

## Athena Ordinance

**ORDINANCE NO. 560**

AN ORDINANCE DEFINING NUISANCES; PROVIDING FOR THEIR ABATEMENT; PROVIDING PENALTIES; AND REPEALING ORDINANCES NO. 221 AND 348.

The City of Athena, Oregon ordains as follows:

**Section 1. Definitions**

- (1) **Person**. A natural person, firm, partnership, association or corporation.
- (2) **Person in Charge of Property**. An agent, occupant, lessee, contract purchaser or other person having possession or control of property or the supervision of any construction project.
- (3) **Person Responsible**. The person responsible for abating a nuisance shall include:
  - (a) The owner;
  - (b) The person in charge of property, as defined in Subsection (2); and
  - (c) The person who caused to come into or continue in existence a nuisance as defined in this ordinance or another ordinance of this city.
- (4) **Public Place**. A building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.

**Animals**

**Section 2. Dangerous Animals**. No owner or person in charge of an animal shall permit an animal, which is dangerous to the public health or safety to be exposed in public. If the animal is exposed in public, it may be taken into custody by the city and disposed of in accordance with the procedure provided by ordinance for the impoundment of dogs; except that before the animal is released by the city, the municipal judge must find that proper precaution will be taken to insure the public health and safety.

**Section 3. Animals at Large**. No owner or person in charge of an animal shall permit the animal to be at large. Animals at large may be taken into custody by the city and disposed of in accordance with the procedures provided by ordinance for the impoundment of dogs.

(Sections 4 to 10 reserved for expansion.)

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**Nuisance Affecting Public Health**

**Section 11. Nuisance Affecting the Public Health.** No person shall cause or permit on property owned or controlled by him a nuisance affecting the public health. The following are nuisances affecting the public health and may be abated as provided in this ordinance.

- (1) **Privy.** An open vault or privy constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the Oregon State Board of Health regulations.
- (2) **Debris.** Accumulations of debris, rubbish, manure and other refuse that are not removed within reasonable time and that affect the health or the city.
- (3) **Stagnant Water.** Stagnant water, which affords a breeding place for mosquitoes and other insect pests.
- (4) **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.
- (5) **Food.** Decayed or unwholesome food which is offered for human consumption.
- (6) **Odor.** Premises which are in such a state or condition as to cause an offensive odor, or which are in an unsanitary condition.
- (7) **Surface Drainage.** Drainage of liquid wastes from private premises.
- (8) **Cesspools.** Cesspools or septic tanks which are in an unsanitary condition or which cause offensive odor.
- (9) **Slaughterhouses, etc.** Slaughterhouses, tanneries or pigsties.

(Sections 12 to 15 reserved for expansion.)

**Nuisances Affecting Public Safety****Section 16. Attractive Nuisances.**

- (1) No owner or person in charge of property shall permit thereon:
  - (a) Unguarded machinery, equipment or other devices which are attractive, dangerous and accessible to children.
  - (b) Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.
  - (c) An open pit, quarry, cistern or other excavation without safeguards or barriers to prevent such places from being used by children.

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- (2) This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

**Section 17: 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 of longer than the first four hours of daylight after the snow has fallen.
- (2) Ice to remain on the sidewalk for more than four hours of daylight after the ice has formed unless the ice is covered with sand, ashes or other suitable material to assure safe travel.

**Section 18. Noxious Vegetation.** No owner or person in charge of property shall permit weeds or other noxious vegetation to grow upon his 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.

### Nuisances Affecting Public Safety

**Section 19. 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.

**Section 20. Goods on Sidewalks.** No person shall deposit or leave upon sidewalk any goods, wares, merchandise, boxes, crates, cartons, or any other obstruction for an unnecessary, unusual or unreasonable period of time which hinders, obstructs or limits the ordinary use and purpose of sidewalks for the benefit of pedestrians. Parking vehicles or other equipment on sidewalks is not allowed.

**Section 21. Trees.**

- (1) 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

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height of not less than eight feet above the sidewalk and not less than 10 feet above the roadway.

- (2) No owner or person in charge of property shall allow to stand a dead or decaying tree that is a hazard to the public or to persons or property on or near the property.

**Section 22. Fences.**

- (1) No owner or person in charge of property shall construct or maintain a barbed-wire fence thereon, or permit barbed-wire to remain as part of a fence along a sidewalk or public way; except such wire may be placed above the top of other fencing not less than six feet, six inches high.
- (2) No owner or person in charge of property shall construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person.

**Section 23. Surface Waters, Drainage.**

- (1) No owner or person in charge of building or structure shall suffer or permit rainwater, ice or snow to fall from the building or structure onto a street or public sidewalk or flow across the sidewalk.
- (2) The owner or person in charge of property shall install and maintain in proper state of 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.

