

Title 8

HEALTH AND SAFETY

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Chapter 8.04

NUISANCES

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## Article I. General Provisions

### 8.04.010 Definitions.

As used in this chapter:

“Inoperable motor vehicle” or “abandoned motor vehicle” means a motor vehicle, including a recreational vehicle, which:

1. Has been left on a street, alley or public right-of-way for a period of more than seventy-two (72) hours or on a specific parcel of public or private property for more than thirty (30) days; and
2. Has broken or missing windows or windshield; or one or more missing wheels; or one or more missing tires; or lacks a transmission or engine; or the transmission or engine will not run; or
3. Is not currently registered or licensed for the current year; constitutes a presumption that the vehicle is inoperable.

“Junk” means any object or material which is manufactured or man-made, whether of artificial materials or natural materials, which has been abandoned or discarded, or which is inoperable; or which is useless to serve its intended purpose in its current condition; or which is being kept or stored to serve some useful purpose in the future. Junk includes, but is not limited to, one of the following classifications:

1. Inoperable household appliances, including, but not limited to, washers, dryers, refrigerators, dishwashers, water heaters, stoves, and similar items, or parts thereof;
2. Used household furniture, including, but not limited to, sofas, beds, chairs, tables, mattresses, and similar items, or parts thereof;
3. Used/machinery or motor vehicle parts, including, but not limited to, motors, tires, wheels, chassis and similar items, or parts thereof;
4. Used building materials, including, but not limited to, lumber, stone, brick, plywood, wire, glass, metal, plumbing fixtures, lighting fixtures, heating fixtures, and similar items, or parts thereof;
5. Discarded, useless or abandoned vehicles or recreation equipment, or parts thereof;
6. Temporary storage structures which are not securely anchored to the ground, or have broken or structurally unsound supports or roof members, or have unsecured, ripped, broken or unsafe canvas or metal siding or roofing materials.

“Person” means a natural person, firm, partnership, association or corporation.

“Person in charge of property” means an agent, occupant, lessee, contract purchaser or other person having possession or control of property or supervision of a construction project.

Person Responsible. The “person responsible” for abating a nuisance includes:

1. The owner;
2. The person in charge of property, as defined in this section;

3. The person who caused a nuisance, as defined in this chapter or another ordinance of the city, to come into or continue in existence.

“Public place” means a building, way, place or accommodation, publicly or privately owned, open and available to the general public.

“Solid waste” means all decayable or non-decayable wastes, whether in solid or in liquid form, including, but not limited to: garbage, rubbish, ashes, sewage sludge, street refuse, industrial wastes, swill, demolition and construction wastes, manure, vegetable or animal solid or semi-solid wastes, silage, dead animals, and other discarded solid materials. (Ord. 339 § 8, 2006; Ord. 317 § 1, 2004; Ord. 195 § 1, 1985)

## Article II. Animals

### 8.04.020 Removal of carcasses.

No person shall permit an animal carcass owned or controlled by him or her to remain upon public property, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of the carcass. (Ord. 195 § 2, 1985)

### 8.04.030 Animals at large.

Except for household pets, other than dogs, 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 and disposed of in accordance with the procedures provided by the city for the impoundment of dogs. (Ord. 195 § 3, 1985)

## Article III. Nuisances Affecting Public Health and Safety

### 8.04.040 Nuisances affecting public health.

No person shall cause or permit a nuisance affecting public health on property owned or controlled by him or her. The following are nuisances affecting public health and may be abated as provided in this chapter:

A. Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with State Health Division regulations;

B. Accumulations of solid waste, debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health, safety or welfare of the city;

C. Stagnant water that affords a breeding place for mosquitoes and other insect pests;

D. 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;

E. Decayed or unwholesome food offered for human consumption.

F. Premises that are in such a state or condition as to cause an offensive odor or that are in an unsanitary condition;

G. Drainage of liquid wastes from private premises;

H. Cesspools or septic tanks that are in an unsanitary condition or that cause an offensive odor;

I. Mastics, oil, grease or petroleum products allowed to be introduced into the sewer system by a user connected to the sewer system. (Ord. 317 § 2, 2004: Ord. 195 § 11, 1985)

8.04.050 Creating a hazard.

No person shall create a hazard by:

A. Maintaining or leaving, in a place accessible to children, a container with a compartment of more than one and one-half cubic feet capacity and a door or lid that locks or fastens automatically when closed and that cannot be easily opened from the inside.

