

ORDINANCE NO. 753

AN ORDINANCE OF THE CITY OF LAKEWOOD CITY COUNCIL
AMENDING TITLE 8 HEALTH AND SAFETY, CHAPTER 8.16, PUBLIC
NUISANCES, ADDING A NEW CHAPTER 8.18, ACTIVITIES THAT ARE
NOT DEEMED PUBLIC NUISANCES, AND AMENDING CHAPTER 8.26
PUBLIC NUISANCE DECLARED

WHEREAS, RCW 35A.11.020, 35A.21.160, 35.22.280, and 35.23.440 grant cities specific authority to declare what shall be a nuisance and to abate same; and

WHEREAS, Chapter 35.80 RCW grants cities the authority to declare dwellings, buildings, and structures unfit; and

WHEREAS, all construction activity and construction materials, including property maintenance, shall be governed by the State Building Code Council to include the 2018 Editions of the International Construction Codes (ICC); and

WHEREAS, the City of Lakewood adopted the 2018 Editions of the International Construction Codes (ICC), including the International Property Maintenance Code (IPMC), with local amendments, through Ordinance No. 747 in February 2021; and

WHEREAS, public nuisances as defined in Lakewood Municipal Code (LMC), Title 8, Health and Safety, unreasonably diminish the quality of life of the citizens of Lakewood by creating conditions detrimental to the health and safety of Lakewood residents, to the environment, and to the right of all residents to use and enjoy their own property; and

WHEREAS, at the request of the Lakewood City Council, a review of the dangerous and unfit building and public nuisance codes was performed; and

WHEREAS, City officials reviewed the dangerous and unfit building and public nuisance provisions of surrounding communities and counties, and conferred with City Departments; and

WHEREAS, it was found that the IPMC with existing local amendments is an effective mechanism to address dangerous and unfit buildings and structures and no need exists to make additional amendments at this time; and

WHEREAS, the LMC Title 8, Health and Safety has largely remained intact with few amendments since the City of Lakewood, incorporated; and

WHEREAS, LMC Title 8, Health and Safety, is in need of updating in order to improve the efficiency and effectiveness of the City's code enforcement process so that citizen complaints can be addressed in a timely manner while still providing property owners with due process; and

WHEREAS, unresolved Code violations result in the continuation of public nuisances, which often involve health hazards, dilapidated or abandoned properties, and decreased property values, and need to be addressed in a timely and effective manner; and

WHEREAS, violations of the City's development regulations, when left unresolved, undermine the purposes of the regulations and lead to inconsistent application of the development rules in the City; and

WHEREAS, it is appropriate to update Title 8 is proposed to be amended to add and clarify the list of declared public nuisances;

NOW THEREFORE, BE IT ORDAINED by the Lakewood City Council:

Section 1. The above recitals are hereby adopted as findings of fact.

Section 2. Chapter 8.16 of the Lakewood Municipal Code, Section 8.16.010 “Nuisances Affecting Public Health,” is amended as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

Section 3. New Chapter 8.18 of the Lakewood Municipal Code, “Activities that are not deemed public nuisances,” is hereby adopted as set forth in Exhibit B, which is attached hereto and incorporated herein by reference.

Section 4. Chapter 8.23, Section 8.26.040. “Public Nuisance Declared,” is amended as set forth in Exhibit C, which is attached hereto and incorporated herein by reference.

Section 5. Severability: If any sections, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property or circumstance, such invalidity or unconstitutionality or inapplicability shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance or its application to any other person, property or circumstance.

Section 6. Effective Date: This Ordinance shall be in full force and effect thirty (30) days after publication of the Ordinance Summary.

ADOPTED by the Lakewood City Council on this 3rd day of May, 2021.

CITY OF LAKEWOOD




Don Anderson, Mayor

Attest:



Briana Schumacher, City Clerk

Approved as to Form:



Heidi Ann Wachter, City Attorney

EXHIBIT "A"

8.16.010 Nuisances affecting public health.

The following specific acts, omissions, places, conditions and things are declared to be nuisances: the erecting, maintaining, using, placing, depositing, causing, allowing, leaving, or permitting to be or remain in or upon any private lot, building, structure, or premises, or in or upon any street, avenue, alley, park, parkway, or other public or private place in the City, any one or more of the following places, conditions, things or acts to the prejudice, danger, or annoyance of others:

A. Excavations or naturally occurring holes, including, but not limited to, privies, vaults, cesspools, sumps, pits, wells or cisterns or any other similar conditions which are not secure and which constitute a concealed danger or other attractive nuisance like places which are not securely protected from flies or rats;

B. Any place where fighting between people or animals or birds is unlawfully conducted or allowed;

C. Filthy, littered or trash-covered premises, including all buildings and structures thereon and areas adjacent thereto;

D. ~~Fin~~ Metal cans, steel or aluminum, bottles, glass, cans, ashes, small pieces of scrap iron, wire, metal, articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster and all other trash or abandoned material unless the same are kept in covered bins or metal receptacles approved by the City; provided, that any such receptacles approved by the Pierce County Health Officer or designee shall be deemed approved by the City;

E. Trash, litter, rags, debris, accumulations of empty barrels, boxes, crates, packing cases, mattresses, bedding, furniture and appliances, excelsior, packing hay, straw, or other packing material, lumber or construction material not neatly piled, scrap iron, tin and other metal not neatly piled which provides harborage for rodents, or other pests;

