

ORDINANCE 962

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMEROY, WASHINGTON, REPEALING AND REPLACING CHAPTER 8.16 OF THE POMEROY MUNICIPAL CODE (PMC) AND ORDINANCES 383, 852, 856, 949; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

THE CITY COUNCIL OF THE CITY OF POMEROY, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. Repeal. Chapter 8.16 of the Pomeroy Municipal Code and Ordinance Nos. 383,852,856, and 949 are hereby repealed.

SECTION 2. New Chapter. A new chapter 8.16 of the Pomeroy Municipal Code relating to Nuisances is hereby adopted to read as follows:

Chapter 8.16 PUBLIC NUISANCES

Sections:

- 8.16.010 Construction.**
- 8.16.020 Definitions.**
- 8.16.030 Specific types designated.**
- 8.16.040 Secure closure of unoccupied buildings required.**
- 8.16.050 Entering unoccupied building – Committing nuisance.**
- 8.16.060 Abatement – Successive owner’s liability.**
- 8.16.070 Maintaining, causing prohibited – Exemptions.**
- 8.16.080 Abatement does not preclude action for damages.**
- 8.16.090 Voluntary correction.**
- 8.16.100 Notice of civil violation.**
- 8.16.110 Abatement by the city.**
- 8.16.120 Repeat violation.**
- 8.16.130 Enforcement personnel.**
- 8.16.140 Venue.**

8.16.010 Construction.

This chapter is an exercise of the police power of the city of Pomeroy and is deemed necessary for the continued peace, health, safety, and welfare of the city. Therefore all of its provisions shall be liberally construed for the accomplishment of such purposes.

8.16.020 Definitions.

The words and phrases used in this chapter, unless the context otherwise indicates, shall have the following meanings:

“Abate” or “abatement” means to repair, replace, remove, destroy, or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the enforcement officer, in his or her judgment, determines is necessary in the interest of the general health, safety, and welfare of the community.

“Building” means any building dwelling, structure, or mobile home, factory built house, or part thereof, built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

“Building materials” means and includes, but is not limited to, lumber, plumbing materials, wall board, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing materials, cans of paint, and similar materials.

“City” means the city of Pomeroy, Washington.

“Disposable package or container” means all packages or containers defined as such by rules and regulations adopted by the State of Washington Department of Ecology.

“Enforcement officer” means the code enforcement officer of the city of Pomeroy or his/her designee.

“Litter” means all waste material including, but not limited to, disposable packages or containers thrown or deposited on public or private property, including depositing handbills on vehicles or public property, but not including the waste of primary processes of mining, logging, saw milling, farming, or manufacturing.

“Nuisance” means:

1. Performing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to exist, which act, omission, condition or thing either:
 - a. Annoys, injures or endangers the comfort, repose, health or safety of others;
 - b. Offends decency;
 - c. Is offensive to the senses;

d. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street or highway in the city;

e. In any way renders other persons insecure in life or the use of property; or

f. Obstructs the free use of property so as to essentially interfere with the comfortable enjoyments of life and property.

2. The erecting, maintaining, using, placing, depositing, causing, allowing, leaving or permitting to be or remain in or upon any private lot, building, structure, or premises, or in or upon any street, right-of-way, alley, avenue, park, parkway, public water (including lakes, rivers, streams, drainage ways, and/or gulleys), or other public or private place in the city, any one or more of the conditions referenced in PMC 8.16.030.

3. The keeping or maintenance in any area on private premises which is not screened and is clearly visible from a public street, right-of-way, alley, sidewalk, park or other public area of any accumulation, collection or untidy storage of any of the following: refuse, old appliances or parts thereof; old iron, steel, aluminum or other metal; apparently inoperable or junk vehicles, including dismantled, apparently unlicensed, and/or wrecked vehicles, vehicle parts, machinery or equipment; mattresses, bedding, clothing, rags, or cloth; straw, packing material, cardboard or paper; tin cans, wire, bottles, glass, cement; and wood or timber not neatly stacked or piled. The term "screened" shall be defined as the construction of a wood fence of appropriate height, designed to not allow the enclosed area to be visible between boards, or the construction of a steel fence of chain link or welded link fabric of appropriate height designed to receive slats and which has slats in place of the appropriate size designed to, as nearly as possible, completely obstruct the view of the enclosed area. Any fence shall conform to local zoning and building code standards.

