

Chapter 4.10
NUISANCES

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4.10.010

Definitions.

A. As used in this chapter, except where the context indicates otherwise, the following shall mean:

1. "Agent in charge of property" shall mean any lessee, contract purchaser, or person, other than the owner, having the possession or control of property.
2. "City" shall means the City of North Plains.
3. "Council" means the governing body of the City.
4. "Domesticated Fowl" shall include female chickens, kept for personal use.
5. "Livestock" shall include: cattle, horses, swine, sheep, goats, poultry (excluding domesticated fowl).
6. "Noise sensitive unit" means any building or portion thereof adapted or used for the overnight accommodation of persons.
7. "Person" means every natural person, firm, partnership, association or corporation.
8. "Plainly audible sound" means any amplification or reproduction of the human voice sufficiently loud to be understood by a person with normal hearing, 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 voice from a distance of ten feet or less.
9. "Public place" means any building, place or accommodation, whether publicly or privately owned, open and available to the general public. If privately owned, only during the hours when the public place is open to the general public.
10. "Person in charge of property" means an agent, occupant, lessee, contract purchaser or other person having possession or control of property or the supervision of any construction project.

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

includes the feminine.

- 4.10.020 Communicable Disease.
No person shall permit any animal or bird owned or controlled by him to be at large within the City if such animal or bird is afflicted with a communicable disease.
- 4.10.030 Dangerous Animals.
No owner or person in charge of any dangerous animal, wild or domesticated, shall permit such animal to run at large in the City.
- 4.10.035 Removal of Dog Waste.
No person shall allow a dog owned by or under the person's control to defecate on property other than the owner's without immediately thereafter picking up and disposing of the excrement.
- 4.10.040 Removal of Animal Carcasses.
No person shall permit any animal carcass owned by him or under his control to remain upon the public streets or places, or exposed on private property, for a period of time longer than is reasonably necessary to remove such carcass.
- 4.10.050 Nuisances Affecting Public Health.
No person shall cause or permit on property owned or controlled by him a nuisance affecting public health. The following are nuisances affecting public health and may be abated as provided in this chapter.
- A. Privies. Open vaults or privies constructed and maintained within the City, except those constructed or maintained in connection with construction projects in accordance with the State Health Division regulations.
 - B. Debris. 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. Stagnant water which affords a breeding place of mosquitoes and other insect pests.
 - D. Water pollution. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.
 - E. Odor. Premises which are in such a state or condition as to cause an offensive odor readily discernible at the property line of said premises.
 - F. Surface drainage. Drainage of liquid wastes from private premises.

- G. Cesspools. Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor.
- H. Vermin infestation. The infestation of real property, improvements thereon, or accumulations of debris, solid waste or other matter located thereon, with rats, mice, rodents, vermin and other related or similar animals. For purposes of this section, the term "infestation" means the nesting, use, occupancy or location of one or more rats or mice, or rodents, or vermin or other related or similar animals on real property, improvements thereon, or in accumulations of debris, solid waste or other matter located thereon.
- I. Livestock and domesticated fowl. The keeping of any livestock or domesticated fowl, or buildings for the purpose of housing such livestock or domesticated fowl in such places or in such a manner that they will be offensive or annoying to residents within the immediate vicinity thereof.

4.10.060 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 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; 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 12 inches or more, fail or refuse to cover or fence it with a suitable protective construction.

4.10.070 Attractive Nuisances.

- A. No owner or person in charge of property shall permit thereon:
 - 1. Unguarded machinery, equipment or other devices which 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.
 - 3. An open pit, quarry, cistern or other excavation without safeguards or barriers to prevent such places from being used by children.
- B. This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

4.10.080

Snow and Ice.

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

- A. Snow to remain on the sidewalk for a period longer than the first two hours of daylight after the snow has fallen.
- B. Ice to remain on the sidewalk for more than two hours of daylight after the ice has formed, unless the ice is covered with sand, ashes or other suitable material to assure safe travel.

4.10.090

Noxious Vegetation.

- A. The term "noxious vegetation" does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard or a fire or traffic hazard within the meaning of subsection (2) of this section.
- B. The term "noxious vegetation" does include at any time between April 1 and October 31 of any year:
 - 1. Weeds more than 10 inches high.
 - 2. Grass more than 10 inches high and not within the exception stated in subsection (1) of this section.
 - 3. Poison oak.
 - 4. Poison ivy.
 - 5. Blackberry bushes that extend into a public thoroughfare or across a property line.
 - 6. Vegetation that is:
 - a. A health hazard.
 - b. A fire hazard because it is near other combustibles; or
 - c. A traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous.
- C. Between April 1 and October 31 of any year, no owner or person in charge

of property may allow noxious vegetation to be on the property or in the right of way of a public thoroughfare abutting on the property. It shall be the duty of an owner or person in charge of property to cut down or to destroy grass, shrubbery, brush, bushes, weeds or other noxious vegetation as often as needed to prevent them from becoming unsightly, from becoming a fire hazard, or, in the case of weeds or other noxious vegetation, from maturing or from going to seed.

