

CITY OF DOVER, IDAHO

HEALTH, SANITATION AND ENVIRONMENT (TITLE 4)
ADOPTING NEW CHAPTER 1, PUBLIC NUISANCES

ORDINANCE NO. 159

AN ORDINANCE OF THE CITY OF DOVER, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING DOVER CITY CODE TO ADOPT A NEW CHAPTER 1 OF TITLE 4, TO BE TITLED "PUBLIC NUISANCES," PROVIDING A PURPOSE, DECLARING PUBLIC NUISANCES, ESTABLISHING REGULATIONS, PENALTIES, AND REMEDIES, PROVIDING A SAVINGS CLAUSE, SEVERABILITY, AND AN EFFECTIVE DATE.

Whereas, the Constitution of the State of Idaho, Article XII, Section 2, and Idaho Code Title 50 (Municipal Corporations), Chapters 3 and 9, provide authority for the City of Dover to adopt ordinances to maintain peace and promote the general welfare, safety, and health of the community and to set punishments and take actions to abate violations; and

Whereas, Idaho Code §50-317 empowers the City to require sidewalks, alleys, and private property be kept clear of rubbish and weeds; and

Whereas, Idaho Code §50-334 authorizes cities to determine what is a public nuisance and to prevent, remove, abate, and recover the costs for enforcement of nuisance violations; and

Whereas, Idaho Code §50-335 gives power to cities to declare any building or structure to be a nuisance that is a health or safety threat to the community and to recover costs for abatement; and

Whereas, Idaho Code §49-208 empowers cities to establish procedures for the abatement and removal of abandoned, junk, dismantled, or inoperative vehicles or their parts from private or public property; and

Whereas, Idaho Code Title 52 defines nuisances, and provides authority for remedies and actions; and

Whereas, Idaho Code Title 22, Chapter 24, defines noxious weeds and requires landowners to control noxious weeds on their property; and

Whereas, the City of Dover City Council has initiated an amendment to Dover City Code, as authorized by state law, to establish regulations to address the abatement of public nuisances, junk or abandoned vehicles, and to allow the City to recover the costs for enforcement.

Now therefore,

Be it ordained by the Mayor and City Council of the City of Dover, Bonner County, Idaho as follows:

Section 1. Adoption.

Part A:

Adopting a new Chapter 1 of Title 4, titled "Public Nuisances"

Dover City Code is hereby amended to add a new Chapter 1 (Public Nuisances) to Title 4 (Health, Sanitation and Environment), which shall read as follows:

**CITY OF DOVER, IDAHO
Title 4**

HEALTH, SANITATION AND ENVIRONMENT

CHAPTER 1

PUBLIC NUISANCES

4-1-1: AUTHORITY:

This chapter is adopted pursuant to the authority granted to the City of Dover by the Constitution of the State of Idaho, Article XII, Section 2, and by Idaho Code, title 50 (Municipal Corporations), chapters 3 and 9, title 49 (Motor Vehicles), and title 52 (Nuisances).

4-1-2: PURPOSE:

The purpose of this chapter is to:

- A. Identify public nuisances;
- B. Establish regulations to prevent, reduce, or eliminate public nuisances;
- C. Authorize the city to act in the interests of public health, safety, and welfare to prevent, abate, or remove nuisances;
- D. Allow the removal or destruction of buildings or structures deemed by the city to be a nuisance or menace to public health or safety;
- E. Create procedures for the abatement and removal of abandoned, junk, dismantled or inoperative vehicles or their parts from public or private property;
- F. Establish fines, fees, penalties, and other procedures to defray costs to taxpayers for actions taken to abate public nuisances.

4-1-3: NUISANCES DECLARED:

Anything that is injurious to health, morals, safety, welfare, or 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 unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance

and is subject to action by the city. Public nuisances shall include, but are not limited to, the following:

