

CHAPTER 94: NUISANCES

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(A) In the unincorporated areas of county, it is a public nuisance for any person in charge of property to permit, or any person to cause to exist in any place or business where patrons, employees, residents, or occupants engage in a pattern of behavior involving the commission of three or more of the following offenses:

- (1) Public consumption of alcohol;
- (2) Loitering to solicit prostitution;
- (3) Prostitution procurement activities;
- (4) Excessive noise;
- (5) Assault, ORS 163.160, 163.165, 163.175, or 163.185;
- (6) Sexual abuse, ORS 163.415, 163.425, or 163.427;
- (7) Public indecency, ORS 163.465;
- (8) Criminal trespass, ORS 164.245 or 164.255;
- (9) Criminal mischief, ORS 164.345, 164.354, or 164.365;
- (10) Disorderly conduct, ORS 166.025;
- (11) Harassment, ORS 166.065;
- (12) Minor in possession of alcohol, ORS 471.430;
- (13) Unlawful manufacture, delivery, or possession of a controlled substance, ORS 475.992; or

§ 94.01 TITLE.

This chapter may be referred to as the Health and Public Nuisances chapter.
(Ord. 96-09, passed 9-18-96)

(14) Public urination/defecation.

(B) For purposes of this section, **PATTERN OF BEHAVIOR** means one or more patrons, employees, residents, or occupants of the place or business having been arrested or issued a citation for violation of three or more of any of the offenses specified in division (A) above that occur over any six month period at the place or business or within 300 feet thereof.

(Ord. 96-09, passed 9-18-96)

§ 94.03 BUSINESSES AS NUISANCES.

(A) It is unlawful for any place or business to be a public nuisance or to be used as a public nuisance. If any place or business is found to be a public nuisance or to be used as such, it shall be subject to closure for a period of up to one year.

(B) Public nuisance closure will be cited, investigated and administratively decided utilizing the code enforcement procedures in Chapter 38 of this code.

(Ord. 96-09, passed 9-18-96)

§ 94.04 ABATEMENT.

(A) Where there is no imminent danger to human life or to property, the abatement procedures in this section shall apply.

(B) Notice of abatement, in the form of a warning citation, shall be posted on the premises where the condition, substance, act, or nuisance exists, directing the owner or person in control of the property to abate the situation. At the time of posting, the Code Enforcement Officer shall also attempt to personally serve the owner or person in control, or both, with a copy of the warning citation and shall also send a copy of the warning citation by certified mail to the last known address of the owner or person in control of the property, or both.

(C) If prior notice of abatement was sent to the owner or person in control of the property within the preceding 12 months and ownership or control of the property has not changed and the prior notice was returned as undeliverable or if delivery was refused, then notice can be provided by publication as set forth in division (E) below.

(D) The notice to abate shall contain:

(1) A description of the real property, by street address or otherwise, on which the condition, substance, act, or nuisance exists;

(2) A description of the condition, substance, act, or nuisance which must be abated;

(3) A direction to abate the condition, substance, act, or nuisance within 10 days from the date of the notice;

(4) A statement that unless the condition, substance, act, or nuisance is removed, the county may abate the situation and the cost of abatement will be charged to the owner;

(5) A statement that the owner or person in charge of the property may protest the abatement by giving written notice to the Board of Commissioners within 10 days from the date of the notice; and

(6) A statement that if the cost of abatement is not paid by the owner or person in charge of the property, the cost of abatement will be assessed to and become a lien on the property.

(E) If the notice by certified mail is returned as undeliverable or delivery is refused, notice of the nuisance shall be published in a newspaper of general circulation at least 10 days before abatement action is taken. This shall be in addition to notice by posting and attempted notice by personal service.

(F) Upon completion of the posting, mailing

and attempted personal service, the person posting and mailing the notice shall file a certificate with the Hearing Officer stating the date and place of the mailing, posting and attempted personal service.

(G) 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 person in charge of the property shall not make the notice void and in such case the posted notice shall be sufficient.

(H) Within 10 days after the posting, mailing and attempted personal service, the owner or person in charge of the property shall remove the situation or show that the situation does not exist.

(I) A person protesting that the situation does not exist shall file with the Board of Commissioners a written statement within 10 days after the posting and mailing of the notice, which shall specify the basis for the protest.

(J) The statement of protest shall be referred to the Hearing Officer for a hearing after the Code Enforcement Officer issues a citation, complaint and summons for a hearing upon the complainant.

(K) If the Hearing Officer determines that the situation does exist, the owner or person in charge of the property shall abate the situation within 10 days of that determination.

(L) If the situation has not been abated within the time allowed, the county may cause the situation to be abated.

