

ORDINANCE NO. 2064

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE,
OREGON, AMENDING CITY CODE CHAPTER 8 TO CLARIFY THE DEBRIS
ON PRIVATE PROPERTY NUISANCE; CLARIFY THE NOXIOUS
VEGETATION NUISANCE; AND REPEAL REGULATIONS RELATING TO
NOTICES AND ADVERTISEMENTS AS PREVIOUSLY DIRECTED BY
COUNCIL.**

WHEREAS, Under Municipal Code Section 8.04.070 (B), accumulation of junk, rubbish, debris, and junk or inoperable vehicles on public or private property constitutes a public nuisance, however to obtain a judgment that such conditions constitute a nuisance Section 8.04.070 (B), as presently written, has an additional qualification that requires the city to prove that the nuisance has some effect on the public health, welfare, or safety; and

WHEREAS, it is Council's belief that accumulations of junk or rubbish on premises are inherently public nuisances, therefore it is unnecessary for Code Section 8.04.070 (B) to require that the junk has an effect on public health before the city can order its removal; and

WHEREAS, it is the general belief in Milwaukie that under Municipal Code Section 8.04.110, grass or noxious vegetation can become a nuisance if one of several conditions develops, such as the vegetation grows over 8 inches tall, or it goes to seed; and

WHEREAS, there is an opportunity to clarify the City's weed and noxious growth nuisance, listed at Municipal Code Section 8.04.110 (A), to embody the general belief that if noxious vegetation becomes a nuisance for development of one sufficient reason, the other conditions listed in the code do not also need to occur before the city can declare the nuisance; and

WHEREAS, the City of Milwaukie, Oregon ("City") has previously reviewed the city's prohibitions on placing notices and advertisements on public or private property, and the Council has decided the city's prohibitions as currently drafted should be repealed at this time; and

WHEREAS, the code sections affected by this Ordinance all appear in Chapter 8 of the City Code, thus, it is efficient to combine all the Chapter 8 changes into one Ordinance for consideration and passage.

Now, Therefore, **THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:**

Section 1. Section 8.04.070 of the Municipal Code of Milwaukie is amended to read as follows:

8.04.070 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. Privies

An open vault or privy constructed and maintained within the City, except those constructed or maintained in connection with construction projects in accordance with the State Board of Health regulations.

B. Debris on Private Property

Accumulations of debris, rubbish, manure, and junk, junk machinery, or junk vehicles of any kind, inoperable vehicles, and other refuse located on private property that are not removed within a reasonable time.

C. Stagnant Water

Stagnant water which affords a breeding place for mosquitoes and other insect pests.

D. 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.

E. Food

Decayed or unwholesome food which is offered for human consumption.

F. Odor

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

G. Surface Drainage

Drainage of liquid wastes from private premises.

H. Smoke, etc.

Dense smoke, noxious fumes, gas soot, or cinders in unreasonable quantities.

I. Harborage for Rats

It is unlawful for any person who owns and/or is in charge of property to allow the accumulation of any litter, filth, garbage, decaying animal or vegetable matter, which may or does offer harborage or source of food for rats.

J. Properties Declared "Unfit for Use"

Property placed on the Oregon Health Division "Unfit for Use List" because it has been used for the manufacture of illegal drugs and that has not been issued a "Certificate of Fitness" by the Oregon Health Division.

Section 2. Section 8.04.110 of the Municipal Code of Milwaukie is amended to read as follows:

8.04.110 WEEDS AND NOXIOUS GROWTH—DEAD OR DECAYING TREES OR TREE LIMBS

The following things, practices, or conditions on any real property are nuisances. For purpose of this section, "real property" includes any portion of a right-of-way adjacent to the real property.

A. Grass, thistles cockleburrs, brambles, wild blackberry bushes, weeds listed under any weed category in the Oregon State Noxious Weed List maintained by the Oregon State Weed Board, or other noxious vegetation, where the plant has:

1. Grown to greater than eight (8) inches in height;
2. Gone to seed; or
3. Become a fire hazard.

B. Dead, decaying, or unsafe trees or tree limbs that present a safety hazard to the public or adjacent property. In stating the abatement costs pursuant to subsection C of Section 8.04.200 of this chapter, the Council may, in its sole discretion, determine the cost to be less than the total cost of abatement in order to:

1. Share no more than fifty percent (50%) of the net cost of removal of a tree in the right-of-way with an adjacent property owner who did not plant the tree; and/or
2. Assist a low-income resident of the City who is responsible for paying the cost of removal and whose income level shall meet the low-income eligibility requirement of Chapter 13.20 of this code. In making this determination, the Council shall consider using other alternatives such as deferred and partial payments to minimize the adverse impact on income.

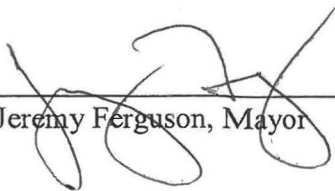
Section 3. Section 8.04.160 of the Municipal Code of Milwaukie is hereby repealed.

Section 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Read the first time on 4/2/13, and moved to second reading by 5-0 vote of the City Council.

Read the second time and adopted by the City Council on 4/2/13.

Signed by the Mayor on 4/2/13.



Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis, PC



Pat DuVal, City Recorder

