

**TITLE 4
PUBLIC HEALTH AND SAFETY**

**CHAPTER 1
NUISANCES**

4-1-1: PURPOSE:

It is the intent of this chapter to encourage a clean, healthy and satisfying environment for the city's citizens, one free from nuisances, eyesores, unhealthy or devaluating conditions. To these ends, this chapter seeks to regulate, identify and provide a means to enforce the regulations to protect the health, safety and welfare of residents and property owners. (Ord. 729, 5-4-2004)

4-1-2: DEFINITIONS:

As used in this chapter:

ABANDONED VEHICLE: The vehicle has been parked or left standing upon any public way of the city of Umatilla without authorization by statute or local ordinance, or upon any public or private property, and is therefore a public nuisance.

ABATEMENT: Stopping or suppressing a nuisance completely.

ADMINISTRATOR: The Umatilla city administrator, an authorized representative or designee.

COUNCIL: The Umatilla city council.

DEPARTMENT OF TRANSPORTATION: The Oregon department of transportation, or other registration authority analogous to the department of transportation in any state other than Oregon.

DISCARDED VEHICLE: Any vehicle which does not have lawfully affixed thereto unexpired license plates or reasonably appears to be inoperative, wrecked, abandoned totally or partially dismantled, or junked. Discarded vehicles may be deemed to include major parts thereof, including, but not limited to, bodies, frames, engines, transmissions and rear ends.

GARBAGE: All animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of food.

HEARINGS OFFICER: An individual retained, hired or appointed by the administrator to hear appeals.

INTERSECTION: The area embraced within the prolongation or connection of the lateral curb lines or, if none, then of the lateral boundary lines of two (2) or more streets or highways which join one another at an angle, whether or not one street or highway crosses the other.

LIQUID WASTE: Waste oil, septic tank pumping, liquid industrial wastes or other similar material.

NUISANCE: An unlawful act, an omission to perform a duty, or suffering or permitting any condition or thing to be or exist, which either:

- A. Injures or endangers the welfare, health or safety of others; or
- B. Offends decency; or
- C. Creates offensive odors; or
- D. Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, ditch or drainage; or
- E. In any way renders other persons insecure in life or the use of property; or
- F. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

OWNER: Any person having a legal interest in real or personal property or any person in possession or control of real or personal property, and excludes any person whose interest is for security only.

PERSON RESPONSIBLE: The person responsible for abating a nuisance and shall include:

- A. The owner;
- B. The person in charge of property;
- C. The person who caused to come into or continue in existence a nuisance as defined herein or another ordinance of this city.

PUBLIC PLACE: A building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.

RUBBISH: Glass, metal, paper, wood, plastics or other solid waste.

SOLID WASTE: All wastes, whether in solid or liquid form, and includes garbage, rubbish, ashes, fill dirt, sewage sludge, street refuse, industrial wastes, swill, demolition and used construction materials, abandoned vehicles or parts thereof, discarded home or industrial appliances, manure, vegetable or animal solids and semisolid waste, dead animals and other discarded solid materials.

VEHICLE: Any device which is designed or used for transporting people, goods or property upon a public street or roadway, including, but not limited to, a body, engine, transmission, frame or other major parts, but does not include a device propelled by human power, such as a bicycle, or a device operated exclusively upon fixed rails or tracks. (Ord. 729, 5-4-2004)

4-1-3: LIABILITY FOR INJURIES:

- A. The owner of real property on which a nuisance exists is liable to the person injured because of failure by the owner to abate the nuisance.
- B. If the city is required to pay damages for an injury to any person caused by the failure of an owner to abate a nuisance, the owner shall reimburse the city for the amount of any damages paid, and for the attorney fees and costs of defending against the claim for damages. The city may maintain an action in court to enforce the provisions of this section. (Ord. 729, 5-4-2004)

4-1-4: UNENUMERATED NUISANCES:

- A. The acts, conditions or objects specifically enumerated and defined are declared public nuisances, and may be abated as provided by section 4-1-6 of this chapter.
- B. In addition to the nuisances specifically enumerated in section 4-1-5 of this chapter, every other thing, substance or act that is determined by the city council to be injurious or detrimental to the public health, safety or welfare of the city is declared a nuisance and may be abated as provided in section 4-1-6 of this chapter. (Ord. 729, 5-4-2004)

4-1-5: NUISANCES ENUMERATED:

4-1-5-1: NUISANCES AFFECTING PUBLIC HEALTH:

No person shall cause or permit a nuisance affecting public health on property owned or controlled by the person. The following are nuisances affecting public health and may be abated as provided in section 4-1-6 of this chapter:

- A. Cesspools: Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor;
- B. Debris: Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the city;
- C. Food: Decayed or unwholesome food offered for human consumption;
- D. Privy: Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the Oregon department of environmental quality regulations;
- 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. Oils: Mastics, oil, grease or petroleum products allowed to be introduced into the sewer system by a user connected to the sewer system;

- G. Slaughterhouse: An establishment where animals are butchered; also a tannery or pigsty, or any place where animals are publicly killed or butchered;
- H. Stagnant Water: Standing water that affords a breeding place for mosquitoes and other insect pests;
- I. Surface Drainage: Drainage of liquid wastes from public or private premises;
- J. 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 the water in a manner that will cause harmful material to pollute the water. (Ord. 729, 5-4-2004)

