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## TITLE 8

### HEALTH AND SAFETY

#### CHAPTERS:

- 8.08 NUISANCE CODE
- 8.12 NOISE CONTROL
- 8.16 FRUIT PEST CONTROL
- 8.20 SKIER SAFETY

#### **Chapter 8.04 *Renumbered: see Chapter 13.12***

#### CHAPTER 8.08 NUISANCE

##### Sections:

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**8.08.005     Definitions.**

- (1)     "Board" means the Hood River County Board of Commissioners.
- (2)     "Enforcement Officer" means person given the responsibility and authority to enforce the provisions of this Chapter.
- (3)     "Junk" means 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.
- (4)     "Noxious Weed" means any weed designated as noxious by the state of Oregon or the Board.
- (5)     "Parties" mean Hood River County, acting by and through the Enforcement Officer, and the owner or person in charge of property that is the subject of a plan of abatement.
- (6)     "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.
- (7)     "Repeat Nuisance" means any subsequent violation of this chapter occurring on the same property, under control of the same person, within five years of a violation of this chapter or of prior nuisance ordinances.

**8.08.015     Exemptions.**

Unless specifically provided otherwise, this chapter does not apply to:

- (1) 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; or
- (2) Property located within the corporate limits of cities.

#### **8.08.025 Animals.**

The acts, conditions or objects specifically prohibited in HRCRC Title 6 are declared public nuisances and such acts, conditions or objects may be abated by any of the procedures set forth in this chapter.

#### **8.08.035 Disposal of 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 longer than 48 hours after death of the animal.

#### **8.08.045 Hides, curing and keeping.**

No person shall keep or store uncured 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.

#### **8.08.055 Noxious odors.**

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

#### **8.08.065 Disposal of refuse and solid waste.**

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

#### **8.08.075 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.

#### **8.08.085     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.

#### **8.08.095     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)     Graveling of access roads on site.
- (f)     Limiting the use of public roadways by vehicles.
- (g)     Issuance of stop-work orders 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)     Requiring paving of the entry way or driveway for its entire length or a distance of 50 feet, whichever is shorter.

#### **8.08.105     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.

**8.08.115 Noxious weeds.**

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

**8.08.125 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.

**8.08.135 Unnecessary noise.**

The acts, conditions or objects specifically referenced in HRCRC Chapter 8.12 are declared public nuisances and such acts, conditions or objects may be abated by any of the procedures set forth in this chapter.

**8.08.145 Notices and advertisements.**

- (1) 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.
- (2) No person shall scatter, distribute or cause to be scattered or distributed on public or private property any placards, advertisements, or other similar materials.
- (3) This section does not prohibit the distribution of advertising materials during a parade or approved public gathering.

**8.08.155 Junk.**

- (1) 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.
- (2) 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.

- (3) 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.

#### **8.08.165 Vehicles as nuisance.**

- (1) The following things, practices or conditions shall constitute a nuisance and no person responsible shall store or permit to be stored in excess of 90 days within any consecutive 12 month period an unregistered or inoperable vehicle or portion thereof 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.
- (2) For purposes of this section, "inoperable vehicle" means a vehicle which has been left on private property for more than thirty days; and,
  - (a) Has a broken or missing window; or broken or missing windshield; or is missing a wheel, or tire; or lacks an engine or will not run; or lacks an operable transmission; or
  - (b) Has a market value as a motor vehicle of less than \$750.00 and the vehicle is over three years old, or
  - (c) Is unlicensed or, 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, or
  - (d) Does not comply with ORS 816.320 through 816.370, in which case there shall be a rebuttable presumption that it is inoperable.

#### **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 90 days.

#### **8.08.185 Declaration of nuisance and general nuisance.**

- (1) The acts, conditions or objects specifically enumerated and defined in sections 8.08.025 through 8.08.175 of this Chapter are declared public nuisances and such acts, conditions, or objects may be abated by any of the procedures set forth in this chapter.
- (2) In addition to the nuisances specifically enumerated within this chapter, every other act, condition or object, 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.

**8.08.195 Abatement and enforcement.**

- (1) 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.
- (2) 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.

