

Garibaldi Ordinances

ORDINANCE NO. 145

AN ORDINANCE DEFINING NUISANCES, PROVIDING FOR THEIR ABATEMENT, PROVIDING FOR A PENALTY AND REPEALING ORDINANCES NO. 10 and 39, AND DELCARING AN EMERGENCY.

The City of Garibaldi does ordain as follows:

Section 1. Definitions. As used in this ordinance, the following definitions apply:

"Person" means and includes any natural person, partnership, association, firm or corporation, and any of its agents or employees.

VIOLATIONS

Section 2. Nuisances. The following conditions are hereby declared to be common and public nuisances and are subject to abatement in the manner provided hereinafter:

- a) Any accumulation of decomposed animal or vegetable matter, garbage, tin cans, ashes, offal, filth, waste or other putrid or unwholesome refuse matter or substance which by itself or in conjunction with any other substance or substances is detrimental to public health or comfort.
- b) Any accumulation of stagnant or impure water.
- c) Any accumulation of wastepaper, hay, grass, straw, weeds, trash, litter or rubbish of any other kind.
- d) Any growth of Russian thistle, Canadian thistle, Chinese thistle, white mustard, cocklebur, foxtail, salal brush, tansy, blackberry vines, ferns, salmonberry, thimbleberry or any other growth of noxious weed, shrubs, vegetation and all grass more than 10 inches in height.
- e) Any brush, bushes, trees, limbs, shrubbery, flowers or other vegetation growth projecting over any street or sidewalk, whether the same be grown for food, fuel, shade or ornamentation; provided, however, that the branches or limbs of such growths may project over any sidewalk or street at an elevation of not less than eight feet above the level of the sidewalk or street surface.
- f) Any accumulation of earth, rock or other debris on any sidewalk, street, alley or parking area.
- g) Any gate which is installed or hung in a manner that it swings into any public street or alley.
- h) Any laundry which is unclean or which is operated in such a manner that it causes the unnecessary annoyance to any of the inhabitants of this city.
- i) Any house, market, meat shop or other place wherein any beef, sheep, fowl, fish or other animals are kept or sold, which is unclean, which is in a state or condition detrimental to the public health or which is operated in such a manner that it causes unnecessary annoyance to any of the inhabitants of this city.
- j) Any stable, stall, shed, apartment, yard or appurtenance thereof wherein any horse, cow or other animal is kept, or any place in which manure or liquid discharge of such animals collects or accumulates, which is not kept in a clean and wholesome condition or from which an offensive smell escapes.
- k) Any drain, ditch, gutter or storage tank which is unclean, stinking, foul, defective or filthy; or any slop, garbage or manure box or similar receptacle which is leaking or broken.
- l) Any vegetable waste, litter, garbage, filth or refuse of any nature, kind or description which is detrimental to the public health, excepting that

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which is temporarily deposited for removal.

m) Any horse, cow, dog, cat or other animal which is dead and the carcass of which has not been removed from the limits of this city within six hours after the death of such animal.

n) Any heating, cooling or ventilating apparatus which is maintained in such a condition that the operation thereof creates a sound or noise level which interferes with the peace and tranquility of adjoining neighbors.

o) Any other condition, not specified above, which is detrimental to the public health or which damages or injures any of the inhabitants of this city.

Section 3. Violation. No person who is the owner, manager, tenant, occupant or person in control of any premises or property shall cause, suffer or permit the existence of any such nuisance upon such premises or property or upon any sidewalk, street, alley or parking area abutting thereon.

Section 4. Responsibility for Nuisance. Where a nuisance exists upon premises or property and when such nuisance arises from the usual, natural or necessary use of such premises or property, the owner, his or her agent and any other person having control of such premises or property, shall be deemed to be the author thereof and shall be deemed equally liable therefor; but when such a nuisance arises from the unusual or unnecessary use of such property or from a business conducted thereon, the occupants and any other persons contributing to the continuance of such nuisance shall be deemed the authors thereof and shall be liable therefor.

INVESTIGATION AND ABATEMENT

Section 5. Investigation. The Chief of Police or the committee on health of the City Council shall ascertain and cause all nuisances described in Section 2 of this ordinance to be abated; and they shall have authority in the daytime to enter any building or structure in order to make a thorough examination of cellars, sinks, vaults or drains, to enter upon any other premises or property and cause all stagnant water to be drained off, cleaned, filled or otherwise purified, and to cause all other noisome substances or conditions to be removed or abated.

Section 6. Notice of Nuisance. After being made aware that any nuisance exists, the City Recorder shall cause a written notice to be served personally on the owner, tenant, occupant or other person having control of the premises or property in or upon which such nuisance may be found, or upon such other person who is the author thereof, requiring the abatement of such nuisance within a reasonable time. In case no person can be located for service of such notice, such notice shall be served by mailing a copy thereof to the owner of such premises or property at the address listed with the Tax Collector for Tillamook County, Oregon and by posting a copy thereof in some conspicuous place upon such premises or property. A copy of such notice shall be retained by the City Recorder together with an Affidavit which states the manner by which such notice was served. The failure to serve the notice as provided herein shall not relieve the author of any nuisance of the penalties provided by Section 9 of this ordinance.

Section 7. Summary Abatement. In case of the failure, neglect or refusal to comply with the requirements of a served notice within the time specified, the Chief of Police summarily shall abate or procure the abatement thereof by entering upon such premises or property and removing, cleaning, filling,

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draining or purifying same, or causing such work to done, as the case may be. Upon the completion of such work, the Chief of Police shall file with the City Recorder an itemized statement of the costs incurred in abating such nuisance.

ASSESSMENTS AND PENALTIES

Section 8. Assessment of Costs. In addition to any fine which may be imposed for a violation of this ordinance, the costs for summarily abating a nuisance, as documented by the statement of the Chief of Police, shall be assessed against the author of the nuisance and such assessment shall be entered as a lien against the affected premises or property on the lien docket of the City of Garibaldi, Oregon.

Section 9. Penalties. Any person who violates a provision of this ordinance shall be guilty of a violation for which a fine of \$20.00 shall be imposed for the first offense and for which a fine of not less than \$20.00 nor more than \$250.00 may be imposed for each subsequent offense. Each day on which such violation occurs or continues shall constitute a separate offense.


MISCELLANEOUS

Section 10. Saving Provision. If any section, sentence, clause, phrase or other part of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining part hereof.

Section 11. Repealed Ordinances. Ordinances No. 10 and 39 are hereby repealed and any other ordinance or resolution which is inconsistent with this ordinance is hereby repealed to the extent of such inconsistency.

Section 12. Emergency Clause. Whereas, the peace, health and safety of the people of the City of Garibaldi is involved; therefore, an emergency is declared to exist and this ordinance shall be in full force and effect immediately upon its adoption by the City Council and approval by the Mayor.

PASSED AND ADOPTED by the City Council and APPROVED by the Mayor on this 23rd day of February, 1987.


DENNIS WELCH Mayor

ATTEST:


SAUNDRA JONES City Recorder