

CITY OF IONE ORDINANCE 2023-02

Nuisances Ordinance

No person shall cause or permit a nuisance on public or private property and causing or permitting a nuisance constitutes an offense under this ordinance. The following are declared to be nuisances to be abated and/or cited as provided in this ordinance.

Table of Contents

SECTIONS	Page(s)
Table of Contents	Page 1-2
Section 1: Definitions	Page 3-4
Section 2: Noxious Odors	Page 5
Section 2.1: Animal Carcasses.....	Page 5
Section 2.2: Garbage, Liquid and Solid Waste	Page 5
Section 2.3: Marijuana	Page 5
Section 2.4: Stagnant Water.....	Page 5
Section 3: Excessive Noise	Page 5
Section 3.1 Hours.....	Page 5
Section 3.2 Noises Prohibited.....	Page 6
Section 3.3 Radios, Televisions, Boomboxes, and Similar Devices.....	Page 6
Section 3.4 Sound-Amplification Devices.....	Page 6
Section 3.5 Power Equipment.....	Page 6
Section 3.6 Construction and Similar Activities	Page 6
Section 4: Uncontrolled Growth of Weeds and Grass	Page 6
Section 4.1 Reduction of Flammable Vegetation	Page 6
Section 4.2 Responsibilities of Landowners.....	Page 7

Section 5	Debris	Page 7
Section 5.1	Accumulation of Offensive Debris	Page 7
Section 5.2	Iceboxes and Other Containers	Page 7
Section 6	Rodent Control	Page 7
Section 6.1	Garbage and Recycling, Animal Waste	Page 7
Section 6.2	Animal Feed.....	Page 8
Section 7	Abatement by Landowner or Responsible Person.....	Page 8
Section 8	Abatement by the City	Page 8

Section 1: Definitions

Administrator: Shall mean the City Administrator.

City: City of Ione

Director: Shall mean the Public Works Director.

Power Equipment: means power tools or equipment, including, but not limited to, power hand tools, lawn mowers, power blowers, garden equipment and snow removal equipment, used for home or building repair, maintenance, landscaping.

Dwelling Unit: means a single family dwelling, duplex, triplex, multifamily dwelling, apartment, condominium or mobile home.

Garbage: shall mean all putrescible waste, except sewage and body wastes, including waste accumulated of animal, food, or vegetable matter. and including waste that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit and vegetables; and shall include all of such wastes or accumulations of vegetable matter of residences, restaurants, and places where food is prepared for human consumption.

Indoor Structure: Shall mean an area within the primary residence accessible only to the patient occupant, owner, and/or tenant. Secure premises shall be locked or partitioned off to prevent access by minors, casual passersby, or vandals.

Liquid Waste: Liquids as wastewater, fats, oils or grease (FOG), used oil, liquids, solids, gases, or sludges includes all of such wastes or accumulations of vegetable matter of residences, restaurants, and places where food is prepared for human consumption.

Marijuana: Shall mean any marijuana all parts of the plant Cannabis family including, but not limited to, its dried leaves and flowers, any marijuana products derived therefrom. The term includes any and all homegrown marijuana and medical marijuana kept or stored for use by a person 21 years of age or older in accordance with State law.

Marijuana Odor: Odor that emanates comes from terpenes; tiny volatile molecules created by the marijuana plants.

Noise disturbance means any sound that:

- Injures or endangers the health or safety of a human;
- Annoys or disturbs a reasonable person of normal sensitivities; or
- Injures or endangers personal or real property.

Outdoors Structure: Shall mean within a fully enclosed and secure structure. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, which cannot easily be broken through. Plastic siding shall be made from polyethylene and polycarbonate that is 8 to 12 mils thick. While the structure may be visible, the premises shall be locked or partitioned off to prevent access by minors, casual passersby, or vandals.

Occupant: The owner, tenant or legal agent of a building or room are the people who reside at their place of business.

Owner: Includes a mortgagee in possession and means one or more persons, jointly or severally in whom is vested:

- All or part of the legal title to the property; or,
- All or part of the beneficial ownership and a right to present use and enjoyment of the premises.

Plainly Audible: Means the listener can clearly hear the sound produced by a sound source with unaided hearing faculties. Sounds which may be plainly audible include but are not limited to, musical rhythms, engine noises, spoken words or phrases even though not clearly discernable, and other vocal sounds

Rodents: Rats and Mice

Smell or Noxious Odor: The offensive smell or noxious odor emitted from garbage, solid waste, vegetation, including, but not limited to, marijuana shall be treated as a public nuisance.

Solid Waste: Ashes and swill; grass clippings; compost; residential, commercial, industrial, demolition and construction wastes; discarded residential, commercial and industrial appliances, equipment and furniture; discarded, inoperable or abandoned vehicles or vehicle parts and vehicle tires, manure, vegetable or animal solid or semisolid waste, dead animal and all other wastes.

