

## **Title 8**

### **Health and Safety**

#### **Chapters:**

**8.05 Hazardous Vegetation**

**8.10 Nuisances**

**8.15 Burning**



## Chapter 8.05

### Hazardous Vegetation

#### Sections:

- 8.05.010 General definitions.
- 8.05.020 Declared generally.
- 8.05.030 Nuisances related to control or removal of hazardous vegetation.
- 8.05.040 Initial abatement procedure.
- 8.05.050 Abatement by the city.

#### **8.05.010 General definitions.**

Except where the context indicates otherwise, the singular includes the plural, the masculine gender includes the feminine, and the following definitions shall apply:

- A. "City" means the city of Lyons.
- B. "City recorder" means the city recorder or person authorized by the city recorder.
- C. "Council" means the governing body of the city.
- D. "Enforcement officer" means a person or persons appointed by the city council of the city of Lyons who is specifically designated to enforce the provisions of this chapter.
- E. "Noxious vegetation" includes, but is not limited to, vegetation which is present on property at any time between June 1st and October 15th of any year:
  - 1. Weeds more than 10 inches high.
  - 2. Grass more than 10 inches high, unless it constitutes an agricultural crop.
  - 3. Poison oak.
  - 4. Poison ivy.
  - 5. Blackberry bushes that extend into a public thoroughfare or across a property line.
  - 6. Scotch broom.
  - 7. Vegetation that is:
    - a. A health hazard.
    - b. A fire hazard.
    - c. A traffic hazard because it impairs the view of the street or otherwise makes use of the street hazardous.
- F. "Person" means a natural person, firm, partnership, association or corporation.
- G. "Person in charge of property" means an agent, occupant, lessee, contract purchaser or person, other than the owner, having possession or control of the property.

H. "Roadway" is the improved portion of the street right-of-way. [Ord. G2-2015 § 1, 2015; Ord. 05-14 § 1, 2002. Amended during 2006 recodification.]

#### **8.05.020 Declared generally.**

A. The acts, conditions or objects related to control or removal of hazardous vegetation which are defined in LMC 8.05.030 are declared to be public nuisances, and such acts, conditions or objects may be abated by the procedures set forth in LMC 8.05.040 through 8.05.050.

B. The nuisances specifically enumerated within this chapter are not exclusive, but are in addition to nuisances established in other ordinances. Acts, conditions and objects that are similar in character but which are not defined specifically in LMC 8.05.030 may also be classified as nuisances.

C. Between May 1st and October 15th of each year, the enforcement officer may cause to be placed on the public access channel and posted in three conspicuous places within the city a copy of LMC 8.05.030(A) as a notice to all owners and persons in charge of property of their duty to keep their property free from noxious vegetation. The notice shall state that the city shall take action to abate the nuisance on a particular piece of property. [Ord. 05-14 § 2, 2002.]

#### **8.05.030 Nuisances related to control or removal of hazardous vegetation.**

A. Grass, Weeds, Brush, or Noxious Vegetation. Between June 1st and October 15th of any year, no owner or person in charge of property which is less than one acre in size shall permit upon such property or upon a walkway or street right-of-way abutting such property any grass, weeds, brush, thistles, or noxious vegetation more than 10 inches in height. The owner or person in charge of property shall remove all dead bushes, brush, trees, limbs, and other debris of a flammable character. It shall be the duty of every owner or person in charge of property which is less than one acre in size in the city to cut down or otherwise destroy any grass, weeds, brush and noxious vegetation in excess of 10 inches in height on said property or upon a walkway or street right-of-way abutting such property to prevent said vegetation from maturing and going to seed or from becoming a fire hazard.

**B. Trees and Bushes.**

1. No owner or person in charge of property shall allow a dead or decaying tree to stand if it poses a potential hazard to public property or to persons on public property.

