

TOWN OF FAIRFIELD
SPOKANE COUNTY WASHINGTON
ORDINANCE NO. 334

AN ORDINANCE relating to the abatement of nuisances

THE TOWN COUNCIL OF THE TOWN OF FAIRFIELD, WASHINGTON DOES ORDAIN AS FOLLOWS;

Section I. Definitions: Unless the context requires otherwise, the following means:

1. Person: A natural person, firm, partnership, association, corporation or limited liability company (L.L.C.), whether he is acting for himself or as a representative or agent of another.
2. Person in charge of property: An agent, lessee, contract purchaser, or other person having possession or control of property or the supervision of any construction project.
3. Person Responsible: The person responsible for abating a nuisance shall include:
 - (i) The owner
 - (ii) The person in charge of property, as defined in Subsection 2.
 - (iii) The person who caused to come into or continue in existence a nuisance as defined in this Ordinance or another Ordinance of this Town.
4. Public Place: A building, public street, alley or right-of-way, place or accommodation, whether publicly or privately owned, open and available to the general public.
5. Premises: As used herein, shall include property, landscaping, plantings, trees, bushes, fences, buildings, fixtures and exterior storage of personal property, equipment, supplies, and vehicles.
6. "Improvement Board" (*or board*) shall mean that group of three members designated to exercise the powers as granted under this ordinance. One member shall be the Town's fire chief or fire chief's designee. The two remaining members shall be appointed by the Mayor, subject to the approval of the town council. The term of these two remaining members shall run concurrently with the term of the mayor. The membership of the board shall be limited to the residents of the Town of Fairfield. If a vacancy on the Board arises before the expiration of a member's term, the Mayor shall appoint a new member, with this appointment subject to the Council's approval.
7. Nuisance: Unless the context of the use of the term in a particular section or the specific language of this code otherwise provides or requires, for purposes of this code a "nuisance" or "public nuisance" consists of an occupation, use of property, a thing, unlawfully doing an act, or omitting to perform a duty, which occupation, use, thing, act or omission.
 - (i) Unreasonably annoys, injures or endangers the comfort, repose, health or safety of the public or others, including unreasonably loud noises or continual dog barking; or
 - (ii) Unreasonably offends decency; or
 - (iii) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage or use, any lake, stream, canal, or basin, or any public park, square, street, alley, or highway; or

- (iv) In any way renders other persons unreasonably insecure in life or the use of property; or
- (v) Unreasonably obstructs the free use of property so as to essentially interfere with the comfortable enjoyment of life and property.

Section II. Public Nuisance Declared: Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance, and whenever the improvement board determines that any of these conditions exist upon any premises, the board may require or provide for the abatement thereof pursuant to this Ordinance, provided that any other conditions similar to those enumerated in this particular section which are determined by the improvement board or Mayor to cause the same type of nuisance as defined in Section I.7, but which is not specifically defined or addressed in this Section II, shall likewise be considered a public nuisance.

The construction, maintaining, using, placing, depositing, causing, allowing, leaving, or permitting to be or remain in or upon any private or public lot, building, structure, or premises, or, in, or upon any street, avenue, alley, park, parkway, or other public or private place in the Town any one or more of the following places, conditions, things, or acts to the prejudice, danger, or annoyance of others:

1. Accumulations of manure, rubbish or other solid waste: Provided that, a compost pile so covered or concealed as not to affect the health, safety, or value of adjacent property shall not be so deemed.
2. Pollution of a body of water, spring, stream, or drainage ditch by sewage, industrial wastes, or other substances that cause harmful material to pollute the water.
3. All limbs or trees overhanging a public sidewalk or alley which are less than nine (9) feet above the surface of said sidewalk or overhanging a city street which are less than fourteen (14) feet above the surface of said street.
4. Premises or residences
 - (i) which are in such a state of decay as to cause an offensive odor; or
 - (ii) which are in an unsanitary condition; or
 - (iii) which create or constitute an unreasonable risk of fire or public safety hazard for adjoining property owners, whether public or private.
5. Ponds or pools of stagnant water: except those areas of wetlands as designated by city, federal or state laws, rules or regulations.
6. Privies, vaults, cesspools, sumps, pits, or like places which are not securely protected from flies and rats or which are foul or malodorous.
7. All unused, abandoned, or discarded refrigerators, ice boxes, or like containers which are left in any place exposed or accessible to children; or any water closet, bath tub, or other appliance.
8. All places not properly fenced which are used or maintained as junkyards or dumping grounds, or for the wrecking, disassembling, repair, or rebuilding of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked, or abandoned automobiles, trucks, tractors, or machinery of any kind or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others.
9. Deposit, keep, or leave or to permit to be deposited, kept, or left in any place accessible to children, or in any place viewable from a public street or alley, any abandoned, unused, unlicensed, non-running, or discarded automobile, trailer, truck, or other such vehicle, or any vehicle hulk or any part thereof. As to the abatement of junk vehicles, see the Town's ordinance no. 333.