Stagnant Water: Stagnant water occurs when water stops flowing.

Tenant: A person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others, including a dwelling unit owned, operated or controlled by a public housing authority. Also includes lessee.

Section 2 Noxious Odors

This section addresses noxious odors as defined as foul smelling airborne emissions that are sufficiently concentrated to cause physical discomfort to those inhabiting adjacent areas.

Section 2.1 Animal Carcasses

The deposition including burning of an animal carcass or any part that may cause putrid, nauseous, decaying, deleterious, offensive, or dangerous substance in a stream, well, spring, brook, ditch, pond, river, or other inland waters within the city by is deleterious to public health or comfort, or is unsightly, or creates a noxious odor.

Section 2.2 Garbage, Liquid and Solid Waste

No occupant, owner, and/or tenant may throw, dump, deposit, burn or accumulate upon public or private property any injurious or offensive substances any type of liquid or solid waste, or garbage which creates a noxious odor that affect health, safety or welfare or detracts from the cleanliness or safety of such property or upon the parking strip or sidewalk area abutting the property.

Section 2.3 Marijuana

While the cultivating, drying, producing, processing, keeping, or storage of marijuana is legal, without appropriate safeguards in place, these practices may produce noxious odors that can have a detrimental effect upon public safety and neighboring citizens. To prevent noxious odors persons engaged in recreational or medicinal cultivation, drying, producing, processing, keeping, or storage of marijuana must ensure that said marijuana is not accessible, visible, or odorous to other persons or property, or otherwise illegal under Oregon state law. No occupant, owner, and/or tenant shall allow, permit or cause the odor of marijuana to emanate from their property. Therefore, the above activities involving marijuana within city limits must be in secure indoor and/or outdoor structures and no odors shall leave the property.

Section 2.4 Stagnant Water

A lack of water movement will reduce its oxygen supply and promote algae and odorous bacteria growth. If the water is stagnant, it may start to smell like rotten eggs, especially in the spring when the weather and temperature change. Stagnant water also provides a breeding place for mosquitoes or other insects. Therefore, stagnant water is prohibited and must be handled immediately.

Section 3 Excessive Noise

This section is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the residents and visitors of Ione through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety; or causes public inconvenience, annoyance or alarm to reasonable individuals of ordinary sensitivity, and interferes with the comfortable enjoyment of life and property; interferes with the well-being, tranquility and privacy of the home

Section 3.1 Hours

In a residential area or noise-sensitive area, between the hours of 9:00 p.m. and 7:00 a.m. the restrictions in the following sections shall be in effect unless noted.

Section 3.2 Noises Prohibited

The making and/or permitting to be made, any unreasonably loud, boisterous, or unusual noise, disturbance, commotion, or vibration in any residential dwelling, place of business or upon any highway, park or other place or building.

Section 3.3 Radios, Televisions, Boomboxes and Similar Devices

The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any individual other than the player or operator of the device, and those who are voluntarily listening to the sound, which disturbs the peace, quiet, and comfort of residents in a residential area or noise-sensitive area.

Section 3.4 Sound-Amplification Devices.

Sound amplification devices those except as allowed by applicable city, state, or federal laws, a city special permit, or as a city hosted event, the unreasonably loud and raucous use or operation of a sound- amplifying device is prohibited in the following areas:

- Within or adjacent to a residential or noise-sensitive area.
- Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates and is unreasonably loud.

Section 3.5 Power Equipment

In a residential area or noise-sensitive area, between the hours of 9:00 p.m. and 7:00 a.m., the operation of any noise-creating blowers, any internal combustion engine, or domestic power equipment power hand tools, lawn mowers, power blowers, garden equipment and snow removal equipment, used for home or building repair, maintenance, landscaping, or alteration is prohibited.

Section 3.6 Construction and Similar Activities

The construction, excavation, demolition, alteration, or repair of any building, street, highway or the like, other than between the hours of 7:00 a.m. and 7:00 p.m. is prohibited; except in cases of urgent necessity in the interest of the public's welfare.

Section 4 Uncontrolled Growth of Weeds and Grass

It is the responsibility of every property owner and/or the person in charge of property to reduce potentially noxious and flammable weeds, grass, vines, brush and other vegetation on their property. Reducing flammable vegetation works to confine fire to the property and prevent the fire from spreading to structures and neighboring properties.

Section 4.1 Reduction of Flammable Vegetation

Reduction can be completed by cutting or removing flammable or potentially flammable vegetation as close to the ground as is reasonably practical or by the application of an EPA approved herbicide. If an herbicide is used, it is best to do so after cutting the vegetation. Flammable vegetation that is located in the right-of-way or easement shall be the responsibility of the adjacent property owner and/or the person in charge of the property.