2. No owner or person in charge of property that abuts upon a roadway or public sidewalk shall permit trees or bushes on their property to interfere with street or sidewalk traffic. It shall be the duty of an owner or person in charge of property that abuts upon a street or public sidewalk to keep trees and/or bushes located on the premises, which trees and/or bushes abut upon such street or public sidewalk, trimmed to a height of not less than eight feet above the sidewalk and not less than 12 feet above the roadway, so that the limbs of any shrub or tree projecting into or extending over the sidewalk or roadway shall not interfere with the use of the sidewalk or roadway, or obstruct a driver's view of an intersection or traffic upon streets approaching an intersection. Hedges and other shrubbery shall not overhang the sidewalk or roadway areas.

C. Exception. Nothing in this section shall be construed to prohibit lawns containing grass of less than 10 inches in height; bushes, trees and other shrubbery grown or maintained for ornamental purposes; or the growth or maintenance of any vegetation designed or intended as an agricultural crop or for food and fuel purposes, so long as the provisions of subsections (A) and (B) of this section are met. [Ord. 05-14 § 3, 2002.]

**8.05.040 Initial abatement procedure.**

A. In the event a property owner or person in charge of property fails to comply with the provisions of LMC 8.05.030, the enforcement officer shall cause notice to be delivered by certified mail, return receipt requested, with a copy delivered by first class mail to the owner or person in charge of property, or posted on the premises where the nuisance exists, directing the owner or person in charge of property to bring the property into compliance with this chapter. If the property is unimproved, vacant, and/or abandoned, such notice shall be posted prominently on the property. Notice shall be deemed given on the date of posting.

B. If the notice was posted on the property or was delivered to someone other than the owner, the enforcement officer shall cause a copy of such notice to be forwarded by registered or certified

mail to the owner of the property at the last known address of such owner as shown on the county tax records.

**C. The notice to abate shall contain:**

1. A description of the real property, by street address or otherwise, on which such nuisance exists.

2. A direction to bring the property into compliance with this chapter within a time period of not less than five days nor more than 10 days for noxious vegetation or a time period of not less than 15 days nor more than 60 days for trees and bushes, from the date of the notice, the time period to be set at the discretion of the enforcement officer based on the nature and seriousness of the nuisance and the difficulty in bringing the property into compliance.

3. A description of the nuisance.

4. A statement that unless such nuisance is removed, the city may abate the nuisance and the cost of the abatement shall be a lien against the property.

5. A statement that the owner or other person in charge of property may protest the abatement by giving written notice to the enforcement officer within 10 days from the date of the notice, or such lesser time period as specified by the enforcement officer for abatement of the nuisance. If the owner or person in charge of property protests the abatement, the procedure as set forth in this subsection shall be used:

a. The owner or person in charge protesting that no nuisance exists shall file with the enforcement officer a written statement that shall specify the basis for so protesting.

b. The statement shall be referred to the city council as a part of the council's regular agenda at the next meeting. At the time set for consideration of the abatement, the owner or other person may appear and be heard by the council and the council shall thereupon determine whether or not a nuisance in fact exists and such determination shall be entered in the official minutes of the council. Council determination shall be required only in those cases where a written statement has been filed as provided.

c. If the city council determines that a nuisance does in fact exist, the owner or person in charge of the property shall abate such nuisance

within the time period as specified by the city council.

D. Upon completion of the mailing and/or posting, the enforcement officer shall place a record of the time and date of notification and a copy of the notification in the file.

E. An error in the name or address of the owner or person in charge of the property or the use of a name other than that of the owner or the person shall not make the notice void. In such a case, the posted notice shall be sufficient.

F. After the time period for abatement of the nuisance by the owner or person in charge of property, as specified in subsection (C)(2) of this section, has passed, the enforcement officer may cause to have the nuisance abated. This would involve the cutting of the weeds, grass or other vegetation, the removal of trees or tree limbs, or the removal of all or parts of shrubs. The cost of the removal shall be calculated through use of the prevailing hourly rate for such work, plus a 10 percent administrative charge. The owner of the property shall be given notice of the charge immediately following removal of the vegetation or limbs. Failure to pay the charge within 30 days will cause such charge to become a lien against the property, which will be assessed in the manner set forth in subsection (I) of this section.