This section shall not apply to junk kept in a duly licensed junk yard, automobile wrecking yard, automobile sales lots, or automobile repair shop.

The term "junk" as used in this section includes junk vehicles, old or unusable motorized or non-motorized vehicle or vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances, or parts thereof, old iron or other metal, glass, paper, lumber, wood, or other waste or discarded material.

10. an open pit, quarry, cistern, or other excavation without safeguards or barriers to prevent such places from being accessed or used by children.
This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.
11. The depositing or burning of or causing to be deposited or burned in any street, alley, sidewalk, park, parkway, or other public place which is open to travel, any hay, straw, grass, grass clippings, papers, wood, boards, boxes, leaves, manure, or other rubbish or material except by permission of the fire marshal.
12. The existence of any dead, diseased, infested, or dying tree that may constitute a danger to property or persons. No tree on property which abuts upon a street or public sidewalk shall interfere with street or sidewalk traffic.
13. All shrubs, bushes, trees, or vegetation which have grown and are in such a condition, whether as the result of size, flammability, or state of decay, to constitute a fire hazard.
14. Any tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire, pipe, metal articles, plaster, and all other trash or abandoned material, unless the same is kept in covered bins or metal receptacles approved by the appropriate public officials, and except for recyclables kept in approved containers.
15. Any trash, litter, rags, accumulations of empty barrels, boxes, crates, packing cases, mattresses, bedding accessories, packing hay, straw, or other packing material, scrap iron, tin, pipe, and other metal not neatly piled.
16. Lumber, roofing or siding materials, logs, or pilings not so stacked, piled, or arranged as to be free from being dangerous to or/and accessible to children.
17. Any of the following not properly secured from access by the public: Provided that the compliance officer and/or county building officials shall have concurrent jurisdiction in relation to any covered structures.
 - (i) any unsightly or dangerous building, billboard, or other structure, or
 - (ii) any abandoned, or partially destroyed building or structure, or
 - (iii) any building or structure commenced and left unfinished for a period of more than six months from the date of the last completed work pursuant to the authority of an applicable valid building permit, or
 - (iv) storage of vehicles, materials, or other objects contrary to the provision of any applicable section of this code.
18. Repair upon the public streets, alleys or other public property of the Town, of any automobile, truck, or other motor vehicle or any other device required to possess a license issued by the Department of Motor Vehicles/Licenses of this state or the state of its registration except for emergency repairs not to exceed forty-eight (48) hours in any seven-day period and only so long as it is so located as to not constitute a hazard or unreasonable interference to pedestrian or motor vehicle travel or the placement or storage upon these sights of vehicles, materials, or other objects contrary to the provision of any applicable section of this code.
19. Any putrid, unsound, or unwholesome bones, meat, hides, skins, skeletons, or other whole or part of any dead animal, fish, or fowl, butchers trimming and offal, or any waste, vegetable or animal matter, in any quantity, garbage, human excreta, or other offensive substance, provided nothing contained in this Ordinance shall prevent the temporary retention of waste in receptacles in the manner approved by the appropriate Town officials of the Town or the local disposal company.
20. Except to the extent allowed by the lawful terms of a permit issued by the governmental authority having jurisdiction thereof, burning or disposal of refuse, sawdust, or other material in such a manner to cause or permit ashes, sawdust, soot, or cinders to be cast upon the streets or alleys of the Town, or to cause or permit dense smoke, noxious fumes, ashes, soot, or gases arising from such burning to become annoying or injurious to health, comfort, or repose of the general public.