- D. Between March 15 and April 1 of each year, the City Recorder may cause to be published three times in a newspaper of general circulation in the City a copy of subsection (3) of this section as a notice to all owners and persons in charge of property of their duty to keep their property free from noxious vegetation. The notice shall state that the City is willing to abate such nuisance on any 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 costs of the abatement. The notice shall also state that, even in the absence of such requests, the City intends to abate all such nuisances 10 or more days after the final publication of the notice and to charge the cost of doing so on any particular parcel of property to the owner thereof, the person in charge thereof or the property itself.
- E. If the notice provided for in subsection (4) of this section is used, it shall be in lieu of the notice required by Section 4.10.210 of this chapter. [Amended by Ord. 170, February 16, 1988.]

4.10.100 Scattering Rubbish.

No person shall throw, dump or deposit upon any street, alley or other public place, any injurious or offensive substance or any sort of rubbish, trash, debris, or refuse; or any substance which would mar the appearance, create a stench or detract from the cleanliness or safety of such public place or would be likely to injure any animal, vehicle or person traveling upon such public way.

4.10.110 Trees.

- A. No owner or person in charge of property that abuts upon a street or public sidewalk shall permit trees or bushes on his property to interfere with street or sidewalk traffic. It shall be the duty of an owner or person in charge of property that abuts upon a street or public sidewalk to keep all trees and bushes on his premises, including the adjoining parking strip, trimmed to a height of not less than eight feet above the sidewalk and not less than 10 feet above the roadway.
- B. No owner or person in charge of property shall allow to stand dead or decaying tree that is a hazard to the public or to persons or property on or

near the property .

4.10.120 Fences.

- A. No person shall construct or maintain any barbed wire fence or allow barbed wire to remain as a part of any fence, unless such wire is placed not less than 6 inches above the top of a fence when such fence is not less than 6 feet in height.
- B. No person shall install, maintain or operate any electric fence within the City without first securing a permit from the City after approval by the Manager. A permit shall be granted only where the construction of such a fence will not endanger the general public.
- C. No person shall erect, maintain or locate, or permit the erection, maintenance or location of a fence or barrier within that portion of the public right of way abutting property owned by or under the control or possession of any such person. Any fence or barrier located within the public right of way in violation of this section is hereby declared to be a nuisance subject to abatement under the provisions of this chapter.
- D. Any fence or barrier located within the public right of way on the effective date of this chapter shall be permitted to remain; provided, however, no person shall improve, repair, enlarge or extend said fence or barrier. If any such existing fence is partially damaged or destroyed, the entire fence shall be removed and its use terminated under the abatement provisions of this chapter

For purposes of this section, the terms "fence" or "barrier" shall not include structures used to establish vines, bushes or other landscaping materials, provided however no such structure shall be located or maintained within the public right of way for more than 12 calendar months.

4.10.130 Surface Water Drainage.

- A. No person owning or controlling any real property shall permit any type of surface water from any source whatsoever to flow from the premises across or upon any sidewalk abutting such property.
- B. It is hereby made the duty of each person owning or controlling real property abutting upon any sidewalk to provide a property system of drainage so that any overflow water will not be carried across or upon any sidewalk.

4.10.140 Radio and Television Interference.

- A. No person shall operate or use an electrical, mechanical or other device,

apparatus, instrument or machine that cause 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 the Federal Communications Commission.

4.10.150 Junk.

- A. 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.
- B. The term "junk" as used in this section, includes all discarded motor vehicles, motor vehicle parts, machinery, machinery parts, appliances or parts thereof, iron or other metal, glass, paper, timber, wood or other waste or discarded material.
- C. This section shall not apply to junk kept in a duly licensed junk yard or automobile wrecking house.

4.10.160 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 and peace of others.
- B. Loud, disturbing and unnecessary noises in violation of this section include, but are not limited to, the following:
 - 1. The keeping of any bird or animal which, by causing frequent or long-continued noise, at any time of the day or night, shall disturb the comfort and repose of any person in the vicinity.
 - 2. 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 offensive noise;
 - 3. The blowing of a steam whistle attached to a stationary boiler, except to give notice of the time to begin or stop work, as a warning of danger or on request of City officials;
 - 4. The use of a mechanical device operated by compressed air, steam or otherwise, unless the noise created by it is effectively muffled.