"Occupant" means any person having actual or constructive possession of the property, including but not limited to an owner, agent, or lessee.

"Owner" means any person having any ownership interest in the property in question as indicated on the property tax records maintained by Garfield County.

"Person" means any individual, firm, partnership, corporation, association or other entity, public or private, whether acting by themselves or by a servant or employee.

“Person responsible for the violation” or “person responsible for the nuisance” means any person who has an interest in or resides on the premises, whether as owner, lessor, tenant, occupant or other person entitled to control, use and/or occupy the premises.

“Premises” means any building, lot parcel, real estate or land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

“Property” means any object of value that a person may lawfully acquire and hold.

“Refuse” means vegetable offal, animal offal, discarded food, cans, bottles, wastepaper, boards and boxes, tree limbs and all other waste substances from private and public establishments and from residences; but shall not include small amounts of weeds, twigs, grass, or other material resulting from the normal tending of lawns or gardens.

“Repeat violation” means a violation of the same regulation in any location by the same person for which voluntary compliance previously has been sought or a notice of civil violation has been issued, within the immediately preceding twelve-consecutive-month period.

“Structure” means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

8.16.030 Specific types designated.

The following specific acts, omissions, places, conditions and things are declared and defined to be nuisances.

The 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, avenue, alley, park, parkway, or other public or private place, in the city, of any one or more of the following disordered, disturbing, unsanitary, fly-producing, rat-harboring, disease-causing places, conditions or things:

A. Any putrid, unsound, or unwholesome bones, meat, hides, skins, or the whole or any part of any dead animal, fish or fowl, and/or carcasses of animals not buried or destroyed within twenty-four hours after death;

B. Privies, vaults, cesspools, sumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous;

C. Filthy, littered or trash-covered cellars, house yards, barn yards, stable yards, factory yards, vacant areas in rear of stores, vacant lots, houses, buildings or premises;

D. Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any city ordinance;

E. Poison oak or poison ivy (whether growing or otherwise), liquid household waste, human excreta, garbage, butchers' trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; provided nothing herein contained shall prevent the temporary retention of waste in receptacles in the manner approved by the county health officer, nor the dumping of nonputrefying waste in a place and manner approved by the health officer;

F. Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all such trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles approved by the health officer;

G. Trash, litter, rags, accumulations of empty barrels, boxes, crates, packing cases, mattresses, bedding, excelsior, packing hay, straw, or other packing material, lumber not neatly piled, scrap iron, tin and other metal not neatly piled or anything whatsoever in which flies or rats may breed or multiply or which may be a fire danger;

H. Any dangerous or unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building, structure or fence in a dilapidated state of disrepair, or any building or structure commenced and left unfinished;

I. All places used or maintained as junkyards, or dumping grounds, or for the wrecking or dissembling 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 places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others; or, the nonemergency repair of an automobile, truck, or other motor vehicle of any kind upon the public streets, alleys or other public property of the city;

J. Permitting any dog or dogs to run at large in the city;

K. When visible from a public street, sidewalk, alley, park or other public area: any accumulations of unused refuse, debris, objects or equipment including but not limited to tires, household furniture (i.e., overstuffed chairs, sofas); stoves, refrigerators, freezers, washing machines, clothes dryers, dishwashers, and televisions;

L. When visible from a public street, sidewalk, alley, park or other public area: construction, remodeling or demolition materials or debris, and/or used or unused building materials if stored for sixty days or longer except when stored in conjunction with a construction or demolition project for which a current permit has been issued and is being pursued and/or when such storage is upon the premises of a bona fide lumberyard or building materials dealer;