(Sections 24 to 30 reserved for expansion.)

**Nuisances Affecting the Public Peace****Section 31. Radio and Television Interference.**

- (1) No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonable preventable interference with radio or television reception by a radio or television receiver of good engineering design.
- (2) This section does not apply to devices licensed, approved and operated under the rules and regulation of the Federal Communications Commission.

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**Section 32. Notices and Advertisements.**

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

**Section 33. Junk.**

- (1) No person shall keep any junk outdoor 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) The term “junk” as used in this section, includes all old motor vehicles, old motor vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances or parts thereof, old iron or other metal, glass, paper, lumber, wood or other waste or discarded material.
- (3) This section shall not apply to junk kept in duly licensed junkyard or automobile wrecking house.

(Section 34 to 44 reserved for expansion.)

**Unenumerated Nuisances****Section 45. Unenumerated Nuisances.**

- (1) The acts, conditions or objects specifically enumerated and defined in Sections 2 to 44 are declared public nuisances; and such acts, conditions or objects may be abated by any of the procedures set forth in Sections 46 to 50 of this ordinance.
- (2) In addition to the nuisances specifically enumerated within this ordinance, every other thing, substance or act which is determined by the council 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 ordinance.

**Abatement Procedure****Section 46. Notice.**

- (1) Upon determination by the city council or its duly authorized city agent that a nuisance exists, the council or its agent 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.

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- (2) 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.
- (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 direction to abate the nuisance within 10 days from the date of 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 abatement will be charged to the person responsible.
  - (e) A statement that failure to abate a nuisance may warrant of a fine.
  - (f) 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.
- (4) 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.
- (5) 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.

**Section 47. Abatement by the Person Responsible.**

- (1) Within 10 days after the posting and mailing of such notice, as provided in Section 46, 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 recorder a written statement which shall specify the basis for so protesting.
- (3) The statement shall be referred to the city council as part of its regular agenda at its next succeeding meeting. At the time set for consideration of abatement, 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 the determination shall be required only in those cases where a written statement has been filed as provided.

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**Section 48. 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.

**Section 49. Abatement by the City.**

- (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 officer charged with abatement of the nuisance shall have the right at reasonable time to enter into or upon the property to investigate or cause the removal of a nuisance.
- (3) The city recorder shall keep an accurate account of the expense incurred by the city in physically abating the nuisance, and shall charge for administrative overhead.

**Section 50. Assessment of Costs.**

- (1) The city recorder, by registered or certified mail, postage prepaid, shall forward to the person responsible 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 30 days from the date of the notice.
  - (c) That if 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.
- (2) Upon the expiration of 10 days after the date of the notice, the council, in the regular course of business, shall hear and determine the objections to the costs 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 shall thereupon be entered in the docket of city liens; 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 in the same manner as liens for street improvements are enforced, and shall bear an interest rate as set by the fee schedule. The interest shall commence to run from date of the entry of the lien in the lien docket.
- (5) An error in the name of the person responsible 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.

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**Section 51. Summary of Abatement.** The procedure provided by this ordinance is not exclusive, but is in addition to procedure provided by other ordinances; and the health officer, the chief of the fire department, the fire marshal or the chief of police may proceed summarily to abate a health or other nuisance which unmistakably exists, and which imminently endangers human life or property.

**Section 52. Penalties.** A person violating a provision of this ordinance or an order issued under authority of this ordinance shall, upon conviction, be punished by a fine according to the fee schedule passed by resolution.

**Section 53. Separate Violations.**

- (1) Each day's violation of a provision of this ordinance constitutes a separate offense. If a person violates a provision of this ordinance or an order issued under authority of this ordinance shall upon conviction for any subsequent violation of the same or similar act or violation not be relieved of penalty even if the nuisance is abated and said penalty shall be in accordance with Section 52 above.
- (2) The abatement of a nuisance is not a penalty for violating this ordinance, 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 first notice of abatement, or if a written protest has been filed, then abatement within 10 days of the first council determination that a nuisance exists, will relieve the person responsible from the imposition of any fine or imprisonment under Section 52 of this ordinance.

**Section 54. Severability.** The sections and subsections of this ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections and subsections.

**Section 55. Repeal.** Ordinance No. 221, enacted July 7, 1939; Ordinance No. 348, enacted June 11, 1973; and Ordinance 362, enacted August 12, 1974, are repealed.

**Section 56. Saving Clause.** Notwithstanding Section 55, the ordinances mentioned therein remain in force for the purpose of authorizing the arrest, prosecution, conviction and punishment of a person who violated said ordinance prior to the effective date of this ordinance.

Passed by the council and approved by the mayor July 14, 1992.

Passed by the council and approved by the mayor November 17, 2007.