

CHAPTER 9.48

NUISANCES

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9.48.010: Public Nuisance Defined:

(1) 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:

- (a) Annoys, injures, or endangers the safety, health, comfort, or repose of the citizens of the City; or
- (b) Offends public decency; or
- (c) Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, a public park, street, alley, highway, or other public area; or
- (d) In any way renders any citizens of the City insecure in life or use of property.

(2) The following acts, in addition to any others in violation of subsection (1) of this Section, shall constitute a public nuisance:

- (a) Throwing, depositing, 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;
- (b) 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;
- (c) 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;
- (d) Burning of refuse or other material in such a manner as to cause or permit the smoke, ashes, soot, or gases arising from such burning to become discomforting or annoying, or to injure or endanger the health of any person or neighborhood;
- (e) Any building, house, room, or other structure or vehicle, maintained or used for the purpose of lewdness, assignation, or prostitution;
- (f) 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;

- (g) Any pit, basin, hole, or other excavation which is unguarded and dangerous to life, or has been abandoned, or is no longer used for the purpose for which it was constructed, or is maintained contrary to law;
- (h) 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;
- (i) 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:
 - (i) 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,
 - (ii) 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,
 - (iii) Any noxious, foul, or putrid liquid or substance, 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.
- (j) All premises, buildings and vehicles whereon or wherein intoxicating liquor is manufactured, sold, bartered, exchanged, given away, furnished, disposed of, consumed, or permitted to be consumed, in violation of the laws of the State and the ordinances of the City;
- (k) 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;
- (l) Any refrigerator, icebox or deep-freeze locker having a capacity of one and one-half (1½) 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;
- (m) Any sign, poster or other advertising matter of any nature placed upon a telegraph, telephone or other poles, trees, sidewalks, streets, signs, traffic signs or other traffic-control devices or other structures or places within streets, alleys or other public places or rights of way;

- (n) All buildings, or parts thereof, vehicles, or other structures, wherein any gambling, as defined by RCW 9.46.020, may be found, and any gambling device, as defined by RCW 9.46.020, may be found, except as licensed and within the scope of the license required under State law and by Chapter 3.60 of this Code;
- (o) 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;
- (p) Graffiti or graffiti;
- (q) Light trespass as defined in KMC 18.76.020(11). (Ord. 4099 Sec. 1, 2003: Ord. 3507 Sec. 2, 1994: Ord. 3060 Sec. 2, 1987: Ord. 2385 Sec. 9, 1979: Ord. 2089 Sec. 2 (part), 1977)

9.48.020: Permitting - Maintaining: It is unlawful, and a misdemeanor, 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 mentioned in Section 9.48.010, 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 senses, 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. (Ord. 3671 Sec. 1, 1995: Ord. 3274 Sec. 10, 1990: Ord. 3060 Sec. 2 (part), 1987: Ord. 2089 Sec. 2 (part), 1977)

9.48.030: Abatement - Order:

(1) Upon the discovery of a nuisance, the Director of Planning, the Kennewick Improvement Board, 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 seven (7) 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 Chapter 4.04, of this Code.

(2) In addition to such other penalties as may be imposed, a court entering a judgment of guilty to a charge of creating a public nuisance may order the abatement of the same on such terms and conditions as may be just and equitable. (Ord. 3753 Sec. 4 (part), 1997: Ord. 3507 Sec. 3, 1994: Ord. 3060 Sec. 2 (part), 1987: Ord. 2089 Sec. 2 (part), 1977)

9.48.035: Abatement - Vehicles:

(1) The Chief of Police, the Kennewick Improvement Board or Director of Planning may order the removal of junk motor vehicles or parts thereof along with other incidental machinery, scrap and parts from public or private property if it constitutes a

nuisance as defined in Section 9.48.010 or is maintained in violation of the City's Zoning Ordinance, Title 18.

(2) If the Kennewick Improvement Board, the Director or Chief finds the vehicle or parts thereof to be a nuisance or maintained in violation of the Zoning Ordinance, they may send the last registered and legal owner of the vehicle, if that can be determined, and the property owner of record a notice of the violation. The notice must inform the owners that they are entitled to a hearing in accord with Section 6.01.120 of the Kennewick Municipal Code. The notice must specify that if no request for a hearing is received, the vehicle will be removed and the costs assessed against the registered owner and landowner.

(3) If any request for a hearing is received, a notice giving the time, location and date of hearing and the question of abatement and removal of the vehicle or part thereof must be mailed, by certified mail with a five (5) day return receipt request, to the owner of the land and the last registered and legal owner of record unless his identity cannot be determined.

(4) The owner of land shall not be held liable for the costs of removal if he demonstrates that the vehicle or parts thereof were placed on his land without his consent and he has not subsequently acquiesced in their presence.

(5) Any vehicle or parts thereof found to be a nuisance or maintained in violation of the Zoning Ordinance will be turned over to a registered disposer. (Ord. 3753 Sec. 4 (part), 1997: Ord. 3660 Sec. 6, 1995: Ord. 3328 Sec. 3, 1991: Ord. 3060 Sec. 5 (part), 1987: Ord. 2936 Sec. 1 (part), 1985)

9.48.040: 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 (24) 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 (24) hours thereafter during which the nuisance is continued, be guilty of a separate violation of maintaining a public nuisance. (Ord. 3060 Sec. 2 (part), 1987: Ord. 2089 Sec. 2 (part), 1977)

9.48.050: 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. (Ord. 3060 Sec. 2 (part), 1987: Ord. 2089 Sec. 2 (part), 1977)

9.48.060: 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. (Ord. 3060 Sec. 2 (part), 1987: Ord. 2089 Sec. 2 (part), 1977)

9.48.070: 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 costs and expenses for abating the same when the nuisance has been abated by any officer 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 officer, 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 of 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. (Ord. 3060 Sec. 2 (part), 1987: Ord. 2089 Sec. 2 (part), 1977)