

**ORDINANCE NO. 2018-001**

**AN ORDINANCE OF THE CITY OF GASTON AMENDING ORDINANCE 2017-001  
PERTAINING TO DEFINING NUISANCES; DECLARING NUISANCES;  
PROSCRIBING ABATEMENT PROCEDURES; REPEALING ORDINANCE NO. 97  
AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City Council of the City of Gaston has established Ordinance 2017-001 for the regulation of nuisances and setting forth abatement procedures;

**WHEREAS**, the City Council considers it necessary to amend Ordinance 2017-001 to include trees, obnoxious vegetation, and weeds; and

**WHEREAS**, the City Council finds an emergency exists;

**THE CITY OF GASTON ORDAINS AS FOLLOWS:**

Ordinance 2017-001 is amended as follows [additions in underline and deletions in ~~strikeout~~]:

**SECTION 1. DEFINITIONS.** For the purpose of this Ordinance, the following definitions apply:

- A. Person in charge of property:** An owner, agent, occupant, lessee, contract purchaser, or any other person having possession or control of property, including a person responsible for supervision of any construction project.
- B. Person Responsible:** The person responsible for conditions that constitute a nuisance includes:
  - 1. The property owner;
  - 2. The person in charge of property; or
  - 3. Any other person who caused the nuisance to come into or continue in existence.
- C. Public Place:** A building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.
- D. City:** The City of Gaston.
- E. Council:** The governing body of the City.
- F. Person:** A natural person, firm, partnership, association, or corporation

**SECTION 2. NUISANCES AFFECTING PUBLIC HEALTH AND WELFARE.** It is unlawful for any of the following conditions to exist on private property or the public rights of way directly abutting private property:

- A.** Animal carcasses, including untanned or green hides that cause an offensive odor.
- B.** Accumulation of debris, rubbish, manure or other refuse.
- C.** Stagnant water that affords a breeding place for mosquitoes or other insects pests.
- D.** Cesspools or septic tanks that are in an unsanitary condition or that cause an offensive odor.
- E.** Drainage of liquid wastes from private premises.
- F.** Decayed or unwholesome food.

- G. Pollution of a body of water, well, spring, stream, or drainage ditch by sewage, industrial waste or other substances placed in or near the water in any manner that will cause harmful material to pollute the water.
- H. Open vaults or privies constructed and maintained within the City, except those constructed or maintained in connection with construction projects in accordance with State and Health Division regulations.
- I. Any abandoned, unused, inoperable ice box, refrigerator, or similar container in any place accessible to children or within public view.

**SECTION 3. ATTRACTIVE NUISANCES.** No owner or person in charge of property shall permit the following unless there is a current intended use incidental to the property:

- A. Unguarded machinery, equipment or other devices which are attractive, dangerous and accessible to children. If there is a current intended use incidental to the property, reasonable safeguards must be put in place to protect life or serious injury.
- B. Lumber, logs, or pilings placed or stored in a manner so as to be attractive, dangerous and accessible to children. If there is a current intended use incidental to the property, reasonable safeguards must be put in place to protect life or serious injury.
- C. An open cistern, excavation or pit without safeguards or barriers to prevent such places from being accessed by the public. If there is a current intended use incidental to the property, reasonable safeguards must be put into place to protect life or serious injury.
- D. An excavated or portable swimming pool, spa, or hot tub containing or capable of containing water 18 inches or more in depth at any point, without erecting and maintaining an adequate physical barrier sufficient to make such pool inaccessible to unsupervised small children.

~~**SECTION 4. TREES.** No owner or person in charge of property that abuts on a street or public sidewalk shall permit trees or bushes on the property to interfere with street or sidewalk traffic. An owner or person in charge of property that abuts a street or public sidewalk shall keep all trees and bushes on the premises, including the adjoining parking strip, trimmed so that any overhanging portions are at least eight feet above the sidewalk and at least 14 feet above the roadway.~~

**SECTION 4. TREES, OBNOXIOUS VEGETATION, AND WEEDS.**

- A. No person, as owner, occupant, or agent in charge of, shall permit on any real property, improved or unimproved, or upon any sidewalk or right-of-way abutting such property, obnoxious vegetation; provided, however, that nothing in this section shall be construed to prohibit bushes, trees, grass, and other shrubbery grown or maintained for ornamental purposes nor shall it prohibit the growth or maintenance of any vegetation designed for food or fuel purposes.
- B. No person, as owner, occupant, or agent in charge of, shall permit on any real property, improved or unimproved, including in any adjoining parking strip, any bush(es) or tree(s) in such a condition that the bush(es) or tree(s) are not trimmed at least eight feet above any sidewalk and at least fourteen feet above any roadway.
- C. The following definitions apply to this section:
  - 1. “Obnoxious Vegetation” includes any of the following:

- i. Grass or weeds more than twelve inches high;
- ii. Poison oak or poison ivy;
- iii. Blackberry vines; or
- iv. Any other vegetation that:
  - 1. Constitutes a fire hazard because it is near combustible material;
  - 2. Extends into a public way or a pathway;
  - 3. Extends across a property line;
  - 4. Is used for habitation by trespassers; or
  - 5. Is conducive to harboring rats, mice, snakes, or vermin.
- 2. “Parking Strip” means the areas between the curb, or in the case where there is no curb, the edge of the roadway, and the abutting property line not improved by surfacing that is intended for the use of pedestrians.

**SECTION 5. FENCES.**

- A. No owner or person in charge of property shall construct or maintain a barbed-wire fence, or permit barbed wire to remain as part of a fence, along a sidewalk, or public way; except such wire may be placed above the top of other fencing not less than six feet, six inches high.
- B. No owner or person in charge of property shall construct or maintain, or operate an electric fence along the adjoining property line of another person or along a sidewalk.

**SECTION 6. LIVESTOCK, POULTRY, AND BEES.** No person shall:

- A. Maintain a pigsty, slaughterhouse, or tannery, or permit livestock or poultry owned by him to run at large within the City.
- B. Keep a stand or hive of bees on any property within 20 feet of the boundary line of the premises.
- C. Stake or picket any domestic animal in or upon any of the streets, alleys, or public places of the City; or stake or picket an animal so that it may forage or graze upon the property of another without the consent of the owner or occupant of the property.

**SECTION 7. PUBLIC PEACE NUISANCES.** The following are hereby declared as nuisances affecting the public peace.

- A. Advertising on private property: No person may display any advertising matter on or across any private property within the City without express consent of the owner or person in charge of such property.
- B. Accumulation of Junk: The term junk in this section includes old motor vehicle parts, old machinery, or parts thereof, old appliances or parts thereof, old iron, metal, glass, paper, lumber, wood, or other waste or discarded material.
  - 1. No person shall keep any junk out of doors on any street, lot or premises, or in a building that is not wholly or entirely enclosed except doors used for ingress and egress.
  - 2. A duly licensed “junk yard” or “automobile wrecking yard” is exempt from this Section.
- C. Keeping Discarded vehicles.
  - 1. Definitions:

- i. A “Vehicle” is any device in, upon, or by which any person or property may be transported or drawn upon highway or road.
- ii. “Discarded” means any vehicle which is in one or more of the following conditions:
  - 1. Inoperable;
  - 2. Abandoned;
  - 3. Wrecked and/or damaged;
  - 4. Junked, dismantled or partially dismantled, including parts of vehicles such as bodies, engines, transmissions, or rear-ends; or
  - 5. Unlicensed.
- 2. No person shall store or permit the storing of discarded vehicles on any private property for more than 30 days, unless the vehicle is completely enclosed by a building, solid fence, hedge or screen not less than six feet in height.

**SECTION 8. UNENUMERATED NUISANCES.** In addition to those nuisances specifically enumerated in this Ordinance, every other thing, substance or act which is determined by City Council to be injurious or detrimental to the public health, safety or welfare is hereby declared to be a nuisance and may be abated as provided herein.

**SECTION 9. ABATEMENT PROCEDURES.**

**A. Notice.**

- 1. On determination by the Council that a nuisance exists, the Council shall cause a notice to be posted on the premises or at the site of the nuisance, directing the person responsible to abate the nuisance.
- 2. At the time of posting, the City Recorder shall cause a copy of the notice to be forwarded by registered or certified mail to the person responsible at the person’s last known address.
- 3. The notice to abate the nuisance within 10 days from the date of the notice shall include the following:
  - i. A description of the real property, by street address or otherwise, on which the nuisance exists;
  - ii. A direction to abate the nuisance within 10 days from the date of the notice;
  - iii. A description of the conditions constituting a nuisance;
  - iv. A statement that, unless the nuisance is removed, the City may abate the nuisance and the cost of abatement will be charged to the person responsible;
  - v. A statement that failure to abate the nuisance may warrant imposition of a fine, abatement procedures, and costs to be assessed against the property and/or person responsible for the nuisance; and
  - vi. A statement that the person responsible may protest the order to abate by giving written notice to the City Recorder within 10 days from the date of the notice.
- 4. If the person responsible is not the property owner, an additional notice shall be sent to the property owner at the property owner’s address as stated on the last property tax assessment roll with the Washington County Assessor’s Office,

stating that any cost of abatement may be assessed to and become a lien against the property.

