

Chapter 8.08 NUISANCES

Sections:

- 8.08.010 Nuisance control.
- 8.08.020 Nuisance and disturbance noise.
- 8.08.030 Emission of obnoxious odors, fumes or smoke – Blowing or scattering of dust – Spreading of dirt or soil.
- 8.08.040 Parking and repairing vehicles in residential areas.
- 8.08.050 Placing vehicles, boats and trailers on property for sale.
- 8.08.060 Abandoned, Wrecked, Dismantled or Junk Vehicles and Automobile Hulks or Parts thereof.
- 8.08.070 Attractive nuisance.
- 8.08.080 Trees, plants, shrubs or vegetation.
- 8.08.090 Unhealthy or unsightly conditions.
- 8.08.100 Unlawful to permit or maintain nuisance.
- 8.08.110 Enforcement person.
- 8.08.120 Administrative enforcement.
- 8.08.130 Emergency enforcement.
- 8.08.140 Abatement suit.

Prior legislation: Ords. 243, 778 and 924.

8.08.010 Nuisance control.

It is the purpose of this nuisance control regulation to prevent and prohibit safety and health hazards that create a menace to the health and welfare of the public and to prevent and prohibit those conditions and activities which interfere with the enjoyment of public and private property. Accordingly, any act or omission that unreasonably interferes with another's use of their land or property; that injures or endangers the health or safety of others; that poses a threat or harm to the life of another or in the use of their property is hereby declared unlawful and in violation of this nuisance control regulation. "Nuisance" includes: (a) a nuisance defined by statute; (b) a nuisance at common law, either public or private; and (c) those specific actions or omissions defined herein; provided, reference to specific acts or omissions is not intended as a limitation on the definition of a nuisance. (Ord. 1255, 2001)

Except where otherwise defined, definitions associated with this section are described in FMC 18.76.

8.08.020 Nuisance and disturbance noise.

The purpose of noise control is to minimize the exposure of citizens to the physiological and psychological damages of excessive noise and to protect, promote and preserve the public health, safety and welfare and to control the level of noise in a manner which promotes the use, value and enjoyment of property, sleep and repose, and the quality of the environment. The following sounds are determined to be nuisance and disturbance noises; provided, that the following enumeration of acts and noises not be construed as excluding other acts and noises which offend the public peace:

A. Any noise or sound that intrudes into the property of another person that exceeds the maximum permissible noise levels in this section or as established in WAC 173-60-040, as amended, which is incorporated by reference, whichever is more restrictive. The maximum permissible noise levels are as set forth in the following table:

Receiving Property by Zone District:

1. Residential – Single and Multifamily.
2. Business and Commercial.
3. Light Industrial.

Source of Noise by Zone:

1. Residential – Single and Multifamily:

Receiving Property by Zone District:

1. 55 dBA – reduced by 10 dBA between 10:00 p.m. and 7:00 a.m.
2. 57 dBA
3. 60 dBA

Source of Noise by Zone:

2. Business and Commercial:

Receiving Property by Zone District:

1. 57 dBA
2. 60 dBA
3. 65 dBA

Source of Noise by Zone:

3. Light Industrial:

Receiving Property by Zone District:

1. 60 dBA
2. 65 dBA
3. 70 dBA

The applicable noise levels for (2) and (3) may be adjusted by no more than:

- a. Five dBA for a total of 15 minutes in any one-hour period; or
- b. Ten dBA for a total of 10 minutes in any one-hour period; or
- c. Fifteen dBA for a total of one and one-half minutes in any one-hour period.

For purposes of the above table, the following definitions pursuant to WAC 173-60-020 apply:

1. "Noise" means the intensity, duration and character of sounds from any source;
 2. "dBA" means the sound pressure in decibels measured using the "A" weighting network on a sound level meter;
 3. "Receiving property" means real property within which the maximum permissible noise levels specified herein shall not be exceeded from sources outside the property; and
 4. "Sound level meter" means a device which measures sound pressure levels and conforms to Type 1 or Type 2 as specified in the American National Standards Institute Specifications 51.4 – 1971.
- B. The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law.
- C. The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine within a residential district, so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property.
- D. Yelling, shouting, hooting, whistling or singing on or near the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time and place so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property.