Section 4.2 Responsibilities of Landowners

Accumulated waste vegetation, which includes trees, shall be disposed of in a manner as not spread vegetation to other properties. It is the landowner's responsibility to prevent vegetation from:

- Growing over 12 inches high this included lawns. Exempt vegetation is flowers, shrubs, and trees that are not a hazard.
- Interfering with the use and enjoyment of other properties by propagating noxious weeds and causing them to spread; and
- Becoming a hazard to pedestrian or vehicular use of a sidewalk or street by obstructing passage or vision.
- Encroaching upon or overhangs a pedestrian way or adjacent curb strip lower than nine feet or encroaches upon or overhangs a street lower than 15 feet.
- Obstructing motorist or pedestrian view of traffic, traffic signs and signals, streetlights and name signs, or other safety fixtures or markings placed in the public way.

Section 5 Debris

No person shall cause or allow an unsightly or malodorous accumulation of junk, garbage, animal feces, scrap metal, scrap lumber, used tires, discarded building material, appliances or fixtures, or dismantled machinery on public or private property unless the property is in lawful use for junk storage or recycling in compliance with applicable state and federal laws and this Code.

Section 5.1 Accumulation of Offensive Debris

Accumulation of decomposed animal or vegetable matter, garbage, rubbish, manure, dog feces, ashes, discarded containers, waste, paper, debris, trash, hay, grass, straw, weeds, litter, rags, or other refuse matter or substance which by itself in conjunction with other substances is harmful to public health or comfort, or is unsightly, or creates an offensive odor is prohibited. All of the matter should be kept in an enclosed garbage can and container. Any offensive debris shall not be stored for more than 10 days in or out of the view of the public.

Section 5.2 Iceboxes and Other Containers

No abandoned, unattended or discarded icebox, refrigerator or other container accessible to children which has an airtight door, or lock which may not be released for opening from the inside shall be allowed outdoors.

Section 6 Rodent Control

No owner or person in charge of property shall allow conditions to exist thereon or therein, which attract or are likely to attract, feed or harbor rats or mice. The conditions prohibited by this section are nuisances subject to abatement as provided. Garbage or refuse consisting of waste material upon which rats or mice may feed shall be placed in covered rodent-proof containers.

Section 6.1 Garbage and Recycling, Animal Waste

No accumulated garbage, recycling or animal waste not stored in containers and overgrown vegetation that is used for habitation by rodents.

All dog waste on public or others' property is the responsibility of the owner of the dog to dispose of in a trash receptacle.

Section 6.2 Animal Feed

All food for chickens, horses, mules, cows, goats, pigs or other domestic animals shall be kept and stored in either a building, structure, part thereof, or container that is rodent-proof.

Section 7 Abatement by Landowner

1. If the City Administrator, Public Works Director or the City Council is satisfied that a nuisance exists, 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, registered or certified mail, postage prepaid will be mailed to the landowner or person responsible for the property.
3. The notice to abate shall contain:
 - A description of the real property, by street address or otherwise, on which the nuisance exists.
 - A direction to abate the nuisance within 10 days from the date of the notice.
 - A description of the nuisance.
 - A statement that unless the nuisance is abated, the city may abate the nuisance and the cost of abatement shall be charged to the person responsible and assessed against the property.
 - A statement that failure to abate a nuisance may result in a court prosecution.
 - A statement that the person responsible may appeal the order to abate by giving notice to the enforcing officer within 10 days from the date of the notice.
4. An error in the name or address of the person responsible shall not make the notice void and in such a case the notice shall be sufficient.

Section 8 Abatement by City

If the nuisance has not been abated by a person responsible within the time allowed, or where there exist off-site impacts resulting from unlawful erosion, the city manager, or the manager's designee may cause the nuisance to be abated. The officer charged with abatement of the nuisance, or contractors acting under the direction of the officer shall have the right at reasonable times to enter into or upon property in accordance with law to investigate or cause the removal of a nuisance, including remedying the impacts from unlawful erosion. The following steps will be taken if the landowner or person responsible for the property has not completed the abatement:

1. The City Manager shall keep an accurate record of the expense incurred by the city in physically abating the nuisance and shall include therein a reasonable charge for administrative overhead.
2. The person posting and the person mailing the notice shall provide the City Manager with a copy of the notice posted at the residence and the certified mail receipts.
3. A statement that unless the nuisance is removed or a hearing before the City Council is requested, the City, if in 10 days after the notice was posted, the nuisance has not been abated by the responsible party, if possible, the City shall remove the nuisance. After the 10 days is up, the offender will be fined \$50 a day till abated.
4. If the nuisance is not abated in 10 days, the City may choose to place a lien on the property or send to a collection agency the amount of the cost of removal plus 25 percent and \$50 for administrative costs. If not paid these costs will be submitted to a collection agency
5. An error in the name or address of the owner or agent shall not make the mailed notice void, and in such case the posted notice shall be sufficient.