M. All grasses, weeds and/or uncultivated vegetation not maintained to an average height of less than twelve inches, if within view from any public roadway or sidewalk except that portion of a property that has not been developed (see also Chapter 8.04 PMC, Weed Control);

N. All limbs of trees overhanging a public sidewalk which are less than ten feet above the surface of said sidewalk, or overhang a city street which are less than fifteen feet above the surface of said street;

O. The existence of any vines or climbing plants growing into or over any street, public hydrant, power or light pole; or the 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;

P. Any use of property abutting on a public street, road, alley, right-of-way, or sidewalk, or any use of such public street, road, alley, right-of-way, or sidewalk which causes any obstruction of traffic and the free use of the streets, roads, alleys, rights-of-way, or sidewalks; provided, that this subsection shall not apply to events, programs or parades authorized by the city council;

Q. Any poisonous or harmful substance which is reasonably accessible to persons or to animals;

R. Any attractive nuisances which may prove detrimental to children which are left in any place exposed or accessible to children. This includes but is not limited to unused or abandoned refrigerators, freezers, or like containers, or other large appliances or equipment or parts thereof; abandoned motor vehicles; any structurally unsound or unsafe fence or edifice; any

unsecured or abandoned excavation, pit, well, cistern, storage tank or shaft; any lumber, trash, debris or vegetation which may prove a hazard for minors;

S. The existence of any fence, structure, or other thing which creates any traffic safety problem through obscured sight distance;

T. The existence of any fence or other structure which is in a sagging, leaning, fallen, decayed, or other dilapidated or unsafe condition on private property abutting or fronting upon any public street, sidewalk or place;

U. The existence of any fence or other structures located in a public right-of-way without specific approval from the city;

V. Any accumulation of litter or other material on property that leads to infestation by mice, rats, rodents, raccoons, stray animals, and/or insects.

8.16.040 Secure closure of unoccupied buildings required.

Every agent or owner of any unoccupied building, structure, or premises in the city shall keep the building, structure, or premises securely closed at all times against persons who may enter and commit a nuisance therein.

8.16.050 Entering unoccupied building – Committing nuisance.

It is unlawful for any person to enter any unoccupied building, structure, or premises and commit a nuisance therein.

8.16.060 Abatement – Successive owner's liability.

Every successive owner of property who neglects to abate a continuing nuisance upon or in the use of such property caused by a former owner, is liable therefor in the same manner as the owner who created it.

8.16.070 Maintaining, causing prohibited – Exemptions.

A. It is unlawful for any person to erect, contrive, cause, continue, or maintain a nuisance as herein defined or prohibited. Unless otherwise permitted by law and whenever the enforcement officer determines that any nuisance exists upon any premises, the enforcement officer may require or provide for the abatement thereof pursuant to this chapter.

B. This chapter shall not apply to the United States, the state of Washington, Garfield County, the city, or any of their respective officers, employees, or contractors when engaged in snow removal, street cleaning, emergency repair to any street, building or structure, fire suppression,

or any other emergency for the preservation of life or property. Government owned or authorized stockpiling of materials for street construction and/or maintenance activities shall be exempt from this chapter.

8.16.080 Abatement does not preclude action for damages.

The abatement of a nuisance does not prejudice the right of any person to recover damages for its past existence.

8.16.090 Voluntary correction.

A. This section applies whenever the enforcement officer determines that a nuisance is occurring.

B. The enforcement officer shall pursue a reasonable attempt to secure voluntary correction by contacting the person responsible for the nuisance, where possible, explaining the nuisance, and requesting correction.

C. A voluntary correction agreement may be entered into between the person responsible for the nuisance and the city, acting through the enforcement officer.