B. Being the owner or otherwise having possession of property on which there is a well, cistern, cesspool, excavation, or other hole of a depth of four feet or more, and a top width of twelve (12) inches or more and failing to cover or fence it with a suitable protective construction. (Ord. 195 § 15, 1985)

8.04.060 Attractive nuisances.

A. No owner or person in charge of property shall permit on the property:

1. Unguarded machinery, equipment or other devices that are attractive, dangerous and accessible to children;

2. Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.

B. This section does not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children. (Ord. 195 § 16, 1985)

8.04.070 Defective sidewalks--Snow and ice.

A. 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 longer than the first two hours of daylight after the snow has fallen;

2. Ice to remain on the sidewalk for more than two hours of daylight after the ice has formed, unless the ice is covered with sand, ashes or other suitable material to assure safe travel.

B. No owner of property, improved or unimproved, abutting on a public sidewalk, shall permit the sidewalk to deteriorate to such a condition that, because of cracks, chipping, weeds, settling, covering by dirt, or other similar occurrences, the sidewalk becomes a hazard to persons using it.

C. The city shall not be liable to any person for loss or injury to a person or property suffered or sustained by reason of any accident on sidewalks caused by ice, snow, encumbrances, obstructions, cracks, chipping, weeds, settling, holes covered by dirt or other similar conditions. Abutting property owners shall maintain sidewalks free from such conditions and are liable for any and all injuries to persons or property arising as a result of their failure to so maintain the sidewalks. (Ord. 195 § 17, 1985)

8.04.080 Noxious vegetation.

A. The term “noxious vegetation” does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard or a fire or traffic hazard within the meaning of subsection B of this section.

B. The term “noxious vegetation” does include, at any time between May 15th and September 30th of any year:

1. Weeds more than ten (10) inches high;
2. Grass more than ten (10) inches high and not within the exception stated in subsection A of this section;
3. Poison oak;
4. Poison ivy;
5. Blackberry bushes that extend into a public thoroughfare or across a property line;
6. Vegetation that is:
  - a. A health hazard;
  - b. A fire hazard because it is near other combustibles;
  - c. A traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous.

C. Between May 15th and September 30th of any year, no owner or person in charge of property shall allow noxious vegetation to be on the property or in the right-of-way or public thoroughfare abutting on the property. An owner or person in charge of property shall cut down or destroy 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.

D. Between April 1st and May 15th of each year, the city recorder may cause to be published three times in a newspaper of general circulation in the city a copy of subsection C of this section as a notice to all owners and persons in charge of property of the duty to keep their property free from noxious vegetation. The notice shall state that the city is willing to abate the nuisance on a particular parcel of the property at the request of the owner or person in charge of the property for a fee sufficient to cover the city’s abatement costs. The notice shall also state that, even in the absence of such requests, the city may abate all such nuisances ten (10) or more days after the final publication of the notice and charge the cost of doing so on a particular parcel of property to the owner or the person in charge of the property, or the property itself.

E. If the notice provided for in subsection D of this section is used, it shall be in lieu of the notice required by Section 8.04.160 of this chapter. (Ord. 282 § 1, 2001; Ord. 195 § 18, 1985)

#### 8.04.090 Scattering rubbish.

No person shall throw, dump, store or deposit, on public or private property, 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 on a public way. (Ord. 317 § 3, 2004; Ord. 195 § 19, 1985)

#### 8.04.100 Trees.

A. No owner or person in charge of property that abuts on a street or public sidewalk shall permit trees or bushes on the property to interfere with street or sidewalk traffic. An owner or person in

charge of property that abuts on a street or public sidewalk shall keep all trees and bushes on the premises, including the adjoining parking strip, trimmed to a height of not less than eight feet above the sidewalk and not less than ten (10) feet above the roadway.

