

Title 9 Chapter 7
NUISANCE

Section:

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9-7-1: PUBLIC NUISANCE:

9-7-1-1: PURPOSE:

For purposes of promoting the public safety, health and welfare; and also to provide for the convenience and enjoyment of public travel on public roadways and rights-of-way, it is declared by the Mayor and City Council of the City of Albion to be in the public interest to regulate and restrict public nuisances within the jurisdictional boundaries of the City, including but not limited to: Inoperative, unauthorized, and unregistered vehicles; and weed, grass and rubbish removal; along with associated liability, abatement and penalty provisions.

9-7-1-2: DEFINITIONS:

In regard to this chapter, the words set out in this section shall be defined as follows:

COLLECTIBLE MOTOR VEHICLE: Any motor vehicle, but not a reproduction thereof, manufactured at least twenty (20) years prior to the current year which has been maintained in or restored to a condition which is substantially in conformity with manufacturer's specifications and appearance.

DANGEROUS BUILDING: Any building or structure which has any or all of the conditions or defects described in the 1997 Abatement of Dangerous Buildings Code, Section 302, or any successor code thereto as adopted by the City, shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered.

INOPERATIVE VEHICLE: Any vehicle which, in its current state, whether due to broken, defective, or missing parts, including missing or flat tires, missing doors, missing or badly damaged windshields, or broken or defective parts which are essential for movement, is not capable of being used as a regular means of transportation.

JUNK: Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, junk, dismantled or wrecked automobiles, or their parts; iron, steel and other scrap ferrous or nonferrous material.

NUISANCE: Anything which is injurious to the health, safety or welfare of individuals, or is offensive to the senses of individuals, or is an obstruction of the free use of property, so as to interfere with the comfortable enjoyment of life or property.

PUBLIC NUISANCE: A nuisance which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

UNAUTHORIZED: Anything other than a lawfully registered motor vehicle and its lawfully connected trailer, including, but not limited to, the following: any snowmobile, any boat, any trailer which is not connected by means of a lawful hitch to an operating, lawfully registered motor vehicle, any camper shell or camper not mounted on a vehicle, any storage containers, any vehicle reported stolen and not yet recovered, and any recreational vehicle which remains parked on a street longer than authorized in Title 10, Chapter 3 of this code.

UNREGISTERED VEHICLE: Any vehicle which is not lawfully and currently registered as provided in chapter 4, title 49, Idaho Code; or any vehicle which does not bear current annual Idaho license plates or decals; or any vehicle which does not bear current license plates issued by another state and is not lawfully and currently registered in that state.

VISIBILITY TRIANGLE: A certain area of private property and the abutting City right-of-way that is to be maintained clear of visibility obstructions at street intersections. The Visibility Triangle is measured by locating a "point" of intersection formed by extending the property line toward the intersection until they meet. From that "point" the length of fifteen feet (15') is measured away from the intersection along each edge (or leg) of the triangle to create two more "end points". The triangle is closed by connecting the last two end points to each other.

All other words in this chapter shall have such further meaning as may be defined in a generally accepted dictionary.

9-7-1-3: EXAMPLES:

Examples of public nuisances representing a serious hazard to the public health, safety and welfare include, but are not limited to:

- A. Deposits of any offensive, unwholesome, noxious or injurious substances including paper, litter of any kind, garbage, trash, ashes, rubbish, debris, carcasses, animal feces or any other waste material anywhere within the city;
- B. Abandoned, unattended or discarded iceboxes, refrigerators or other containers which have a door or lid, snap lock or other locking device which may not be released from the inside, left outside of a building, dwelling or other structure or within any unoccupied or abandoned building, dwelling or other structure in a place accessible to children; the nuisance may be remedied by removing the door or lid, snap lock or other locking device or by first fastening, bolting or locking the same in a manner which would make the inside inaccessible to children;
- C. Accumulations of weeds, grasses and other vegetable growth, which are deleterious, unsightly or injurious to the public or to neighboring residents or owners of property within the city; such growths must be removed, mowed or treated at least three times yearly on the following dates: May 1, July 1, and September 1;
- D. Accumulations of junk of any kind, including used merchandise, building materials and automobile parts in any area unfenced and unscreened from public view;

