

ORDINANCE # 660

AN ORDINANCE AMENDING TITLE 8, CHAPTER 8, NUISANCES; TO UPDATE DEFINITIONS SO AS TO INCLUDE NOXIOUS WEEDS AND PLANTS; TO DEFINE INOPERATIVE VEHICLE(S) AND TO ESTABLISH ENFORCEMENT PROCEDURES AND PRACTICES; ESTABLISH VIOLATIONS AND PROCEDURES TO ENFORCE AND PENALIZE NON COMPLIANCE.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MONTPELIER, STATE OF IDAHO AS FOLLOWS:

Section 1: Sections 08.08.009 through 08.08.070 shall be amended as follows:

Chapter 8.08

NUISANCES

Sections:

08.08.009	Purpose and Scope
08.08.010	Definitions
08.08.020	Dumping Refuse on Streets Unlawful
08.08.030	Unsanitary Premises Unlawful
08.08.040	Exterior Building Maintenance
08.08.050	Exterior Premises
08.08.060	Enforcement
08.08.070	Violation-Penalty

08.08.009 Purpose and scope

The purpose of this chapter is to promote the health, safety and welfare of the inhabitants of the City of Montpelier by protecting neighborhoods against blighting and deteriorating influences, by establishing minimum requirements for maintenance of all buildings, premises and vacant lands.

08.08.010 Definitions

- a. "Nuisance" means anything tangible or intangible which is injurious to health or morals or which is indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property, or which unlawfully obstructs the free passage or use in the customary manner of any watercourse, public park, square, street or highway is declared a nuisance. The hereinafter specified public nuisances are not inclusive and do not limit or impair the effect of this section where a public nuisance as defined in this chapter exists within the limits of the city of Montpelier.
- b. "Blighted" means characterized by unsightly conditions including accumulated debris; rotting, crumbling, peeling or rusting fences, structures or buildings, dead

or substantially damaged landscaping; noxious weeds and plants; improperly maintained or located compost materials; and any other conditions of disrepair and deterioration that substantially contributes the decline in the appearance of a neighborhood.

- c. "Debris" means substance of little or no apparent economic value, present in a state of apparent disarray; the remains of broken or damaged items.
- d. "Deterioration" means the substantial lowering of quality of the condition or appearance of a building or parts thereof characterized by holes, breaks, rotting, crumbling, cracking, peeling, rusting or any other evidence of physical decay or neglect or lack of maintenance.
- e. "Imminent hazard" mean presenting an immediate likelihood for causing serious personal harm due to a condition of incompleteness, deterioration, improper building construction, breakage, leakage or exposure.
- f. "Fire hazard" means anything or act which increases the hazard of fire to a condition that is greater than normal condition as may be recognized by persons who are regularly engaged or trained in preventing, suppressing or extinguishing fires; or anything or act which may obstruct, delay, hinder or otherwise interfere with the operation of the Fire Department or the safe egress of occupants in the event of fire.
- g. "Garbage" means food waste, useless waste or materials, trash, rubbish, refuse or litter.
- h. "Infestation" means the apparent presence of damaging or unhealthful insects or rodents.
- i. "Occupant" means an individual, partnership, corporation or any other entity that through rights of ownership or rental has the use of real property for residential or commercial purposes.
- j. "Owner" mean an individual, partnership, corporation or any other entity that has a lawful claim of equitable or legal title to property as more fully identified in the official recordings of Bear Lake County.
- k. "Property manager" means an individual, partnership, corporation, or any other entity with the responsibility to oversee, maintain and protect the property and the authority to make emergency repairs.
- l. "Sound condition" means able to support reasonable and anticipated loading or weather conditions.
- m. "Inoperative Vehicle: means 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.

08.08.020 Placing Refuse on Streets Unlawful

Any person within the city limits of the city of Montpelier, Idaho who shall dump, place or deposit any trash, refuse, matter of filth or any other substance or who shall dump any carcasses of dead animals, rags, paper, trash or waste of any kind whatsoever on any lot or lots, street or streets, alley or alleys, within the city limits of said city, except as permitted by order of the city council, shall be deemed guilty of having committed a public nuisance and upon conviction thereof shall be punished as provided in this chapter. (Ord 363 § 4, 1953)

08.08.030 Unsanitary Premises Unlawful

Any person or person in charge of any premises who shall suffer any basement, cellar, yard, grounds or premises belonging to or controlled by him as owner, agent or tenant to become nauseous, foul, offense or injurious to the public health, security or safety or unpleasant or disagreeable to adjacent residents or persons passing shall be deemed guilty of having committed a public nuisance and upon conviction hereafter shall be punished as provided in this chapter. (Ord 363 § 5, 1953)