B. No owner or person in charge of property shall allow a dead or decaying tree to stand if it is a hazard to the public or to persons or property on or near the property. (Ord. 195 § 20, 1985)

#### 8.04.110 Fences.

A. No owner or person in charge of property shall construct or maintain a barbed-wire fence, 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.

B. 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.

C. Notwithstanding the prohibition against electric fences set forth in subsection B of this section, an owner or person in charge of property may, after obtaining a permit from the city, construct, operate and maintain an electric fence.

1. Upon proper application, the city may allow the construction, operation and maintenance of an electric fence along a sidewalk, public way or along the adjoining property line of another person;

2. In determining if it is appropriate to grant a permit herein the city shall apply the following criteria:

a. The applicant's purpose in constructing and maintaining the fence must be for the restraint of livestock within the bounds of the fence;

b. The charging unit of the fence must be purchased later than January 1, 1994 and shall be limited to no more than nine thousand six hundred (9,600) volts direct current;

c. The fence must be posted every fifty (50) feet with an appropriate sign warning that the fence is electrified;

d. No more than two electrically charged strands shall be allowed on the fence. The strands must be placed in a manner to minimize the danger to persons of accidental contact with the fence;

e. If the property fenced is not used for the restraint of livestock for more than thirty (30) days the owner or person in charge of the property shall disconnect the charging unit from the fence. If the property is not used for the restraint of livestock for a period of one year the charging unit and strands, if any, shall be removed;

3. Prior to acting on the application notice must be given to all property owners within two hundred fifty (250) feet of the proposed electric fence. The notice must be given at least ten (10) days prior to the council meeting that the application is being heard;

4. It shall be the applicant's burden to establish that the criteria set forth in subsection (C)(2) of this section is met;

5. The permit may be revoked by the city immediately upon determining the fence is a hazard to the health, safety or welfare of the general public;

6. The city may, by resolution, establish a fee for the permit. The fee shall include administrative costs incurred by the city and all costs incurred by the city to notify the surrounding landowners. (Ord. 260 § 1, 1995; Ord. 195 § 21, 1985)

8.04.120 Surface waters--Drainage.

A. No owner or person in charge of a building or structure shall permit rainwater, ice or snow to fall from the building or structure onto a street or public sidewalk or to flow across the sidewalk.

B. The owner or person in charge of property shall install, and maintain in a proper state of repair, adequate drainpipes or a drainage system, so that overflow water accumulating on the roof or about the building is not carried across or on the sidewalk. (Ord. 195 § 22, 1985)

Article IV. Nuisances Affecting Public Peace--Additional Nuisances

8.04.130 Radio and television interference.

A. No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.

B. This section does not apply to devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission. (Ord. 195 § 31, 1985)

8.04.140 Junk.

A. No person shall keep junk outdoors on a street, lot, or premises or in a building that is not wholly or entirely enclosed except for doors used for ingress and egress.

B. This section does not apply to junk kept in a junkyard or automobile wrecking yard in a location, which has been zoned for that purpose and which has been approved by the city in accordance with established zoning procedures. (Ord. 317 § 4, 2004; Ord. 195 § 32, 1985)

8.04.145 Inoperable motor vehicle.

A. No owner or person in charge of property shall store or permit the storing of an inoperable vehicle and/or abandoned vehicle upon a specific parcel or parcels of public or private property within the city, unless: (1) the vehicle is stored as a part of a commercial business operation that has been approved by the city, or (2) the vehicle is stored wholly or entirely within an enclosed building.