G. In the event that the owner resides out of the area or, if the owner is unable to abate the nuisance, the city may offer the owner the option of having the city abate the nuisance. The cost of such abatement shall be calculated through use of the prevailing hourly rate for such work, plus a 10 percent administrative charge. The owner of the property shall be given notice of the charge for the abatement of the nuisance immediately following such abatement and shall have 30 days within which to remit payment in full. Failure to remit payment in full within 30 days will result in the charge becoming a lien against the property which will be assessed in the manner set forth in subsection (I) of this section.,

H. In the event that it becomes necessary for the city to undertake the cutting and removal of grass, weeds, shrubs, bushes, trees, tree limbs, or other vegetation from the property within the city, the person designated by the enforcement officer shall have the right to, at reasonable times, enter into or upon the property to cut or remove the vegetation.

I. Upon the completion of the cutting and clearing of any vegetation from any property under the provisions of this section, and in the event that the fee is not paid, the enforcement officer shall present to the city council an itemized statement of the cost as herein specified. The city council shall then determine if the statement of costs is reasonable and adjust them if necessary. Thereupon, the amount of the statement, as approved by the city council, shall be an obligation owed to the city by the owner of the real property involved. The city shall place a lien upon the real property in the approved amount. The lien shall be entered in the lien file and enforced against the property in the manner provided for the enforcement of city liens. [Ord. 05-14 § 4, 2002.]

#### **8.05.050 Abatement by the city.**

A. If it is determined that a nuisance exists and the determination involves abatement of the nuisance by the city, the enforcement officer shall cause the nuisance to be abated.

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

C. The enforcement officer shall keep a record of the actual expenses incurred by the city with regard to processing both the physical abatement of the nuisance and the administrative costs directly related to the abatement. These costs shall include, but are not limited to, hourly managerial costs, mailings, court filings and appearances, and site monitoring.

D. The enforcement officer shall forward to the owner, by registered or certified mail, a notice stating:

1. The total costs of the 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 30 days from the date of the notice; and
3. That, if the owner objects to the cost of the abatement as indicated, a notice of objection may be filed with the enforcement officer not more than 10 days from the date of the notice.

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

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

G. The lien shall bear interest as established by the above-referenced resolution. The interest shall begin to run from the date of entry of the lien in the city lien file.

H. 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. G1-2007 § 9, 2007; Ord. 05-14 § 6, 2002.]

## Chapter 8.10

### Nuisances

#### Sections:

- 8.10.010 General definitions.
- 8.10.020 Prohibition against nuisances.
- 8.10.030 Declared generally.
- 8.10.040 Animals.
- 8.10.050 Removal of animal carcasses.
- 8.10.060 Nuisances affecting public health.
- 8.10.070 Abandoned refrigerator or similar container.
- 8.10.080 Nuisances attractive to children.
- 8.10.090 Scattering or dumping rubbish or litter.
- 8.10.100 Fences.
- 8.10.110 Surface waters and drainage.
- 8.10.120 Radio and television interference.
- 8.10.130 Notices and advertisements.
- 8.10.140 Nuisances affecting public safety.
- 8.10.150 Junk.
- 8.10.160 Inoperable motor vehicle.
- 8.10.170 Noise.
- 8.10.180 Raising or keeping of pets.
- 8.10.190 Sale or use of fireworks.
- 8.10.200 Abatement – Notice.
- 8.10.210 Abatement – By owner.
- 8.10.220 Joint responsibility.
- 8.10.230 Enforcement and penalty.
- 8.10.240 Abatement by the city.

#### **8.10.010 General definitions.**

Except where the context indicates otherwise, the singular number includes the plural and the masculine gender includes the feminine and the following definitions shall apply:

A. “At large” means (1) an animal or bird that is on private, real, or personal property without the permission of the owner or person entitled to possession of the real or personal property, and not restrained by a physical control device and under the control of a person capable of physically restraining the animal or bird; or (2) an animal or bird that is on premises open to the public and not restrained by a physical control device and under the control of a person capable of physically restraining the animal or bird.