- E. Junked, abandoned or partially dismantled vehicles, whether licensed or unlicensed, in any area of the city, without permit, with the exception of vehicles at commercial repair shops in areas where such operations are authorized under the zoning ordinance of the city;
- F. Any building which is so dilapidated or in such condition as to menace the public health or safety of persons or property. Violations of various building codes adopted by the city related to buildings shall be prima facie evidence that a nuisance is being maintained on the property;
- G. Burning rags, leather, rubber, plastics, tires, hair or other substances of any kind which cause or produce an offensive smell, smoke or odor which annoys or is offensive to persons living in the vicinity or to persons passing on any public thoroughfare;
- H. Defecation or urination upon the streets, alleys, public places or other places that may be seen from private residences or by any person passing on public thoroughfares;
- I. Open or unprotected trapdoors, cellars, or gratings, including those adjacent to any sidewalk;
- J. All yards, grounds, premises, cellars, unprotected foundations for basements, vaults, drains, pools, cesspools, privies and sewers, which for any cause have become foul, nauseous or injurious to the health, safety or welfare of the citizens or which give forth odors which are offensive to the general public, adjacent residents or persons passing on public thoroughfares;
- K. Accumulations of stagnant or impure water, refuse, vegetable decay, garbage, or filth of any kind in, or upon any yard, lot, place or premises or upon any street or sidewalk adjacent to or abutting upon any lot, block, place or premises or in any building or shed within the limits of the municipality, so as to cause or create a nuisance or offensive smell or to pollute or render unhealthful the atmosphere or the premises or thereby to be, become, cause or create a public nuisance;
- L. Parties, private gatherings, meetings and socials, whether indoors or out of doors, held between the hours of twelve o'clock (12:00) A.M. (Midnight) and seven o'clock (7:00) A.M., such times being prevailing local times, where music, laughter, conversation and other noises are loud enough to disturb neighbors, where the failure of participants to respond to reasonable requests to reduce those noise levels shows a lack of cooperation, and where destruction or disturbance of neighboring property by the participants is occurring or has occurred, so as to indicate that the party, private gathering, meeting, or social is an intentional harassment of the surrounding neighborhood.

9-7-2: INOPERATIVE, UNAUTHORIZED, AND UNREGISTERED VEHICLES AND MATERIALS

9-7-2-1: PURPOSE:

The purpose of this chapter is to provide for removal of certain nuisances created by vehicles and other materials when stored improperly on public streets or private property and to distinguish between the lawful use of public streets for parking of motor vehicles and the public nuisance created by unlawful storage or parking of prohibited items. Nothing herein shall be deemed to preclude vehicle owners from parking any currently registered, operative vehicle on the streets for an indefinite period of time.

9-7-2-2: USE OF CITY STREETS AUTHORIZED FOR PARKING REGISTERED, OPERATIVE MOTOR VEHICLES; OTHER USES PROHIBITED AND DECLARED PUBLIC NUISANCES:

- A. The parking, both short term and long term of lawfully registered, operative motor vehicles is allowed at curb side areas of the streets of the city of Albion, provided that the motor vehicles are not parked in violation of pavement or curb markings or regulatory signs or traffic devices and provided that they are parked in conformance with parking method regulations set out elsewhere in this code.
- B. The use of the streets as a storage location for unregistered or inoperative motor vehicles, unauthorized items such as camper shells, boats, unhitched trailers, storage containers, or other materials is prohibited and the owner(s) may be issued a misdemeanor citation for violating the prohibition. The continued presence of such unlawfully stored items is inimical to the well being of the citizens and is hereby declared a public nuisance. All such items shall be subject to removal as provided hereinafter, the costs of which, including storage, shall be borne by the owner(s).

