Ord. 773, August 4, 1997)
- a. The use or operation of any sound production or reproduction device, car alarm or horn on public property or on a public right-of-way so as to cause a plainly audible sound fifty feet or more from such device, except as allowed by permits in SMC section 2, subsection j. or in the case of an actual emergency. (Ord. 711, November, 1992; Ord. 773, August 4, 1997)
 - b. The operation, or to permit the use or operation of any device designed for sound production or reproduction, including, but not limited to any radio, television set, musical instrument, phonograph, loud speaker, bell, chime, horn, in such a manner as to cause a noise disturbance and as defined in SMC Section 8.04.140.2.d and k, except as allowed by permits in SMC Section 8.04.140.2.j, so as to be plainly audible within any dwelling unit, church, temple, synagogue, business, day care center or school; which is not the source of the sound. The sources of noise within the City industrial zones are exempt from this SMC section 8.04.150 (3).(Ord. 773, 4 August, 1997; Ord. 899, October 1, 2007)

8.04.150 POSTED NOTICES

No person shall affix a sign, placard, bill, or poster upon personal or real property, private or public, without first obtaining permission from the owner thereof or from the proper public authority. (Ord. 711, November, 1992)

8.04.160 ADVERTISING: PUBLIC PROPERTY, PROHIBITION

- 1. Except as otherwise specifically permitted, no person may: Place, display, scatter, or distribute any advertising matter or erect, place, or display any structure or device which is used to display advertising matter within any public street right of way, or other public thoroughfare except on the City-provided cables on N First Ave between Cedar and

Regis Streets in accordance with SMC Section 17.20.140.3.1 and sidewalk signs in the Downtown Zones as allowed in accordance with SMC Title 17.20.140.9-A.

Attach any advertising matter to any tree, pole, or post situated on any public property within the City. (Ord. 711, November, 1992; Ord. 899, October 1, 2007) (Ord. 977, December 2014)

8.04.170 ADVERTISING: PRIVATE PROPERTY, PROHIBITION

No person may display any advertising matter on or across any private property within the City without the express consent of the owner or person in charge of such property. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.180 ADVERTISING: PUBLIC PROPERTY, EXCEPTIONS

1. The City Administrator may permit any person to display or distribute advertising on City-owned property for meetings or entertainment. If the request is denied, the applicant may appeal to the City Council.
2. Any sign or device permitted under this Section must conform to standards in the Oregon Structural Specialty Code as adopted by Marion County, where such standards are applicable.
3. Nothing in SMC Sections 8.04.170 through 8.04.190 of this Chapter shall prohibit the proper display of notices of any election to be held by the federal or state governments or any subdivision thereof, or of notices of judicial sales, or any other notices or advertisements issued or displayed pursuant to law/code or ordinance. (Ord. 711, November, 1992; Ord. 899, October 1, 2007) (Ord. 977, December 2014)

8.04.190 ADVERTISING: REMOVAL

The Police Chief or designate may immediately remove and dispose of any advertising matter or sign or other device displayed or erected within the City in violation of any of the terms of this Chapter. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.200 JUNK ACCUMULATION

1. No person shall keep any junk outdoors on any street, lot, or premises, or in a building that is not wholly or entirely enclosed, except doors used for ingress and egress.
2. This section shall not apply to junk kept by a junk dealer licensed under SMC Chapter 5.36. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.210 DISCARDED VEHICLES

1. No person shall store or permit the storing of a discarded vehicle on any private property for more than seventy-two hours, unless it is completely enclosed within a building or in a space entirely enclosed by a solid fence, hedge, or screen, not less than 6 feet in height, or unless it is in connection with a business enterprise dealing in junked vehicles lawfully conducted within the City.
2. In addition to or in lieu of the procedures contained in SMC Sections 8.04.240 through 8.04.290 for abating nuisances, vehicles found in violation of subsection 1 of this section may be impounded and disposed of in accordance with the applicable state law for vehicles abandoned in public places. (Ord. 711, November, 1992; Ord. 899, October 1,

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2007)

8.04.220 UNENUMERATED NUISANCES

1. The acts, conditions, or objects, specifically enumerated and defined in SMC Sections 8.04.020 through 8.04.210 are declared public nuisances, and such acts, conditions or objects may be abated by any of the procedures set forth in Sections 8.04.240 through 8.04.290.
2. In addition to the nuisances specifically enumerated in this Chapter, every other thing, substance or act which is determined by the Council to be injurious or detrimental to the public health, safety or welfare is declared a nuisance and may be abated as provided in this Chapter. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.230 ABATEMENT: NOTICE