B. “City” means the city of Lyons.

C. "City recorder" means the city recorder or person authorized by the city recorder.

D. "Council" means the governing body of the city.

E. "Enforcement officer" means a person or persons appointed by the city council of the city of Lyons who is specifically designated to enforce the provisions of this chapter.

F. "Inoperable motor vehicle" means a motor vehicle which:

1. Has been left on a street for a period of more than 72 hours or on a specific parcel of public or private property for more than 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 is inoperable; or is not currently licensed or is missing one or more other parts so that the vehicle is inoperable.

G. "Junk" means any object or material which is manufactured or manmade, which has been abandoned or discarded, or which is inoperable. Junk includes, but is not limited to, one of the following classifications:

1. Inoperable household appliances such as washers, dryers, refrigerators, dishwashers, water heaters, stoves, and similar items, or parts thereof;

2. Used household furniture such as 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 such as 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.

H. "Motor vehicle" means a vehicle that is self-propelled or designed for self-propulsion.

I. "Person" means a natural person, his or her heirs, executors, administrators or assigns; a firm, partnership, association, domestic or foreign corporation, its heirs, successors, or assigns; a trust estate, receiver, syndicate, or any group or combination acting as a unit; or the authorized agent of any of the aforementioned.

J. "Person responsible" means:

1. The person in charge of property on which a public nuisance exists; or

2. The person who causes a public nuisance to come into, or continue to be, in existence.

K. "Person in charge of property" means an agent, occupant, lessee, contract purchaser or person, other than the owner, having possession or control of the property.

L. "Public place" means a building, place or accommodation, whether publicly or privately owned, open and available to the general public.

M. "Public nuisance" includes but is not limited to the following: violations of zoning regulations, building code standards and regulations, utility standards and regulations, or environmental standards and regulations; noncompliance with the city's comprehensive plan; illegal discharges of sewage; the operation of offensive, odoriferous or unsanitary businesses; accumulations of refuse constituting fire or safety hazards; any land use activity which depreciates land values, is unsightly, creates excessive noise, fumes, smoke, odors, or unsanitary conditions, creates danger from fire and/or explosion, creates traffic hazards, or activities which pose a danger to public health, safety or welfare or the economic well-being of the community.

N. "Right-of-way" means street right-of-way which includes all of the property within the property boundary lines of the street. The boundary line is the property line between the street and the lots or parcels which abut the street. Full street improvements include the roadway reserved for vehicle movement plus curbs and sidewalks on both sides of the street, and areas reserved for the handling of drainage and for utility placement. "Right-of-way" additionally means all land or interest therein which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for, or dedicated to, the use of the general public free of all encumbrances, within which the city of Lyons shall have the exclusive right to install streets and public utilities.

O. "Roadway" is the improved portion of the right-of-way.

P. "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.

Q. “Store” or “storage” means to keep, accumulate, or allow to remain, on any property, any vehicle, junk, solid waste, or other object or material subject to regulation by this chapter.

R. “Vehicle” means any device in, upon, or by which any person or property is or may be transported, or drawn upon a street, and includes vehicles that are propelled or powered by any means, but does not include a device propelled by human power. [Ord. G2-2015 § 1, 2015; Ord. G1-2006 § 9, 2006; Ord. 05-15 § 1, 2002. Amended during 2006 recodification.]

#### **8.10.020 Prohibition against nuisances.**

No person, property owner, or person in charge of property may create, permit or cause to be created a public nuisance affecting public health or safety as enumerated in LMC 8.10.040 through 8.10.190. [Ord. 05-15 § 2, 2002.]

#### **8.10.030 Declared generally.**

A. The acts, conditions or objects specifically enumerated and defined in LMC 8.10.040 through 8.10.190 are declared to be public nuisances and such acts, conditions or objects may be abated by any of the procedures set forth in LMC 8.10.200 through 8.10.240.

B. The nuisances specifically enumerated within this chapter are not exclusive, but are in addition to nuisances established in other ordinances. Acts, conditions and objects that are similar in character but which are not defined specifically in LMC 8.10.040 through 8.10.190 may also be classified as nuisances.

C. Matters pertaining to dog control and removal of grass and other growth are addressed in separate ordinances. [Ord. 05-15 § 3, 2002.]

#### **8.10.040 Animals.**

A. Communicable Diseases in Animals. No person may permit an animal or bird owned or controlled by him to be at large within the city if the animal or bird is afflicted with a communicable disease.

B. Dangerous Animals. No person may permit a wild or domesticated dangerous animal to run at large.

C. Livestock, Poultry and Other Animals. No person may maintain a pigsty, slaughterhouse or tannery or permit livestock or poultry or any other animal owned by him to run at large within the city.

D. Jurisdiction Regarding Impound and Disposal of Animals. Livestock or poultry or other animals or fowl running at large in the city may be taken up and impounded by an animal control officer or by other authority having jurisdiction and disposed of in accordance with proper procedures.

E. 1. No person shall ride or lead livestock on sidewalks within the right-of-way of the city.

2. No person shall ride or lead livestock in any of the designated park areas or pathways of the city.

3. Any owner of, or person responsible for, any animal shall remove excrement deposited by that animal on public property. [Ord. G5-2007, 2007; Ord. 05-15 § 4, 2002.]

#### **8.10.050 Removal of animal carcasses.**

No person may permit any fowl or animal carcass owned by him or under his control to remain upon the public streets or places, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of such carcass. [Ord. 05-15 § 5, 2002.]

#### **8.10.060 Nuisances affecting public health.**

No person may permit or cause a nuisance affecting public health. The following are nuisances affecting the public health and may be abated as provided in this chapter:

A. Solid Waste on Private Property. Accumulations of solid waste, debris, rubbish, and other refuse located on private property that may or does offer a harborage for feeding, breeding or shelter for rats or other vermin and that otherwise affects the health, safety or welfare of the city.

B. Stagnant Water. Stagnant water that affords a breeding place for mosquitoes and other insect pests.

C. Water Pollution. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near such water in a manner that will cause harmful material to pollute the water.

D. Food. Decayed or unwholesome food that is offered for human consumption at a restaurant or by a mobile food vendor at a public event or other similar circumstances.

E. Odor. Premises that are in such a state or condition as to cause an offensive odor or which are in an unsanitary condition.

F. Surface Drainage. Drainage of liquid wastes from private premises.

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G. Cesspools or Septic Tanks. Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor.

H. Portable Toilets. Portable toilets shall be available at all construction sites for new construction during the entire time that the construction project is taking place, and for all other construction projects when other toilet facilities are not available on site. The use of portable toilets for a public facility or as a part of a publicly approved project or activity, with provision for ongoing maintenance, shall be permitted within the city.

I. Other Conditions. All other conditions which are liable to cause injury or pose a health hazard to persons, property or animals. [Ord. G1-2006 § 10, 2006; Ord. 05-15 § 6, 2002.]

**8.10.070 Abandoned refrigerator or similar container.**

No person may leave, in a place accessible to children, a refrigerator or other appliance or container with a compartment of more than one and one-half cubic feet capacity and a door or lid that locks or fastens when closed and that cannot be opened from the inside. [Ord. 05-15 § 7, 2002.]

**8.10.080 Nuisances attractive to children.**

A. No owner or person in charge of property may permit:

1. Unguarded machinery, equipment or other devices on such property which are attractive, dangerous and accessible to children;

2. A well, cistern, cesspool, excavation, or other hole of a depth of four feet or more, and a top width of 12 inches or more and failing to cover or fence it with a suitable protective construction to prevent such places from being used by children.

B. This section shall not apply to the above if reasonable safeguards are maintained to prevent injury or death to children. [Ord. 05-15 § 8, 2002.]

**8.10.090 Scattering or dumping rubbish or litter.**

No person may throw, dump or deposit upon public or private property any injurious or offensive substance or any kind of rubbish, trash, debris or refuse or any substance which would mar the appearance, create a stench or detract from the cleanliness or safety of such property, or would be

likely to injure an animal, vehicle or person traveling upon a public way. [Ord. 05-15 § 9, 2002.]