9-7-2-3: REMOVAL FROM PUBLIC RIGHT-OF-WAY:

Cassia County Law Enforcement and/or the City police department are authorized to cause the immediate removal of any unregistered or unauthorized vehicle, any unauthorized materials, or any vehicle reported as stolen and not yet recovered found parked or left on any street or right-of-way. The County and City law enforcement personnel are also authorized to cause to be removed any vehicle parked on the right-of-way which is found to be inoperative, pursuant to notification and removal procedures set forth in chapter 18, title 49, Idaho Code. Provided however, that, upon notification to the City police department that a motor vehicle has become disabled while being operated, such inoperative vehicle may be left parked against the curb area of a public right-of-way for a period not to exceed seventy two (72) hours for effecting repairs or arranging for removal.

9-7-2-4: USE OF PRIVATE PROPERTY FOR STORAGE OF UNREGISTERED OR INOPERATIVE VEHICLES OR VEHICLE PARTS PROHIBITED AND DECLARED A PUBLIC NUISANCE:

The long term presence on private property outside the confines of enclosed buildings, of inoperative, wrecked, discarded, partially dismantled, junked, unused, or unregistered vehicles or vehicle parts contributes to blight and deterioration of neighborhoods and is detrimental to public health, safety, and welfare due to factors such as broken glass, standing water, accumulation of rusted parts, potential environmental damage, and the potential for breeding of vermin, and is hereby deemed a public nuisance. No person in charge or control of any property within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow any such vehicle to remain in the open on such property longer than thirty (30) days. Persons violating this prohibition may be issued a misdemeanor citation and the city may pursue other legal remedies for removal of the vehicles. This prohibition shall not apply to a vehicle on the premises of a lawfully operated auto salvage business, towing and storage business, auto sales business, or governmentally operated auto storage area, when necessary to the operation of such business enterprise, nor to vehicles for which a Collector's permit has been issued as provided hereinafter.

9-7-2-5: COLLECTOR'S PERMITS:

The City Council may issue a Collector's Permit to any entity that acquires collectible motor vehicles and stores, keeps or maintains them on private property within the jurisdictional boundaries of the City of Albion. Permits will only be considered for those storage requests that are located completely on private property; that are for no more than three (3) inoperable and unregistered vehicles; and are completely enclosed by a privacy or concealment fence.

- A. Privacy or Concealment Fences. Except on corner lots within the City, enclosure fences that conceal collectible motor vehicles hereunder must be at least eight feet (8") above the centerline grades of the street bounding the property line upon which said fence is located and shall be constructed in a manner approved of by the City Council to be aesthetically pleasing and harmonious with the properties in the vicinity. The fence's construction shall be sturdy and durable enough to withstand the usual effects of weather conditions for the Albion Valley.
- B. Privacy or Concealment fences on Corner Lots. On corner lots within the City, enclosure fences that conceal collectible motor vehicles as provided for in this section must be at least eight feet (8') above the centerline grades of intersecting streets bounded by the property lines of such corner lots. Said fence shall be set back at least fifteen feet (15') from the intersecting point of the property lines of the corner lot at the intersection. From such point fifteen feet (15') back on each property line, the fence shall then run on a diagonal from end point to end point to provide a clear visibility triangle to not impede visual opportunity for traffic moving along each road way coming into the affected intersection.
- C. Collector's Permits shall be considered in accordance with the following procedure:
 - 1. Filing of an application. The applicant shall fill out an application on a form approved by the City Council. The filled out application shall be filed with the City Clerk.
 - 2. Description of site, vehicles and fence. The applicant shall describe the location of the property proposed for storage of the collectible motor vehicles and shall also describe the collectible motor vehicles, including year of manufacture and general physical condition of said motor vehicle(s) proposed for placement on the site. Also, applicant shall, in a detailed manner, describe the fence, materials of the fence's construction, and manner of the fence construction and placement on the proposed site.
 - 3. Surrounding uses. The applicant shall describe the uses prevalent in the surrounding properties.
 - 4. Review of Application. Upon receipt of a completed application, the City Clerk shall present it to the City Council at its next regularly scheduled meeting. The City Council shall review the application, and if complete shall thereafter take action to approve or deny the application.
 - 5. There shall be no cost for the application or permit.

6. Length of permit term. Collector's Permits granted hereunder shall be valid for a period of three (3) years, from the date of approval by the City Council.