E. Frequent, repetitive or continuous sound plainly audible within any dwelling unit which is located within the single-family dwelling, multifamily dwelling, residential office or central business zones established pursuant to FMC Title 18, which sound is of such loudness as to unreasonably disturb the peace, comfort and repose of the owners or possessors of such dwelling units living or residing therein, and which emanates from any source including without limitation from any device designed for sound production or reproduction or sound that emanates from any manufacturing, commercial or industrial operation or from the use of any tools or equipment.

F. The noisy operation of any automobile, truck, motorcycle or other vehicle in such a non-emergency manner to cause the squealing of tires by the rapid and careless acceleration of a vehicle; the loud and continuous grinding, bumping or grating noises from trucks or other commercial vehicles; the engine compression noise from the unmuffled or poorly muffled compression braking of trucks; the sound from any motor vehicle audio sound system such as tape players, radios, and compact disc players at volumes so as to be audible greater than 50 feet from the vehicle itself; and loud, excessive engine or exhaust noise from unmuffled vehicles or vehicles operating with inadequate muffler systems to prevent unreasonably loud noises.

G. Sound from portable audio equipment, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than 50 feet from the source, and if not operated upon the property of the operator.

H. The playing or causing to be played in front of any building where any show, moving picture exhibition, or theatrical performance is given or in the open vestibule or area of any building, any automatic or mechanical musical instrument for the attraction of customers.

I. The following are exempt from subsections (A) through (H) of this section:

1. Sounds originating from temporary construction sites; or
2. Sounds from regularly scheduled events at any of the parks, school district band or music events, officially sanctioned parades, sporting or other public events; or
3. Sounds created by safety and protective devices, emergency equipment or created by law enforcement or for the health, safety and welfare of the community. (Ord. 1255, 2001)

8.08.030 Emission of obnoxious odors, fumes or smoke – Blowing or scattering of dust – Spreading of dirt or soil.

It is the purpose of this air quality control regulation to minimize and eliminate the release and escape of obnoxious and offensive emissions into the air which are injurious to health or unreasonably interfere with the enjoyment of life and property. The following are determined to be a nuisance:

A. Except as to any odors arising out of any reasonable and lawful use of property for farm or agricultural purposes, including dairy farming and the permitted or allowed disposal of manure on property that is part of the dairy farm operation, all dangerous, unwholesome, nauseous or offensive odors, gases or fumes arising from or incidental to any business or uses of property where such odors, gases or fumes are allowed to escape in the open air in such amounts as to be at any time detrimental to the health of any individuals or the public or that is so noticeable, discomforting or disagreeable so as to offend the sensibilities of any reasonable individuals or the public at a distance of 200 feet from the building or the source of such odors, gases or fumes or at the property boundary where the same are generated and released. The use of property for farm and agricultural purposes shall mean actual dairy farming operation or the growing of crops, and not the ancillary handling or processing of farm products, waste or manure where the actual farm or agricultural activity is not conducted.

B. Any open burning, including burning barrels, of any materials, including without limitation, plastics, rubber, refuse, petroleum or hydrocarbon products, sawdust, yard or construction waste.

C. The blowing and scattering of dust or the scattering or spreading of dirt or soil or other dust-causing materials on public streets or rights-of-way creating dust that affects the health, comfort or repose of individuals or the public. (Ord. 1255, 2001)

8.08.040 Parking and repairing vehicles in residential areas.

It is the purpose of this section to place restrictions on parking of vehicles, including recreational vehicles, in the single family and multi-family residential zones, including but not limited to: RS 6.5, 8.5, 10.5, RM 1.5, RO, UR, CC, and where existing non-conforming residences may also be located. It is not the purpose of this section to restrict parking of a vehicle, other than an abandoned or junk vehicle as defined in this chapter and FMC 18.76, which is parked in a driveway or other suitable location onsite, and does not obstruct traffic or legal pedestrian access along public or private rights of way. Further, it is not the purpose of this section to restrict non-resident, visiting vehicles which are parked wholly on private property for the duration of the visit, or, if legal street parking is available, which are parked on the street for no longer than seventy-two hours, subject to FMC 10.08.085.