B. The parking of inoperable vehicles, machinery, equipment or similar objects for a time period in excess of seventy-two (72) hours on the right-of-way of any street, alley, public right-of-way or other publicly owned property within the city shall not be permitted. (Ord. 317 § 5, 2004)

8.04.150 Additional nuisances.

A. The acts, conditions or objects specifically enumerated and defined in this chapter are declared public nuisances and may be abated by the procedures set forth in Article V of this chapter.

B. In addition to the nuisances specifically enumerated in this chapter, every other thing, substance or act that 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 chapter. (Ord. 195 § 45, 1985)

8.04.155 Unnecessary noise.

No person shall create or assist in creating or permit the continuance of unreasonable noise in the city. The following enumeration of violations of this section is not exclusive but is illustrative of some unreasonable noises:

A. Keeping an animal that, by loud and frequent or continued noise, disturbs the comfort and repose of a person in the vicinity.

B. Using an engine, thing or device that is so loaded, out of repair or operated in such a manner as to create a loud or unnecessary grating, grinding, rattling or other noise.

C. Using a mechanical device operated by compressed air, steam or otherwise, unless the noise created by it is effectively muffled.

D. Construction, excavation, demolition, alteration or repair of a building between the hours of 8:00 p.m. and 7:00 a.m., except by special permit granted by the city.

E. Using or operating an automatic or electric piano, phonograph, loudspeaker or sound-amplifying device so loudly that it disturbs persons in its vicinity, or in a manner that makes it a public nuisance. (Ord. 307 § 2, 2002; Ord. 196 § 4, 1985)

#### Article V. Abatement Procedure--Violation--Penalty

##### 8.04.160 Notice.

A. On determination by the council that a nuisance exists, the council 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.

B. At the time of posting, the city recorder shall cause a copy of the notice to be forwarded by registered or certified mail to the person responsible at the person's last known address.

C. The notice to abate shall contain:

1. A description of the real property, by street address or otherwise, on which the nuisance exists;
2. A direction to abate the nuisance within ten (10) days from the date of the notice;
3. A description of the nuisance;
4. 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;
5. A statement that failure to abate a nuisance may warrant imposition of a fine or jail sentence;
6. A statement that the person responsible may protest the order to abate by giving notice to the city recorder within ten (10) days from the date of the notice.

D. 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 on the property.

E. 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.

F. 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. (Ord. 195 § 46, 1985)

##### 8.04.170 Abatement by person responsible.

A. Within ten (10) days after the posting and mailing of notice as provided in Section 8.04.160, the person responsible shall remove the nuisance or show that no nuisance exists.

B. A person responsible, protesting that no nuisance exists, shall file a written statement that specifies the basis for the protest with the city recorder.

C. The statement shall be referred to the council as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the council. The council shall determine whether a nuisance in fact exists, and the determination shall be entered in the official minutes of the council. Council determination shall be required only in cases where a written statement has been filed as provided.

D. If the council determines that a nuisance in fact exists, the person responsible shall abate the nuisance within ten (10) days after the council determination. (Ord. 195 § 47, 1985)

#### 8.04.180 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. (Ord. 195 § 48, 1985)

#### 8.04.190 Abatement by the city.

A. If the nuisance has not been abated by the person responsible within the time allowed, the council may cause the nuisance to be abated.

B. The officer charged with abatement of the nuisance shall have the right to enter into or upon property at reasonable times to investigate or cause the removal of a nuisance.

C. The city recorder shall keep an accurate record of the expense incurred by the city in physically abating the nuisance and shall include a charge of twenty (20) percent of those expenses for administrative costs. (Ord. 195 § 49, 1985)

#### 8.04.200 Assessment of costs.

A. The city recorder shall forward to the owner and the person responsible, by registered or certified mail, a notice stating:

1. The total cost of abatement, including the administrative costs;
2. That the costs as indicated will be assessed to and become a lien against the property unless paid within thirty (30) days from the date of the notice;
3. That if the owner or the person responsible objects to the cost of the abatement as indicated, a notice of objection may be filed with the city recorder not more than ten (10) days from the date of the notice.