5. The erection, excavation, demolition, alteration, or repair of a building, streets, etc., other than between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday, and 8:00 a.m. and 7:00 p.m. Saturday, Sunday and Holidays, except in the case of an emergency, or in the interest of the public welfare, when a permit has been issued by the city manager. If the city manager determines that public health, safety and welfare will not be impaired by such activity, the permit shall be granted.
6. Using a gong or siren on a vehicle other than a police, fire or other emergency vehicle.
7. Creating excessive noise on a street adjacent to a school, institution of learning, church or court of justice while it is in use, or adjacent to a hospital or institution for the care of the sick or infirm, that unreasonably interferes with the operation of the institution, or that disturbs or unduly annoys patients.
8. The use or operation of an automatic or electric piano, phonograph, stereo system, radio, television, loudspeaker, or any instrument for sound producing or any sound amplifying device so loudly as to disturb persons in the vicinity of it or in a manner that renders the use of it a nuisance. The operation of a machine audible to a peace officer at a distance of 50 feet from the building, room, structure, or vehicle in which it is located shall be prima facie proof of a violation of this section. However, on application to the city manager, a permit may be granted for the broadcast or amplification of programs of music, news, speeches, or general entertainment as a part of a national, State, or City event, public festivals, or outstanding events of a noncommercial nature. The broadcast or amplification shall not be audible for a distance of more than 1,000 feet from the instrument, speaker, or amplifier; and a permit shall not be granted if an obstruction to the free and uninterrupted traffic, both vehicular and pedestrian, will result.
9. The making of plainly audible sound between the hours of 10:00 p.m. and 7:00 a.m. which is audible within a noise sensitive unit which is not the source of the sound.
10. Making 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 or of attracting attention or inviting patronage of a person to a business.

11. Conducting, operating or maintaining a garage, or automobile repair, within 100 feet of a private residence, apartment, rooming house or hotel in a manner that causes loud or disturbing noise between the hours of 10:00 p.m. and 7:00 a.m.

C. Violation of this Section of the municipal code shall be enforced pursuant to Section 4.10.290 of the Municipal Code.

4.10.170 Smoke and Particulate Matter.

The discharge of pollutants from any source within the City limits shall not exceed the following limits:

A. Smoke measured at the point of discharge into the air shall not exceed a density of No. 1 on the Ringleman Smoke Chart as published by the U.S. Bureau of Mines, except that smoke of a density not darker than No. 2 of the Ringleman Chart may be emitted for not more than three minutes in any hour.

B. Lime dust, as CaO, measured at the property line of the activity creating such dust, shall not exceed 10 micrograms per cubic meter of air.

C. Total particulate matter measured at all stacks shall not be in excess of 30 grams per hour per acre of land devoted to the operation.

D. Measurements of air pollution shall be by the procedures and with equipment approved by the State Health Division or equivalent and acceptable methods of measurement approved by the City. Persons responsible for a suspected source of air pollution, upon request of the City, shall provide quantitative and qualitative information regarding the discharge that will adequately and accurately describe operation conditions.

4.10.180 Adoption of State Fireworks Law.

The following enumerated sections of the Oregon Fireworks Law, together with all acts and amendments applicable to cities or towns which are now or hereafter enacted, are hereby adopted by reference:

ORS 480.110, ORS 480.140 (1), ORS 480.120, ORS 480.150, ORS 480.130, ORS 480.170.

4.10.190 Notices and Advertisements.

- A. No person shall affix or cause to be distributed any placard, bill, advertisement or poster upon any real or personal property, public or private, without first securing permission from the owner or person in control of private property. This section shall not be construed as an amendment to or repeal of any regulation now or hereafter adopted by the City regulating the use of and the location of signs and advertising.
- B. No person shall, either as principal or agent, scatter, distribute or cause to be distributed on the streets, sidewalks or other public places or upon any private property any placards or advertisements whatsoever.
- C. This section shall not be construed to prohibit the distribution of advertising material during any parade or approved public gathering.

4.10.200 Un-enumerated Nuisances.

- A. The acts, conditions or objects specifically enumerated and defined in sections 4.10.020 through 4.10.190 are declared public nuisances; and such acts, conditions or objects may be abated by any of the procedures set forth in sections 4.10.210 through 4.10.250.
- B. In addition to the nuisances specifically enumerated within this chapter, every other thing, substance or act which is determined 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.

4.10.210 Notice.

- A. Upon determination by the City Manager that a nuisance exists, the City Manager 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.
- B. At the time of posting, the City Recorder shall cause a copy of the notice to be forwarded by registered or certified mail, postage prepaid, to the person responsible at his last known address.
- C. The notice to abate shall contain:
 - 1. A description of the real property, by street address or otherwise, on which the nuisance exists.
 - 2. A direction to abate the nuisance within 10 days from the date of the notice.
 - 3. A description of the nuisance.

