

Chapter 9.48

NUISANCES

Sections:

**ARTICLE I. PUBLIC NUISANCES**

- 9.48.010 Defined.
- 9.48.020 Maintaining or permitting.
- 9.48.030 Abatement--Criminal proceedings.
- 9.48.040 Abatement--Civil proceedings.

**ARTICLE II. SPECIFIC NUISANCES**

- 9.48.050 Specific acts declared nuisances.

**ARTICLE III. WEEDS AND GROWTH**

- 9.48.060 Public nuisance declared.
- 9.48.070 Abatement--Notice.
- 9.48.080 Abatement--Liability of cost.
- 9.48.090 Nonexclusive remedy.

ARTICLE I. PUBLIC NUISANCES

**9.48.010** **Defined.** A public nuisance is a crime against the order of the city and every act unlawfully done and every omission to perform a duty is a public nuisance, which act or omission:

- A. Annoys, injures or endangers the safety, health, comfort or repose of any considerable number of persons.
- B. Offends public decency.
- C. Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, a public park, street, alley, highway, or other public area.
- D. In any way renders a considerable number of persons insecure in life or the use of property. (Ord. 325, 1978.)

**9.48.020** **Maintaining or permitting.** It is unlawful for any person to create, permit, maintain or allow a public nuisance upon any premises which they own or otherwise control. It is likewise unlawful for any person to willfully omit or refuse to perform any legal duty relating to the removal of such nuisance. Every person convicted of a violation of the provisions of this section shall be guilty of maintaining or permitting a public nuisance, a misdemeanor. (Ord. 325, 1978.)

**9.48.030** **Abatement--Criminal proceedings.** When judgment is rendered against any person, finding that person guilty of creating, permitting, maintaining or allowing a public nuisance, the court may, upon application of the city attorney, suspend or defer the imposition of any fine or jail sentence, or any part thereof, on the condition that the defendant or defendants in such action forthwith abate and

remove such nuisance. Failure to comply with the order of the court, within the time frame ordered, shall be grounds for revoking all or any part of the sentence so suspended or deferred. (Ord. 325, 1978.)

**9.48.040 Abatement--Civil proceedings.** The city, at its election, may bring an action of abatement in superior court without first bringing criminal proceedings for any violation of this chapter. Action taken pursuant to this section shall not prevent nor bar the city from bringing criminal proceedings subsequent to the filing of an abatement action. (Ord. 325, 1978.).

## ARTICLE II. SPECIFIC NUISANCES

**9.48.050 Specific acts declared nuisances.** In addition to the general definition provided in Section 9.48.010, the following things, places and acts are declared to be public nuisances. It is unlawful for any person to create, permit or allow such nuisance or to willfully omit or refuse to perform any legal duty relating to the removal of such nuisance. Every person convicted of a violation of the provisions of this section shall likewise be guilty of maintaining or permitting a public nuisance, a misdemeanor:

- A. Throwing, depositing, disposing or causing to be disposed of in any street or other public place within the city any garbage, waste, refuse, litter, debris or other offensive material, unless the disposal of such items in such place is specifically authorized by law.
- B. Causing or allowing garbage, waste, refuse, litter, debris or other offensive material to collect, be deposited or to remain in any place in the city to the annoyance of any person, unless otherwise permitted by law.
- C. Erecting, continuing or using any building, room, or other place in the city for the exercise of any trade, employment or manufacture which, by occasioning noxious exhalations, offensive odors or other annoyances, annoys, injures or is offensive or detrimental to the health of individuals or of the public.
- D. Making or causing to be made by means of any mechanical device, or otherwise, any unnecessary noise of any kind which causes annoyance to other people.
- E. Burning of refuse or other material in such a manner as to cause or permit the smoke, ashes, soot, or gases arising from such burning to become discomforting or annoying to other people or to injure or endanger property, or to injure or endanger the health of any person.
- F. Any building, house, room or other structure kept, maintained or used for the purpose of prostitution.
- G. Any pit, basin, hole or other excavation which is unguarded and dangerous to life, or has been abandoned, or is no longer used for the purpose which it was constructed, or is maintained contrary to law.
- H. Any obstruction to a street or other public way which is done or made without lawful permission, or which, having been done or made by lawful permission, is kept and maintained after the purpose thereof has been accomplished, and for

