

City of Lynnwood
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CITY OF LYNNWOOD
ORDINANCE NO. 2011

AN ORDINANCE REPEALING SECTIONS 1 THROUGH 4 AND SECTION 6 OF ORDINANCE 42 AND SECTIONS 1 OF ORDINANCE 558, 744 AND 1048 AND LMC 10.08.010, 10.08.020, 10.08.030, 10.08.040, AND 10.08.050 AND AMENDING LMC 10.08.100 AND ADDING NEW SECTIONS TO CHAPTER 10.08 OF THE LYNNWOOD MUNICIPAL CODE; DEFINING PUBLIC NUISANCE AND PROVIDING FOR ABATEMENT.

THE CITY COUNCIL OF THE CITY OF LYNNWOOD DO ORDAIN AS FOLLOWS:

Section 1. REPEALER Sections 1 through 4 and Section 6 of Ordinance 42 and Section 1 of Ordinances 558, 744 and 1048 and LMC 10.08.010, 10.08.020, 10.08.030, 10.08.040 and 10.08.050 defining public nuisance and abatement thereof are hereby repealed in their entirety.

Section 2. NEW SECTION ADDED TO LMC 10.08 New sections are added to Chapter 10.08 of the Lynnwood Municipal Code, to read as follows:

10.08.200	Public Nuisance Defined.
10.08.210	Permitting—Maintaining.
10.08.220	Abatement—Order.
10.08.230	Abatement—Failure—Penalty.
10.08.240	Abatement—Immediate.
10.08.250	Abatement by City—Safeguards.
10.08.260	Abatement—Costs.

10.08.200 PUBLIC NUISANCE DEFINED

- A. Every act unlawfully done and every omission to perform a duty, which act or omission does any of the following, shall constitute a public nuisance:
 - (1) Injures, endangers or unreasonably annoys the safety, health, comfort, or repose of the citizens of the City; or
 - (2) Offends public decency; or
 - (3) Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, a public park, street, alley, highway, stream, canal, or basin; or
 - (4) In any way renders any citizens of the City insecure in life or use of Property.
- B. The following acts, in addition to any others in violation of subsection (A) of this section, shall constitute a public nuisance:

- (1) Throwing, depositions, exposing, or causing to be disposed of, in any street or other public place within the City, any garbage, waste, refuse, litter, debris, or other offensive material, unless the disposal of such items in such place is specifically authorized by law;
- (2) Causing or allowing garbage, waste, refuse, litter, debris, or other offensive materials to be collected or deposited, or to remain in any place in the City, to the annoyance of any person, unless otherwise permitted by law;
- (3) Erecting, continuing, or using any building, room, property, or other place in the City for the exercise of any trade, employment, or manufacture which results in offensive odors or other annoyances being released, and which annoys, injures, or is offensive or detrimental to the health of the individuals there employed or residing, or to the public;
- (4) Burning of refuse or other material in such a manner as to cause or permit the smoke, ashes, or gases arising from such burning to become discomforting or annoying, or to injure or endanger the health of any person or neighborhood;
- (5) All houses, rooms, booths, or other structures used as a place of resort where disorderly persons are allowed to congregate, or in which drunkenness is carried on or permitted;
- (6) Any pit, basin, hole, or other excavation which is unguarded and dangerous to life, or has been abandoned, or is no longer used or the purpose for which it was constructed, or is maintained contrary to law;
- (7) All obstructions to streets, rights-of-way, or other public ways in the City, and all excavations in or under the same, which are by ordinance prohibited, or which may be made without lawful permission, or which, having been made by lawful permission, are kept and maintained after the purpose thereof has been accomplished, or for an unreasonable length of time;
- (8) Erecting, maintaining, using, placing, depositing, leaving, or permitting to be or remain in or upon, any private lot, building, structure, or premises, or in or upon any street, alley, sidewalk, park, parkway, or other public or private place in the City, any one or more of, but not limited to, the following conditions or things:
 - (a) Any unsound, putrid, or unwholesome bone, meat, hides, skin, or the whole or parts of any dead animal or fish, or any unsound, putrid, or unwholesome substance; or the offal, garbage, or other offensive parts of any animals; or any noxious, offensive, dangerous or otherwise injurious, chemicals or other materials such as oil, grease, poisons, explosives, radioactive materials, and other similar substances in such a manner as to be offensive or injurious to public health, or unpleasant or disagreeable to the adjacent residences or persons,