B. No sooner than thirty (30) days after the date of the notice, the council, in the regular course of business, shall hear and make a decision on the objections to the costs assessed.

C. If the costs of the abatement are not paid within thirty (30) days from the date of the notice, an assessment of the costs, as stated or as decided by the council, shall be made by resolution and shall be entered in the docket of city liens. When the entry is made, it shall constitute a lien on the property from which the nuisance was removed or abated.

D. The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of ten (10) percent per year. The interest shall begin to run from the date of entry of the lien in the lien docket.

E. An error in the name of the owner or the person responsible or a failure to receive the notice of the proposed assessment will not void the assessment, and it shall remain a valid lien against the property. (Ord. 195 § 50, 1985)

#### 8.04.210 Summary abatement.

The procedure provided by this chapter is not exclusive, but is in addition to procedure provided by other ordinances. The chief of the fire department, a law enforcement officer, or any other city official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property. (Ord. 195 § 51, 1985)

#### 8.04.220 Violation--Penalty.

A. Penalty. A violation of a provision of this chapter is punishable by a fine not to exceed five hundred dollars (\$500.00), or by imprisonment not to exceed ten (10) days, or by both.

##### B. 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 violating this chapter, 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 ten (10) days of the date of notice to abate, or if a written protest has been filed, then abatement within ten (10) days of council determination that a nuisance exists, will relieve the person responsible from the imposition of a penalty under this section. (Ord. 195 §§ 52, 53, 1985)

## Chapter 8.08

### ANTI-GRAFFITI CODE

#### Sections:

- 8.08.010 Definitions.
- 8.08.020 Graffiti prohibited.
- 8.08.030 Possession of graffiti implement prohibited.
- 8.08.040 Violation of chapter.
- 8.08.050 Graffiti removal required.
- 8.08.060 Notice to remove graffiti.
- 8.08.070 City abatement.
- 8.08.080 Penalty.
- 8.08.090 Community service.
- 8.08.100 Parental responsibility.
- 8.08.110 Parental civil liability.

8.08.120 Seizure impoundment.

8.08.010 Definitions.

As used in this chapter:

“Abate” means to remove the graffiti by such means, in such manner and to such an extent as the Linn County sheriff, including the authorized representatives and deputies of the sheriff of Linn County and/or the city administrator, reasonably determines is necessary to remove the graffiti from public view.

“Graffiti” means any inscription, word, figure, design, painting, writing, drawing or carving that is marked, etched, scratched, drawn, painted, or otherwise applied to property without the prior authorization of the owner of the property regardless of the graffiti content, or nature of the material used in the commission of the act, or the material of the property.

“Graffiti implement” means any aerosol paint container, brush, felt-tip marker, etching device, carving tool, or graffiti stick.

“Graffiti nuisance property” means property to which graffiti has been applied, if the graffiti is visible from any public right-of-way, from any other public or private property or from any premises open to the public, and if the graffiti has not been abated within the time frame provided by this chapter.

“Premises open to the public” means all public spaces, including, but not limited to streets, alleys, sidewalks, parks, and public open space, as well as private property on to which the public is regularly invited or permitted to enter for any purpose.

“Property” means any real property or personal property and that which is affixed incident or appurtenant to real property, including, but not limited to any premise, house, building, tree, rock, fence, structure or separate part thereof, whether permanent or not.

