

HEALTH AND SAFETY

CHAPTER 8.08 – NUISANCES

8.08.010 Purpose

The purpose of Hood River County Code (HRCC) Chapter 8.08 is to regulate the accumulation of waste, solid waste, tires, inoperable vehicles, vegetation and other nuisances on public and private property. The remedies provided for violations involving conduct prescribed in 8.08.100 through 8.08.180 are not exclusive and are in addition to any other remedies provided by law.

8.08.020 Definitions

A. "Board" means the Hood River County Board of Commissioners.

B. "Person" means a public or private corporation, business, limited liability company, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity, and may include the plural if the context requires.

C. "Enforcement Officer" as used in this Chapter means person given the responsibility and authority to enforce the provisions of this Chapter.

8.08.030 Exemptions

Unless specifically provided otherwise, HRCC Chapter 8.08 does not apply to:

A. Disposal sites operated in compliance with regulations promulgated by the Environmental Quality Commission, Department of Environmental Quality, or other ordinances or regulations of the County.

B. Property located within the corporate limits of incorporated cities.

8.08.100 Animals

The acts, conditions or objects specifically prohibited in HRCC Title 6 are declared

public nuisances and such acts, conditions or objects may be abated by any of the procedures set forth in Section 8.08.200 through Section 8.08.250.

8.08.105 Disposal of Refuse and Dead Animals

No person shall permit an animal carcass under the person's ownership or control to remain upon public property, or to be exposed on private property, for a period of time longer than forty-eight (48) hours after death of the animal.

8.08.110 Hides, Curing and Keeping

No person shall keep or store uncured or green hides of any animal in any house, store building, or other place where the same shall cause or create a noisome or offensive smell or atmosphere, to persons traveling along the public streets or to the owners or occupants of adjacent premises.

8.08.115 Noxious Odors

No person shall burn upon any premises or in any street, alley or other place, any animal or vegetable substance that shall create an offensive or noxious odor that can be smelled on neighboring properties.

8.08.120 Disposal of Refuse and Solid Waste

A. No person shall allow any sawdust, oil, rags, brush, cans, old metal, butchers' offal, garbage, any animal or vegetable matter to accumulate which is causing or creating or might cause or create any noisome or offensive odor.

B. The acts, conditions or objects specifically referenced in HRCC 8.04.170, 8.04.180 or 8.04.190 are declared public nuisances and such acts, conditions or objects may be abated by any of the procedures set forth in Section 8.08.200 through Section 8.08.250.

8.08.125 Water Pollution

No person shall cause, contribute to or allow pollution of a body of water, well, spring, stream or drainage ditch by sewage, solid waste, industrial wastes or other substances placed in or near the water in a manner that will or would tend to have a polluting effect of the water.

8.08.130 Unsanitary On-Site Sewage Treatment and Disposal System

It is unlawful for a person to permit or allow to be kept cesspools, septic tanks or on-site sewage treatment and disposal systems that are in an unsanitary condition, which cause an offensive odor or which create a public health hazard.

8.08.135 Tracked-out Mud and Dirt

No person shall track-out mud, dirt or other debris from private or public lands onto public roads without taking reasonable precautions to prevent mud, dirt or debris from becoming airborne or washing off the site. These precautions shall include prompt removal of such material from the paved road surfaces and such other precautions including, but not necessarily limited to, the conditions listed below. The County may require the imposition of building permit conditions for the prevention of track-out. Conditions imposed may include, but are not limited to the following:

A. The posting of a bond sufficient to assure available funds for roadway cleanup by the County if the contractor or permittee is negligent in cleanup of adjacent public roadways.

B. Street sweeping, vacuuming or other means of removing track-out material from public roadways.

C. Installation of wheel washers at exits of major construction sites.

D. Use of temporary or permanent barricades to keep traffic off unpaved areas.

E. Require graveling of access roads on

site.

F. Limit the use of public roadways by vehicles.

G. Issue stop-work order if track-out occurs and is not promptly corrected. A violation of a stop-work order shall be considered a violation of this section. A stop-work order issued pursuant to this section shall be posted at the work site and delivered personally or by certified mail to an alleged violator.

H. For access to property, paving of the entry way or driveway for its entire length or a distance of 50 feet, whichever is shorter.

8.08.140 Abandoned Refrigerators

No person shall leave in a place accessible to children, an abandoned or discarded icebox, refrigerator or similar container without first removing the door, unless the same has a magnetic catch or similar catch which can easily be opened from the inside.