F. Any unsightly and dangerous building, billboard or structure;

G. All places used or maintained as junkyards or dumping grounds, or for the wrecking, disassembling, repair or rebuilding of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn out wrecked or abandoned automobiles, trucks, tractors or machinery of any kind or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places are kept or maintained so as to provide harborage for rodents excluding properly zoned and licensed wrecking yards, junkyards or machinery being used;

H. The erection or use of any building, room, or other place in the city for exercise of any trade, employment, or manufacture which, by emitting noxious exhausts, particulate matter, offensive odors, or other related annoyances, is discomforting, offensive, or detrimental to the health of individuals or of the public;

I. Garbage disposed of in any manner other than provided in the Sanitary Code;

J. Garbage cans which are not impervious to rodent gnawing or do not have tight-fitting lids;

K. Any putrid, unsound or unwholesome bones, meat, hides, skins or the whole or any part of any dead animal, fish or fowl, butchers' trimmings and offal, or any waste vegetable or animal matter in any quantity, garbage human excreta or other offensive substance; provided, nothing in this subsection shall prevent the temporary retention of waste in a manner approved by the City Manager;

Animal parts, manure, excreta, or wastes including bones, meats, hides, skins, or any part of any dead animal, fish, or fowl, which are improperly handled, contained, or removed from a premises; placed in any watercourse, lake, or street; or allowed to become putrid, offensive, and injurious to the public health;

L. Storing or dumping of any poisonous or hazardous waste, material or substance in violation of Federal, Washington State, or Pierce County law that may cause contamination of soil, groundwater or surface water, or so as to allow uncontrolled access to it by any animal or person;

M. Real property in violation of Washington State's Hazardous Waste Cleanup - Model Toxics Control Act (MTCA), RCW Chapter 70.105D, excepting therefrom properties contaminated by the Asarco Tacoma Smelter Plume;

N. Blackberry vines or any tall grass or weeds over two feet in height which are rodent infested which allow for rodent or pest infestation;

O. Grass clippings, cut brush or cut weeds which may create a fly or rodent harborage;

P. Nests, colonies, hives or apiaries of bees, Africanized honey bees, yellow jackets, hornets or wasps which are not in full compliance with Chapter 15.60 RCW or Chapter 16-602 WAC;

Q. Any accumulation of combustible, explosive or flammable substances which are stored in a way that poses a threat or danger to life or property; and

R. The parking or storage of vehicles on residentially zoned lots in violation of the parking regulations in this Code;

S. Any building or structure declared unsafe by the city building official, or that has been abandoned or unused for longer than fifteen consecutive days and has deteriorated and become unsightly.

T. Any building or structure where construction was commenced and the exterior of the building or structure remains unfinished and the building permit has expired; or any building or structure that has been constructed or modified without permit;

U. Violation of any of the following City of Lakewood Municipal Codes: Title 12, Public Works; Title 14, Environmental Protections; Title 15, Buildings & Construction; Title 17, Subdivisions; Title 18A, Land Use & Development Code, including all adopted Subarea Plans pursuant to the Washington Growth Management Act;

V. Any violation of the adopted Shoreline Management Code, Ordinance 718, or as hereafter amended;

W. Painting of vehicles unless conducted inside an approved spray booth and/or performed inside a structure or similarly enclosed area designed and approved for such purposes;

X. The production and/or processing of fifteen (15) or more marijuana or cannabis plants in any one housing unit other than a cooperative establishment pursuant to RCW 69.51A and/or the storage or growing of said plants if any portion of such activity can be readily seen by normal unaided vision or readily smelled from a public place or the private property of another housing unit.

Y. Causing or allowing any shopping cart to be abandoned on either public or private property.

EXHIBIT “B”

Section 8.18 Activities that are not deemed public nuisances

The following shall not constitute public nuisances:

A. Compost piles less than four feet (4') in height and six feet (6') in diameter at ground level, and 30 feet (30') or more from any dwelling, and four feet (4') or more from adjoining properties;

B. Storm debris within thirty (30) days following a storm event;

C. For construction activity that requires a building permit, construction residue and debris during and for ten (10) calendar days following completion of work, unless the residue and/or debris is substantially or unreasonably impacting the general public or not neatly stacked and stored;

D. Fallen leaves, tree needles, tree fruit and similar vegetation, during the months of October through April, inclusive, except when located on public sidewalks;

E. The accumulation and temporary storage, in containers designated for such purposes, of recyclable materials pursuant to a program of recycling adopted by the City; provided, however, that such containers must not be publicly visible or they must be made available to the City's garbage or recycle contractor within fourteen (14) days after having been filled to fifty percent (50%) or more of their capacity;

F. Uncultivated, uncut or untended weeds, grass, bushes or other vegetation not constituting a health or fire hazard, existing in a natural state on undeveloped, agricultural, native growth easement or defined critical areas such as wetlands, streams, and steep slopes.

EXHIBIT “C”

All junk and inoperable vehicles identified as such by a law enforcement officer or code enforcement officer as defined in LMC 8.26.020, and found on private or public property, are declared to constitute a public nuisance subject to removal, impoundment and disposal. It is unlawful for any individual, firm, entity, or corporation to allow, cause to allow or place a junk or inoperable vehicle on any premises.