1. The voluntary correction agreement is a contract between the city and the person responsible for the nuisance under which such person agrees to abate the nuisance within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:

- a. The name and address of the person responsible for the nuisance; and
- b. The street address or a description sufficient for identification of the building, structure, premises or land upon or within which the nuisance is occurring; and
- c. A description of the nuisance; and
- d. The necessary corrective action to be taken, and a date or time by which correction must be completed; and
- e. An agreement by the person responsible for the nuisance that the city may inspect the premises as may be necessary to determine compliance with the voluntary correction agreement; and
- f. An agreement by the person responsible for the nuisance that the city may abate the nuisance and recover its costs and expenses and a monetary penalty pursuant to

this chapter from the person responsible for the nuisance if terms of the voluntary correction agreement are not met; and

g. An agreement that by entering into the voluntary correction agreement the person responsible for the nuisance waives the right to an administrative appeal of the nuisance and/or the required corrective action.

2. The person responsible for the nuisance waives the right to an administrative appeal of the nuisance and the required corrective action upon entering into a voluntary correction agreement.

3. The city shall have the right to inspect the subject property to determine compliance with the terms of the voluntary correction agreement.

4. An extension of the time limit for correction or a modification of the required corrective action may be granted by the enforcement officer if the person responsible for the nuisance has shown due diligence and/or substantial progress in abating the nuisance but unforeseen circumstances render abatement under the original conditions unattainable.

5. The city may abate the nuisance in accordance with Section 8.16.110 if the terms of the voluntary correction agreement are not met.

6. If the terms of the voluntary correction agreement are not met the person responsible for the nuisance shall be assessed a monetary penalty commencing on the date set for correction and thereafter, in accordance with Section 8.16.100(E), plus all costs and expenses of abatement, as set forth in Section 8.16.110(D).

8.16.100 Notice of civil violation.

A. When the enforcement officer determines that a nuisance has occurred or is occurring, and is unable to secure voluntary correction, pursuant to Section 8.16.090, the enforcement officer may issue a notice of civil violation to the person responsible for the nuisance. The enforcement officer may issue a notice of civil violation without having attempted to secure voluntary correction as provided in Section 8.16.090 under the following circumstances:

1. When an emergency exists; or
2. When a repeat violation occurs; or
3. When the violation creates a situation or condition which cannot be corrected; or

4. When the person knows or reasonably should have known that a nuisance is occurring; or
5. When the person cannot be contacted or refuses to communicate or cooperate with the city in correcting the violation.

B. The notice of civil violation shall include the following:

1. The name and address of the person responsible for the nuisance; and
2. The street address or description sufficient for identification of the building, structure, premises or land upon or within which the nuisance is occurring; and
3. A description of the nuisance; and
4. The required corrective action and a date and time by which the correction must be completed after which the city may abate the nuisance in accordance with Section 8.16.110; and
5. A statement indicating that a hearing on the notice of civil violation will be canceled and no monetary penalty will be assessed if the enforcement officer approves the completed, required corrective action at least forty-eight hours prior to the hearing; and
6. A statement that the City may abate a nuisance when a notice of civil violation has been issued and sustained, and the required correction has not been completed by the date specified in the notice, and the City obtains an order from the court authorizing abatement activity to occur; and
7. A statement that the costs and expenses of abatement incurred by the city pursuant to Section 8.16.110(D) and a monetary penalty as specified in Section 8.16.100(E) may be assessed against the person to whom the notice of civil violation is issued as specified and ordered by the Garfield County district court.

C. The enforcement officer shall serve the notice of civil violation upon the person to whom it is issued, either personally or by mailing, certified, return receipt requested, a copy of the notice of abatement to such person at his/her last known address. If the person to whom the notice is issued cannot after due diligence be personally served within Garfield County and if an address for mailed service cannot after due diligence be ascertained, notice shall be served by posting a copy of the notice of abatement conspicuously on the affected property or structure. Proof of

service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made, and if by posting, the facts showing that due diligence was used in attempting to serve the person personally or by mail.

D. No extension of the time specified in the notice of civil violation for correction of the nuisance may be granted, except by order of the Garfield County district court.

E. The monetary penalty for each day the nuisance is permitted to continue or portion thereof shall be as follows:

1. First day one hundred dollars;
2. Second day two hundred dollars;
3. Third day three hundred dollars;
4. Fourth day four hundred dollars;
5. Each additional day beyond four days, five hundred dollars per day.