8.08.145 Noxious Weeds

A. No person shall cause or contribute to the growth or existence of noxious weeds on any private or public property.

B. A "noxious weed" is any weed designated as noxious by the state of Oregon or by the Board.

8.08.150 Trees and Hedges

No owner or person in charge of property that abuts upon a street or public sidewalk shall permit trees, bushes or hedges on such property to interfere with street or sidewalk traffic.

8.08.155 Unnecessary Noise

The acts, conditions or objects specifically referenced in HRCC Chapter 8.12 are declared public nuisances and such acts, conditions or objects may be abated by any of the procedures set forth in Section 8.08.200 through Section 8.08.250.

8.08.160 Notices and Advertisements

A. No person shall affix or cause to be affixed a placard, bill, advertisement or poster upon real or personal property, public or private, without first securing permission from the owner or person in control of the property. This section shall not be construed as an amendment to or a repeal of any regulation now or hereafter adopted by the County regulating the use and location of signs and advertising.

B. No person shall scatter, distribute or cause to be scattered or distributed on public or private property any placards, advertisements, or other similar materials.

C. This section does not prohibit the distribution of advertising materials during a parade or approved public gathering.

8.08.165 Junk

A. "Junk" is defined to be any old, used or secondhand materials of any kind, including, without limitation, cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, tires, brass, copper, or other metal, furniture, refrigerators, freezers, all other appliances, the parts of used motor vehicles, machines, apparatuses and contrivances, and parts thereof, which are not in use, any used building material, boards or other lumber, cement blocks, bricks, or brick bats, or other secondhand building material, or any discarded machinery, tractors, trucks, or automobiles, or any other article or thing commonly known and classified as junk.

B. It is unlawful for any person to keep any junk on any lot or premises within the County, or in a building that is not wholly or entirely enclosed except doors used for ingress and egress. It is unlawful for any person, their agent or employee, to keep any junk on any street or other public property.

C. The Board may approve a storage device which may be used on private land that is not entirely enclosed in a building, if, in the Board's opinion, it provides sufficient protection from odors, waste materials, waste liquids, oils, fats and flies.

D. The provisions of this chapter shall not apply to junk kept in a duly licensed junk yard, or automobile wrecking or salvage yard or industries which use scrap steel, used equipment, or similar items in connection with the industrial enterprise.

8.08.170 Inoperable Vehicles

A. An "inoperable vehicle" is defined to be a vehicle which:

1. Has been left on private property for more than 30 days;

2. Has broken or missing window(s); or broken or missing windshield; or a missing wheel(s), or a missing tire(s); or lacks an engine or will not run; or lacks a transmission or the transmission is inoperable; and

3. Has a market value as a motor vehicle of less than \$750 and the vehicle is over three years old.

4. For purposes of this section, a showing that the vehicle(s) in question is unlicensed and, if operated on a public highway of this state, would be in violation of one or more of the provisions of ORS 815.100 through 815.305 and ORS 816.320 through 816.370 (1985 Replacement Parts), constitutes a rebuttable presumption that it is inoperable.

B. The following things, practices or conditions shall constitute a nuisance and no person responsible shall cause or permit such condition to exist:

Storing or permitting to be stored in excess of 90 days within any consecutive 12 month period an unregistered or inoperable vehicle or portion thereof at any one time on any property unless the vehicle is completely enclosed within a building, or is not visible from any public way and is located more than 200 feet from any property line, or unless it is stored on the premises of a business enterprise dealing in used vehicles lawfully conducted within the County.

8.08.175 Used Tires

No person shall allow or permit the accumulation of discarded tire casings that is not demonstrably part of a short-term storage for commercial tire recapping or tire retail business or authorized landfill. Short-term storage shall not exceed a period of ninety (90) days.

8.08.180 Declaration of Nuisance and General Nuisance

A. The acts, conditions or objects specifically enumerated and defined in Section 8.08.100 through Section 8.08.180 are declared public nuisances and such acts, conditions, or objects may be abated by any of the procedures set forth in Section 8.08.200 through Section 8.08.250 below.

B. In addition to the nuisances specifically enumerated within this chapter, every other thing, substance, or act which is determined by the Board to be injurious or detrimental to the public health, safety or welfare of the County is declared a nuisance and may be abated as provided in this chapter.

8.08.200 Abatement Enforcement

A. In general, the County Administrator, or the Administrator's designee, is the Enforcement Officer and has the authority and responsibility for enforcement of this Chapter, except as otherwise required or designated by state law.