21. The existence of any vines, plants growing into or over any street, sidewalk, public hydrant, pole, or existence of any shrub, vine, or plant, growing on, around, or in front of any hydrant, stand pipe, sprinkler system connection, or any other appliance or facility provided for fire protection purposes in such a way as to obscure the view thereof or impair the access thereto, or obstruct or interfere with the proper diffusion from the light from any street lamp, or obstruct the vision of vehicle or pedestrian traffic.
22. Any poisonous or harmful substance which is reasonably accessible to persons or to animals.
23. The existence of any fence or other structure or thing on private property abutting or fronting upon any public street, alley, sidewalk, or place which is in a sagging, leaning, fallen, decayed, or other dilapidated or unsafe condition.
24. Poultry which creates a nuisance.
25. To dispose of all dead animals within the Town.
26. All trees, hedges, billboards, fences, or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at reasonable speed to a full stop before the intersection is reached.
27. All explosives, inflammable liquids, and other dangerous substances stored in any manner or in any amount other than that provided by Ordinance.
28. For any person to obstruct or encroach upon public highway, streets, private ways alleys, and ways open to the public including cemeteries, or to unlawfully obstruct or impede the flow of municipal transit vehicles, as defined in RCW 46.04.355, as now existing or hereafter amended or succeeded or passenger traffic, or to otherwise interfere with the provision or use of public transportation services, or obstruct or impede a municipal transit driver, operator, employee, or supervisor in the performance of that individuals duties.
29. For any person to erect, continue, or use any building or other structure or place for the exercise of any trade, activity, employment, or manufacture, which, by occasioning obnoxious, hazardous, or toxic exhausts or emissions, offensive smells, or otherwise , is offensive or dangerous to the health of the individuals or the public.
30. Any place wherein intoxicating liquors or controlled substances are kept for unlawful use, sale, or distribution.
31. Barking dog or dogs which are either unattended or unreasonably loud or continual as to cause a disturbance or annoyance of the public or others.

Section III: Prohibited Conduct: It shall be unlawful for any responsible person or owner to create, permit, maintain, suffer, carry on, or allow upon any premises any of the acts or things declared by this Ordinance to be a public nuisance.

Section IV: Enforcement Notice:

1. The improvement board upon receiving a written complaint from any neighbor, person, citizen, or other source, or becoming aware that a nuisance may exist, shall investigate the complaint or information with all reasonable dispatch.
2. The improvement board, upon finding any condition in violation of this Ordinance shall cause any owner or other responsible person to be notified in writing of the existence of the public nuisance, directing the owner or person in charge of the property to abate the condition within ten (10) calendar days after notice or another reasonable period. If not personally served, the written notice shall be posted on the premises, and mailed to the last known address of the owner or other responsible person by certified mail.
 - (i) At the time of posting, if in the determination by the improvement board the property appears abandoned, a copy of such notice shall be sent by certified mail to the holder of any legal interest in the building or the land, which interest is evidenced by a contract, deed of trust, mortgage, or deed, so long as such interest is disclosed by a title report obtained by the Town.
 - (ii) The notice shall be substantially in the following form and many contain such other information as may be deemed appropriate by the issuing official

NOTICE TO ABATE UNSAFE OR UNLAWFUL CONDITION
(Name and address of person notified)

As owner, agent, lessee, or other person occupying or having charge or control of the building, lot or premises at _____, you are hereby notified that the undersigned, pursuant to Ordinance Number/Code Section _____ of the Town of Fairfield has determined that there exists upon said premises the following condition contrary to the provisions of Subsection _____ of Ordinance Number/Code Section _____

You are hereby instructed to abate or correct said condition to the satisfaction of the undersigned within ten (10) days of the date of this notice. If you do not abate, correct or appeal such condition within ten (10) days, the Town may without further notice to you abate the condition at your expense.

Further, in addition to any civil fine imposed under this ordinance, you may be subject to criminal prosecution for a misdemeanor. If you are found guilty of a misdemeanor, the criminal penalty may be imprisonment for up to 90 days, or a fine of up to \$1,000.00, or by both such imprisonment and fine.
Dated: _____

By: _____
(Name of Improvement Board Members)

Section V: Appeal: Within the time specified in the notice, the person responsible shall abate the nuisance or show that no nuisance exists, unless an appeal is taken as provided in this section.

1. An owner or person responsible protesting that no nuisance exists shall file with the Town Clerk a written statement which shall specify the basis for so protesting within the ten-day period allowed for abatement pursuant to Section IV. The statement shall set out with reasonable specificity the factual matters which are the basis of the protest.
2. The statement shall be referred to the Mayor for administrative review. In undertaking such a review, the Mayor may consider such materials as are within the file, including those submitted by the party protesting the decision. The Mayor may also undertake a personal view of the site or condition at issue. If determined necessary and appropriate by the Mayor, an informal conference may be held at which the protestor and all other interested parties and persons may present such factual and legal information as is determined relevant by the Mayor. Following such administrative review, the Mayor shall thereupon determine whether or not a nuisance in fact exists, and the determination shall be entered in the official records of the Town. An administrative review shall be required only in those instances where a written statement has been filed as provided within this section.
3. If the administrative review determines that a nuisance does in fact exist, the person responsible shall, within the time specified after the administrative determination, abate the nuisance.