F. Payment of a monetary penalty pursuant to this chapter does not relieve the person to whom the notice of civil violation was issued of the duty to correct the nuisance.

G. The monetary penalty constitutes a personal obligation of the person to whom the notice of civil violation is issued.

8.16.110 Abatement by the city.

A. Abatement. The city may abate a nuisance when:

1. The terms of voluntary correction agreement pursuant to Section 8.16.090 have not been met; or
2. A notice of civil violation has been issued pursuant to Section 8.16.100 and a decision and order has been issued by the court and the required correction has not been completed by the date specified in the decision and order; or
3. The condition is subject to summary abatement as provided for in subsection **(B)** of this section.

B. Summary Abatement. Whenever a nuisance is occurring which constitutes an immediate and emergent threat to the public health, safety or welfare or to the environment, the city may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the person responsible for the nuisance as soon as reasonably possible after the abatement.

C. Authorized Action by City. Using any lawful means, the city may enter upon the subject property and may remove or correct the condition which is subject to abatement. The city may seek such judicial process as it deems necessary to effect the removal or correction of such condition.

D. Recovery of Costs and Expenses. The costs, including incidental expenses, of correcting the violation shall be billed to the person responsible for the violation and/or the owner, lessor, tenant or other person entitled to control, use and/or occupy the property and shall become due and payable to the city within ten calendar days billing. The term "incidental expenses" includes but is not limited to:

1. Personnel costs, both direct and indirect, including attorneys' fees and costs;
2. Costs incurred in documenting the violation;
3. Hauling, storage and disposal expenses; and
4. Actual expenses and costs of the city in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work; and
5. The costs of any required printing and mailing.

E. Obstruction Violation. Any person who knowingly obstructs, impedes or interferes with the city or its agents, or with the person responsible for the nuisance in the performance of duties imposed by this chapter, or a decision and order issued by the Garfield County district court or an agreement between the city and the person responsible for the nuisance, is guilty of a misdemeanor and subject to the penalty as set forth in Section 1.12.010 of the Pomeroy Municipal Code.

8.16.120 Repeat violation.

Any nuisance violation as defined in this chapter, that, after an abatement has been performed, and the property has been brought into compliance, has any other violations requiring the action of the city, whether in whole or in part, shall be considered as a repeat violation. Each

and every repeat violation as defined in this chapter may constitute a civil violation. The designated code enforcement officer is not required to issue a correction notice, and the person responsible will be subject to the following violations and penalties:

A. A second nuisance violation within a one-year period shall receive a notice of civil violation and be subject to a fine of \$250.00.

B. A third or subsequent nuisance violation within a one year period shall receive a notice of civil violation and be subject to a fine of \$500.00.

8.16.130 Enforcement personnel.

The county sheriff or any deputy sheriff, the city administrator or the city's designated code enforcement personnel are authorized to enforce this chapter and issue civil or criminal notices or citations as provided herein to take appropriate abatement procedures. Such enforcement action or actions may be taken by either of the sheriff's deputies or code officials listed herein upon observation of the acts or things declared to be a nuisance.

8.16.140 Venue.

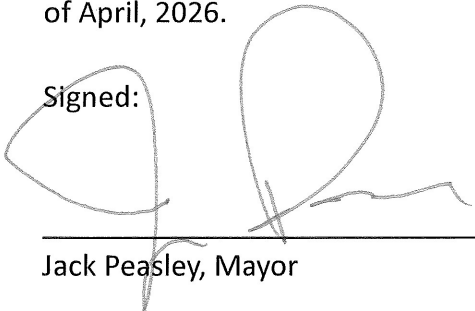
All civil violations issued pursuant to this chapter shall be filed with the Garfield County district court.

SECTION 3. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

SECTION 4. Effective Date. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY the City Council of the City of Pomeroy, Washington, at a regular meeting this 20th day of April, 2026.

Signed:



Jack Peasley, Mayor

Attest:



Diane L Taylor, City Clerk/Treasurer