08.08.040 Exterior Building Maintenance

- a. Surface materials – Exterior building surfaces must be finished with appropriate materials customarily used for exteriors.
- b. Maintenance – Exterior surfaces shall be maintained so as to be free of deterioration or blighted appearance and shall not present a threat to health or safety.
- c. Prohibited conditions include but are not limited to the following:
 - i. Exterior paint which is substantially peeling, flaking, cracking, blistering or otherwise exposing bare and unprotected surfaces.
 - ii. Window openings which are not maintained with glass or other similar materials.
 - iii. Exterior surfaces which are composed of plastic sheeting or insulation materials.
 - iv. Exterior surfaces which are structurally unsafe including loose stone, brick or cement blocks.

08.08.050 Exterior Premises

- a. All properties shall be maintained free from any accumulation of garbage, litter, rubbish, refuse, waste materials, rags, empty containers, mattresses, discarded furnishing and appliances, graffiti, bedding materials, rotting hay, straw or other feed materials, scrap metals or any other condition:
 - i. which may substantially contribute to a blighted condition,
 - ii. which may attract or harbor insects, rodents, snakes or skunks,
 - iii. which may be a fire hazard
- b. All properties shall be kept free of insect, rodent, skunk and other noxious pests.
- c. Vehicles which are inoperative may not be kept outside of enclosed buildings, except commercial establishments as duly authorized under the zoning ordinance.

08.08.060 Enforcement

- a. Inspections – The enforcement officer or any city police officer, is authorized and directed to make inspections to determine compliance with this chapter. Unless an emergency or imminent hazard exists, the officer will attempt to make reasonable accommodations with the occupant, owner or property manager to meet with or have telephone conference with such person to review compliance with this chapter.

- b. Notice to Comply

If there is reason to believe that the property is not in compliance with this chapter, the enforcement officer may issue a letter of noncompliance requesting that the property be brought into compliance by a specific date, and setting the compliance date no less than thirty (30) days from the date of the letter, thereby giving reasonable notice to abate the nuisance. The letter of non-compliance shall be sent first class mail, postage prepaid to the owner, occupant or property manager. The letter should include a copy of this chapter.

It shall be the duty of the owner, occupant, lessee, manager, or person in charge thereof, of any lot, building or premises where any nuisance exists, to remove, abate or destroy any existing nuisance without delay.

Compliance agreement. The occupant may apply in writing to the City Clerk for additional time to comply with the ordinance by reason of hardship. The enforcement officer may issue a written compliance

agreement which shall state the reason for declaring a hardship and shall provide a date for compliance and the specific terms and conditions for compliance.

The agreement shall be signed by the occupant and enforcement officer.

- c. Emergency. If an emergency or imminent hazard exists, then the City or their authorized agent(s) are authorized to take such appropriate action as may be reasonably required to avert the imminent hazard or emergency.
- d. When the City or their authorized agent(s) respond to an emergency or imminent hazard, then the occupants shall be severally and jointly obligated to pay the cost to the City or their authorized agents.
- e. Review of Standards for Maintenance

Occupant may make written application to the City Clerk for review of applicable standard for maintenance of their property in question. The application shall specifically state and detail the following:

- i. Why a review of maintenance standards as they apply to his property is appropriate.
 - ii. Why enforcement of current standards does not protect surrounding property values.
 - iii. Why the property standard as applied to his property do not impact surrounding property and depreciate property values.
- f. Civil Sanctions. In addition to any remedies or criminal sanctions provided herein, City may bring a civil suit to enforce the provisions of this chapter.

08.08.070 Violation-Penalty

- a. If the written Notice to Comply and/or the Compliance Agreement with determined timeline results in continued non-compliance, any person found in violation of this chapter for the first offense pertaining to the property shall be guilty of an infraction punishable by the fixed infraction penalty set out in the Idaho State Code.
- b. Any person found in subsequent or continuing violation by failing to comply with any of the portions of this chapter pertaining to the property, shall be guilty of a misdemeanor for each day said person shall remain in violation of this chapter.

Section 2: All ordinances and provisions that are in conflict herewith are hereby repealed.

Section 3: That the ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

Section 4: One half plus one of the members of the full Council agree to dispense with the rule requiring the reading of the ordinance on three separate occasions.

Section 5: Severability: If any portion of this ordinance is determined by a court of competent jurisdiction to be invalid or unenforceable, all other provisions of this ordinance shall remain in full force and effect.

PASSED AND APPROVED by the Mayor and City Council of the City of Montpelier, Bear Lake County, Idaho, this 7th day of AUGUST, 2019.



Jared Sharp, Mayor

ATTEST:



Leslie Tueller, Clerk

PUBLISHED