7. Failure to maintain the site and/or the stored collectible vehicles, in the manner designated by the City Council in its permit approval may result in a "show cause" hearing of the applicant/permittee before the City Council as to why the Collector's Permit should not be revoked before expiration of its term. Such notice and hearing associated with the "show cause" hearing shall meet the essential requirements set out in Section 9-7-4-3 hereafter.

9-7-3: REMOVAL OF WEEDS, GRASS, RUBBISH, AND TREES:

9-7-3-1: OWNER, OCCUPANT, DEVELOPER RESPONSIBILITY:

- A. Every owner, tenant, occupant, or developer of private property within the City shall cut and remove the weeds, grass and rubbish upon and from such private property to the center of any street or alley, along the front of such property including the parking area within and curbing abutting such property by and not later than May 1st of each year, then by and not later than July 1st and again by September 1st and to cut and remove the same between-times during each and every year as may be necessary and essential to prevent their growth and seeding.
- B. All private property will be maintained, mowed, or cut to keep the weed growth to no more than six inches (6") in height.
- C. Every owner, tenant, occupant, or developer of private property within the City shall maintain any tree whose trunk is located entirely on or within the legal boundaries of said private property. Any tree which shall endanger or damage the usefulness of any street, roadway, sidewalk, parkway or public sewer or water line, whether growing on private property or on city property, is hereby declared to be a public nuisance, and each owner of property abutting on a street shall at all times keep trimmed and pruned all trees, including the pruning and trimming of branches, leaves and roots, growing on owner's property which abut this property so as to prevent such trees from damaging or endangering the usefulness of any street, sidewalk, roadway, parkway, or public sewer or water line. Failure to maintain as herein set forth is hereby declared to be a public nuisance. Maintenance shall include, but is not necessarily limited to:
 - 1. Removal or pruning of trees that are considered to be a public nuisance by reason of location or condition, such that it constitutes a hazard to public safety as determined by the City.
 - 2. Removal or pruning of trees or any part thereof (on public or private property) which obstructs the free passage of pedestrian or vehicular traffic or which obstructs public street lighting.
 - 3. Pruning of trees located on private property that are considered a public nuisance, as defined in this chapter.

- D. Every owner, tenant, occupant, or developer of private property on corner lots within the City shall provide, keep, and maintain clear visibility triangles. In the measured visibility triangle as set forth herein, the following regulations shall apply:
1. No structures can be placed or located except fences, walls or berms not higher than three feet (3') as measured from the centerline grades of intersecting streets bounded by the property lines of such corner lots.
 2. No motor vehicle, trailer or other equipment is allowed to park, stand or stop.
 3. No vegetation can be planted or allowed to grow higher than three feet (3'), and any trees whose trunk is not in the visibility triangle, but which any other part thereof does impact said visibility triangle shall have branches no lower than eight feet (8'), all such measurements to be made from the centerline grades of intersecting street bounded by the property lines of such corner lots.
- E. Every owner, tenant, occupant, or developer of private real property shall trim all hedges and shrubbery adjacent to public sidewalks so that no part of said hedges and/or shrubbery shall extend over any part of a public sidewalk or public roadway in the City.
- F. The mayor and city council have complete authority over all trees on or within real property owned or controlled by the City.

9-7-3-2: NUISANCE DECLARED:

The failure to cut and remove weeds, grass, rubbish and maintain trees and visibility triangles on corner lots as provided for in this chapter is detrimental to the public health, safety and welfare; and thereby is declared to be a public nuisance.

9-7-3-3: REMOVAL BY CITY; LIEN:

- A. Should any owner, tenant, occupant, or developer of private property within the City fail or neglect to cut or remove the weeds, grass and rubbish or neglect to maintain trees and visibility triangles as required in this Chapter, the City shall then have cause to remove the weeds, grass, rubbish, trees or other obstruction and assess the cost of such cutting, pruning, maintenance and removal against such property and the same shall be a lien thereon. Such assessment shall be certified to the Cassia County Tax Collector or such other county officer having charge of making up of the assessment rolls and such assessment shall be placed on the assessment rolls and collected in the same manner as other municipal taxes are collected. This shall follow from the City's notice and action as hereafter set forth in Section 9-7-4-3.
- B. Additionally, the City can bring action in the Court of appropriate jurisdiction in Cassia County Idaho against any owner, tenant, occupant, or developer of private property for

judgment for the costs of cutting and removal of weeds, grass and rubbish incurred by the City, including attorney fees and costs of suit. Said judgment will be a lien against the real property and can be enforced according to law.

