

Chapter 8.01 NUISANCES

Section

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8.01.010 **Purpose and Applicability.** This Chapter is designed to establish basic standards for the maintenance and upkeep of private and public property throughout the City of Mosier to protect public health, safety and welfare and to help ensure that activities on one property do not disturb or impact significantly the use or enjoyment of neighboring properties. The owners and all persons in control of property within the City shall adhere to these standards, and any violation shall be processed as a civil infraction under the City’s Civil Enforcement Chapter.

8.01.020 **Definitions.** The following definitions shall apply to this Chapter:

A. “Ordinances” means all ordinances adopted by the Mosier City Council and any State law adopted therein by reference as these provisions now exist or may from time to time be amended or supplemented, and any codification of City ordinances that may be adopted.

B. “Junk” means discarded, broken or disabled material including, but not limited to furniture, appliances, toys, tires, machinery or other equipment and any other item that is inoperable or otherwise unusable.

C. “Litter” means discarded waste materials, including but not limited to paper wrappings, packaging materials, discarded or used bottles, cans and other containers.

D. “Nuisance” means any condition or use of property that annoys, injures or endangers the safety, health, comfort or repose of the public, unlawfully interferes with, obstructs or tends to obstruct or render dangerous for passage a public park, sidewalk, street or alley. Any violation of a substantive requirement of any Mosier City Code, ordinance or any permit or approval issued by the City of Mosier constitutes a nuisance.

E. “Owner” means any person with an ownership interest in real property, as shown on the Wasco County real property records or the most recent property tax records, and any person in possession or control of real property such as a renter, lessee, guest, invitee or other tenant.

- F. “Person” means any individual, corporation, Limited Liability Corporation, partnership, unincorporated association, local government, government agency or other legal entity.
- G. “Property” means land and any improvements located thereon.
- H. “Trash” means waste food products, household garbage, discarded furniture, mattresses, inoperable or unused appliances, tires and the like.

8.01.030 Duty to Maintain Property. The following conditions are declared to be nuisances that jeopardize the health, safety and welfare of the residents of Mosier. No person shall engage in any of the following activities, nor shall any owner, resident or user of any real property or improvements, including a vacant lot, maintain or allow to be maintained, any of the following conditions visible from any public right-of-way or from any other property:

- A. Junk, trash, litter, discarded lumber, salvage materials or other similar materials;
- B. Attractive nuisances dangerous to children, including but not limited to abandoned, broken or neglected equipment, machinery, refrigerators and freezers, excavations, wells or shafts, and any unguarded machinery;
- C. Broken or discarded furniture, equipment, furnishings or shopping carts;
- D. Dead, decayed, diseased or hazardous trees, or any other vegetation that presents a hazard or danger to the public;
- E. Trees, hedges, billboards or other obstructions that prevent drivers or pedestrians from having a clear view of traffic signs and other control devices or traffic approaching an intersection from cross streets in sufficient time to stop before entering the intersection;
- F. Limbs of trees that are less than eight feet above the surface of any sidewalk, street or public right of way;
- G. Wires, except clotheslines, which are strung less than 15 feet above the surface of the ground;
- H. Any sign or graffiti, not in compliance with the City’s adopted sign regulations, on the exterior of any building, fence or other structure;
- I. Vehicle parts or other articles of personal property which are discarded or left in a state of disrepair, repair or partial construction;
- J. Any accumulation of growing or cut and piled grass, weeds, brambles, branches, berry vines, or other vegetation;

K. Hanging signs, awnings, A-frame signs and other similar structures in or over the public right of way, streets or sidewalks without permit, or which are situated in a manner that endangers public safety, or constructed and maintained in violation of applicable City requirements;

L. Vehicles, boats, trailers, or parts thereof, that are inoperable due to lack of legal requirements, have no currently valid license or registration, safety equipment or the like, or are not capable of being safely operated or driven in the manner for which they were designed, or have been on the same parcel of private property for 30 days or longer. This section shall not apply to vehicles enclosed or stored within a building with walls and a roof that are completely screened from public view.

8.01.040 **Nuisances Affecting Health.** The following conditions are declared to be nuisances that jeopardize the health, safety and welfare of the residents of Mosier. No person shall engage in any of the following activities, nor shall any owner or resident of any real property or improvements, including a vacant lot, maintain or allow to be maintained, any of the following conditions:

A. Decayed or unwholesome food offered for sale to the public;

B. Diseased animals running at large;

C. Carcasses of animals not buried or destroyed within 24 hours after death;

D. Accumulation of rubbish, trash, household appliances, tires, manure or refuse of any kind;

E. Garbage cans or other waste or septic containers that are not flytight;

F. Dilapidation or state of filthiness or uncleanness of any dwelling or other structure that endangers health or life, violates the Dangerous Building Code or attracts, harbors or permits entrance by rats, mice or other rodents;

G. Smoke, noxious fumes, smells, gas, soot or cinders produced on a property, that are not contained or filtered, and are allowed to leave the property;

H. Pollution or contamination of any public stream, river, lake, storm sewer or other surface water body with soil, sediments or dust or the contamination of any public or private street, road or storm water drainage facility with dirt, dust or mud from any construction, earth moving, vegetation removal or development activity.