4-1-5-2: NUISANCES ATTRACTIVE TO CHILDREN:

- A. No person shall create a hazard by maintaining or leaving, in a place accessible to children, a container with a compartment of more than one and one-half (1 1/2) cubic feet capacity and a door or lid that locks or fastens automatically when closed and that cannot be easily opened from the inside.
- B. No owner or person in charge of property shall permit the following to occur on that property:
 - 1. Leaving unguarded machinery, equipment or other devices where they are dangerous and accessible to children;
 - 2. Lumber, logs or pilings placed or stored in a manner so as to be attractive, dangerous and accessible to children;
 - 3. Failing to cover or fence with a suitable protective construction any well, cistern, cesspool, excavation, or other hole of a depth of four feet (4') or more, and a top width of twelve inches (12") or more;
 - 4. Failing to lock or otherwise secure by barriers or other devices any building or structure which is vacant;
 - 5. Placing playgrounds, sports or athletic equipment or structures within or immediately adjacent to a public right of way, such as a basketball backboard and hoop, which if used requires or encourages playground, sports or athletic activity within the right of way.
- C. This section does not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children. (Ord. 729, 5-4-2004)

4-1-5-3: JUNK:

- A. For the purposes of this section:

1. The term "junk" includes old machinery or parts thereof, old appliances or parts thereof, old iron or other metal, glass, paper, lumber, wood or other waste or discarded material;
 2. The term "junk" does not include motor vehicle parts, abandoned, dismantled or unlicensed motor vehicles.
- B. No person shall store or permit the storing of any junk on any public right of way.
- C. No person shall store or permit the storing of any junk on any lot or premises for more than seventy two (72) hours, unless it is completely enclosed within a building or in a space within zoning setback requirements which is entirely enclosed by a solid fence, hedge or screen, not less than six feet (6') in height.
- D. This section does not apply to junk kept in a licensed junk yard or automobile wrecking house or to properly stacked cords of firewood. (Ord. 729, 5-4-2004)

4-1-5-4: FENCES:

- A. No owner or person in charge of property shall construct or maintain a barbed wire or razor wire fence.
- B. No owner or person in charge of property shall construct, maintain or operate an electric fence.
- C. No owner or person in charge of property shall permit a fence in disrepair, which is falling down, or patched with materials not generally considered fencing material or which is a hazard to others. (Ord. 729, 5-4-2004)

4-1-5-5: SCATTERING RUBBISH:

Except at a city designated dump site, no person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property or would be likely to injure a person, animal or vehicle traveling upon a public way. (Ord. 729, 5-4-2004)

4-1-5-6: HAULING MATERIALS:

No person shall haul sand, gravel, rock, wood or other substances in any 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 and litter the public streets of the city. (Ord. 729, 5-4-2004)

4-1-5-7: OFFENSIVE LITTERING:

- A. No person shall create an objectionable stench or degrade the beauty or appearance of property or detract from the natural cleanliness or safety of property by intentionally:
1. Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission of the owner, or upon any public way;

2. Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank, recreational or camping vehicle waste holding tank, or other contaminated source upon the land of another, or upon any public way;
3. Permit any rubbish, trash, garbage, debris or other refuse to be thrown from a vehicle which he or she is operating, except that this subsection shall not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the interstate commerce commission or the public utility commissioner of Oregon or a person operating a school bus subject to Oregon Revised Statutes 485.010 to 485.060.

B. As used in this section, "public way" includes, but is not limited to, roads, streets, alleys, lanes, trails, beaches, parks, and all recreational facilities operated by the city, state or county for use by the general public. (Ord. 729, 5-4-2004)

4-1-5-8: SIDEWALKS:

It is the duty of an owner or occupant of land adjoining a street to maintain in good repair and remove obstructions from the adjacent sidewalk. No owner or person in charge of property, improved or unimproved, abutting on a paved public sidewalk, shall permit snow, ice or debris to accumulate so that the sidewalk becomes a hazard or obstructs free passage to persons using it. (Ord. 729, 5-4-2004)

4-1-5-9: SURFACE WATER, DRAINAGE:

No owner or person in charge of property shall permit rainwater, ice or snow to fall from any building or structure thereon onto any street or sidewalk or to flow across any abutting public sidewalk. Drainpipes or a drainage system shall be properly maintained so that any overflow water accumulated on the property will not be carried across or upon any abutting public sidewalk. (Ord. 729, 5-4-2004)

4-1-5-10: TREES AND SHRUBS:

- A. No owner or person in charge of property shall permit trees or shrubs on their property to interfere with street or sidewalk traffic or with overhead utility lines.
- B. It shall be the duty of an owner or person in charge of property abutting the right of way of an open public street or a sidewalk to:
 1. Keep all trees and shrubs on the premises trimmed so that any overhanging portions are at least eight feet (8') above the sidewalk, or at least fourteen feet (14') above the vehicular travel surface;
 2. Keep tree limbs from blocking stop signs, street signs or other signs;
 3. Keep shrubs from growing out over the sidewalk or curb; and
 4. Keep all vegetation cleared from the sight triangle required at intersections on corner lots as specified in the Umatilla zoning ordinance.