9-7-4: LIABILITY, ABATEMENT, PENALTY:

9-7-4-1: LIABILITY:

It is unlawful for any person to create or maintain any nuisance, or cause the same to exist, and for any person to knowingly permit a nuisance to be created, maintained or to exist on premises owned by him or under his control.

9-7-4-2: ABATEMENT BY PROPERTY OWNER:

It shall be the duty of any owner of any lot, building or premises where any nuisance exists to remove, abate or demolish the nuisance without delay.

9-7-4-3: CITY ABATEMENT OPTION:

Nuisances which remain unabated after notice, may, at the option of the City, be removed, abated or demolished by the City or its agents, after the following steps have been taken:

- A. If after fifteen (15) calendar days from the date a written notice is personally delivered to the property owner, or mailed to the property owner's address as shown in current official Cassia County Assessor's records, no abatement of the nuisance has occurred, the mayor's designated and duly authorized personnel shall provide a second ten (10) day notice to be delivered to the property owner by certified mail or personal service, which shall indicate the following:
 1. That if the property owner fails to abate the nuisance, the City shall take steps to abate the same;
 2. That the property owner may contract with the City to abate the nuisance and pay costs of the same;
 3. That if the City abates the nuisance all costs and expenses of abatement shall be billed and assessed against the property owner and if unpaid shall become collectable as a special assessment with property taxes;
 4. That the property owner has a right to appear before the City Council to show cause as to why he or she should not be forced to abate or pay for abatement of the nuisance; furthermore, that if the property owner desires such a hearing, a request for hearing, in writing, shall be given to the City Clerk or the Clerk's designee prior to expiration of the ten (10) day notice, and that abatement by the City will proceed if the property owner has not exercised this option to request a hearing;
 5. If said certified notice is returned as undeliverable, or is unclaimed by the property owner, nothing shall preclude the City from exercising its abatement option as specified herein.
- B. When the ten (10) day notice has expired without a request for hearing, the mayor's designated and duly authorized personnel are authorized to remove, abate or demolish the nuisance. The mayor's designated and duly authorized personnel are authorized to utilize

city personnel to abate the nuisance or to contact the mayor in regard to contracting for an outside party to abate the nuisance.

- C. If the City abates any nuisance under the provisions of this chapter a statement of charges billed to the property owner shall be mailed or personally delivered to the property owner.
- D. If payment is not received from the property owner within thirty (30) days, the amount billed shall, in accordance with state law, be assessed as a special assessment collectable against the subject property as other state, county and municipal taxes.
- E. If the property owner requests a hearing to show cause before the City council, the hearing shall, if feasible, be placed on the agenda of the next regularly scheduled City Council meeting. The decision of the City Council shall be final. A ten (10) day period shall be given the property owner after the council decision so that the property owner shall have additional opportunity to abate the nuisance or to pursue any legal remedies or defenses at the district court level.

9-7-4-4: MISDEMEANOR CITATION OPTION:

The mayor's enforcement officer or any other authorized city official may issue, or cause to be issued, a misdemeanor citation to any person who maintains, creates, causes to exist or allows the maintenance, creation, or existence of any nuisance. The citation may be issued concurrently with, or in addition to, any other procedures set out in this chapter or any other law or ordinance application within the city limits.

9-7-4-5: VIOLATION; PENALTY:

- A. Any person, business, agency, or corporation who violates the provisions of this chapter by creating or maintaining or allowing to be created or maintained any "nuisance" as defined herein, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00), or by incarceration in the county jail not to exceed six (6) months, or by both such fine and imprisonment.
- B. Each day that such violation shall continue shall be deemed to be a separate offense and the penalty may be applied even though steps are being taken by the city to abate the underlying nuisance. [new chapter 7 adopted by Ordinance No. 2011-05-01.]