1. If satisfied that a nuisance exists, the Enforcement Officer shall notify the property owner by registered or certified mail at the address of record in the Marion County Assessor's Office of the nuisance conditions, directing the person responsible to abate the nuisance.
2. The notice to abate shall contain:
 - a. A description of the real property, by street address or otherwise, on which the nuisance exists.
 - b. A direction to abate the nuisance within 10 days from the date of the notice.
 - c. A description of the nuisance.
 - d. A statement that, unless the nuisance is removed, the City may abate the nuisance and the cost of the abatement will be charged to the person responsible.
 - e. A statement that failure to abate a nuisance may warrant imposition of a fine.
 - f. A statement that the person responsible may protest the order to abate by giving written notice to the City Administrator within 10 days from the date of the notice.
3. If the person responsible is not the owner, an additional notice shall be served on the owner, whose name and address appear on the County tax records, stating that the cost of abatement not paid by the person responsible may be assessed to and become a lien on the property.
4. If there is an inaccuracy in the name or address of the person responsible or property owner it shall not affect the validity of the notice. (Ord. 711, November, 1992; Ord. 899, October 1, 2007) (Ord. 977, December 2014)

8.04.235 ABATEMENT OF DANGEROUS STRUCTURES.

All structures or portions thereof which are determined after inspection by the Building Official to be dangerous as defined in this Chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures specified herein. If the Building Official determines that

a structure is dangerous, as defined by this Chapter, the Enforcement Officer shall commence proceedings to cause the repair, vacation or demolition of the structure.

1. Notice of Status as Derelict or Dangerous Structure

a. When the Building Official determines that a structure is a derelict or dangerous structure, the Enforcement Officer shall give notice of the infraction to the owner pursuant to this Chapter. Additional notice to other affected persons, such as tenants and holders of a security interest shall be given. In addition to the notice required by SMC Section 8.04.230, the Enforcement Officer shall give the statement of actions required to cure or remedy the condition and, if necessary, the order to vacate described in SMC Section 8.04.235.2.

b. Statement of Actions Required

- i. Notice of the statement of action shall be given in conjunction with the notice of infraction pursuant to SMC Section 8.04.230.
- ii. The statement of the action required to cure or remedy a condition giving rise to classification of a structure as derelict or dangerous shall include the following:
 - (a) If the Building Official has determined that the building or structure must be repaired, the statement shall require that all required permits be secured and the work physically commenced within such time from the date of the statement and completed within such time as the Enforcement Officer shall determine is reasonable under all of the circumstances, but no more than 10 days, or the building or structure be demolished.
 - (b) If the Building Official has determined that the building or structure must be vacated, the statement shall order that the building or structure shall be vacated within a time certain from the date of the statement as determined by the Enforcement Officer to be reasonable, but no more than 7 days.
 - (c) If the Building Official has determined that
 - (1) the building or structure is vacant,
 - (2) the building or structure is structurally sound and does not present a fire hazard, and
 - (3) the building or structure has presented or is likely to present a danger to individuals who may enter the building or structure even though they are unauthorized to do so, the statement shall require that the building or structure be secured against unauthorized entry by means which may include but are not limited to the boarding up of doors and windows.
 - (d) If the Building Official has determined that the building or structure must be demolished, the statement shall order that the building be vacated within such time as the Enforcement Officer shall determine is reasonable from the date of the statement; that all required permits be secured from the date of the statement, and that the demolition be

completed within such time as the Enforcement Officer shall determine is reasonable.

- (e) Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Enforcement Officer will order the building vacated and posted to prevent further occupancy until the work is completed, and may proceed to cause the work to be done and charge the costs thereof against the property or its owners.

2. Notice of Unsafe Occupancy

- a. Posting Notice. In conjunction with an order to vacate, a notice shall be posted at or upon each exit of the building and shall be in substantially the following form:

DO NOT ENTER

UNSAFE TO OCCUPY

It is a violation of Chapter 8.04 of the Stayton
Municipal Code to enter or occupy this building or to
remove or deface this Notice.