- C. Removal of vegetation that may cause interference with overhead utility lines shall be supervised by qualified city personnel.
- D. It shall be the duty of an owner or person in charge of property that abuts upon a public right of way to contact the city administrator and follow the city's instructions prior to trimming or removal of any tree in the right of way adjacent to that property. (Ord. 729, 5-4-2004)

4-1-5-11: NOXIOUS VEGETATION:

- A. As used in this section, the term "noxious vegetation" means uncontrolled or uncultivated growth of vegetation left unmanaged which creates traffic visibility problems at intersections, poses a threat of conflagration that may endanger the safety and welfare of the citizens of Umatilla or unreasonably interferes with the use and enjoyment of abutting public or private property. Noxious vegetation includes:
 - 1. Russian thistle (also known as tumbleweed);
 - 2. Knapweed or spotted knapweed;
 - 3. Any vegetation, including grass and weeds, that:
 - a. Poses a fire hazard because it is dry and more than twelve inches (12") high,
 - b. Encroaches onto an opened public right of way or across a property line,
 - c. Poses a traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous,
 - d. Creates an unsafe area to which children may be attracted,
 - e. Is capable of being used for concealment or habitation by trespassers,
 - f. Harbors animals that pose a health threat to humans, or
 - g. Is listed as noxious by federal, state or county authorities.
- B. The term "noxious vegetation" does not include:
 - 1. Vegetation (except Russian thistle, spotted knapweed, or any noxious weed) that is maintained as an ornamental hedge, privacy screen or windbreak no wider than approximately five feet (5');
 - 2. Vegetation that is maintained as a safety barrier at the top edge of a steep slope or other hazardous location;
 - 3. Trees.
- C. It shall be the duty of the owner or person in charge of property to cut down or destroy any noxious vegetation as often as needed to prevent the health and safety hazards described above.
- D. No owner or person in charge of property abutting the right of way of an open street or public sidewalk (whether part of a street easement or right of way or located on public land)

shall permit vegetation to interfere with adjacent street or sidewalk traffic. (Ord. 729, 5-4-2004)

4-1-5-12: RADIO AND TELEVISION INTERFERENCE:

- A. No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.
- B. This section does not apply to devices licensed, approved and operated under the rules and regulations of the federal communications commission. (Ord. 729, 5-4-2004)

4-1-5-13: DISCARDED AND ABANDONED VEHICLES:

- A. No vehicle or parts thereof may be abandoned or discarded upon public or private property.
- B. The owner of the vehicle as shown in the records of the department of motor transportation shall be considered responsible for the abandonment of a vehicle in the manner prohibited and shall be liable for the costs of removal, storing and disposition of the abandoned vehicle.
- C. This section shall supplement and be in addition to the other regulatory codes and statutes enacted by the county, the state or any other legal entity or agency having jurisdiction.
- D. This section shall not apply to:
 - 1. A vehicle, or parts thereof, lawfully enclosed within a building or behind a sight obscuring fence in a manner where it is not visible from the street or other public or private property; or
 - 2. A vehicle, or parts thereof, which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business. (Ord. 729, 5-4-2004)

4-1-5-14: BLOWING DUST AND DEBRIS:

Every person shall take and maintain positive steps to immediately control from blowing, any fill material, debris or any soil from their property. Said steps shall be either by water sprinkling system, sprinkler truck, gravel blanket, sod, straw or other agent which will positively prevent the blowing of disturbed soil, debris and/or fill material which is placed on the property. (Ord. 729, 5-4-2004)

4-1-5-15: PROHIBITED SIGNS:

No person may attach or cause to be attached an advertisement, bill, placard, poster or sign upon real or personal public property. On private property permission from the owner or person in control of the property must first be obtained. This section shall not be construed as an

amendment to or a repeal of any city development code regulation of the use and location of signs. (Ord. 729, 5-4-2004)

4-1-5-16: EXCAVATIONS:

It shall be unlawful for any person to allow any excavation which endangers the lateral support or causes cracking, settling or other damage to streets, sidewalks or other public property. (Ord. 729, 5-4-2004)

4-1-5-17: REMOVAL OF ANIMAL WASTES:

The owner or person having custody or control of any dog shall have the responsibility for cleaning up after the dog by immediately removing and disposing of in a sanitary manner any feces deposited by the dog upon public property or private property of another. "Sanitary manner" means placing the feces in a closed or sealed container and depositing in a trash receptacle. Further, it shall be the responsibility of the owner or person having custody or control of any dog to have in his/her possession suitable equipment for the picking up, removal and sanitary disposal of dog feces. This provision does not apply to a guide dog accompanying a blind person or to a service dog accompanying a disabled person or to a dog when used in police or rescue activities. (Ord. 729, 5-4-2004)

4-1-5-18: PROHIBITED PARKING:

- A. The parking of vehicles, trailers, motor homes, machinery, and boats on lawns, sidewalks, public access points, or any surface other than streets, driveways and paved, cemented or graveled parking pads is prohibited.
- B. This section shall supplement and be in addition to the other regulatory codes and statutes enacted by the city, county, the state or any other legal entity or agency having jurisdiction. (Ord. 729, 5-4-2004)

4-1-6: ABATEMENT OF NUISANCES:

4-1-6-1: DETERMINATION OF NUISANCE:

Whenever a nuisance is found to exist within the city or within its extraterritorial jurisdiction, the city administrator may follow procedures prescribed in this chapter to obtain compliance from the person responsible. The administrator may enter any property or building at any reasonable time for the purpose of inspection or enforcing this chapter. Except when an emergency exists, the administrator shall obtain the consent of the owner or a search warrant from the municipal court or other court of competent jurisdiction before entering private property or a private building. As used in this section, an emergency exists when the administrator has reasonable cause to believe that a nuisance constitutes an immediate and active danger to the public health, safety and/or welfare. (Ord. 729, 5-4-2004)

4-1-6-2: ABATEMENT; GENERAL PROCEDURES:

The administrator shall provide written notice to the owner or person responsible for the existence of the nuisance and shall demand abatement within ten (10) days from the date of the

written notice or such lesser time as may be set by the administrator to protect the public health, safety and welfare. The notice shall contain:

- A. A description of the real property by street address or otherwise on which the nuisance exists sufficient to identify the same;
- B. A description of the nature of the nuisance;
- C. The action necessary to abate the nuisance;
- D. The time within which the nuisance must be abated;
- E. A statement that unless the nuisance is abated, the city may abate the nuisance and the cost of abatement shall be a lien against the property;
- F. A statement that the owner may request a hearing upon written request to the administrator within seven (7) days of the date of the notice. (Ord. 729, 5-4-2004)

4-1-6-3: ABATEMENT OF NOXIOUS VEGETATION:

- A. The administrator shall publish, on or about April 15 of each year, a notice declaring that all noxious vegetation as outlined in this chapter shall be abated by June 15 of each year.
- B. If the owner and/or occupant fails to abate the nuisance, the administrator shall, by certified mail, notify the owner of record that if the nuisance is not abated within ten (10) days, the administrator will abate the nuisance. A notice shall also be posted on any structure on the subject site. The notice shall contain:
 - 1. A description of the real property by street address or otherwise on which the nuisance exists sufficient to identify the same;
 - 2. A description of the nature of the nuisance;
 - 3. The action necessary to abate the nuisance;
 - 4. The time within which the nuisance must be abated (10 days);
 - 5. A statement that unless the nuisance is abated, the city may abate the nuisance and the cost of abatement shall be a lien against the property.

Abatements of weed nuisances shall not require the approval of the city council before the city proceeds to abatement and bills the cost to the property owner. (Ord. 729, 5-4-2004)

4-1-6-4: AUTHORIZATION FOR ABATEMENT BY THE CITY:

- A. If within the time allowed, the nuisance has not been privately abated or scheduled for private abatement, with a schedule approved by the city administrator, the city administrator

may submit to the council at its next meeting a description of the nuisance, an estimate of the cost to abate the nuisance and a request for authorization for the city to expend funds to do so.

- B. If the council authorized abatement by the city, the person authorized or retained to do the abating may enter upon the property at reasonable times for purposes of investigating and abating the nuisance.
- C. The city finance director or a designee shall keep accurate record of the expense incurred by the city in abating the nuisance and shall include a charge equal to ten percent (10%) of those expenses or not less than one hundred dollars (\$100.00) for administrative costs. (Ord. 729, 5-4-2004)

4-1-6-5: APPEAL OF ADMINISTRATIVE DETERMINATION OF NUISANCE:

- A. A person responsible, protesting that no nuisance exists, shall file with the city recorder a written appeal of the administrative decision, specifying the basis for the protest. The appeal must be received by the city recorder not more than three (3) calendar days past the deadline established by the city administrator. The statement shall be referred to the hearings officer, who shall set a hearing date.
- B. The hearings officer shall hear the matter, with not less than ten (10) calendar days' notice being given to the person responsible as to the date of the hearing.
- C. At the time set for consideration of the abatement, the person protesting may appear and be heard by the hearings officer, and he or she shall determine whether or not a nuisance in fact exists. The determination shall be in writing. The decision of the hearings officer regarding the city administrator's recommendation, costs to be assessed, and all protests or objections shall be final and conclusive. The hearings officer's determination shall be required only in those cases where a written statement has been filed as provided.
- D. If the hearings officer determines that a nuisance exists, he or she may:
 - 1. Direct the person responsible to abate the nuisance within ten (10) days of the determination; or
 - 2. Authorize abatement by the city. (Ord. 729, 5-4-2004)

4-1-6-6: ASSESSMENT OF COSTS:

- A. The city administrator shall cause to be forwarded by certified mail to the owner (as the name and address appear on the latest assessment roll of the county) and the person responsible, a notice stating:
 - 1. The total cost of abatement, including administrative costs;
 - 2. The costs will be assessed to and become a lien against the property unless paid within thirty (30) days from the date of the notice.

- B. If the costs of the abatement are not paid within thirty (30) days from the date of the notice, an assessment of the costs as stated or as decided by the council 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.
- C. The lien shall be enforced in the same manner as other city liens are enforced, and shall bear interest at the current statutory interest rate. The interest shall begin to accrue from the date of entry of the lien in the lien docket.
- D. 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. 729, 5-4-2004)

4-1-6-7: ENFORCEMENT AND DISCHARGE OF DUTIES:

In case a duty under this chapter bears on two (2) or more persons, discharge of the duty by one of the persons shall discharge the duty for the other person and preclude any lien to enforce discharge of the duty from being imposed on the other person's property. (Ord. 729, 5-4-2004)

4-1-6-8: WAIVER OF ASSESSMENTS:

- A. The cost of abating a nuisance may be waived for low income, elderly or disabled persons, if upon timely application it appears to the administrator that the following conditions are met:
 - 1. The owner is disabled or over sixty five (65) years of age, and, if single, had an income during the preceding calendar year from all sources of less than twelve thousand dollars (\$12,000.00), or, if the head of a family had an income during the preceding calendar year from all sources of less than eighteen thousand dollars (\$18,000.00); and
 - 2. The owner is living on the property from which the nuisance is to be abated.
- B. Application for waiver of nuisance abatement costs shall be filed with the administrator, in writing, within ten (10) days from the date of notice of the amount of cost of abatement. The administrator may require the owner to supply additional information as evidence that the applicant qualifies under the provisions of this section. An application for waiver of nuisance assessment costs must be submitted for each cost of abatement notice sent to the applicant. (Ord. 729, 5-4-2004)

4-1-6-9: SUMMARY ABATEMENT:

The procedure set forth in this chapter is not exclusive, but is in addition to procedures provided by other ordinances. The fire chief, the chief of police or any other city official may proceed summarily to abate a health or other nuisance which unmistakably exists, and which creates a risk of imminent danger to human life or property. (Ord. 729, 5-4-2004)

4-1-6-10: VIOLATION; PENALTY:

Unless otherwise established by statute or ordinance, violation of a provision of this chapter is a class B civil violation. (Ord. 729, 5-4-2004)

4-1-6-11: SEPARATE VIOLATIONS:

- A. Each day's violation of a provision of this chapter constitutes a separate offense. Only one notice will be given per violation. Any reoccurrence of the same violation will be subject to penalties without additional notice.
- B. The imposition of a penalty does not relieve a person of the duty to abate the nuisance.
- C. The abatement of a nuisance is not a penalty for violating this chapter, but is an additional remedy. Private abatement within the time allowed will relieve the person responsible from the imposition of any fine under subsection A of this section. (Ord. 729, 5-4-2004)

CHAPTER 2 SOLID WASTE DISPOSAL

4-2-1: DEFINITIONS:

When used in this Chapter, unless the context requires otherwise.

COLLECTOR or FRANCHISE COLLECTOR: The person holding a license or franchise with the City and thereby authorized and designated by the City to collect, handle, transport and dispose of solid waste.

GARBAGE: All putrescible waste, except sewage and body wastes, including waste accumulated of animal, food or vegetable matter, and including waste that attends the preparation, use, cooking dealing in or storing of meat, fish, fowl, fruit and vegetables; and all cans, boxes, cartons, papers or other objects which have food or other organic materials of any nature in or adhering thereto; and shall include all of such wastes or accumulations or vegetable matter of residences, restaurants, hotels and places where food is prepared for human consumption. The term "garbage" does not include recognized industrial by-products.

LANDFILL: The disposal of solid waste by an approved method of compaction and cover with earth or equivalent material to prevent a nuisance and protect the public health and safety. (Ord. 357, 4-5-76)

MULTI-UNIT STRUCTURE: More than eight (8) units under one ownership on one or more adjacent lots within the City. (Ord. 421, 4-17-78)

OWNER, OCCUPANT or TENANT: May be used interchangeably and means every person in possession, charge or in control of any dwelling, flat, rooming house, or an eating place, shop, place of business, manufacturing or business establishment, or other place, where solid waste is created or accumulated.

PERSON: Corporation, association and partnership, as well as individual.

POISONOUS MATERIALS: Poison grain, insecticides or insecticide containers or other similar materials.

RUBBISH: Solid waste other than garbage (tin cans, bottles, ashes, paper, pasteboard, cardboard or wooden boxes, brush, leaves, weeds and cuttings from trees, lawns, shrubs and gardens) or other waste materials provided in normal course of everyday living.

SANITATION INSPECTOR: The person or persons designated by the City Administrator to enforce this Chapter.

SOLID WASTE: All refuse and all of the putrescible and nonputrescible wastes, except sewage, from all public and private establishments and residences. (Ord. 357, 4-5-76)

UNIT: For the purpose of this Chapter shall mean any room or group of rooms in which one or more persons remain in residence for a period of more than five (5) days. (Ord. 421, 4-17-78)

4-2-2: ACCUMULATION AND DISPOSAL REGULATIONS:

- A. All solid waste shall be removed from private residences not less than once a week. Hotels, restaurants, grocery stores, hospitals, boarding houses, nursing homes, homes for the aged, apartment houses, motels with kitchen facilities, mobile home parks, and other similar establishments shall have solid waste removed daily except Sundays and legal holidays and/or as directed by the Sanitation Inspector. (Ord. 357, 4-5-76)
- B. Every owner, occupant or tenant within the City having or accumulating solid waste which may create a nuisance shall remove or have the same removed by the franchised collector of the City. Arrangements for collection such solid waste shall be made with the collector. (Ord. 357, 4-5-76)

4-2-3: SOLID WASTE DISPOSAL FRANCHISE APPLICATION:

- A. Application for solid waste franchise shall be made on forms furnished by the City. The application shall show the name and address of the applicant, name and address of the business, person to whom complaints should be addressed, type of service proposed and rates proposed, areas to be served, frequency of pick up, disposal sites to be used, equipment and vehicles to be used, and any other information necessary to determine qualifications of applicant.
- B. The City Administrator shall review the application and investigate, as he/she deems appropriate, the applicant's qualifications and the need for proposed service. The Administrator shall notify, in writing, any person holding a franchise for any part of the area the applicant proposes to serve.
- C. Grounds for granting of franchise shall be:
 - 1. The proposed service is economically and technologically feasible and there is a demand for a change in existing service or for a new service.