(M) The person charged with the abatement of the situation shall have the right at reasonable times to enter upon the property to investigate and cause the removal of the situation. (Ord. 96-09, passed 9-18-96)

§ 94.05 ASSESSMENT OF COSTS.

(A) The Code Enforcement Officer shall keep an accurate record of the expense incurred by the county for abatements. This record shall include the costs of personal services, materials and an additional charge of 10% for administrative overhead.

(B) After abatement by the county has been completed, the Code Enforcement Officer shall send by certified mail to the owner or person in charge of the property, a statement of:

(1) The total cost of abatement including the administrative overhead;

(2) The cost that will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice;

(3) Notification that if the owner or person in charge of the property objects to the cost of abatement as indicated, a written objection may be filed with the Board of Commissioners within 10 days from the date of the notice.

(C) A person objecting to the cost of abatement shall file with the Board of Commissioners a written statement within 10 days from the date of the notice of the costs. If the objection is timely, the Code Enforcement Officer shall issue a citation, complaint and summons to the complainant and the matter shall be heard at a hearing before the Hearing Officer.

(Ord. 96-09, passed 9-18-96)

§ 94.06 HEARINGS.

(A) If a written statement of protest or objection to the cost of the abatement is timely filed, the matter shall be referred to the Hearing Officer for a hearing.

(B) All hearings permitted by this chapter shall be conducted by the Hearing Officer in accordance with the provisions of the code

enforcement procedures in Chapter 38 of this code. (Ord. 96-09, passed 9-18-96)

TOBACCO/SMOKE-FREE POLICY

§ 94.10 TOBACCO/SMOKE-FREE POLICY.

(A) There is a tobacco/smoke free policy on all county owned or controlled property.

(B) All smoking and use of any smoking instruments are prohibited on county owned or controlled property effective March 1, 2014, and tobacco free July 1, 2014.

(C) Smoking is defined to encompass use of any smoking instrument, including but not limited to cigarettes, cigars, pipes, hookahs, electronic cigarettes and vaporizers. (Ord. 2006-17, passed 11-6-2006; Order BCC2007-66, adopted 5-2-2007; Ord. 2013-11, passed 1-2-2014)

ABATEMENT OF DANGEROUS BUILDINGS

§ 94.15 PURPOSE

It is the purpose of this chapter to provide a just, equitable and practicable method, to be cumulative with addition to any other remedy provided by the law, where buildings or structures in a commercial area that cause or endanger the life, limb, health, property, safety, or welfare of the general public or their occupants may be required to be repaired, vacated or demolished. The provisions of this chapter shall apply to all dangerous buildings and structures, as defined, in this chapter, which are now in existence or which may hereafter become dangerous in this jurisdiction. (Ord. 2017-11, passed 6-28-2017)

§ 94.16 DANGEROUS BUILDING

For the purpose of this chapter and within the jurisdiction of the Board of Commissioners, any building, building system, or structure, located in a commercial area or zone, which has any or all of the following conditions or defects described shall be deemed to be a Dangerous Building, provided that such conditions or defects endanger the life, health, property or safety of its occupants or the public:

A. Whenever a building or structure is determined to be structurally unsound or defective such that building collapse or other structural failure may occur or where such a structural condition exists that may be injurious to life, limb, or property.

B. Whenever a required door, aisle, passageway, stair, or other exit component or system is blocked or otherwise rendered unusable or is otherwise in violation of any applicable code.

C. Whenever a building or structure is being used or occupied contrary to the manner in which it was approved provided that such use creates a life or fire safety hazard, health hazard, or environmental hazard to the building occupants or adjacent property owners.

D. Whenever a building or structure is effected by one or more health hazards including but not limited to inadequate plumbing and/or sanitation, inadequate light and/or ventilation, chemical hazard, toxins, or is otherwise determined to be unfit for human habitation or use.

E. Whenever, for any reason, a building or structure or a portion thereof is manifestly unsafe for the purpose for which it is being used.

F. Whenever a building contains a fire hazard as defined in the most current edition of the Oregon Fire Code that creates an immediate threat to life or fire safety.

G. Whenever any building system (electrical, plumbing, heating, ventilation, air conditioning or other permanently installed system) is determined to be unsafe or otherwise in violation of any applicable code or ordinance.

H. Whenever permanently installed equipment or machinery creates a structural, life or

fire safety hazard, health or other hazard.

I. Whenever the accumulation of solid and/or putrescible waste creates a structural, life or fire safety, health or other hazard.

J. Whenever an environmental hazard exists that poses an immediate danger to the occupants of a building or where the continued use of a building will cause the environmental hazard to worsen.

K. Whenever an occupied building lacks an operational, potable water supply.

L. Whenever an occupied building lacks a functioning connection to public sewer or an approved and fully operational septic facilities.