5. Service shall be deemed complete upon posting. Any error in the name or address of the person responsible shall not make the notice void, and in such case the posted notice shall be sufficient.
- B. Voluntary abatement or protest by the person responsible.**
1. Within 10 days after the posting of notice, the person responsible shall remove the nuisance or show that nuisance condition(s) do not exist.
  2. A person responsible, protesting that no nuisance condition(s) exist, shall file a written statement that specifies the basis for the protest with the City Recorder.
  3. The statement shall be referred to the Council as part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the Council. The Council shall determine whether a nuisance in fact exists, and the determination shall be entered in the official minutes of the Council. Council determination shall be required only in cases where a written statement has been filed as provided herein. If the written statement is received less than 7 days before the next regular meeting of Council, Council may hear and make a decision on the abatement at the following regular meeting of Council.
  4. If the Council determines that a nuisance in fact exists, the person responsible shall abate the nuisance within 10 days after the Council determination.
- C. Joint responsibility.** If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance; for the costs, including attorney fees, incurred by the City in abating the nuisance; and for any fines assessed as a result of the nuisance.
- D. Abatement by the City.**
1. If the nuisance has not been abated by the person responsible within the time allowed, the Council may cause the nuisance to be abated.
  2. The officer charged with abatement of the nuisance may proceed under administrative warrant or any other lawful means to enter into or upon property at reasonable times to investigate or cause the removal of a nuisance.
  3. The City Recorder shall keep an accurate record of the expenses incurred by the City in physically abating the nuisance and shall include a charge of 20 percent in addition to the total abatement costs for administrative expenses.
- E. Assessment of Costs**
1. The City Recorder shall forward to the property owner and the person responsible, by registered or certified mail, a notice stating the following:
    - i. The total costs of abatement, including the administrative costs;
    - ii. That the costs will be assessed to and become a lien against the property subject to abatement unless paid within 30 days from the date of the notice; and
    - iii. If the owner or person responsible objects to the cost of the abatement as indicated, a written notice of objection may be filed with the City Recorder not more than 10 days from the date of the notice.
  2. At the next regular meeting of Council after the date of the written notice of objection is received, the Council shall hear and make a decision on the objections

to the costs assessed. If the written notice of objection is received less than 7 days before the next regular meeting of Council, Council may hear and make a decision on the costs assessed at the following regular meeting of Council.

3. If the costs of the abatement are not paid within 30 days from the date of the notice, or within 10 days of Council's decision, if written notice of objection is filed, the assessment of costs shall be made by resolution of the Council and 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.
  4. The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the maximum allowed rate for civil judgments. The interest shall begin to run from the date of entry of the lien in the lien docket
  5. 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.
- F. Summary abatement. The procedure provided by this Ordinance is not exclusive, but is in addition to procedure provided by other City Ordinances and Oregon Revised Statutes. The chief of the fire department, a law enforcement officer, or any other city official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.
- G. Other abatement procedures. Regardless of the procedures for abatement set forth in this Ordinance, the City may, at its option, cause to be filed in a court of competent jurisdiction a complaint for a violation of this Ordinance. The City shall cause a citation to appear to be personally served upon the person responsible for creating the nuisance. This matter will then be prosecuted by the City attorney as a civil violation.

#### **SECTION 10. PENALTIES.**

- A. Penalties. A violation of a provision of this Ordinance is punishable by a fine not to exceed \$500 per violation.
- B. Separate violations. Each day's violation of a provision of this Ordinance constitutes a separate offence.
- C. Abatement additional remedy. The abatement of a nuisance as herein provide shall not constitute a penalty for a violation of this Chapter, but shall be in addition to any penalty imposed for a violation of this Chapter.

**SECTION 11. SEVERABILITY.** The sections and subsections of this Ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections or subsections.

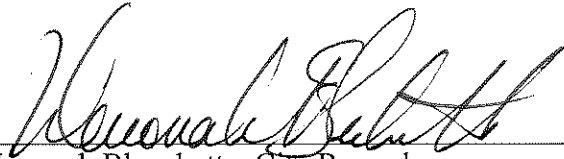
**SECTION 12. REPEAL.** Ordinance No 97 is hereby repealed.

**SECTION 13. EMERGENCY CLAUSE.** ~~This Ordinance 2017-001 and this Ordinance~~ amending Ordinance 2017-001, being necessary for the immediate preservation of the public peace, health, safety and welfare, an emergency is declared to exist and this Ordinance shall take effect immediately upon its adoption by the City Council of the City of Gaston.

Presented and Passed first reading on the 14 day of November, 2018.

Votes in favor 6

Votes against 0

  
Wenonah Blanchette, City Recorder

Approved this 14 day of November, 2018, by the Mayor.

  
Mayor Tony Hall