I. The discharge to, or contamination of, any surface water, stream, well, ditch or public right-of-way by sewage, agricultural or industrial wastes, silt, soil, mud or other pollutants;

J. The excavation, exposing, destabilization or disturbing of public utility lines or pipes, including sanitary sewer, water, stormwater and the like and the failure to properly cover, stabilize and restore such utility lines or pipes once they have been exposed or otherwise disturbed. The installation or alteration of public utility lines or pipes shall be done in compliance with applicable City requirements after consultation with the City Engineer or other appropriate official, and shall be subject to final inspection to ensure compliance with City requirements.

K. All other acts, omissions, occupations or uses of property that are deemed by the City Council, the Board of Health or Department of Environmental Quality to be a nuisance or hazard to public health.

8.01.050 Nuisances Affecting Peace and Safety. The following conditions are declared to be nuisances that jeopardize the health, safety and welfare of the residents of Mosier. No person shall engage in any of the following activities, nor shall any owner, user or resident of any real property or improvements, including a vacant lot, maintain or allow to be maintained, any of the following conditions:

A. Maintenance of explosives, flammable liquids, fungicides, insecticides, herbicides, rodenticides, poisons, chemicals or other dangerous substances stored or disposed of in any manner or amount in violation of any applicable law;

B. Frequent, loud or annoying noises or vibrations made or caused to be made by a person, including but not limited to amplified music, singing or a public address system, motor and engine noise from vehicles, lawn mowers, garden tools or other machinery, horns, sirens and any other noise that can be heard beyond the property on which the noise or vibration originates and which unreasonably disturbs or interferes with the peace, comfort or repose of the owners or inhabitants of neighboring property. Where applicable, proof of violation of the noise level limitations set forth in OAR Chapter 340, Division 35 shall be prima facie evidence of a violation of this section, but proof of a violation may be made by other or additional evidence;

C. Buildings and alterations to buildings made or erected within fire setback limits as established by applicable requirements of state law, Wasco County or the City;

D. Obstruction to, or within 5 feet of, a fire hydrant or fire standpipe, including fences, poles, trees, bushes or any other vegetation.

E. Buildings, structures, or parts thereof which are abandoned or allowed to fall into extreme disrepair. Any such structures determined by the City Council, in consultation with the District Fire Chief, to be hazardous to public safety or to pose undue risk of fire, substantiate a violation;

F. Uncut dry grass, ladder fuels including flammable bushes and/or mature trees with branches lower than 8 feet and/or stores of leaf litter or dead needles in the canopy within the area immediately surrounding a building or residential structure. Any such neglected vegetation determined by the City Council, in consultation with the District Fire Chief, to pose undue risk of fire, or significantly inhibit the defensibility of a building or habitable structure presents a violation;

G. Obstructions and excavations affecting the public's ordinary and safe use of public property or public rights-of-way, including streets, alleys, sidewalks and utility easements, unless specifically permitted by the City;

H. Telecommunications receiving or transmitting antennas erected or maintained in any manner in violation of any applicable law or regulation;

I. Use of property abutting a public street or sidewalk or any use of a public street or sidewalk, without first obtaining a permit, that causes large crowds of people to gather and obstruct traffic or the free use of the streets and sidewalks;

J. The use of any property or improvement that is not allowed by the City's land use regulations, or the failure to obtain a permit or other governmental approval where one is required prior to engaging in a particular use.

K. The use or conveyance of property that was created in violation of the procedural or substantive requirements of applicable subdivision or partitioning laws.

8.01.060 **Nuisances – Enforcement and Penalty.** The violation of any provision of this Chapter is a nuisance and a civil infraction subject to enforcement and prosecution under the City's Civil Enforcement Chapter in addition to any other means of enforcement available to the city before any court or administrative body of competent jurisdiction. Upon a determination that a person has violated any requirement or prohibition of this chapter, that person shall be subject to a fine of up to \$500 per violation. Each day of violation, event or occurrence may be deemed a separate citable and punishable offense.

8.01.070 **Liability.** The City of Mosier shall not be liable to any person for any loss, injury or damage to persons or property arising from any act, omission, requirement or prohibition of this chapter. Any person, owner or user of property that fails to promptly comply with the requirements or prohibitions of this chapter shall be answerable to any person injured by such a failure for any and all damages recoverable by an action at law. If any claim or legal action is brought against the City arising from a person's actions or failure to act as required by this chapter, the person responsible for the action or failure to act that gave rise to the claim shall be liable to the City for its costs and damages in defending any such claim, including reasonable Attorney and witness fees and any penalty or judgment that a court may impose against the City.