2. The proposed franchisee will provide a disposal site approved by the County, the Department of Environmental Quality and the City.
 3. The proposed service will conform to purposes and policies of the City in regard to solid waste disposal.
 4. The proposed service does not have an unfavorable impact on consumer rates or service.
 5. The proposed service meets all applicable Federal, State and local bans, rules, regulations and standards.
 6. The applicant has demonstrated the ability to provide the proposed service.
- D. Within thirty (30) days after receipt of an application the City shall hold a public hearing. At this hearing evidence may be presented on the applicant's qualifications and on need of the proposed service. Such public hearing may be continued if the Council decides to investigate further. Within fifteen (15) days after the close of the public hearing, the Council shall make a determination to grant or deny the application and shall enter written findings thereon. (Ord. 450, 4-16-79)

4-2-4: SOLID WASTE COLLECTION:

- A. Rates: The franchise holder may make reasonable charges for solid waste collection service, which charges shall be subject to the approval of the City Council. The rates may be changed during the term of the franchise if approved by the City Council. Said rates shall be on file at the Recorder's office for public inspection. (Ord. 357, 4-5-76; amd. Ord 450, 4-16-79)
- B. Franchise Required; Payment: No person shall collect or haul solid waste within the City for a fee except those persons who have been granted a solid waste collection franchise. The franchise collector shall provide collection service to any resident of the City so long as the resident pays for said service. The owner of any premises shall not allow the accumulation of any solid waste on his property and shall be responsible for payment for service provided to his premises. (Ord. 421, 4-17-78)

4-2-5: FRANCHISE RESPONSIBILITIES:

- A. Records Kept: The franchise holder shall keep proper books and records covering his solid waste collection, removal and disposal operations, which books and records shall always be open to the inspection of the City.
- B. Bond Required:
1. Any solid waste franchise holder shall furnish to the City an acceptable surety bond in the principal amount of five thousand dollars (\$5,000.00) conditioned upon the payment to the City of the funds due it.

2. Any solid waste franchise holder shall carry with an acceptable insurance company public liability insurance on each vehicle as follows:

Bodily Injury - Not less than \$100,000.00 one person. Not less than \$300,000.00 each accident.
Property Damage - No less than \$50,000.00 damage to property of others.

3. Said insurance policies shall cover both the franchise holder and the City as insureds and the City shall be furnished a certificate of insurance.
4. Any franchise granted under this Chapter shall be conditioned upon the franchise holder's indemnifying and saving harmless the City against any liability or damage which may arise or occur to the City from any injury to persons or property as the result of the franchise holder's operations under this Chapter. (Ord. 357, 4-5-76)

4-2-6: CONTAINERS AND LANDSCAPE WASTE:

- A. Every owner of a building wherein solid waste is produced shall provide and maintain in a place easily accessible to the solid waste collector, watertight, rodent and fly-proof containers with a suitable bail or handles and tight fitting cover. Each unit shall have a minimum of one container having a maximum capacity of thirty two (32) gallons, which shall not exceed sixty (60) pounds in weight when filled, or eighteen (18) pounds in weight when empty. In the alternative, the owner of any building may provide a minimum of one and one-half (1 1/2) yard container designed to be mechanically dumped for each eight (8) units. All garbage shall be placed in such containers after having been first drained of excess liquid and wrapped paper or other material to prevent the escape of liquid therefrom. The owner shall be responsible for keeping such containers clean inside and out so that no odor nuisance shall exist. (Ord. 421, 4-17-78)
- B. The solid waste collector shall collect only that solid waste which has been placed in a container as specified in subsection A above. The collector shall remove from any premises solid waste containers not complying with specifications of this Section, upon notification by the Sanitation Inspector that the Sanitation Inspector has found, as a matter of fact, that said container does not comply with said specifications.
- C. Whenever solid waste is placed therein or taken therefrom, such lids shall be replaced by the person placing or taking therefrom such solid waste. Weeds, grass clippings and other bulk materials shall be placed in such solid waste containers or in substantial disposable containers adjacent to the solid waste container. Disposable containers will so confine such material to prevent it from scattering or blowing and shall not exceed the weight limit of sixty (60) pounds. (Ord. 357, 4-5-76)
- D. The franchised collector shall pick up such solid waste as tree limbs, brush, building material and other hard to handle items by special pick up only. Arrangements for special pick up shall be made by the owner, occupant or tenant with the collector. Such material

shall not remain on the property for a period of time longer than one week, and shall in no event be placed upon the City right of way.