“Responsible party” means an owner, or an entity or person acting as an agent for owner by agreement, who has authority over the property or is responsible for the property’s maintenance or management, irrespective of any arrangement to the contrary with any other party for the purposes of this chapter. There may be more than one responsible party for a particular property. (Ord. 334 § 1 (part), 2005)

8.08.020 Graffiti prohibited.

It is declared to be a nuisance and to be unlawful for any person to place or put, by any means, any drawing, inscription, figure, symbol, mark of any type, or any commonly known graffiti on any public or private property without the permission of the owner of the premises on which the surface is located, or upon any natural surfaces, such as rocks or trees, or any other surface whatsoever. It is unlawful for any person to solicit or command another person to apply graffiti. It is unlawful to any person to aid or abet another person to plan to or apply graffiti. (Ord. 334 § 1 (part), 2005)

8.08.030 Possession of graffiti implement prohibited.

No person may possess, with the intent to unlawfully apply graffiti on any real or personal property of another, any graffiti implement. Unlawfully possessing a graffiti implement is a violation. (Ord. 334 § 1 (part), 2005)

8.08.040 Violation of chapter.

A. Any property located in the city of Mill City that becomes a graffiti nuisance property is in violation of this chapter and is subject to its remedies.

B. Every responsible party who permits a property to become a graffiti nuisance property is in violation of this chapter and subject to its remedies.

C. Any person who applies graffiti or who aids, abets, or agrees to aid or abet another person to apply graffiti is in violation of this chapter and subject to its remedies. (Ord. 334 § 1 (part), 2005)

8.08.050 Graffiti removal required.

Any person found to be in violation of Section 8.08.020 of this chapter shall be required to remove or cause to be removed the graffiti from the surface on which it was placed. In as much as it is often not possible to determine the identity of the person who applied the graffiti, it shall be the duty of the owner or person in control of the premises on which the graffiti has been applied to promptly remove the graffiti after notice is hereinafter set forth. If, after notice as hereinafter provided, the graffiti nuisance is not abated, the city shall proceed to abate the graffiti nuisance and the costs of the abatement shall be assessed against the property. (Ord. 334 § 1 (part), 2005)

8.08.060 Notice to remove graffiti.

A. Whenever the city administrator, or his or her designated representative, or the Linn County sheriff, or his or her designated representative, discovers graffiti on any public or private property or any surfaces visible to persons utilizing public rights-of-way within the city, he or she shall cause a notice to be issued to the owner or person in control of the premises to abate the nuisance and remove the graffiti or cover it with paint or other suitable substance.

B. Such notice shall be served upon the owner(s) of the affected premises, as shown on the property tax assessment rolls of Linn County, Oregon or Marion County, Oregon, with a copy to the occupant of the premises. If there is no known address for the owner, the notice shall be served at the property address. Service of the notice may be accomplished through personal service on the owner, occupant, or person in charge or control of the property or by certified mail.

C. Notice shall be in writing and shall clearly state that the owner or person in charge or control of the property is required by this chapter to remove from public view or paint over the graffiti within fifteen (15) days of receipt of the notice; that failure to so abate the graffiti will cause the city to abate the nuisance and to assess the costs to the property owner; that if the costs of the abatement are not paid within thirty (30) days of the date the billing is sent, an assessments of costs as stated or as determined by the city council shall be made by resolution and 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. The owner or person served may within ten (10) days of receipt of the notice, deliver in writing to the city administrator his/her objections to the removal requirement and request a hearing before the city council. (Ord. 334 § 1 (part), 2005)

8.08.070 City abatement.

Nuisances which remain unabated after notice, may, at the option of the city, be removed, abated or destroyed by the city or its agents, after the following steps have been taken:

A. If after thirteen (13) calendar days from the date a written notice is personally delivered to the property owner, or mailed to the property owner's address as shown in the current Linn County or Marion County assessor records, no abatement of the nuisance has occurred, the city administrator, or his or her designee, shall provide a second ten (10) day notice to be delivered to the property owner by certified mail or personal service, which indicate the following:

1. That if the property owner fails to abate the nuisance, the city will abate the nuisance;
2. That the property owner may contract with the city to abate the nuisance and pay the actual costs of the abatement;
3. That if the city abates the nuisance, all costs and expenses of abatement shall be billed and assessed against the property owner, and if unpaid, shall be placed as a lien against the property; and
4. That the property owner has a right to appear before the city council to show cause as to why he or she should not be required to abate or pay for abatement of the nuisance; furthermore, that if the property owner desires such a hearing, a request for hearing, in writing, shall be filed with the city administrator prior to the expiration of the ten (10) day notice, and that abatement by the city shall proceed if the property owner has not exercised this option to request a hearing.