- A. Noise. Between the hours of eleven o'clock (11:00) p.m. and seven o'clock (7:00) a.m. the next morning, there shall be no loud, excessive, disruptive, or annoying sounds produced by voices, instruments, electronic devices, machinery, animals, or other means that disturbs the peace, quiet, and comfort of any reasonable person of normal sensitivities. To be considered loud, the sound must be plainly audible one hundred fifty feet (150') or more from the source.
- B. Junk, abandoned or junk vehicles. Junk includes, but is not limited to, manufactured goods, appliances, fixtures, scrap metal, salvaged building materials, agricultural or yard wastes, plastics, garbage, furniture, rags, clothing and accessories, paper, or paper products, glass, machinery or vehicle parts, construction wastes, or any other personal property, whether of value or valueless, that is or demolished, discarded, dismantled or partially dismantled, dilapidated, or deteriorated so that it cannot be used for its original intended use. A dismantled, inoperable, or unlicensed vehicle or an abandoned vehicle as defined by Idaho Code §49-102 shall also constitute a public nuisance.
- C. Solid or liquid waste. The accumulation of garbage, offensive or nauseous substances, hazardous or offensive liquids, manure, animal carcass, spillage of liquids, or sewage.
- D. Litter. Trash, handbills, bottles, construction materials, yard debris, or other waste substances discarded on public thoroughfares, public parks, or public spaces
- E. Noxious weeds, as defined by Idaho Code section §22-2402.
- F. Snow, ice, and debris on public sidewalks; the accumulation of snow, ice, dirt, debris, or solid waste upon public sidewalks that obstruct safe travel. The property owner abutting the sidewalk shall bear the responsibility to remove the accumulations.
- G. Dangerous buildings or structures. The city council shall have the authority as provided by Idaho Code section 50-335, to declare any building or structure to be a nuisance that, in its opinion, is so dilapidated or is in such condition as to menace the public health or the safety of persons or property due to increased fire hazard, threat of collapse, or other such hazards.

4-1-4: PUBLIC NUISANCES UNLAWFUL:

It shall be unlawful for any person or entity to create, cause, maintain, or allow a public nuisance to exist on any premise or real property that the person or entity owns, rents, leases, or occupies within the incorporated city limits of Dover. Further, it shall be unlawful for any person to create or cause a public nuisance on any city property, public spaces, or public rights-of-way.

4-1-5: AUTHORIZED ACTIONS:

The city, through its staff, contractors, or those otherwise engaged by the city, are empowered to prevent, remove, cause to be removed, or abate any public nuisance and to enforce the provisions of this chapter. When a public nuisance is determined to exist, the city may:

- A. Provide written notice by certified mail at the address shown on the current assessor's tax rolls to the owner of the subject premises or by personal service. The notice shall:
 - 1. Identify the violation;
 - 2. State the actions that must be taken to abate the violation;

3. Provide a time limit to abate the violation, not exceeding fifteen (15) days from the date of notice, unless an extension of time is warranted, as determined by the city.
 4. Advise of consequences if violation is not abated.
- B. Remove or abate a nuisance without notice, if an immediate threat to health, safety, or welfare exists that requires emergency action, as determined by the city.

4-1-6: ENFORCEMENT:

- A. Penalties. Any person or entity who creates, causes, commits, or maintains a nuisance as herein declared, or fails to abate or correct a nuisance after notification by the city is subject to the penalties as provided in section 1-4-1 of this code.
- B. Each Day Separate Violation. Each day a violation continues may be considered a separate offense for each and every day or portion thereof during which any violation of this title is committed, continued, or permitted.
- C. Civil Remedies: Nothing contained herein shall preclude the city from pursuing enforcement through injunctive relief or any other civil remedies available.
- D. Recovery of Damages and Costs. Violations of this title are subject to investigate fees to recover the costs incurred by the city in the processing and abatement of the violation.
- E. Expense of Removal. The council may cause the destruction or removal of any such building or structure at the expense of the person or persons, associations, corporations or copartnerships holding, owning or maintaining the same, and to levy a special assessment as provided in Idaho Code section 50-1008, on the land or premises whereon the nuisance is situated, to defray the cost or to reimburse the city for the cost of destruction or removal of said building or structure so declared to be a nuisance.

Section 2. Saving Clause.

All ordinances repealed by this ordinance, shall remain in force to authorize the enforcement, arrest, prosecution, conviction, or punishment of a person who violated said ordinances prior to the effective date of this ordinance.

Section 3. Severability. The sections of this ordinance are severable. The invalidity of a section shall not affect the validity of the remaining sections.

Section 4. Effective date.

This ordinance shall be in full force and effect upon the passage and publication of the ordinance or ordinance summary in one (1) issue of the official newspaper for the City of Dover.

This ordinance passed under suspension of rules and duly enacted as an ordinance of the City of Dover, Idaho on this 13th day of December, 2018, upon the following roll call vote:

ROLL CALL:

Council Member Brockway AYE
Council Member Goodvin AYE
Council Member Evans NAY
Council Member Strand AYE

Approved by the Mayor this 13th day of Dec., 2018.

Annie Shaha
City of Dover Mayor Annie Shaha

Michele Hutchings
Attest: Michele Hutchings, City Clerk

APPROVAL OF ORDINANCE SUMMARY

Publication of this ordinance by summary in the official newspaper is hereby approved by the Dover City Council on this 13th day of December, 2018, upon the following vote:

Council Member Brockway AYE
Council Member Goodvin AYE
Council Member Evans NAY
Council Member Strand AYE

Approved by Mayor Annie Shaha this 13th day of Dec., 2018.

Annie Shaha
City of Dover Mayor Annie Shaha

Michele Hutchings
Attest: Michele Hutchings, City Clerk