Enforcement Officer

City of Stayton

b. Compliance

- i. Upon an order to vacate and the posting of an unsafe building notice, no person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit.
- ii. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and either a final inspection has been conducted in the case of residential structure or a certificate of occupancy issued pursuant to the provisions of the building code ordinance. (Ord. 899, October 1, 2007)

8.04.240 ABATEMENT: PROTEST HEARING.

1. Within the time limit set by the notice under SMC section 8.04.230 or 8.04.235, the person responsible shall remove the nuisance or show that no nuisance exists.
2. A person responsible, protesting that no nuisance exists, shall file with the City Administrator a written statement that specifies the basis for so protesting.
3. The statement shall be referred to the Council as a part of its regular agenda at its next succeeding 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 exists, or whether abatement of any nuisance will work a hardship on the property owner or person in charge of property out of proportion to the benefit to the public. Council determinations shall be required only in those cases where a written statement has been filed as provided herein.

4. If the Council determines that a nuisance does exist and that abatement will not work an unreasonable hardship, the person responsible shall abate the nuisance within 10 days after the Council determination, or within such other time limit as may be set by the Council. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.250 ABATEMENT: JOINT RESPONSIBILITY

If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance, or for the costs incurred by the City in abating the nuisance. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.260 ABATEMENT BY CITY: PROCEDURE

1. If, within the time allowed, the nuisance has not been abated by the person responsible, the Council may cause the nuisance to be abated.
2. The Enforcement Officer has the right at reasonable times to enter into or upon the property to investigate or cause the removal of a nuisance in accordance with SMC Chapter 1.24.
3. The person charged with removing any nuisance shall use all reasonable care so as to do a minimum of damage to any ornamental grass or bushes or any structure or other item not the subject of the abatement.
4. The City Administrator shall keep an accurate record of the expense incurred by the City in physically abating the nuisance and shall include therein a charge of \$100 or 10% of those expenses, whichever is greater, for administrative overhead.
5. The cost of any abatement by the City shall be paid from the general fund, and all income resulting from the enforcement of SMC Section 8.04.280 and the collection of such costs shall be credited to said fund. (Ord. 711, November, 1992; Ord. 899, October 1, 2007) (Ord. 977, December 2014)

8.04.270 ABATEMENT BY CITY: ASSESSMENT OF COSTS

1. The City Administrator shall deliver, by personal service or by mail, both regular and certified mail (return receipt requested), to the person responsible and to the owner a notice stating:
 - a. The total cost of abatement, including the administrative overhead;
 - b. That the cost as indicated will be assessed to and become a lien against the property unless paid within thirty days from the date of the notice.
 - c. That if the person responsible objects to the cost of the abatement as indicated, that person may file a notice of objection with the City Administrator not more than 10 days from the date of the notice.
2. If the costs of the abatement are not paid within thirty days from the date of the notice an assessment of the costs as stated shall then be entered in the docket of City liens against the property from which the nuisance was removed or abated.
3. The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of 9% per year. The interest shall be computed from the date of entry of the lien in the lien docket.

4. If there is an inaccuracy in the name of the owner or person responsible, if such persons do not receive the notice of the proposed assessment, the assessment shall remain a valid lien against the property.

8.04.280 SUMMARY ABATEMENT

The procedure provided by SMC Sections 8.04.240 through 8.04.270 is not exclusive, but is in addition to procedures provided by other sections of this Chapter for the removal of nuisances, and the Chief of Police or the City Administrator may proceed summarily to abate a health or other nuisance which unmistakably exists, and which imminently endangers human life or property. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.290 ABATEMENT AS ADDITIONAL REMEDY

The abatement of a nuisance is not a penalty for violating this Chapter, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within the time set by the notice to abate, or if a written protest has been filed, abatement within 10 days of Council determination that a nuisance exists, will relieve the person responsible from the imposition of any fine for such nuisance. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.300 RESERVED FOR EXPANSION

8.04.310 REGISTRATION OF FORECLOSED RESIDENTIAL PROPERTY

1. Definitions. As used in this section:

- a. "Foreclosed residential real property" means residential property, as defined in ORS 18.901, that an owner obtains as a result of foreclosing a trust deed on the residential property; or receiving a judgement that forecloses a lien on the residential property.
- b. "Neglect" means:
 - i. To fail or a failure to maintain the buildings, grounds or appurtenances of foreclosed residential real property in such a way as to allow:
 1. Growth of noxious vegetation, as defined in Section 8.04.130, that diminishes the value of adjacent property;
 2. Trespassers or squatters to remain on the foreclosed residential real property or in a structure located on the foreclosed residential real property;
 3. Mosquito larvae or pupae to grow in standing water on the foreclosed residential real property; or,
 4. Other conditions on the foreclosed residential real property that cause or contribute to causing a public nuisance.
 - ii. To fail or a failure to monitor the condition of foreclosed residential real property by inspecting the foreclosed residential real property at least once

every 30 days with sufficient attention so as to prevent, or to identify and remedy, a condition described in subsection i above.

- c. "Owner" means a person, other than the City of Stayton, that forecloses a trust deed by advertisement and sale under ORS 86.735 or by suit under ORS 88.010.

2. Owner's Responsibility

- a. An owner may not neglect the owner's foreclosed residential real property during any period in which the foreclosed residential real property is vacant.
- b. An owner shall provide the owner's name or the name of the owner's agent to the City Planner.
- c. An owner shall post a durable notice in a conspicuous location on the foreclosed residential real property that lists a telephone number for the owner that a person may call to report a condition of neglect. The owner shall replace the notice if the notice is removed from the foreclosed residential real property during a period when the foreclosed residential real property is vacant.
- d. An owner or the agent of an owner shall identify the owner of the foreclosed residential real property to the City Planner and shall provide to, and maintain with, the Planning Department current contact information during a period when the foreclosed residential real property is vacant.

3. Notice of Violation

- a. If the Enforcement Officer finds a violation of subsection 2.a above, the Enforcement Officer shall notify the owner in writing of the foreclosed residential real property that is the subject of the violation and in accordance with paragraph 3.b or 3.c below, as appropriate, shall specify a time within which the owner must remedy the condition of neglect that is the basis for the Enforcement Officer's finding.
- b. The Enforcement Officer shall allow the owner not less than 30 days to remedy the violation unless the Enforcement Officer makes a determination under paragraph 3.c below and shall provide the owner with an opportunity to contest the Enforcement Officer's finding at a hearing. The owner must contest the Enforcement Officer's finding within 10 days after the City Planner notifies the owner of the violation.
- c. If the Enforcement Officer determines that a specific condition of the foreclosed residential real property constitutes a threat to public health or safety, the Enforcement Officer may require an owner to remedy the specific condition in less than 30 days, provided that the Enforcement Officer specifies in the written notice the date by which the owner must remedy the specific condition. The Enforcement Officer may specify in the written notice different dates by which the owner must remedy separate conditions of neglect on the foreclosed residential real property.
- d. After the Enforcement Officer allows an owner the time specified in subsection 3.b above or makes a determination under subsection 3.c above, the Enforcement Officer shall follow the procedures under Sections 8.04.260 through 8.04.290 above for abatement of the nuisance conditions. (Ord. 956, September 3, 2014)

8.04.320 TO 8.04.360

RESERVED FOR EXPANSION

8.04.370 OCCUPANCY OF RESIDENTIAL PROPERTY AFTER NOTICE OF VIOLATION

1. If a notice of violation of SMC Section 8.04.120 has been issued, and if the affected dwelling unit(s) is or becomes vacant, it shall be unlawful to reoccupy or permit re-occupancy of the unit(s) for residential purposes until the necessary permits are obtained, corrections made, and permit inspection approvals given.
2. Notwithstanding SMC Subsection 8.04.370.1, the Enforcement Officer may permit re-occupancy of the dwelling unit if in the Building Official's opinion, all nuisance conditions have been addressed and rectified. (Ord. 899, October 1, 2007)

8.04.380 INTERFERENCE WITH REPAIR, DEMOLITION, OR ABATEMENT PROHIBITED.

It is unlawful for any person to obstruct, impede, or interfere with any person lawfully engaged in:

1. The work of repairing, vacating, warehousing, or demolishing any structure pursuant to the provisions of this Chapter;
2. The abatement of a nuisance pursuant to the provisions of this Chapter.
3. The performance of any necessary act preliminary to or incidental to such work as authorized by this Chapter or directed pursuant to it.

8.04.390 VIOLATION: PENALTY

1. Any person, firm, or corporation who violates any provision of this Chapter is punishable upon conviction by a fine as provided in subsection 2 of this section. This penalty may be assessed against the owner and the person in charge of the property. Each day that the violation persists after notification shall be deemed as a separate offense.
2. A violation of a provision of this Chapter is punishable by a fine approved by Council Resolution. (Ord. 899, October 1, 2007) (Ord. 977, December 2014)