In addition, it is the purpose of this section to prevent significant and major automobile repair in streets and yards and to eliminate the parking of vehicles in front yards other than driveways where it becomes an annoyance to neighbors and affects the residential character of a neighborhood. It is not the purpose of this section to eliminate, prevent or restrict property owners from the day-to-day maintenance and minor repairs of their vehicles in their yards and driveways unless specifically prohibited herein

Accordingly, each of the following is determined to be a nuisance and shall be prohibited:

- A. In the front yards of residential areas, the parking of a vehicle in an area other than the designated driveway (as defined by FMC 18.76) or garage, provided that any vehicle, including a recreational or utility vehicle, and any other obstruction parked on a driveway accessing the rear or side yard, shall be at least three feet away from the residential structure, and shall allow for at least five feet of clear access on one side or the other between the structure and the property line;
- B. Except for non-residential visiting vehicles, parking six or more vehicles at any one time in the designated driveway of a single family residential lot, or a total of seven or more vehicles outside of any garage on a single family residential lot. An application for an exception may be made in writing to the Community Development Director within 30 days of receipt of an initial notice of violation or citation. The Community Development Director, or said Director's designee, when determining the outcome of such application, may take additional mitigating factors under consideration, such as additional licensed drivers residing at the household, or an employer-provided work vehicle utilized by a resident. Exceptions are subject to review upon receipt of subsequent complaints regarding parking at the residence.
- C. Major servicing, repairing, assembling, wrecking, modifying, restoring or otherwise working on any vehicle at any residential premises where (1) the vehicle is not owned by the occupant of the residence, or (2) the total of all such servicing, repairing, assembling, wrecking, modifying or restoring involves more than one vehicle or exceeds a one-time, five-day maximum time frame, unless such work shall be conducted within an enclosed permanent structure or a garage. Such work shall only be done between the hours of 8:00 a.m. and 9:00 p.m.; and such work shall not be undertaken on the

vehicle parked in an area other than the designated driveway, garage, or other permanent enclosed structure, pursuant to subsection (A) of this section.

- D. Except as to the occasional or temporary visitor, guest or recreational use, the living or residing in any motor home, tent, trailer, camper or other vehicle that is not a permanent residential structure or housing unit anywhere within the City of Ferndale, except in designated and approved camping or trailer parks, or under certain conditions in approved "large retail" parking lots, any of which must include necessary water, sanitary facilities and electrical connections. For purposes of this section, and further defined in FMC 18.76, "the occasional or temporary visitor" shall mean a non-residential family member or guest who has an established residence elsewhere who is visiting for not more than 15 days in a 12-month period; provided, if the visitor intends a longer than 15-day visit, the owner and visitor may apply for one 15-day extension with Community Development Director or that Director's designee, and the one 15-day extension may be granted where the visitor satisfactorily demonstrates that the motor home, tent, trailer, camper or other vehicle is not being used as a permanent residence. (Ord. 1255, 2001)
- E. Storage of inoperable vehicles on single family and multi-family residential zone property unless fully screened from view of neighboring properties and the public right of way. "Screen" and "inoperable vehicle" shall have the meanings provided in FMC 18.76.040.
- F. Creating, allowing or maintaining a nuisance as described in Paragraphs A, B, C, D and E is unlawful and the enforcement person as provided for in this Chapter may maintain such enforcement or correction action as provided in Sections 8.08.100 through 8.08.140 and amendments thereto.