**8.10.100 Fences.**

No property owner or other person in charge may construct or maintain a barbed wire fence or install, maintain or operate an electric fence along or within 10 feet of the roadway of a street or of a public sidewalk, unless the barbed wire fence or electric fence is protected from the roadway or sidewalk by another fence or by landscaping that prevents reasonable public access to the barbed wire or electric fence. In addition, barbed wire may be placed six inches or higher above the top of a board or picket fence that is six feet or more in height. [Ord. 05-15 § 10, 2002.]

**8.10.110 Surface waters and drainage.**

The property owner or person in charge of property shall install and maintain adequate drainpipes or a drainage system so that any overflow water from the roof or from other parts of the property is not carried onto or across the street or a public sidewalk. [Ord. 05-15 § 11, 2002.]

**8.10.120 Radio and television interference.**

A. No person may operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception; provided, that the radio or television receiver interfered with is of good engineering design. This section does not apply to electrical and radio devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission.

B. No person shall operate any generator or electromagnetic wave device or cause a disturbance of a magnitude that interferes with the proper functioning of a police or fire department radio communication system. Interference caused by equipment operated in compliance with Federal Communications System regulations does not violate this section. [Ord. 05-15 § 12, 2002.]

**8.10.130 Notices and advertisements.**

No property owner or other person in charge of property, either as principal or agent, may scatter, or cause to be scattered, on public or private property, or place on the windshield or any other por-

tion of a motor vehicle, any placards, advertisements, or other similar material. Such material may be secured to a building or other structure in such a manner that it will not litter the surrounding area. [Ord. 05-15 § 13, 2002.]

**8.10.140 Nuisances affecting public safety.**

No person may permit or cause a nuisance affecting public safety. The following are nuisances affecting the public health or safety and may be abated as provided in this chapter:

A. **Obstruction of Fire Hydrants.** No owner or person in charge of property adjacent to a street upon which a fire hydrant is located shall place or maintain a bush, shrub, tree or other obstruction within 10 feet of the fire hydrant.

B. **Obstructing Passageways.** No person shall, except as otherwise permitted by ordinance, or with permission of the city council, obstruct, cause to be obstructed, or assist in obstructing pedestrians, bicyclists or vehicular traffic on a street or street right-of-way or sidewalk, or place any object or vehicle in such a manner so as to diminish visibility of pedestrians, bicyclists or vehicular traffic entering a street or street right-of-way. The provisions of this section shall not apply to the delivery of merchandise or equipment. However, no person shall permit such merchandise or equipment to remain on a street or sidewalk beyond a reasonable time.

C. **Hauling.** No person shall haul sand, gravel, rock, wood or other substance in a vehicle or conveyance that is so constructed or in such condition as to allow the sand, gravel, rock, wood or other substance to fall on or litter public streets.

D. **Blasting.** No person shall blast rock, stone, or other earth material within the city of Lyons unless permission has been obtained from the city council and evidence is provided to the city council that the blasting is to be done in a manner which will safeguard all persons and property in the surrounding area from flying rock, stone and other debris, and that the blasting shall occur between the hours of 8:00 a.m. and 5:00 p.m. on a nonholiday weekday. Blasting referred to in this section involves the firing of powder, dynamite, or other explosive as a part of a blasting operation.

E. **Damaged Buildings.** All buildings, walls, and other structures that have been damaged by fire, decay, or similar cause so that the structure

would have to be replaced in order to make it habitable or structurally sound or which are so situated as to endanger the safety of the public.

F. **Explosives.** All explosives, flammable liquids and other dangerous substances stored in an improper manner.

G. **Wires, Etc.** All wires, cables, signs, or other similar items strung or erected in a manner which endangers or interferes with the public. [Ord. 05-15 § 14, 2002.]

**8.10.150 Junk.**

A. No person shall keep junk outdoors on a public or private street, lot, premises or in a building that is not wholly or entirely enclosed.

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 and which complies fully with the zoning requirements of the city. [Ord. 05-15 § 15, 2002.]