- E. Any multi-unit structure which uses one maximum thirty two (32) gallon capacity container per unit rather than the one and one-half (1 1/2) yard mechanically dumped containers shall place such containers within a frame or stand which shall be designed in such a manner to prevent canine access to the containers. Such frame or stand shall be landscaped or designed in such a manner to prevent the containers from being visible from the street. (421, 4-17-78)

4-2-7: VEHICLE REQUIREMENTS:

- A. Vehicle Approval:
 - 1. No franchised solid waste collector shall remove any solid waste or carry it through the streets except on approved vehicles, and/or by special permission of the City.
 - 2. Every collector's vehicle used in the collection and removal of solid waste within the City shall be of a type approved by the City. When a solid waste vehicle becomes unsuitable for service (i.e., unsafe, dilapidated, unsightly, obsolete), the City Council may order replacement of the vehicle within sixty (60) days. Vehicles used in solid waste service shall, at all times, be kept in good and safe operating condition, and shall be kept clean and neatly painted. Solid waste collectors licensed or under franchise by the City shall, at all times, operate adequate equipment to maintain efficient solid waste collection service to the citizens of Umatilla.
- B. Vehicle Inspection: It shall be the duty of the Sanitation Inspector to inspect all collector's vehicles at least once during each quarter of the year and see that the same are kept clean and sanitary. The Sanitation Inspector shall report to the City Administrator when vehicles are not being maintained in a reasonably clean and sanitary condition, and the City Administrator may order the vehicle or vehicles removed from service until such unsanitary condition is remedied.
- C. Solid Waste Protection: Any person who shall carry any solid waste through the streets of the City or to the landfill shall protect such solid waste from wind and rain, and load it in such a manner so that none of it shall drop or spill, and shall provide the vehicle so carrying such solid waste with a suitable cover securely fastened or the load sufficiently bound so as to prevent the scattering or dropping of the solid waste or dust upon the public right of way. (Ord. 357, 4-5-76)

4-2-8: LANDFILL REGULATIONS:

- A. Schedule of Hours: The days of the week and hours of the day that the landfill site shall be opened to the public shall be approved by the City Council.
- B. Landfill Operation: The franchise holder shall operate the landfill, and such operation shall be in the manner as prescribed by the State of Oregon.

- C. Salvage: Salvage shall be rigidly controlled at the site and is restricted to the landfill operator only, when authorized by special agreement with the City Council. If permitted, salvaged material shall be removed daily.
- D. Unacceptable Materials: No person shall dispose of septic tank pumpings at the landfill, should the landfill be located within the City limits, but said pumpings shall be disposed of at the City sewage treatment plant for a fee and under the regulations provided by the City.
- E. Charges: The franchise holder may make reasonable charges for the depositing of solid waste by other collectors at the landfill, which charges shall be subject to the approval of the City Council; provided, however, that should the landfill site be located outside the City limits, then Umatilla County authorities shall approve said charges. The City may dump any solid waste, collected on City property, at the landfill site without charge. (Ord. 357, 4-5-76)

4-2-9: BURNING OF GARBAGE:

No person shall burn garbage within the City. Burning of rubbish shall be permitted only in City approved incinerators or by permit issued by the Fire Department of the City. (Ord. 357, 4-5-76)

4-2-10: INSPECTION:

The Sanitary Inspector shall have the authority to and shall inspect, or cause to be inspected, all buildings and premises, except the interiors of dwellings, as often as may be necessary for the purpose of ascertaining any conditions in violation of this Chapter. (Ord. 357, 4-5-76)

4-2-11: TERMINATION OF FRANCHISE:

- A. If the franchise holder, his successors and assigns shall, at any time, refuse or neglect to comply with the terms of the franchise or this Chapter after fifteen (15) days' notice in writing by the City Administrator of noncompliance of the terms hereof, then, upon the option of the City Council, the franchise may be terminated and any rights and privileges the franchise holder has thereunder shall cease and terminate.
- B. Trucks used by franchise collectors, after an order issued by the City Council for replacement of said truck, shall be cause for the franchise collector to pay to the City the sum of twenty five dollars (\$25.00) per day for each day of use or operation of said truck; and continued use for more than sixty (60) days after order for replacement has been issued shall be cause for cancellation of franchise rights.
- C. Notification in writing of more than three (3) violations of any portions of this Chapter in any one year shall be cause for cancellation of all franchise rights. (Ord. 357, 4-5-76)

4-2-12: PENALTIES:

- A. Any person violating any of the provisions of this Chapter shall, upon conviction, be punished by the imposition of a Class B civil fine²⁸.

- B. In addition to the penalties allowed by Title 1, Chapter 4 of this Code, the City may remove solid waste from the property and charge the cost of such removal to the owner of the property. If the owner does not pay within thirty (30) days, the cost of the removal shall become a lien against the property. (Ord. 421, 4-17-78; 1993 Code)

CHAPTER 3 NOISE CONTROL

4-3-1: TITLE:

This chapter shall be known as the UMATILLA NOISE ORDINANCE. (Ord. 712, 11-6-2001)

4-3-2: DEFINITIONS:

The following words shall have the meanings ascribed to them in this section:

CHIEF OF POLICE: Umatilla chief of police, or the chief's designee.

COMMUNITY EVENT: Any event the city of Umatilla has approved prior to its occurrence and that is sponsored or attended by a local organization or group of people.

CONSTRUCTION, STREET WORK, STREET REPAIR, DRILLING OR DEMOLITION TOOLS OR EQUIPMENT: Machines or mechanically powered items that are typically used on commercial construction projects and involve more than routine repairs or work on residential property.

DOMESTIC POWER TOOL: A mechanically powered saw, sander, drill, grinder, lawn or garden tool, snow blower, leaf blower or similar device that is used in residential areas for work that is typically done by or for residential occupants.

NOISE DISTURBANCE: Any sound which: a) injures or endangers the safety or health of humans; or b) annoys or disturbs a reasonable person of normal sensitivities.