- (b) Any cellar, vault, drain, sewer, or septic tank to become, from any cause, noxious, foul, offensive, or injurious to public health, or unpleasant or disagreeable to the adjacent residences or persons,
 - (c) Any noxious, foul, or putrid liquid or substances, or any liquid or substance likely to become noxious, foul, offensive, or putrid, to be discharged, placed or thrown upon or to flow from or out of, any premises into, or upon, any adjacent premises, or any public street or alley, or to stand, remain, or be upon any premises.
- (9) All vacant, unused, or unoccupied buildings and structures within the City, which are allowed to become or remain open to entrance by unauthorized persons or the general public, because of broken, missing, or open doors, windows, or other openings, so that the same may be used by vagrants or other persons in a manner detrimental to the health and welfare of the inhabitants of the City;
 - (10) Any refrigerator, icebox or deep-freeze locker having a capacity of one and one-half cubic feet or more or any other container manufactured, custom-made or homemade designed for storage which is discarded, abandoned or left in any place accessible to children and which has not had the door or latching mechanism removed to prevent the latching or locking of the door;
 - (11) The depositing or allowing of irrigation or other water to run by any street, alley, or other public place, in such manner as to cause settling or damage to the street, alley, or other public place, or to cause annoyance, damage, or hazard to any user of the street, alley, or other public place.
 - (12) All trees, hedges, billboards, fences, or other obstructions which prevent person from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.
 - (13) All limbs of trees which are less than eight feet above the surface of any public sidewalk, or twelve feet above the surface of any street.
 - (14) The keeping, using maintaining of any pen, stable, lot, place of premises in which any hog, cattle, or fowl may be confined or kept, in such manner as to be nauseous, foul, or offensive.
 - (15) The keeping or harboring of any animal which by frequent or habitual howling, yelping, barking, or the making of other noises, or the keeping or harboring of any fowl which by frequent habitual crowing or the making of other noises shall annoy or disturb a neighborhood or any considerable number of persons.
 - (16) To own or occupy any premises upon which there shall be any trees or shrubbery which have become infected by caterpillars. It shall be the duty of every person owning or occupying any premises in the City of Lynnwood on which there shall

be growing any fruit, shade or forest trees, or shrubbery of any kind, to keep the same free from caterpillars, and in the event that it is found that any fruit, shade or forest trees, or shrubbery have become infected with caterpillars, it is unlawful for the owner or occupant of any such premises on which there shall be growing any such trees or shrubbery to fail or neglect to promptly take and use such methods as may be necessary to effectually destroy such caterpillars, or to in lieu thereof destroy such trees or shrubbery.

10.08.210 PERMITTING—MAINTAINING It is unlawful for any person, by himself or by his agents or employees, or as the agent or employee of another person, firm or corporation, to do, or permit to be done, upon any premises over which he has control; or to maintain, carry on, suffer, or allow, at any place or places, any of the acts or things declared to be nuisances in this chapter; or to do or cause or permit, or suffer to be done, or to maintain, any act or thing which is detrimental or injurious to public health, or offensive to the sense, or contrary to public decency or morality.

If the owner or agent of any premises has actual or constructive knowledge of the maintenance on or in his premises of any nuisance, as defined in this chapter, he shall be deemed one of the persons in control of the premises.