M. Whenever any other condition exists that creates a significant structural, life or fire safety, health or other hazard that impacts the occupancy or continued use of buildings or structures. In such cases, the health officer or the building official shall cite the specific reason(s) that the building or structure has been determined to be unsafe.

(Ord. 2017-11, passed 6-28-2017)

§ 94.17 ABATEMENT OF DANGEROUS BUILDINGS

All Dangerous Buildings or portions thereof, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter. In addition to abatement as described in this chapter, a Dangerous Building may be ordered to be vacated subject to the provisions of this chapter.

(Ord. 2017-11, passed 6-28-2017)

§94.18 ADMINISTRATION

The code enforcement officer and his or her authorized representatives are hereby delegated full authority to enforce the provisions of this chapter.

(Ord. 2017-11, passed 6-28-2017)

§ 94.19 NOTICES

When the code enforcement officer has inspected, caused to be inspected, or received a sufficient amount of verifiable information about any building and has found and determined that such building is a Dangerous Building, the building official shall commence proceedings to cause the repair, vacation or demolition of the building.

A. Notice

The code enforcement officer shall issue a notice directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.

2. A statement that the officer has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of this chapter.

3. A statement of the action required to be taken to abate the nuisance.

a. If the building or structure must be repaired, the notice may include a date when the work must be physically commenced and completed.

b. If the notice may require that the building or structure be vacated.

4. If any required repair or demolition work is not commenced within the time specified, the code enforcement officer may order the building vacated and posted to prevent further occupancy until the work is completed.

5. Statements advising

a. that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the building official to the Board of Commissioners, provided the appeal is made in writing as provided in this

chapter and filed with the Board of Commissioners within 30 days from the date of service of such notice and order; and

b. That failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

B. Service of Notice

The notice shall be served upon the record owner and posted on the property; and a copy shall be served on each of the following if known or disclosed from official county public records: The holder of any mortgage, or deed of trust or other legal interest holder; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the building official to serve any person shall not invalidate any proceedings as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

C. Method of Service

Service of the notice shall be made upon all persons either personally or by mailing a copy of such notice by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last equalized assessment roll of the county or as known to the officer. If no address of any such person so appears or is known to the officer, then a copy of the notice shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner provided shall be effective on the date of mailing.

(Ord. 2017-11, passed 6-28-2017)

§ 94.20 REPAIR, VACATION AND DEMOLITION

The following standards shall be followed in ordering the repair, vacation or demolition of any Dangerous Building:

A. Any building declared a Dangerous Building under this chapter shall be made to comply with one of the following:

1. The building shall be repaired in accordance with the Building Code or other current code applicable to the type of substandard conditions requiring repair; or

2. The building shall be demolished at the option of the building owner; or

3. Where a building is not occupied and does not constitute an immediate danger to the life, limb, property or safety of the public it may be vacated, secured, and maintained against entry in a manner acceptable to the code enforcement officer. Where a building cannot adequately be secured and maintained against entry, the officer shall have discretion to disallow the securing of the building against entry as an option for resolution of the dangerous condition.

B. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated and such a building shall remain vacated until such time as the code enforcement officer or an authorized representative determines the building no longer poses an immediate threat. Upon issuance and posting of an order to vacate a dangerous building it shall be unlawful for anyone to enter or remain in the building without obtaining the prior written permission of the code enforcement officer or an authorized representative. A person who enters or remains in a duly ordered and posted dangerous building is subject to arrest, criminal prosecution, and any other remedy available at law.

C. If the Dangerous Building is not repaired, demolished, or secured as required, then the Code Enforcement Officer may request the Board of Commissioners to issue an order authorizing the

County to accomplish the repair, demolition or securing of the property and assess the costs to the property owner.

(Ord. 2017-11, passed 6-28-2017)

§ 94.21 ORDER TO VACATE

A. Posting. Every order to vacate shall, in addition to being served as provided in this chapter, be posted at or upon each exit of the building and shall be in substantially the following form:

DO NOT ENTER UNSAFE TO OCCUPY It is a violation of Umatilla County Code of Ordinances to occupy this building, Or to remove or deface this notice. Umatilla County Code Enforcement officer

B. Compliance. Whenever such notice is posted, the code enforcement officer shall include a notification in the notice, reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy.

(Ord. 2017-11, passed 6-28-2017)

§ 94.22 APPEAL

A. Any person entitled to service under Section 94.19 may appeal from any notice and order or any action of the code enforcement officer under this chapter by filing with the Board of Commissioner a written appeal containing:

1. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.

2. A brief statement in ordinary and concise language of the specific order or action protested,

together with any material facts claimed to support the contentions of the appellant.

3. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed modified or otherwise set aside.