If more than one person is responsible, they shall be jointly and severally liable for abating the nuisance, and for the costs incurred by the town in abating the nuisance.

If within the time allowed, the nuisance has not been abated by the person or persons responsible, the Town may cause the nuisance to be abated.

Section VI: Abatement by the Town: In all cases where the Town Council has determined to proceed with abatement, the Town shall acquire jurisdiction to abate the condition at the person's expense as herein provided. Upon the abatement of the condition or any portion thereof by the town, all the expenses thereof shall constitute a civil debt owing to the Town jointly and severally by such persons who have been given notice as herein provided. The debt shall be collectible in the same manner as any other civil debt owing to the town. To the extent allowed by law, whether statute, ordinance, rule or regulation, including but not limited to, the provisions of the Building Code, Fire Code, or Uniform Code relating to the abatement of abandoned or dangerous buildings, the debt shall become a lien against the property and may be collected in such manner as may be allowed by law.

Section VII: Abatement by Owner or Other Responsible Person: If and when an owner or other responsible person shall undertake to abate any condition described in this Ordinance, whether by order of the improvement board or other wise, all necessary and legal conditions pertinent to the abatement may be imposed by the board. It is unlawful for the owner or other responsible person to fail to comply with such conditions. Nothing in this Ordinance shall relieve any owner or other responsible person of the obligation of obtaining any required permit to do any work incidental to the abatement.

Section VIII: Immediate danger – Summary Abatement: Whenever any condition on or use of property causes or constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health or safety of the public or a significant portion thereof, the Mayor shall have the authority to summarily and without notice abate the same to the extent and subject to the provisions of applicable law. The expenses of such abatement shall become a civil debt against the owner or other responsible party and be collected as provided in Section VI.

Section IX: Violations: Any person violating any of the provisions of this Ordinance shall be subject to the following penalty or punishments:

- a. It shall be unlawful for any person to create or allow a public nuisance as defined herein
- b. Any violation of any provision of this Ordinance shall be a civil violation constituting a civil infraction commencing upon the date that the board or Town Council had specified for completion of abatement. Each person violating this Ordinance shall be fined not less than \$250 per violation nor more than \$1,000 per violation; \$250 of any such fine may be neither suspended nor deferred. The Town shall mail a notice of each such fine to the person violating the Ordinance. If the fine has not been paid within 30 days after the Town has mailed the notice, the Town may seek collection of each such fine by any legal means. The violator shall pay all costs incurred by the Town in seeking to collect the fine, including but not limited to court costs and reasonable attorney's fees. A separate offense shall be deemed to have been committed on each day during which a violation occurs or continues to occur, provided, that the mandatory imposition of the \$250 fine shall apply only one time for each continuing offense. For example, if a violation were to exist for 3 days, the minimum fine shall be \$250, the maximum fine shall be \$3,000 (maximum fine per day of \$1,000 times 3), but the Town may reduce the maximum fine for that 3-day period to an amount not less than \$250.

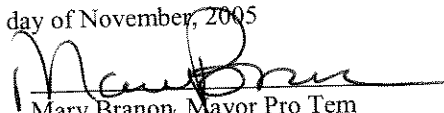
In addition to any other penalty, fine, or imprisonment which may be imposed, the court may direct the correction or elimination of the nuisance and in the event the party fails to timely correct, order such correction to be carried out and require the party to pay the costs related to such correction or elimination. In the event that summary abatement has been carried out pursuant to the authority within Section VIII, the costs incurred by the Town in so acting may be imposed.

Section X: Remedies Nonexclusive: The remedies prescribed in this Ordinance are in addition to all other remedies provided or authorized by law, whether ordinance, statute, or regulation.

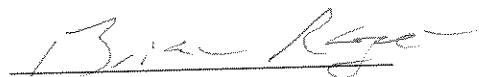
Section XI: Severability: If any section, sentence, clause, or phrase of this Ordinance is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The Town Council hereby declares that it would have approved this Ordinance and each section, subsection, sentence, clause or phase hereof, irrespective of clauses or phrases to be declared illegal, invalid, or unconstitutional.

Section XII: Effective Date: This Ordinance shall become effective five (5) days from and after its passage, approval, and publication as provided by law.


PASSED BY THE Town Council in regular meeting this 15 day of November, 2005


Mary Branon, Mayor Pro Tem

Approved as to form:


Brian Ragen, Attorney

Attested:


Susan Adams, Clerk-Treasurer