**8.08.205 Abatement notice.**

- (1) Upon determination by the Enforcement Officer that a nuisance as defined in this chapter or any County ordinance exists, the Enforcement Officer shall make reasonable efforts to notify the person responsible for the nuisance. Notification may be given by:
  - (a) Personally delivering the notice to the owner or person in charge of the property where the nuisance exists; or
  - (b) Posting the notice on the premises where the nuisance exists; or
  - (c) Mailing the notice by first class mail and registered or certified mail, postage prepaid, to the owner or person in charge of the property where the nuisance exists at that person's last known address.
- (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 description of the nuisance;
  - (c) At the Enforcement Officer's discretion, a direction to:
    - (i) Abate the nuisance within ten (10) days of the date of the notice, or
    - (ii) Meet with the Enforcement Officer to formulate a plan for abatement within ten (10) days from the date of the notice;
  - (d) 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;
  - (e) 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.
- (3) 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.
- (4) 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 notice shall be sufficient.

**8.08.215 Abatement by owner.**

- (1) Within 10 days after the County provides notice, the owner or person in charge of the property shall:
- (a) Show that no nuisance exists, or
  - (b) Remove the nuisance, or
  - (c) If the notice directs, meet with the enforcement officer to formulate a plan of abatement that is acceptable to the County.
- (2) The owner or person in charge alleging that no nuisance exists shall file with the County Administrator a written statement that shall specify the basis for the allegation.
- (3) 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.

- (4) If the Board determines that a nuisance does in fact exist, the owner or other person shall within 10 days after the Board determination:
  - (a) Abate the nuisance, or
  - (b) If so directed by the Board, meet with the Enforcement Officer to formulate a plan for abatement.

#### **8.08.225 Abatement by County.**

- (1) 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.
- (2) 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.
- (3) 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.

#### **8.08.235 Cost assessment.**

- (1) The Enforcement Officer, by the method listed in Section 8.08.205, shall give a cost assessment notice to the owner or person in charge of the property. The notice shall include:
  - (a) The total cost of abatement including the administrative overhead and civil penalty;
  - (b) That the cost as indicated will be assessed to and become a lien against the property unless paid within 30 days of the date of the notice;
  - (c) 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 10 days from the date of the notice.

- (2) If an objection is filed, the Board, in the regular course of business, shall hear the objection and determine the costs to be assessed.
- (3) 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 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.
- (4) 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.
- (5) 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.
- (6) 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.

#### **8.08.245 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 this chapter.

#### **8.08.255 Separate violations.**

- (1) Each day's violation of a provision of this chapter constitutes a separate offense.
- (2) 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.

#### **8.08.265 Repetitive nuisances.**

- (1) No Enforcement Officer of the County shall consent to or agree to a plan of abatement to address a repeat nuisance unless the plan is in writing, signed by

the owner or person in charge of the property, and contains each of the following stipulations:

- (a) The parties acknowledge that the plan of abatement is a binding contract and that Hood River County is granting, as consideration for this contract, the suspension of legal action for remedies and penalties.
  - (b) The parties agree that all the terms and conditions of the plan of abatement shall apply for five (5) years from the date that the owner or person in charge of the property signs the plan.
  - (c) The parties agree that the County Enforcement Officer or the Officers' designee may enter onto or upon the property at reasonable times to investigate or to cause the removal of a nuisance. This shall not be considered a trespass.
  - (d) The parties agree that the Enforcement Officer shall immediately notify the owner or person in charge of the property of any subsequent nuisance.
  - (e) The parties agree that the owner or person in charge of the property shall have 10 days from the time of notice to show that no nuisance exists, to remove the nuisance, or to file a protest.
  - (f) The parties agree that if the owner or person in charge of the property has failed to show that no nuisance exists, to remove the nuisance, or to file a protest within 10 days of notice, the Enforcement Officer shall immediately cause the nuisance to be abated.
  - (g) The parties agree that the abatement shall be conducted at the County's discretion and without further reference to the plan of abatement.
  - (h) The parties agree that the cost of abatement for a subsequent nuisance shall be assessed under the provisions of this chapter and shall carry the additional civil penalty of fifty percent of the cost of the abatement and shall increase to 100% of the cost of the abatement for any abatement thereafter.
- (2) The provisions set forth in this section are in addition to all other provisions, penalties and remedies available to the County, and this section shall not be construed to limit the authority of the County under procedures set forth elsewhere in this chapter.