B. The person charged with this authority and responsibility shall have the authority to investigate potential nuisances, administer oaths, certify all official acts, subpoena, require the attendance of witnesses at public hearings before the Board, require the production of documents and take the testimony of any person by deposition.

8.08.210 Abatement Notice

A. Upon determination by the Enforcement Officer that a nuisance as defined in this chapter or any ordinance of the County exists, the Enforcement Officer shall make reasonable efforts to notify the owner of the

nuisance. Notification may be given as follows:

1. personally delivering the notice to the owner or person in charge of the property;
2. posting the notice on the premises where the nuisance exists; or
3. mailing the notice by first class mail and registered or certified mail, postage prepaid, to the owner or person in charge of the property at that person's last known address.

B. 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 description of the nuisance;
3. At the Enforcement Officer's discretion, a direction to (a) abate the nuisance within ten (10) days of the date of the notice, or (b) meet with the Enforcement Officer to formulate a plan for abatement within ten (10) days from the date of the notice;
4. A statement that, unless the nuisance is removed, the County may abate the nuisance and the cost of abatement and any overhead or penalties charged shall be a lien against the property;
5. A statement that the owner or other person in charge of the property may protest the abatement by giving written notice to the County Administrator within ten (10) days from the date of the notice.

D. Upon completion of the delivery, posting or mailing of notice, the person providing notice shall execute and file with the County Administrator a certificate stating the method and date of notice.

E. An error in the name or address of the owner or person in charge of the property or the use of a name other than that of the owner or other person shall not make the notice void and in such a case the posted notice shall be sufficient.

8.08.220 Abatement – By Owner

A. Within ten (10) days after the County provides notice, the owner or person in charge of the property shall show that no nuisance exists; or as the notice directs, (1) remove the nuisance, or (2) meet with the enforcement officer to formulate a plan of abatement that is acceptable to the County.

B. The owner or person in charge protesting that no nuisance exists shall file with the County Administrator a written statement that shall specify the basis for so protesting.

C. The statement shall be referred to the Board. At the time set for consideration of the abatement, the owner or other person may appear and be heard by the Board, and the Board shall thereupon determine whether or not a nuisance in fact exists, and the determination shall be entered in the official minutes of the Board. Board determination shall be required only in those cases where a written statement has been filed as provided.

D. If the Board determines that a nuisance does in fact exist, the owner or other person shall within ten (10) days after the Board determination (1) abate the nuisance, or (2) meet with the Enforcement Officer to formulate a plan for abatement.

8.08.230 Abatement - By County

A. If, within the time allowed, the nuisance has not been abated by the owner or person in charge of the property, the Enforcement Officer may cause the nuisance to be abated.

B. The Enforcement Officer or the Officer's designee has the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance. This shall not be considered trespass.

C. The Enforcement Officer shall keep an accurate record of the expense incurred by the County in abating the nuisance and shall include therein an additional surcharge of fifty percent (50%) of the expense for administrative overhead and civil penalty.

8.08.240 Cost Assessment

A. The Enforcement Officer, by a method listed in 8.08.210 A 1 – 3, shall give the cost assessment notice. The notice shall include:

1. The total cost of abatement including the administrative overhead and civil penalty;

2. That the cost as indicated will be assessed to and become a lien against the property unless paid within thirty (30) days from the date of the notice;

3. That if the owner or person in charge of the property objects to the cost of the abatement as indicated, an objection must be filed with the County Administrator not more than ten (10) days from the date of the notice.

B. If an objection is filed, the Board, in the regular course of business, shall hear the objection and determine the costs to be assessed.

C. If the costs of the abatement are not paid within thirty (30) days from the date of the notice, an assessment of the costs as stated or as determined by the Board shall be made by resolution and shall thereupon be recorded and, upon such entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated.

D. The lien shall be enforced through the County Budget and Finance Department and shall bear interest at the rate of six percent per year. The interest shall commence to run from the date of entry of the lien in the lien docket.

E. The lien provided for shall be foreclosed in the manner as prescribed by state law for the enforcement of liens and collection of assessments for local governmental entities and municipal corporations.

F. An error in the name of the owner or person in charge of the property shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

8.08.250 Summary Abatement

The procedure provided by this chapter is not exclusive but is in addition to procedures provided by other ordinances, and the Enforcement Officer or Sheriff may proceed summarily to abate a health or other nuisance which unmistakably exists and which endangers human life or property. The cost for summary abatement shall be assessed in accordance with 8.08.240 Cost Assessment.

8.08.260 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 violation of this chapter but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate a nuisance.