8.08.050 Placing vehicles, boats and trailers on property for sale.

It is the purpose of this section to eliminate and minimize the risk to vehicles and pedestrian traffic and to the public in general where vehicles, boats, trailers or other recreational vehicles or equipment are placed on private or public property along the streets and arterials for sale. The following is determined to be a nuisance:

- A. The placing or parking along street and road rights-of-way or in direct and plain view thereof of any vehicle, licensed or unlicensed, boat, trailer, motor home, mobilized equipment or machinery, recreational vehicle and equipment placed or parked on property that is owned by someone other than the owner of the vehicle, trailer, motor home, etc., for the purpose of selling the same. The placing or parking of any vehicle, etc., on property owned by another includes business and commercial property so long as the business is not regularly engaged and licensed pursuant to Chapter 46.70 RCW, in selling the particular vehicle, equipment, etc. (Ord. 1255, 2001)
- B. The offering for sale of more than one vehicle, licensed or unlicensed, boat, trailer, motor home, mobilized equipment or machinery, recreational vehicle or equipment at a time parked or placed on single family and multi-family residential zone property, and provided that such vehicle, etc., offered for sale must be the property of the homeowner and evidence of this fact must be made available to an enforcement officer immediately upon request and such vehicle, etc., must be parked in a designated driveway and may not obstruct the vision or movement of motorists or pedestrians or obstruct vision into or

out of the driveway of said residentially zoned property and if not so owned, and parked or placed, constitutes a nuisance.

- C. Creating, allowing or maintaining a nuisance as described in Paragraphs A and B above is unlawful and the enforcement person as provided for in this Chapter may maintain such enforcement or correction action as provided in Sections 8.08.100 through 8.08.140 and amendments thereto.

8.08.060 Abandoned, Wrecked, Dismantled or Junk Vehicles and Automobile Hulks or Parts Thereof.

This Section shall supplement and be in addition to the provisions of RCW 46.55.085 and the pertinent sections of WAC 308-330 as adopted by reference in FMC Chapter 10. This Section is to be construed in a manner that the provisions herein are separate and independent RCW 46.55.085 and WAC 308-330 and in addition thereto. Where there is a conflict between the provisions of this Section and the RCW 46.55.085 and WAC 308-330, this Section controls.

It is the purpose of this section to eliminate abandoned, wrecked, dismantled, or junk vehicles from public streets or public property, as well as on private residential property. An "Abandoned Vehicle", shall mean a) any vehicle left on a public right of way for more than seventy-two (72) hours, or b) any vehicle left on private property without the consent of the property owner. An "Automobile Hulk" shall mean any wrecked, dismantled or inoperative vehicle or part thereof which cannot be made an operative motor vehicle without the addition of vital parts or mechanisms and the application of a substantial amount of labor to effect repairs. A "Junk Vehicle" shall mean any vehicle including, but not limited to automobiles, commercial vehicles, boats and trailers, motorcycles, and recreational vehicles meeting certified under RCW 46.55.230 at least three of the following criteria:

- a. Is three years old or older;
- b. Is extensively damaged, such damage including, but not limited to any of the following: a broken or missing window or windshield, missing wheels, tires, motor or transmission, rust or body damage covering more than ten percent of the vehicle's exterior surface, excluding undercarriage.
- c. Is apparently inoperable;
- d. Has an approximate fair market value equal only to the approximate value of the scrap in it;
- e. Is not currently licensed by the State of Washington.

A. Private Property. Except as may be completely enclosed within a building, and not visible from the street or other public or private property, the storage or retention of abandoned, wrecked, dismantled, or junk vehicles, or vehicle hulks on private property shall constitute a civil infraction and is declared a public nuisance which is subject to abatement and removal, pursuant to RCW 46.55.240 and the pertinent sections of 308-330 WAC and as set forth below.

1. The cost of abatement and removal may be assessed against the registered owner of the vehicle(s) if the identify of the owner can be determined, unless the owner in the transfer of ownership has complied with RCW 46.12.101, or the cost may be assessed against the owner of the property on which the vehicle is stored.