an unreasonable length of time, or permitting any tree, bush, vine or other vegetation to extend into the public right-of-way, pathway, sidewalk, alleys or other access to or at any height of less than fourteen (14) feet from grade level and less than five (5) feet behind the curb and gutter.

- I. The keeping and harboring of any animal which, by frequent or habitual odor or noise making annoys or disturbs other people.
- J. Erecting, maintaining, using, placing, depositing, leaving or permitting to be or remain in or upon any private lot, building, structure or premises, or in or upon any street, alley, sidewalk, park, parkway or other public or private place in the city, any one or more of the following conditions or things:
  - 1. Filthy, littered or trash covered dwellings, yards, vacant lots or other premises.
  - 2. Bottles, cans, glass, ashes, pieces of scrap iron, wire, metal articles, broken stone or cement, and all trash, or abandoned material, unless they are kept in covered bins or receptacles.
  - 3. Trash, litter, rags, accumulations of empty barrels, boxes, crates, packing cases or other pack-material, lumber which is not neatly piled, scrap iron or other metal which is not neatly piled, or anything whatsoever in which rodents or insects may breed or multiply, or which may be a fire hazard.
- K. Erecting, maintaining, using, placing, or permitting to be used any electric fence within the city limits except within agriculturally zoned areas.
- L. The pollution of any public well or cistern, stream, lake, canal or body of water, by untreated sewage, creamery or industrial wastes or other substances.
- M. All use or display of fireworks, except in accordance with the provisions of the Uniform Fire Code as adopted by the city.
- N. Erecting, maintaining, using, placing, leaving, or permitting to be used or remain in place within three feet of any public sidewalk, barbed wire fence.
- O. Any other item or thing, of any nature, falling within the definition of the term "public nuisance" as that term is defined in Section 9.48.010. (Ord. 915, Dec. 2012; Ord. 726, April, 2001; Ord. 325, 1978.)

### ARTICLE III. WEEDS AND GROWTH

**9.48.060** **Public nuisance declared.** Weeds, wastes, shrubs and other nuisance growth higher than twelve inches are declared to be a public nuisance and are further declared to be a hazard and menace to the public health, safety and welfare. (Ord. 325, 1978.)

**9.48.070** **Abatement--Notice.** If such a nuisance is found to exist, the city shall forthwith notify the owner, in writing, to immediately cut down the growth as close to the ground as can practicably be done and to keep the growth cut thereon in a like manner. In the event the owner of the lot or parcel is a nonresident of the city, or cannot be found in the city then notice shall be given by certified mail to the last known address of the owner, and if that address is not known or cannot be

obtained, then, by posting the notice on the property itself. The notice shall extend to the owner ten days from the date of the notice to vacate the nuisance. (Ord. 325, 1978.)

**9.48.080** **Abatement--Liability of cost.** If the owner fails to abate the nuisance within the allotted period of time, the city may abate the same and the owner shall be responsible for the cost of the abatement including an administrative charge of twenty-five dollars. If the owner fails to pay the charge immediately, or if no charge is tendered because the owner cannot be found, the city may file a lien therefor against the property, which lien shall be in the same form, filed with the same officer and within the same time and manner and enforced and foreclosed as is provided by the laws of the state for liens for labor and material. (Ord. 325, 1978.)

**9.48.090** **Nonexclusive remedy.** Nothing contained in this chapter shall prevent the city from proceeding against the owner of such premises under criminal provisions which prohibit maintaining or permitting a public nuisance, the provisions of this chapter being supplemental and not an exclusive remedy. (Ord. 325, 1978.)