4. The signatures of all parties named as appellants and their official mailing addresses.

5. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

B. The appeal shall be filed within 30 days from the date of the service of such order or action of the code enforcement officer.

C. As soon as practicable after receiving the written appeal, the Board of Commissioners shall fix a date time and place for the hearing of the appeal by the board. Such date shall not be less than 15 days and not for more than 60 days from the date the appeal was filed with the Board of Commissioners. Written notice of the time and place of the hearing shall be provided to the appellant.

D. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

E. Except for vacation orders made pursuant to Section 9.01.140, enforcement of any notice and order of the building official issued under this chapter shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

(Ord. 2017-11, passed 6-28-2017)

§ 94.23 CONDUCT OF APPEAL HEARING

A. Rules - Hearings need not be conducted according to court rules regarding evidence and witnesses.

B. Admissibility of Evidence - Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Common law or statutory rules that might

dictate a contrary result in state courts will not apply.

C. Exclusion of Evidence - Irrelevant, immaterial or unduly repetitious evidence shall be excluded.

D. Rights of Parties - Each party shall have the following rights, among others:

- 1. To call and examine witnesses on any matter relevant to the issues of the hearing;
- 2. To introduce documentary and physical evidence;
- 3. To cross-examine opposing witnesses on any matter relevant to the issues of the appeal;
- 4. To rebut the evidence; and
- 5. To be represented by anyone who is lawfully permitted to do so.

E. Inspection of Premises - The Board of Commissioners may inspect any building or premises involved in the appeal during the course of the hearing, provided that:

- 1. Notice of the inspection is given to the parties before the inspection is made;
- 2. The parties are given an opportunity to be present during the inspection.

(Ord. 2017-11, passed 6-28-2017)

§ 94.24 METHOD AND FORM OF DECISION

A. Form of Decision - The decision of the Board of Commissioners shall be in writing, and shall contain findings of fact and a determination of the issues presented. A copy of the decision shall be delivered to the appellant personally or sent by certified mail, postage prepaid, return receipt requested. A decision shall be issued within 14 days of the conclusion of any appeals hearing.

B. Effective Date of Decision - The effective date of the decision shall be as stated in the decision itself. The time lines for compliance with the final decision should be based on the guidelines for compliance with the original Order or action of the code enforcement officer, when appropriate.

(Ord. 2017-11, passed 6-28-2017)

§ 94.25 EFFECT OF FAILURE TO APPEAL

Failure of any person to file an appeal in accordance with the provisions of Section 94.17 shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.

(Ord. 2017-11, passed 6-28-2017)

§ 94.26 COMPLIANCE

After any order of the Code Enforcement Officer or the Board of Commissioners made pursuant to this chapter becomes final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order.

A. Failure to Obey Order to Vacate. Any person who fails to comply with an order to vacate a dangerous building is subject to fines, fees, and civil penalties permitted by law.

B. Failure to Obey Order to Repair or Demolish Building. Whenever effective person fails to comply with an order to repair or demolish a dangerous building the building official may:

- 1. Order the building to be vacated, and
- 2. In addition to any other remedy provided,

cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice; or, if the abatement required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost recovered in the manner hereinafter provided in the Umatilla County Code of Ordinances.

(Ord. 2017-11, passed 6-28-2017)

§ 94.27 EXTENSION OF TIME TO PERFORM WORK

Upon receipt of an application from the person required to conform to the abatement and by agreement of such person to comply if allowed additional time, the code enforcement officer may grant extensions of time, in increments of 60 additional days, within which to complete said repair, rehabilitation or demolition, if the code enforcement officer determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The code enforcement officer's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order. (Ord. 2017-11, passed 6-28-2017)

§ 94.28 INTERFERENCE WITH REPAIR OR DEMOLITION WORK PROHIBITED

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any interest in any building which has been ordered repaired, vacated or demolished under the provisions of this chapter; or with any person to whom such building has been lawfully sold pursuant to the provisions of this chapter, whenever such officer, employee, contractor or authorized representative of this jurisdiction, person having an interest in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this chapter. (Ord. 2017-11, passed 6-28-2017)

§ 94.29 RIGHT OF ENTRY

When it is necessary to make an inspection to enforce the provisions of this chapter, or when the code enforcement officer has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this chapter which makes the building

or premises unsafe, dangerous or hazardous, the code enforcement officer may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this chapter, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If the building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

§94.30 ENFORCEMENT

1. The provisions of this chapter may be enforced under the procedure set out in Chapter 38 of the Umatilla County Code of Ordinances, including the filing of a citation for any violation of Chapter 94.
2. None of the remedies described in this chapter are exclusive and the County may pursue any other remedies available to it including, but not limited to, commencing a civil action in a court of competent jurisdiction. (Ord. 2017-11, passed 6-28-2017)