NOISE SENSITIVE UNIT: Any building, structure, or portion thereof that has the doors and windows closed and that is used as a church, daycare center, hospital, nursing care center or school, or place of overnight accommodation, including, but not limited to, individual homes, apartments and mobile homes.

OUTDOOR ACTIVITY: An athletic, entertainment or similar activity.

PERMIT, PERMITTING OR PERMISSION: To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

PERSON: An individual person, association, trust, partnership, firm or corporation.

PLAINLY AUDIBLE: Any sound, the content of which can be clearly heard by a listener of ordinary hearing capabilities. (Ord. 712, 11-6-2001)

4-3-3: NOISE DISTURBANCE PROHIBITED:

It shall be unlawful for any person to allow, make, or to assist in making any noise disturbances in the city. A noise disturbance is presumed to have occurred when two (2) or more of the following circumstances exist:

- A. The noise is made between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M.;
- B. The noise is plainly audible within a noise sensitive unit that is not the source of the noise;
- C. The noise is amplified by a machine or object;
- D. The tone of the noise is abnormally high or low according to the perception of a listener with normal hearing capabilities;
- E. The noise remains constant for at least five (5) minutes; or
- F. The noise is repeated at least three (3) times during a thirty (30) minute time period. (Ord. 712, 11-6-2001)

4-3-4: SPECIFIC NOISES PROHIBITED:

The following acts are violations of this chapter:

- A. The use, operation or playing of any radio, television, phonograph, compact disc player, tape player, loudspeaker, musical instrument, or other similar machine or device that is used for the production of noise between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. when the noise is plainly audible within a dwelling unit or any noise sensitive unit that is not the source of the noise; or to operate such device on public property or on a public right of way so as to be plainly audible fifty feet (50') or more from such device;
- B. The loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, or similar objects between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. when the noise is plainly audible within a noise sensitive unit that is not the source of the noise;
- C. The use of any automobile, motorcycle or other kind of vehicle in a manner that creates loud grating, grinding, revving, rattling or other similar noise;
- D. The use of exhaust brakes or dynamic braking device commonly known as "jake brakes", except when used in an emergency to stop or slow a vehicle so as to avoid a collision;
- E. The discharging of exhaust from any steam engine, stationary internal combustion engine, motor boat, motorcycle or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises;

- F. The making of, or assisting with the making of, noise on a public beach or in a public park when the noise is plainly audible within a noise sensitive unit that is not the source of the noise;
- G. The use of construction, street work, street repair, drilling or demolition tools or equipment between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M.;
- H. The use of domestic power tools between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M.;
- I. Noise created by dogs and other animals including birds, when it violates the standards in subsection 5-3-8A6 of this code. (Ord. 712, 11-6-2001)

4-3-5: GENERAL EXCEPTIONS:

The following acts are exceptions to the prohibition in this chapter:

- A. Noise emanating from aircraft and aircraft operations, railway locomotives and non-stationary farming equipment;
- B. Noise created by the normal operation of construction, street work, street repair, drilling or demolition tools or equipment provided the construction, street work, street repair, drilling or demolition work occurs between seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.
- C. Noise created by the operation of any domestic power tool provided that operation of the domestic power tool occurs between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.;
- D. Noise created by a community outdoor activity or event conducted on public parks, playgrounds, and public or private school grounds;
- E. Noise created by an animal that does not violate subsection 5-3-8A6 of this code;
- F. Noise that constitutes constitutionally protected speech;
- G. Operation of any device designed for sound production or reproduction in a city park or on public right of way with a permit granted by the city administrator or designee;
- H. Noise caused by the performance of emergency work, or by the ordinary and accepted use of emergency apparatus and equipment. (Ord. 712, 11-6-2001)

4-3-6: ADDITIONAL TO OTHER LAWS:

The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other claim, cause of action or remedy; nor, unless specifically provided, shall it be deemed to repeal, amend or modify any law, ordinance or regulation relating to noise or sound, that shall be deemed additional to existing legislation and common law on such subject. (Ord. 712, 11-6-2001)

4-3-7: PENALTIES FOR VIOLATION:

It is unlawful for any person to violate any provision or to fail to comply with any requirement of this chapter. Violation of section 4-3-3 and subsections 4-3-4A, B, G, H, and I of this chapter is punishable by the imposition of a class C civil fine. Violation of subsections 4-3-4C through F of this chapter is punishable by the imposition of a class D civil fine. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by such person and may be punished accordingly. (Ord. 712, 11-6-2001)

**CHAPTER 4
OPEN BURNING**

4-4-1: PERMIT REQUIRED:

It shall be unlawful for any person to burn or cause to be burned any refuse, paper, lumber, garbage or other material in any open fire within the City without having first secured a permit from the Police Department of the City. No permits shall be issued for industrial burning. When the population of the City is four thousand (4,000) or more persons, permits may be issued for residential use only. Rules and regulations on burning may be promulgated by the Police Department or the fire Chief. (Ord. 447, 4-16-79)

4-4-2: PERMISSIBLE BURNING:

Burning is permissible in a hearth, fireplace, stove or other container approved by the City Building Inspector. (Ord. 447, 4-16-79)

4-4-3: PENALTY:

Violation of this Chapter shall be punishable by the imposition of a Class A civil fine³⁰. (Ord. 447, 4-16-79; 1993 Code)