B. If such certified notice is returned as undeliverable, or is unclaimed by the property owner, nothing shall preclude the city from exercising its right to abate the nuisance.

C. When the ten (10) day notice has expired without a request for hearing, the city administrator or his or her designee is authorized to remove, abate or destroy the nuisance. The city administrator may use city personnel to abate the nuisance or may contract with an outside party to abate the nuisance, at the city administrator's discretion.

D. If the city abates a nuisance under the provisions of this chapter, a statement of charges billed to the property owner shall be mailed or personally delivered to the property owner.

E. If payment is not received from the property owner within thirty (30) days of the date the billing is sent, an assessment of the costs as stated or as determined by the council shall be made by resolution and shall thereupon be entered into 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; and the lien shall be enforced in the manner provided in ORS 223.605 through 223.650.

F. If the property owner requests a hearing to show cause before the city council, the hearing shall, if feasible, be placed on the agenda of the next regularly scheduled city council meeting. The decision of the city council shall be final. (Ord. 334 § 1 (part), 2005)

#### 8.08.080 Penalty.

A. A violation of Section 8.08.020 of this chapter shall be a Class B misdemeanor punishable by a fine of not to exceed two thousand five hundred dollars (\$2,500.00) and/or six months in the county jail.

B. A violation of Section 8.08.030 of this chapter shall be a violation. The maximum fine shall be one thousand dollars (\$1,000.00) per each offense. Upon conviction for unlawfully possessing a graffiti implement, the city shall impose a mandatory fine of two hundred dollars (\$200.00). (Ord. 334 § 1 (part), 2005)

8.08.090 Community service.

In addition to any fine that may be imposed for violation of Sections 8.08.020 and 8.08.030 of this chapter, the court may order community service as follows:

A. Upon conviction of violation of Section 8.08.020 or 8.08.030 of this chapter, the offender shall perform at least twenty (20) hours of community service;

B. The entire period of community service shall be performed under the supervision of a community service provider approved by the court; and

C. Reasonable effort shall be made to assign the subject person to a type of community service that is reasonably expected to have the most rehabilitative effect on the offender. To the extent that the offense giving rise to the offer of community service constitutes a violation of this chapter, reasonable effort shall be made by the court to assign the offender to community service which constitutes in significant part the removal of graffiti. (Ord. 334 § 1 (part), 2005)

8.08.100 Parental responsibility.

A. No parent, guardian or other person having legal custody of a minor person under the age of eighteen (18) years may allow or permit the minor to be in violation of Section 8.08.020 or 8.08.030 of this chapter.

B. Upon a subsequent violation by a minor, the parent, guardian or person having legal custody shall be served with a subpoena to appear before the court with the minor and show cause why Section 8.08.020 or 8.08.030 of this chapter have been violated a subsequent time.

C. Violating parental responsibility under this section is a violation and upon conviction shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) for each violation. (Ord. 334 § 1 (part), 2005)

8.08.110 Parental civil liability.

In addition to any other remedy provided by law, the parent(s), guardian or other person having legal custody of unemancipated minor child shall be liable for actual damages to person or property in connection with the removal of the graffiti caused by such child in accordance with the provisions of ORS 30.765. (Ord. 334 § 1 (part), 2005)

8.08.120 Seizure impoundment.

In addition to any citation issued, a graffiti implement possessed in violation of this section may be immediately seized and impounded by the Linn County sheriff's office or authorized law enforcement agency. The court, upon disposition of the issued citation, shall determine whether the instrument shall be returned to the defendant or deemed contraband and disposed of according to state law. (Ord. 334 § 1 (part), 2005)