**8.10.160 Inoperable motor vehicle.**

A. No owner or person in charge of property shall store or permit the storing of more than two inoperable vehicles upon a specific parcel or parcels of property within the city of Lyons, unless (1) the vehicles are stored as a part of a commercial business operation that has been approved by the city, or (2) they are stored in an enclosed building.

B. It shall be unlawful to disassemble, construct, reconstruct, repair and/or service motor vehicles of any kind in or upon any street, road, alley or public thoroughfare in the city of Lyons or in the yard of any resident, except for emergency service; provided, that said emergency service shall not extend over a period of 12 hours and does not interfere with or impede the flow of traffic.

C. The parking of inoperable vehicles, machinery, equipment or similar objects for a time period in excess of 72 hours on the right-of-way of any street within the city shall not be permitted. [Ord. G1-2006 § 12, 2006; Ord. 05-15 § 16, 2002.]

**8.10.170 Noise.**

No person shall create, assist in creating, permit, continue, or permit the continuance of any unreasonably loud, disturbing, or unnecessary noise in the city. Noise is generally defined as unwanted

sound. That means the noise could be: too loud, too intrusive, at the wrong time, or having a particularly irritating characteristic such as a repetitive bass beat or a high pitch whine. A noise is a nuisance when it materially affects your comfort or quality of life. The noise can be continuous or intermittent but its assessment is based on the concepts of reasonableness and the “average person.” Consequently, normal daytime noise would not generally be considered a nuisance even if it was disturbing someone trying to sleep during the day. In addition it is important to note that the nuisance will be normally assessed from within your home. The following are examples of violations of this section and are not intended as the exclusive list of public nuisances related to loud, disturbing, or unnecessary noise:

A. The keeping of any animal that, by loud and frequent continued noise, disturbs the comfort and repose of any person in the vicinity.

B. The use of any automobile, motorcycle, bus, truck or other vehicle, any engine or other stationary or moving instrument or device, which is so operated as to create loud or unnecessary noises, so as to disturb any person in the vicinity.

C. The operating of any gasoline or other engine, or of any other mechanical device, unless the noise created by it is effectively muffled.

D. The construction, excavation, demolition, alteration or repair of any building or other structure between the hours of 6:00 p.m. and 7:00 a.m., except by special permission granted by the city council.

E. The use or operation of any automatic, electronic, or electric loudspeaker or other sound-amplifying device so loudly as to disturb persons in the vicinity thereof, unless the person involved has been granted special permission by the city council to operate the equipment. [Ord. G1-2006 § 11, 2006; Ord. 05-15 § 17, 2002.]

#### **8.10.180 Raising or keeping of pets.**

No person shall raise or keep in excess of six cats, dogs, other domestic animals other than livestock, or any combination thereof, which are six months of age and older, on a lot or premises within the city of Lyons unless such lot or premises is the location of a kennel or veterinarian’s office or clinic which has been approved by the city. [Ord. 05-15 § 18, 2002.]

#### **8.10.190 Sale or use of fireworks.**

The sale or use of fireworks, by or to an unsupervised minor, of whatever kind or nature, is hereby prohibited. No parent shall permit or allow, knowingly or otherwise, his or her child to use or set off fireworks, unless the minor is under the direct supervision of an adult. [Ord. 05-15 § 19, 2002.]

#### **8.10.200 Abatement – Notice.**

A. Upon determination by the enforcement officer that a nuisance as defined in this or any other ordinance of the city exists, the enforcement officer shall cause a notice to be delivered by first class mail to the owner or person in charge of the property or posted on the premises where the nuisance exists, directing the owner or person in charge of the property to abate such nuisance.

B. If the notice was posted on the property or was delivered to someone other than the owner, the enforcement officer shall cause a copy of such notice to be forwarded by registered or certified mail to the owner of the property at the last known address of such owner as shown on the county tax records.

C. The notice to abate shall contain:

1. A description of the real property, by street address or otherwise on which such nuisance exists;

2. A direction to abate the nuisance within a time period of not less than five days nor more than 60 days from the date of the notice, the time period to be set at the discretion of the enforcement officer based on the nature and seriousness of the nuisance;

3. A description of the nuisance;

4. A statement that unless such nuisance is removed the city may abate the nuisance and the cost of the abatement shall be a lien against the property;

5. A statement that the property owner or other person in charge of the property may protest the abatement by giving notice, in writing, stating the reasons for the protest, to the enforcement officer within 10 days from the date of the notice, or such lesser time period as specified by the enforcement officer for abatement of the nuisance.