4. 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.
 5. A statement that failure to abate a nuisance may warrant imposition of a fine.
 6. A statement that the person responsible may protest the order to abate by giving notice to the City Recorder within 10 days from the date of the notice.
- D. If the person responsible is not the owner, an additional notice shall be sent to the owner stating that the cost of abatement not paid by the person responsible may be assessed to and become a lien on the property.
 - E. Upon completion of the posting and mailing, the persons posting and mailing shall execute and file certificates stating the date and place of the mailing and posting, respectively.
 - F. An error in the name or address of the person responsible shall not make the notice void, and in such case the posted notice shall be sufficient.

4.10.220

Abatement by the Person Responsible.

- A. Within 10 days after the posting and mailing of such notice, as provided in section 4.10.210, the person responsible shall remove the nuisance or show that no nuisance exists.
- B. A person responsible, protesting that no nuisance exists, shall file with the City Recorder a written statement which shall specify the basis for protesting.
- C. The statement shall be referred to the City Manager, who shall set the matter for hearing. At the time set for consideration of the abatement, the person protesting may appear and be heard by the City Manager. The City Manager shall determine whether or not a nuisance in fact exists. City Manager determination shall be required only in those cases where a written statement has been filed as provided.
- D. If the City Manager determines that a nuisance does in fact exist, the person responsible shall, within 10 days after the City Manager's determination, abate the nuisance.

4.10.230 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.

4.10.240 Abatement by the City.

- A. If, within the time allowed, the nuisance has not been abated by the person responsible, the City Manager may cause the nuisance to be abated.
- B. The officer charged with abatement of the nuisance shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance.
- C. The Finance Director shall keep an accurate record of the expense incurred by the City in physically abating the nuisance and shall include therein a charge established by resolution of the City Council for administrative overhead.

4.10.250 Assessment of Costs.

- A. The Finance Director, by registered or certified mail, postage prepaid, shall forward to the owner and the person responsible a notice stating:
 - 1. The total cost of abatement, including the administrative overhead.
 - 2. That the cost as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice.
 - 3. That if the owner or the person responsible objects to the cost of the abatement as indicated, he may file a notice of objection with the City Recorder not more than 10 days from the date of the notice.
- B. Upon the expiration of 10 days after the date of the notice, if a notice of objection is filed, the Council, in the regular course of business, shall hear and determine the objections to the costs assessed.
- C. If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs, as stated or as determined by the Council, shall be made by resolution and shall thereupon be entered in the docket of City liens. Upon the entry being made, it shall constitute a lien upon the property from which the nuisance was removed or abated.

- E. 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 (nine) percent per annum. 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 the person responsible shall not void the assessment, nor will a failure to receive notice of the proposed assessment render the assessment void; but it shall remain a valid lien against the property.

4.10.260 Summary Abatement.

The procedure provided by this chapter is not exclusive, but is in addition to procedure provided by other chapters; and the chief of the fire department, the chief of police, or any other City official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.

4.10.270 Penalties.

Any person or persons convicted of being the author or keeper of a nuisance, or otherwise found guilty of a violation of any of the provisions of this chapter, shall be fined not less than \$50, nor more than \$500 for the first offense, and for the second and all subsequent offenses, not less than \$100, nor more than \$1,000.

4.10.280 Separate Violations.

- A. Each day's violation of a provision of this chapter constitutes a separate offense.
- B. 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 10 days of the date of notice to abate, or a written protest has been filed, then abatement within 10 days of Council determination that a nuisance exists, will relieve the person responsible from the imposition of a fine under section 4.10.270 of this chapter.

4.10.290 Citation.

In addition to all other provisions of this Chapter, the Chief of Police is hereby authorized to determine that a nuisance exists. Upon such determination by the Chief of Police, the Chief shall cause a citation to be issued to and served upon the person having possession of or in custody of the premises upon or within which the nuisance exists. The citation shall identify the nuisance for which citation is issued together with a street address or similar description of the property upon or within which the nuisance exists. The person to whom the citation is issued shall be required to appear in the Municipal Court of the City on the date and at the time and place indicated thereon. At the time of

appearance in the Municipal Court, a complaint shall be served upon the individual to whom the citation has been issued. The penalties set forth in Section 4.10.270 of this chapter shall apply to nuisances determined to exist by the Chief of Police for which the person charged is found guilty. [Added by Ord. 149, August 20, 1984]

(ORD. 99, May 18, 1981; ORD. 273, June 5, 2000; ORD. 278, September 18, 2000; ORD. 316, April 19, 2004; ORD. 340, September 6, 2005; ORD 384, November 2, 2009.)