2. The enforcement officer shall inspect and certify that a vehicle meets the definition of a junk or abandoned vehicle. The officer shall provide notice in writing to the last registered owner of record and the property owner of record that a hearing may be requested before the Ferndale Municipal Court and that if no hearing is requested within ten days of the notice the vehicle will be removed. Costs of removal may be assessed against the last registered owner of the automobile hulk if the identity of such owner can be determined, or the costs may be assessed against the owner of the property on which the automobile hulk is stored.
3. If a request for a hearing is received, a notice giving the time, location, and date of the hearing on the question of abatement shall be mailed, by certified mail, with a five-day return receipt requested, to the owner of the land as shown on the County Assessor records and the legal owner of record of the vehicle, unless the vehicle condition is such that identification numbers are not available.
4. The owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement for consideration, and deny responsibility for the presence of the vehicle, with the reasons for the denial. If it is determined that the vehicle was placed on the property, without the consent of the landowner and that the landowner has not acquiesced in its presence, then the cost of removal shall not be assessed against the landowner.
5. After notice has been given of the intent of the City to abate and dispose of the vehicle and after a hearing, if requested, has been held, the vehicle may be removed at the request of a law enforcement officer of the City and disposed of by a licensed vehicle wrecker or tow truck operator, with notice to the Washington State Patrol and the Department of Licensing that the vehicle has been wrecked. Any automobile hulk impounded pursuant to this section shall be processed in the manner prescribed by the pertinent sections of WAC 308-330 and RCW 46.55.
6. The City may, within 30 days after removal of an abandoned, wrecked, dismantled, junk vehicle, or vehicle hulk from private property, file for recording with the County Auditor a claim for lien for the costs of removal.
7. The provisions of this section shall not apply to (i) a vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property or (ii) a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to RCW 46.80.130.

B. Public Property

Pursuant to RCW 46.55.085 and the pertinent sections of WAC 308-330 and as set forth below, the following procedures are established for the abatement and removal of abandoned vehicles, junk vehicles, and vehicle hulks on public property.

1. The leaving of an abandoned motor, junk or unauthorized vehicle, or vehicle hulk upon public property for a period of 24 hours or longer shall constitute a public nuisance subject to abatement, removal and monetary penalties unless its owner or operator is unable to remove it from the place where it is located and so notifies law enforcement officials and requests assistance.

2. A law enforcement officer discovering an apparently abandoned vehicle or abandoned vehicle hulk shall attach to the vehicle a readily visible notification sticker. The sticker shall contain the following information:
 - a. The date and time the sticker was attached;
 - b. The identity of the officer;
 - c. A statement that if the vehicle is not removed within 24 hours from the time the sticker is attached, the vehicle may be taken into custody and stored at the owner's expense; and
 - d. The address and telephone number where additional information may be obtained.
3. If the vehicle has current Washington registration plates, the officer shall check the records to learn the identity of the last owner of record. The officer or his department shall make a reasonable effort to contact the owner by telephone in order to give the owner the information on the notification sticker.
4. If the vehicle or hulk is not removed within 24 hours from the time the notification sticker is attached, the law enforcement officer may take custody of the vehicle or hulk and provide for the vehicle or hulk's removal to a place of safety. For the purposes of this section a place of safety includes the business location of a registered disposer.
5. When a vehicle or hulk is impounded pursuant to RCW 46.55.113, the Police Department shall, within 24 hours after the impoundment, mail notification of the impoundment to the last registered owner and the legal owner of the vehicle as shown on the records of the Department of Licensing or as otherwise reasonably ascertainable. The notification shall contain a certificate of mailing and shall inform the registered owner of the impoundment, redemption procedures, and opportunity for a hearing to contest the basis for the impoundment. The notice need not be mailed if the vehicle is redeemed prior to the mailing of the notice or if the registered owner and the legal owner are not reasonably ascertainable.
6. Upon impoundment of a vehicle pursuant to this section, the law enforcement officer shall also provide the registered disposer with the name and address of the last registered owner and legal owner of the vehicle as may be shown by the records of the department or as otherwise reasonably ascertainable.
7. The notification provided for in this section shall inform the registered owner that any hearing request shall be directed to the Ferndale Municipal Court and shall be accompanied by a form to be utilized for the purpose of requesting a hearing. Any request for a hearing pursuant to this section shall be made in writing on the form provided for that purpose and must be received by the Court within 10 days of the date the notification provided for in this section was mailed. If the hearing request is not received by the court within the 10-day period, the right to a hearing is waived and the registered owner shall be liable for any towing, storage, or other impoundment charges permitted under this chapter. Upon receipt of a timely hearing request, the court shall proceed to hear and determine the validity of the impoundment and any infractions alleged.
8. Removal and storage of a vehicle or hulk under RCW 46.55.085 through shall be at the owner's expense, except as provided, or as otherwise directed at a hearing requested by the owner.
9. Any unauthorized abandoned vehicle or unauthorized abandoned vehicle hulk impounded pursuant to this section shall otherwise be processed in the manner prescribed by RCW 46.55 and other pertinent provisions of 308-330 WAC, and RCW 46.90 RCW, (Ord. 626 § 2, 1981)

C. Enforcement

In addition to the abatement and removal remedies for abandoned, wrecked, dismantled, junk vehicles and automobile hulks or parts thereof as provided in this Section, each of the remedies in Sections 8.08.100 through .140 of this Chapter 8.08, and amendments thereto, shall apply in the enforcement of this Section 8.08.060(A) and (B) at the election of the enforcement person.

8.08.070 Attractive nuisance.

It is the purpose of this section to protect the public, and particularly children of any age, from injury or death from conditions that may otherwise attract them or that have existed where the public or children are known to frequent, and which present a hazardous situation or condition. Each of the following is determined to be an attractive nuisance:

- A. Open excavations, ditches or trenches that an adult or child could reasonably be expected to injure themselves if such adult or child were to fall or slip into the same or any open excavation, ditch or trench, other than designed and approved storm detention facilities that may collect standing water for any period of time, where such open excavation, ditch or trench remains open and exposed or where adequate precautions reasonably designed to prevent access by an adult or child such as fencing, warnings, brightly colored warning tape, patrolling or monitoring of the immediate area in question are missing or not in place. If active construction has ceased for a period of seven days or more, open excavations, ditches or trenches shall be properly covered or secured.
- B. Machinery and equipment accessible to an adult or child of any age that may be potentially dangerous if the public or children were to be exposed to or playing on or about the same. Machinery and equipment includes all motorized construction equipment; electrical, gas operated and air pressure tools and equipment and potentially dangerous hand tools left in such a condition where adequate precautions reasonably designed to prevent access by an adult or child, such as fencing, warnings, red or orange warning tape, patrolling or monitoring of the immediate area in question, are missing or not in place.
- C. The improper handling, storage or keeping of any chemical substances, mixtures or wastes as defined in the Toxic Substances Control Act, 15 U.S.C. Sections 2601 through 2692; hazardous substances, materials or wastes as defined under the Washington Model Toxics Control Act, Chapter 70.105D RCW; or other substances, materials or wastes that could reasonably be expected to be harmful or injurious to the public or children of any age that are used, stored or kept on private property or at a construction site or any commercial property in such a manner that it could reasonably be expected that children or the public could access the same. "Improper use, handling, storage or keeping" means such substances, materials, wastes or chemicals are left in an unsecure and unlocked storage facility or left accessible by the intruding public or children around commercial, business or construction sites. Also, construction materials that could reasonably be expected to be harmful to children that are not specifically defined or referred to herein are a potential nuisance.
- D. Abandoned, used or unused, discarded, or stored iceboxes, refrigerators, freezers or other containers having a door with a latch or lock that is not opened from the inside, or any structure or building of any nature that is not regularly occupied or that may be abandoned that any person or child could enter and may not reasonably be expected to

remove themselves therefrom or it may reasonably be expected that such person or child could be injured therein.

- E. The existence of any open or unsecured well, pit, shaft, storage tank, cistern or any similar situation that is not securely closed and made inaccessible to the general public or children. Abandoned, uncompleted construction or construction materials not covered, marked or secured in an appropriate manner. (Ord. 1255, 2001)

8.08.080 Trees, plants, shrubs or vegetation.

It is the purpose of this section to eliminate and remove uncultivated vegetation that presents a menace to the public health, safety and welfare of the community and to prevent and exterminate to the extent possible noxious weeds. The following is determined to be a nuisance:

- A. Trees, plants, shrubs or vegetation, or parts thereof, which so overhang any sidewalk or street, or which are growing thereon in such manner as to obstruct or impair the free and full use of the sidewalk or street by the public or obstruct the view of pedestrians or users of vehicles thereon or interfere with the wires, poles or fixtures lawfully maintained thereon.

- B. Grass, weeds, shrubs, bushes, refuse, trees or other types of plants or vegetation that are left growing in an unmaintained or uncontrolled manner or which are left in a pile or piles or scattered about on any property and becomes a fire hazard or a gathering place for rodents, skunks, wasps, or other animals, pests or insects.

- C. Noxious weeds, meaning a plant or plants that when established are highly destructive, competitive or difficult to control by cultural or chemical practices or that may be listed in the "Washington State Noxious Weeds List" established pursuant to Chapter 17.10 RCW, that are left growing uncontrolled or left growing where no action is taken to eliminate or eradicate the same, and as a result thereof, the noxious weeds have spread or are reasonably expected to spread to residential properties in the immediate vicinity.

- D. Rapidly growing deciduous shrubs and trees, including alder, birch, poplar and cottonwood, left unattended and not maintained or pruned on vacant property that exceed 20 feet in height that potentially shade, eliminate view corridors, and scatter leaves and debris on adjoining property.

- E. The disposal, dumping or placing of grass or lawn clippings, leaves, shrub and tree prunings or debris and other yard waste or debris on neighboring or adjacent property owned by another without the consent or permission of such neighboring or adjacent property owner. (Ord. 1255, 2001)

8.08.090 Unhealthy or unsightly conditions.

- A. The keeping or maintenance in any area on private property which is clearly visible from a public street, sidewalk, park or other public area any accumulation, collection or untidy storage of any of the following: old appliances or parts thereof; old iron, steel, aluminum or other metal; inoperable junk vehicles, vehicle parts, machinery or equipment; mattresses, bedding, clothing, rags or cloth; straw, packing material, cardboard or paper; tin cans, wire, bottles, glass, cans, barrels, bins, boxes, containers, ashes, plaster or cement; wood or lumber not neatly stacked or piled; or, in addition to the above articles, any condition judicially determined to be unhealthy after written complaint from a local health official, a fire hazard after written complaint from a local fire official, or an unsightly condition after written complaint from two or more residents within the neighborhood or general vicinity of the condition.

- B. Throwing or depositing or causing to be deposited in any street, alley or other public place in the City any garbage, refuse, filth, debris, offal, the carcass of any animal, or other offensive matter, or causing or permitting such or any offensive matter to collect or remain in any place in the City to the prejudice or annoyance of others. (Ord. 1255, 2001)

8.08.100 Unlawful to permit or maintain nuisance.

It is unlawful and a civil infraction for any person, by himself or by his agents or employees, or as the agent or employee of another person, firm or corporation, to do or permit to be done upon any premises over which he has control, or maintain, carry on, suffer or allow any of the acts or things declared to be nuisances herein; or to do or cause or permit, or suffer to be done, or to maintain any act or thing which is detrimental or injurious to public health, or offensive to the senses, or contrary to public decency or morality. If the owner or agent of any premises has actual or constructive knowledge of the maintenance on or in his premises of any nuisance, as defined herein, he shall be deemed one of the persons in control of the premises. (Ord. 1255, 2001)

8.08.110 Enforcement person.

Any law enforcement officer, the City Administrator and the City's Community Development Director or their designee(s) ("enforcement person") are authorized to enforce this chapter and issue notices, citations, or take abatement procedures, as provided herein.. Such enforcement action or actions may be taken by the enforcement persons mentioned herein upon observation of the acts or things declared to be a nuisance or upon citizen complaints of the occurrence of such acts or things declared to be a nuisance. (Ord. 1255, 2001)

8.08.120 Enforcement.

Upon receipt of a complaint, information or observation of an apparent violation of this Chapter, the enforcement person will verify whether conditions at the site constitute a violation and whether remedial action is required. If no violation exists, the case will be closed; if a violation exists requiring remedial action, the following enforcement procedures apply:

- A. The enforcement person may issue a notice of violation to any person responsible for permitting or maintaining a nuisance in violation of this chapter. The notice of violation shall include: (1) name and address of the person found to be the owner or the owner's agent or the occupant responsible for correcting the violation; (2) address or sufficient description of the property at which the nuisance exists; (3) a brief description of the violation and reference to the applicable code provision violated; (4) statement of the required corrective action; (5) statement of the time by which correction must be completed, which shall not be less than 10 days unless the enforcement person has found that an imminent hazard exists to the health or safety of the public; and (6) a statement that a fine of \$250 per violation will be imposed if correction is not made by the date in the notice violation and that each day a nuisance continues beyond the deadline for correction constitutes a separate and additional violation; (7) a statement of office address and office phone number of the enforcement person or his/her agent and (8) a statement that if the person responsible does not complete correction of the violation by the date required, the City may abate the condition and recover costs and penalties as provided herein.
- B. After issuance of the notice of violation, a voluntary correction agreement may be entered into between the City and the responsible person. Such agreement will suspend monetary penalties unless a violation of the agreement occurs. Such agreement shall waive the rights to an appeal hearing on the issue of whether or not a nuisance exists and will allow the City to enter on to the subject property to make inspections. This agreement shall set forth the City's ability to abate nuisances at the property owner's expense.
- C. In the absence of a voluntary agreement described above, at the end of the specified time frame in the notice of violation, the site will be reinspected by an enforcement person to see if the condition has been corrected. If the condition has been corrected,

the case will be closed. If the condition has not been corrected a civil infraction citation shall be issued assessing a civil penalty of \$250 per violation and giving the date, time and place to appear and answer the citation. Each nuisance violation is subject to a civil penalty and each day a nuisance continues beyond the deadline for correction constitutes a separate and additional violation subject to issuance of a civil infraction citation.

D. If the responsible person having been served with a civil infraction citation does not appear in response thereto, at the designated time and place, the Municipal Court Clerk is authorized to send to said responsible person a letter informing him or her of the violation and warning that in the event such letter is disregarded for a period of 25 days, a warrant of arrest will be issued.

E. The notice of violation and the civil infraction citation shall be served by the enforcement person or his or her agent either personally upon the person responsible or by mailing it to him or her by regular and certified mail, return receipt requested, at his/her last known address. Service by mail shall be deemed effective the third day following the day the notice was placed in the mail, excluding Sundays and holidays. If neither personal nor mailed service can be accomplished, a copy of the notice shall be posted conspicuously on the affected property or structure.

F. If the person responsible has not contested the civil infraction citation as provided for in this section, or if the property owner has contested but the Court has found for the enforcement person and has not authorized a delay and there has been no appeal to superior court, and correction has not been made within the specified time, the City is authorized by this chapter to proceed with its own personnel or with a contractor to abate the nuisance in any reasonable manner.

G. Notwithstanding the provisions herein, the monetary penalties and the cost of abatement accomplished by the City constitute a personal obligation of the responsible person and the City may by use of appropriate legal remedies including, without restricting the City's remedies, foreclosing against the real property of the responsible person in the manner of foreclosing mechanics' liens pursuant to Chapter 60.04 RCW, recover such penalties and abatement costs, together with interest and reasonable attorney's fee and to enter into compromises.

(Ord. 1255, 2001)

8.08.130 Emergency enforcement.

Whenever the enforcement person finds as a result of a declared nuisance that an emergency condition results therefrom or it reasonably appears to cause or constitute an imminent or immediate danger to the health and safety of the public, and the responsible person cannot be contacted or refuses to immediately abate the same, the enforcement person shall have authority to summarily and without notice abate the same. Notice of the abatement action shall be given to the responsible party as soon thereafter as possible and the City shall be entitled to recover the abatement costs as provided in FMC [8.08.120\(G\)](#). (Ord. 1255, 2001)

8.08.140 Suits for Abatement and Injunctive Relief.

Whenever the enforcement person determines a nuisance to exist, the City may proceed in addition to any other remedy provided herein to enjoin and abate the same pursuant to Chapter 7.48 RCW. (Ord. 1255, 2001)