D. Upon completion of the mailing and/or posting, the enforcement officer shall place a record of

the time and date of notification and a copy of the notification in the file.

E. An error in the name or address of the owner or person in charge of the property or the use of a name other than that of the owner or the person shall not make the notice void. In such a case, the posted notice shall be sufficient.

F. Under emergency circumstances, the time period for abatement of the nuisance may be reduced by the enforcement officer. [Ord. 05-15 § 20, 2002.]

#### **8.10.210 Abatement – By owner.**

A. Within the time period specified by the notice, after the mailing and/or posting of the notice as provided in LMC 8.10.200, the owner or person in charge of the property shall either remove the nuisance or show that no nuisance exists.

B. The owner or person in charge protesting that no nuisance exists shall file with the enforcement officer a written statement that shall specify the basis for so protesting.

C. The statement shall be referred to the city council as a part of the council's regular agenda at the next succeeding meeting. At the time set for consideration of the abatement, the owner or the other person may appear and be heard by the council and the council shall thereupon determine whether or not a nuisance in fact exists and such determination shall be entered in the official minutes of the council. Council determination shall be required only in those cases where a written statement has been filed as provided.

D. If the city council determines that a nuisance does in fact exist, the owner or person in charge of the property shall abate such nuisance within the time period as specified by the city council.

E. If, within the time allowed, the property owner or person in charge of the property has not abated the nuisance, the enforcement officer shall commence proceedings before the Linn County justice court or Linn County circuit court in accordance with the provisions of Chapter 1.25 LMC. [Ord. 05-15 § 21, 2002.]

#### **8.10.220 Joint responsibility.**

If more than one person is 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. 05-15 § 22, 2002.]

#### **8.10.230 Enforcement and penalty.**

A violation of this chapter shall be enforced pursuant to Chapter 1.25 LMC. Any individual, firm, or corporation, whether as principal, agent, or employee, violating any provision of this chapter shall be punished, upon conviction thereof, by a fine of not less than \$50.00 nor more than \$1,000. A failure to comply with a provision of this chapter shall be considered a separate offense for each day the violation continues. In addition to the imposition of any fine, the city council, the Lebanon Justice Court or the Linn County circuit court may order the abatement of the nuisance by the city. [Ord. G1-2006 § 13, 2006; Ord. 05-15 § 23, 2002.]

#### **8.10.240 Abatement by the city.**

A. If the city council, justice court or circuit court determines that a nuisance exists and the decision involves abatement of the nuisance by the city, the city council shall cause the nuisance to be abated.

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

C. The enforcement officer shall keep an accurate record of the expense incurred by the city in physically abating the nuisance and shall include a charge of \$10.00, or 10 percent of those expenses, whichever is greater, for administrative costs.

D. The enforcement officer shall forward to the owner, by registered or certified mail, a notice stating:

1. The total cost of the 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 30 days from the date of the notice; and
3. That if the owner objects to the cost of the abatement as indicated, a notice of objection may be filed with the enforcement officer not more than 10 days from the date of the notice.

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

F. If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs, as stated or as 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.

G. The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest to be established by resolution. The interest shall begin to run from the date of entry of the lien in the lien docket.

H. 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 shall remain a valid lien against the property. [Ord. 05-15 § 24, 2002.]

## Chapter 8.15

### Burning

Sections:

8.15.010 State rules adopted.

#### **8.15.010 State rules adopted.**

OAR Chapter 340, Division 264, as now or hereafter constituted or amended, is hereby adopted in its entirety. Violations of the provisions in said Oregon Administrative Rules shall be an offense against this city and the offense procedures and penalties provided therein, insofar as possible, shall apply to the city of Lyons. [Ord. G1-2006 § 15, 2006; Ord 05-7 § 1, 1988.]

