

ORDINANCE NO. 1614

(AN ORDINANCE AMENDING ORDINANCE 1608 AND CHAPTER 8.08 OF THE HOOD RIVER MUNICIPAL CODE RELATING TO NUISANCES.)

Chapter 8.08 of the Hood River Municipal Code is amended to read as follows:

8.08.010 Definitions.

"Person" - Every individual, firm, company, association, partnership and corporation

"Person responsible" - The person responsible for abating a nuisance shall include:

(A) The owner.

(B) The person in charge of property, as defined in this section.

(C) In the case of sidewalks in the city, the owner as defined in section 13.20.010.

(D) The person who causes to come into or continue in existence a nuisance, as defined in sections 8.08.020 and 8.08.030 or in any other city ordinance.

"Person in charge of property" - An agent, occupant, lessee, contract purchaser, or person other than an owner, having possession or control of the property.

8.08.020 Acts Constituting Nuisances. A public nuisance is any act or omission which is determined by the chief of police, city administrator or their designees, to be injurious or detrimental to the public health, safety or welfare of the residents of the city.

8.08.030 Specific Nuisances Designated. In addition to any act or omission determined to be a nuisance pursuant to section 8.08.020, the following are declared to be a public nuisance:

(A) To tolerate or permit the accumulation of any snow, ice, sleet, rain water, gravel, garbage or other debris on any sidewalk for a period longer than 24 hours;

(B) To place any debris offensive to the public and allow the same to remain for a longer period than 12 hours upon any public street or public premises or any private premises;

(C) To construct or maintain any structure upon any city owned premises without permission from the city;

(D) To place upon any public thoroughfare any substance tending to mar the appearance or detract from the cleanliness or safety of such thoroughfare;

(E) To place any part of an animal carcass or any other offensive substance into any stream, well, spring, brook, ditch, pond or other waters within the city;

(F) To permit any portion of any premises to become or continue to be in a state which causes an offensive odor or unsanitary condition;

(G) To create or permit any loud or disturbing noise;

(H) To permit any machinery, equipment, structure or device of any kind which is likely to attract children without providing adequate safeguards;

(I) To allow any pit, quarry, cistern, open well or excavation of any kind to exist on any premises without adequate safeguards;

(J) To permit any weeds or dried grass of any kind to go to seed on any lot, block, premises or parking strip between the property boundary and curblines;

(K) To permit any water from any ditch, canal, flume, reservoir, pipe or conduit, above or below the ground, to leak, seep, flow, overflow or run upon any public property and thereby endanger the public health, safety, welfare or convenience;

(L) To place or allow on any public thoroughfare any article or structure which obstructs a public thoroughfare without first having a permit to do so from the city administrator; provided, however, that this subsection shall not apply to goods or merchandise placed for less than five hours upon a public thoroughfare or public place in the process of delivery to or from any business or residence.

8.08.040 Permit from City Council Required for Certain Potential Nuisances.

(A) No person responsible shall permit any excavation or demolition or any alteration, erection or repair of any building other than between the hours of 7:00 a.m. and 7:00 p.m. unless a prior permit is issued by the Hood River City Council or its designee.

(B) No sound amplifying device may be utilized to broadcast music, news, speeches or any entertainment without a permit from the Hood River City Council or its designee.

(C) All permits issued under this section shall clearly specify the date(s), time(s) and hour(s) that the permit is valid.

8.08.050 Abatement of Nuisance.

(1) Upon determination by the chief of police, city administrator or their designees, that a nuisance exists, personal notice shall be given to the person responsible for property to abate the nuisance immediately. If immediate abatement of the nuisance is not practical or if personal notice cannot be served on the person responsible, a notice shall be posted on the premises where the nuisance exists, directing the person responsible to abate the nuisance.

(2) At the time of posting, notice shall be sent by registered mail, postage prepaid, to the person responsible at the person's last known address.

(3) 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) A direction to abate the nuisance within five days from the date of the notice.

(d) A statement that unless the nuisance is abated, the city may abate the nuisance and the cost of abatement will be charged to the person responsible.

(e) A statement that the person responsible may protest the notice of abatement by giving written notice to the city recorder within five days from the date of the notice.

(4) 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 against the property.

(5) Upon completion of the posting and mailing, the person posting and mailing the notice shall execute and file a certificate with the city recorder stating the date and place of the mailing and posting.

(6) An error in the name or address of the owner or

person responsible or the use of a name other than that of the owner or person responsible shall not make the notice void, and in such a case the posted notice shall be sufficient.

8.08.060 Abatement by Person Responsible.

(1) Within five days after the posting and mailing of the notice as provided in section 8.08.040, the person responsible shall remove the nuisance or provide written objection to the notice to abate with the city recorder. The written objection shall specify the basis for the objection.

(2) A written objection to the notice to abate shall be referred to the council as a part of the council's regular agenda at the next scheduled council meeting. At the time set for consideration of the written objection to the notice to abate, the person protesting may appear and be heard by the council, and the council shall determine whether or not a nuisance in fact exists and whether or not the nuisance should be abated. The determination shall be entered in the official minutes of the council. Council determination shall be required only after written notice of objection to the notice to abate has been filed with the city recorder.

(3) If the council determines that a nuisance does in fact exist and should be abated, the person responsible shall, within five days after council determination, abate the nuisance.

8.08.070 Abatement by City.

(1) If, within the time allowed by the personal or written notice, the nuisance has not been abated by the owner or person in charge of the property, the administrator may cause the nuisance to be abated.

(2) The city employee or designee 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.

(3) The administrator shall keep an accurate record of the total cost of abatement which shall include any expenses incurred by the city in investigating and abating the nuisance, including total personnel services, costs, materials, and an additional charge of twenty percent for administrative overhead.

8.08.080 Assessment of Costs.

(1) Notice shall be sent to the owner and the person responsible stating:

(a) The total cost of abatement;

(b) That the total cost of abatement will be assessed against and become a lien on the property unless paid within 30 days from the date of notice of assessment of costs.

8.08.090 Objection to Assessment of Costs.

(1) If the owner or person responsible objects to the total cost of abatement, a notice of objection may be filed with the city recorder not more than ten days from the date of the notice of assessment of costs.

(2) Upon expiration of ten days after the date of the notice of assessment, the council in the regular course of business, shall hear any objections to the notice of assessment of costs. The council may amend the amount to be charged the person responsible for the total cost of abatement for good cause shown in the written notice of objection or at the hearing before the council.

8.08.100 Assessment as Lien Against Property.

(1) If the total cost of abatement, as amended by the city council, is not paid within 30 days from the date of notice of assessment, the council shall assess the total cost of abatement as amended against the real property by resolution and shall enter the assessment resolution in the docket of city liens and record the same in the real property records of Hood River County. From the date of filing the assessment resolution in the real property records of Hood River County, the assessment shall constitute a lien upon the real property from which the nuisance was removed or abated.

(2) Interest shall accrue on the amount of the assessment at the rate of twelve percent per annum from the date the assessment is filed in the real property records of Hood River County.

(3) The lien shall be enforced in the same manner as assessments for public improvements.

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

8.08.110 Summary Abatement. The procedure provided in sections 8.08.040 to 8.08.090 is not exclusive, but is in

addition to any other procedure provided by any other city ordinance or applicable state law. The administrator, chief of police, building official, fire administrative officer, fire chief or their designees may proceed summarily to abate any nuisance which unmistakably exists and from which there is imminent danger to human life or property.

8.08.120 Penalties. Any person who causes to come into or continue in existence a nuisance, shall be guilty of a violation and shall be punished by a fine of not less than \$50.00 and not more than \$500.00.

Read for the first time: May 8, 1989.

Read for the second time: May 22, 1989.

PASSED by the Council of the City of Hood River this 22nd day of May, 1989.

Wanda L. Mathis
Wanda L. Mathis, City Recorder

APPROVED by the Mayor of the City of Hood River this 22nd day of May, 1989.

Kenneth A. Jernstedt
Kenneth Jernstedt, Mayor