10.08.220 ABATEMENT—ORDER

- (a) Upon the discovery of a nuisance, the Chief of Police or other proper officer of the City may order the owner or other person creating, keeping, maintaining or permitting the same to abate it, and in default thereof to undertake the abatement on behalf of the City. At least ten days before he commences abatement, save in these cases of immediate necessity, the officer shall notify the person creating, keeping, maintaining or permitting the nuisance, the property owner and any person in possession of the property, if known, of his intentions. The notice shall be served personally or by first class mail and shall describe with particularity the nature of the violation, the sections of this Code or other law which are being violated and specifying a reasonable time within which the abatement must be accomplished. Such an order is subject to review in accord with the Phase II Process LMC 1.35.200 et. seq.
- (b) In addition to such other penalties as may be imposed, the Hearing Examiner or a court entering a finding of creating a public nuisance may order the abatement of the same on such terms and conditions as may be just and equitable.

10.08.230 ABATEMENT—FAILURE—PENALTY Any person creating, keeping, or maintaining any nuisance, or permitting, allowing, or suffering any nuisance to be maintained, who neglects or fails to abate or remove the nuisance within twenty-four hours next after so creating, keeping, or maintaining the nuisance, or permitting, allowing, or suffering the same to be maintained, shall, for each twenty-four hours thereafter during which the nuisance is continued, be guilty of a separate violation of maintaining a public nuisance.

10.08.240 ABATEMENT—IMMEDIATE Whenever any nuisance is within a public way or easement; or of such a character and so situated that it can be abated without the invasion or destruction of property or the prejudice of any right, and the further continuance is likely to result in expense to the City or injury to any person or property, the Chief of Police or other proper officer of the City may abate and remove the nuisance summarily.

10.08.250 ABATEMENT BY CITY—SAFEGUARDS In any case where a nuisance is to be abated by the Chief of Police or any other proper officer it shall be the duty of such officer to proceed with due care and without unnecessary destruction of property. He shall in all cases be authorized to employ such assistance and adopt such means as may be necessary to effect the entire abatement of the nuisance.

10.08.260 ABATEMENT—COST Every person, firm, or corporation maintaining a nuisance, or permitting, allowing, or suffering a nuisance to be maintained, as prohibited by this chapter or otherwise, shall be liable for all fines, penalties, costs, and expenses for abating the same when the nuisance has been abated by any office of the City. The costs and expenses may be assessed as a part of any prosecution against the party liable and may be recovered as other costs are recovered after they have been assessed; provided, that in such cases, the City shall have been liable in the first instance to pay all costs of the abatement. In all cases where the Chief of Police, or other office, abates any nuisance he shall keep an account of all expenses attending such abatement and, in addition to other powers given in this Chapter to collect such other costs and expenses, may forthwith bring suit for recovery of the costs in any court of competent jurisdiction, in the name of the City, against the person maintaining, keeping, creating, or permitting, allowing, or suffering the nuisance abated, and, upon the collection of the costs by such suit, he shall pay the same to the City Treasurer. The provisions of this Chapter relative to the abatement or nuisances are not exclusive, and all other rights or remedies of the City, or any citizen thereof, relative to abatement of nuisances, are declared to remain in full force and effect.

Section 3. AMENDMENT OF JUNK VEHICLE DEFINITION Section 8 of ordinance 1573 and LMC 10.08.100 are hereby amended to read as follows:

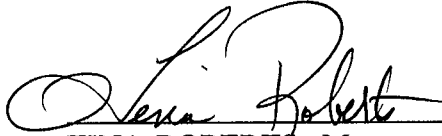
10.08.100 "Junk vehicle" means a vehicle certified under RCW 46.55.230 as meeting at least three of the following requirements:

- (a) Is three years old or older;
- (b) Is extensively damaged, such damage including but not limited to any of the following: A broken window or windshield or missing wheels, tires, motor, or transmission;
- (c) Is apparently inoperable;
- (d) Has an approximate fair market value equal only to the approximate value of the scrap in it.


Section 4. SEVERABILITY If any section, subsection, sentence, clause, phrase or word of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 5. EFFECTIVE DATE This ordinance shall take effect and be in full force five (5) days after its passage, approval and publication.


PASSED this 14th day of November, 1994, and signed in authentication of its passage this 15th day of November, 1994.


TINA ROBERTS, Mayor

ATTEST:


R. W. NOACK, City Clerk

APPROVED AS TO FORM:


Lynnwood City Attorney

PUBLISHED: