

Title 8

HEALTH AND SAFETY

Chapters:

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Chapter 8.04

NOISE CONTROL

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8.04.010 **Scope.**

This chapter shall apply to the regulation of all sounds originating within the city limits of Aurora. (Ord. 397 § 1, 1999)

8.04.020 **Standards and definitions.**

A. Terminology and Standards. All terminology used in this chapter that is not defined below shall be in accordance with the Department of Environmental Quality (DEQ) Noise Control Regulations and noise emission standards outlined by Oregon Revised Statute (ORS) 467.030, and Oregon Administrative Rule (OAR) Chapter 340 Division 35.

B. Measurement of Sound Level.

1. Measurements shall be made with a calibrated sound level meter in good operating condition.

2. Persons conducting sound level measurements shall have received training in the techniques of sound measurement and the operation of sound measuring instru-

ments from the Department of Environmental Quality or other competent body prior to engaging in any enforcement activity.

3. Procedures and tests required by this chapter and not specified herein shall be placed on file with the city recorder.

C. Definitions. As used in this chapter:

"Amplifying equipment" means public address systems, musical instruments, and other similar devices which are electronically amplified.

"City" means the city of Aurora, Oregon or the area within the territorial city limits of the city of Aurora, Oregon and such territory outside of this city over which the city has jurisdiction or control by virtue of ownership or any Constitutional or Charter provision, or any law.

"Commercial land use" includes land uses zoned commercial (C), historic commercial (HC) or any use of an office, service establishment, retail store, park, amusement or recreation facility, or other use of the same general type, whether publicly or privately owned.

"Construction" means any and all activity necessary or incidental to the erection, demolition, assembling, altering, installing, repair or equipping of buildings, roadways and utilities. It shall include land clearing, grading, excavating and filling before, during or following such activity.

"Continuous sound" means any steady sound with a deviation no greater than plus or minus two DBA of its mean, or total fluctuation of four DBA, during the period of observation when measured with a sound level meter set on fast response.

"Day time period" means seven a.m. until ten p.m. of the same day, local time.

"Domestic power tools" means any mechanically or electrically powered saw, drill,

sander, grinder, lawn or garden tool, or similar device generally used out of doors in residential areas.

"Emergency work" means work made necessary to restore property to a safe condition following severe inclement weather and natural disasters, work required to restore public utilities or work required to protect persons or property from imminent exposure to danger.

"Industrial land use" includes land use zoned light industrial (LI), industrial (I), or any use of a warehouse, factory, mine, wholesale trade establishment or other use of the same general type, whether publicly or privately owned.

"Night time period" means ten p.m. of one day until seven a.m. the following day, local time.

"Noise sensitive areas" or "noise sensitive uses" includes property on which residential housing, apartment buildings, schools, churches, hospitals, and nursing homes are located.

"Off-road recreational vehicle" means any self-propelled land use vehicle designed for, or capable of traversing over natural terrain, including, but not limited to, racing vehicles, mini-bikes, motorcycles, go karts, and dune buggies, when operated off the public right-of-way for noncommercial purposes.

"Persons" means a person, persons, firm, association, co-partnership, joint venture, corporation or any entity public or private in nature.

"Plainly audible" means unambiguously communicated sounds which disturb the comfort, repose or health of the listener. Plainly audible sounds include, but are not limited to, understandable musical rhythms, understandable spoken words, and vocal

sounds other than speech which are distinguishable as raised or normal.

"Powered model vehicle" means any self-propelled airborne, waterborne, or landborne plane, vessel or vehicle, which is not designed to carry persons, including but not limited to any model airplane, boat, car, or rocket.

"Recreational park" means a facility open to the public for the operation of off-road recreational vehicles.

"Warning devices" means electronic devices used to protect persons or property from imminent danger including, but not limited to, fire alarms, civil defense warning systems, and safety alarms required by law. (Ord. 424 § 4 (part), 2002; Ord. 397 § 2, 1999)

8.04.030 Responsibility and authority.

A. Responsibility. The responsibility for enforcement of this chapter shall reside with the city council or their designee.

B. Authority. In order to implement this chapter and for the general purpose of sound abatement and control, the city council or their designee shall have in addition to any other authority vested with them, the following powers:

1. Planning: implement a noise control strategy in agreement with the city's zoning ordinance and comprehensive plan to:

a. Assure public and private enterprises do not adversely impact existing noise-sensitive properties and properties designated for noise sensitive use,

b. Prevent the encroachment of noise-sensitive uses into high impact areas such as industrial zones and those immediately adjacent to major highways or arterials

which are incompatible for such uses by virtue of existing or projected noise impacts;

2. Inspections: upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or record at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner. Such inspection may include administration of any necessary tests;

3. Issue summons: direct the city recorder to issue summons, notices of violation or other legal orders to any person who allegedly violates any provision of this chapter;

4. Investigate violations: in accordance with all other provisions of this chapter, investigate and document violations and take necessary actions preparatory to enforcement. (Ord. 397 § 3, 1999)

8.04.040 Prohibited acts.

A. No person shall knowingly continue, cause or permit to be made or continued any excessive or unnecessary sounds which are listed in this section or Section 8.04.050.

B. The following acts are declared to create excessive and unnecessary sounds in violation of this chapter without regard to the maximum sound levels of Section 8.04.050:

1. Radios, Stereos, Boomboxes, Tape Players, Television Sets. The playing, using or operating of any radio, tape player, television set or stereo system including those installed in a vehicle in such a manner so as to be plainly audible at any time between ten p.m. and seven a.m. the following day, local time:

a. Within a noise sensitive area of noise sensitive use which is not the source of the sound; or

b. At a distance of one hundred (100) feet or more from the source of the sound.

2. Revving Engines. Operating any motor vehicle engine above idling speed off the public right-of-way so as to create excessive or unnecessary sounds within a noise sensitive area.

3. Compression Braking Devices. Using compression brakes, commonly referred to as "jake brakes," on any motor vehicle except to avoid imminent danger or persons or property.

4. Exhausts. Discharging into the open air the exhaust of any steam engine, internal combustion engine, or any mechanical device operated by compressed air or steam without a muffler, or with a sound control device less effective than that provided on the original engine or mechanical device.

5. Idling Engines on Motor Vehicles. Idling more than fifteen (15) consecutive minutes between the hours of ten p.m. and seven a.m. the following day, local time, any motor vehicle with a gross vehicle weight rating (GVWR) of eight thousand (8,000) pounds or greater which exceeds fifty (50) dBA measured at the nearest occupied noise sensitive property.

6. Vehicle Tires. Squealing tires by excessive speed or acceleration on or off public right-of-way except when necessary to avoid imminent danger to person or property.

7. Motorcycles, Go-Karts, Dune Buggies. Operating motorcycles, go karts, dune buggies and other off-road recreational vehicles off the public right-of-way on property not designated as a recreational park.

8. Motorboats. Operating or permitting the operation of any motorboat within the city's jurisdictional boundaries in such manner as to exceed eighty-four (84) DBA at a distance of fifty (50) feet or more.

9. Powered Model Vehicles. Operating or permitting the operation of powered model vehicles, with the exception of gliders and aircraft propelled by electric motors in areas not designated by the city council for such use.

10. Explosives. The discharge of fireworks and other explosive devices.

11. Tampering. The removal or rendering inoperative of any noise control device for purposes other than maintenance, repair, or replacement.

12. Animals. Owning, possessing or harboring any bird or other animal which barks, bays, cries, howls, or makes any other noise continuously for a period of ten minutes or more, other than for reasons of being provoked by a person trespassing or threatening to trespass.

13. Steam Whistles. Blowing any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work.

14. Horns and Alarms. The sounding of a horn or signaling device on a vehicle on a street or public or private place, except as a necessary warning of danger.

15. Compressed Air Devices. The use of a mechanical device operated by compressed air, steam, or otherwise, unless the noise created is effectively muffled.

C. No person shall operate a motor vehicle on a public right-of-way unless it meets the noise emission standards promulgated by Oregon Revised Statute (ORS) 467.030 and Oregon Administrative Rule (OAR) Chapter 340, Division 35, which are adopted and

incorporated by this reference. Copies of ORS 467.030 and OAR Chapter 340, Division 35 are on file in the office of the city recorder. (Ord. 424 § 4 (part), 2002; Ord. 397 § 4, 1999)

8.04.050 Maximum permissible sound level

A. No person shall cause or permit sound(s) to intrude onto the property of another person which exceed(s) the maximum permissible sound levels set forth below in this section.

B. The sound limitations established herein, as measured at or within the property boundary of the receiving land use, are as set forth in Table I and apply after any applicable adjustment, also provided for herein, are applied. When the sound limitations are exceeded, it shall constitute excessive and unnecessary sounds and shall be violations in their own right as well as being prima facie evidence of noise.

C. This section is violated if any of the following occur:

1. Any continuous sound that exceeds Table I for a cumulative total of greater than five minutes in any ten (10) minute period;

2. Any sound that exceeds Table I by five DBA for a cumulative total of greater than one minute, but less than five minutes in any ten (10) minute period;

3. Any sound that exceeds Table I by ten (10) DBA at any point in time.

Table I

Table of Maximum Allowable Sound Levels (in DBA) in any Ten (10) Minute Period

Type of Source by Use	Type of Received by Use					
	Noise Sensitive		Commercial		Industrial	
	Day	Night	Day	Night	Day	Night
Noise sensitive	55	45	70	65	75	70
Commercial	55	50	70	65	75	70
Industrial	55	50	70	65	75	70

(Ord. 397 § 5, 1999)

8.04.060 Exceptions and variances.

A. Exceptions. The following sounds are exempted from provisions of this chapter:

1. Sounds caused by the performance of emergency work, vehicles and/or equipment;
2. Aircraft operations in compliance with applicable federal laws or regulations;
3. Railroad activities as defined in Subpart A, Part 201 of Title 40, DFR of the Environmental Protection Agency's railroad emission standards, incorporated herein by reference;
4. Sounds produced by sound amplifying equipment at activities permitted by the city;
5. Sounds created by the tires or motor to propel or retard any vehicle on the public right-of-way in compliance with ORS 815.025 and OAR Chapter 340 Division 35, incorporated herein by reference;
6. Notwithstanding Section 8.04.050(C), sounds created by refuse pickup operations during the operations during the period of four a.m. to ten p.m. local time;

7. Sounds created by domestic power tools during the period of seven a.m. to ten p.m., local time, provided sound dissipation devices on tools are maintained in good repair;

8. Sounds made by warning devices operating continuously for three minutes or less;

9. Idling motor vehicles with a gross vehicle weight rating (GVWR) of eight thousand (8,000) pounds or greater between the hours of seven a.m. to ten p.m., local time provided they are equipped with an exhaust system which is in good working order and in constant operation;

10. Construction activities during the period of seven a.m. to six p.m. local time (seven a.m. to eight p.m. during summer months of June through August), provided equipment is maintained in good repair and equipped with sound dissipating devices in good working order.

B. Variances. Any person who owns, controls or operates any sound source which violates any of the provisions of this chapter

may apply to the city council for a variance from the provisions. Any person who is planning a noise source which is expected to violate any provision of this chapter may apply to the city council for a variance from the provision. Any person granted a variance under this chapter may apply for a renewal of the variance upon its expiration. The renewal application shall be processed just as if it was an initial application.

1. Application. The application shall state the provision from which a variance is being sought, the period of time the variance is to apply, the reason for which the variance is sought and any other supporting information which the city recorder deems reasonable for city council consideration.

2. Review Standards. In establishing exceptions or granting variances, the city council shall consider:

a. The protection of health, safety and welfare of citizens as well as the feasibility and cost of noise abatement;

b. The past, present and future patterns of land use;

c. The relative timing of land use changes;

d. The acoustical nature of the sound emitted;

e. Whether compliance with the provision would produce a benefit to the public.

3. Time Duration of Variance. Any variance shall be granted for a specific time interval, not to exceed one year.

C. Public Notification and Public Hearing.

1. Public notice shall be given in the manner provided for by city ordinance for all land use development applications.

2. A public hearing shall be held before the granting of a variance if such hearing is requested by any affected party.

D. Variances.

1. Conditions for Granting. The city council may grant specific variances from the particular requirements of any rule, regulation, or order to specific persons or class of persons or a specific noise source where conditions exist:

a. That are deemed necessary to protect the public health and welfare;

b. Where strict compliance with such rule, regulations, or order is inappropriate because of conditions beyond the control of the persons requesting the variance;

c. Because of special circumstances which would render strict compliance unreasonable or impractical due to special physical conditions or causes;

d. Because strict compliance would result in substantial curtailment or closing down of a business, plant, or operation, or no other alternative facility or method of compliance is yet available.

2. Procedure for Request. Any person requesting a variance shall make his request in writing addressed to the city council and presented to the city recorder. The request shall state in a concise manner the facts showing why the variance should be granted.

3. Revocation or Modification. A council-approved variance request may be revoked or modified by the city council. A hearing must be held by the city council regarding the request to revoke or modify the variance, and a notice posted advising of the request twenty (20) days prior to the hearing. The notice shall be served upon the holder of the variance by certified mail, and provided to all persons who have filed a written request for notification with the city recorder.

E. Emergency and Safety Hazard. In the case of an emergency or safety hazard, the city council may revoke a variance by setting forth the nature of the emergency or hazard in a certified letter mailed to the holder of the variance. This letter should provide the reason why the variance is revoked, and the date of the city council public hearing regarding the matter. The public hearing will be held at the next regularly scheduled city council meeting following the letter notification. (Ord. 397 § 6, 1999)

8.04.070 Chapter additional to other law.

The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other claim, cause of action or remedy; nor unless specifically provided, shall it be deemed to repeal, amend or modify any law, ordinance, or regulation relating to noise or sound. The provision of this chapter shall be deemed additional to existing legislation and common law on such subject. (Ord. 397 § 7, 1999)

8.04.080 Penalties.

A violation of any provision of this chapter is a Class A infraction, punishable upon conviction by a fine of not more than five hundred dollars (\$500.00). Each and every day during which any provision of this chapter is violated shall constitute a separate offense.

The city council, acting in the name of the city, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this chapter. (Ord. 397 § 8, 1999)

Chapter 8.08

NUISANCES

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Article 1.

Purpose and Definitions

8.08.010 Purpose.

It is the intent of this chapter to encourage a clean, healthy and satisfying environment for its citizens, one free from nuisances, eyesores, unhealthy or devaluating conditions. To these ends, this chapter seeks to regulate, identify and provide a means to enforce the regulations to protect the health, safety, and welfare of residents and property owners. (Ord. 396 § 1, 1999)

8.08.020 Definitions.

For the purposes of this chapter:

"Nuisance" is defined as an unlawful act, an omission to perform a duty, or suffering or permitting any condition or thing to be or exist which either:

1. Injures or endangers the welfare, health or safety of others;
2. Offends decency;
3. Creates offensive odors;
4. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch, or drainage;
5. In any way renders other persons insecure in life or the use of property; or
6. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

"Owner" means the owner of title to the real property, or the contract purchaser, as

shown on the last complete assessment roll in the office of the county assessor.

"Person" means a natural person, firm, partnership, association or corporation or public entity.

"Person in charge of property" means an agent, occupant, lessee, contract purchaser, or other person having possession or control of property or supervision of any construction project.

"Person responsible" means the person responsible for abating a nuisance shall include:

1. The owner;
2. The person in charge of the property;
3. The person who caused to come into or continue in existence a nuisance as defined in this chapter or another ordinance of this city.

"Public place" means a building, way, place, or accommodation, whether publicly or privately owned, open and available to the general public. (Ord. 396 § 2, 1999)

Article 2.

Nuisances Affecting Public Health

8.08.030 Nuisances affecting public health.

No person shall cause or permit a nuisance affecting public health on property owned or controlled by the person. The following are nuisances affecting public health and may be abated as provided in this chapter.

A. Cesspools. Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor.

B. Communicable Disease. No person shall permit any animal or bird owned or controlled by him or her to be at large within the city if such animal or bird is afflicted with a communicable disease.

C. Debris. Accumulation of debris, rubbish, manure, other refuse, and compost that

are not removed within ten (10) days and that affect the health of the city.

D. Food. Decayed or unwholesome food offered for human consumption.

E. Fowl. The keeping of more than ten (10) turkeys, chickens, ducks or other fowl or combinations of such over the age of ten (10) days old on any lot or combination of lots within the city limits.

F. Livestock. The keeping of any livestock or buildings for the housing of livestock in such places or in such a manner that they are offensive or annoying to residents within the immediate vicinity thereof.

G. Odor. Premises that are in such a state or condition as to cause an offensive odor, or which are in an unsanitary condition.

H. Oils. Mastics, oil, grease or petroleum products introduced into the sewer system by a user connected to the sewer system.

I. Privy. Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the Oregon Department of Environmental Quality (DEQ) regulations.

J. Removal of Animal Carcasses. No person shall permit any animal carcass owned by him or her or under his or her control to remain upon the public streets or places or exposed on private property for a period of time longer than is reasonable necessary to remove such carcass. In no event shall that period of time exceed forty-eight (48) hours.

K. Slaughterhouse. An establishment where animals are butchered, including a tannery or pigsty.

L. Stagnant Water. Stagnant water that affords a breeding place for mosquitoes and other insect pests.

M. Surface Drainage. Drainage of liquid wastes from private premises.

N. Vermin Infestation. The infestation of property or property improvements, or accumulations of debris, solid waste or other

matter located thereon with rats, mice, rodents, vermin and other related or similar animals. The term "infestation" means the nesting, use, occupancy or location of one or more rats, mice, rodents vermin or other related or similar animals on the property, property improvements, or in accumulations of debris, solid waste or other matter located thereon.

O. Water Pollution. Pollution of a body of water, well, spring, stream, or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water. (Ord. 396 § 3, 1999)

Article 3.
Nuisances Affecting Public Safety

8.08.040 Nuisances attractive to children.

A. No person shall create a hazard by maintaining or leaving in a place accessible to children, a container with a compartment of more than one and one-half cubic feet capacity and a door or lid that locks or fastens automatically when closed and that cannot be easily opened from the inside.

B. No owner or person in charge of property shall permit the following to occur on that property:

1. Leaving unguarded machinery, equipment or other devices where they are dangerous and accessible to children;

2. Lumber, logs or pilings placed or stored in a manner so as to be attractive, dangerous and accessible to children;

3. Failing to cover or fence with a suitable protective construction any well, cistern, cesspool, excavation, or other hole of a depth of four feet or more and a top width of twelve (12) inches or more.

C. This section does not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children. (Ord. 396 § 4, 1999)

8.08.050 Junk.

A. For the purposes of this section:

1. The term "junk" includes but is not limited to old machinery or parts thereof, old appliances; furniture including mattresses; bicycles or parts thereof old iron or other metal, glass and paper; clothing, bedding and material similar to such; tires, lumber, wood or other waste or discarded material.

2. The term "junk" does not include abandoned, dismantled or unlicensed motor vehicles.

B. No person shall store or permit the storing of any junk on any public right-of-way.

C. No person shall store or permit the storing of any junk on any lot or premises for more than seventy-two (72) hours.

D. This section does not apply to junk kept in a licensed junkyard or automobile wrecking yard or to properly stacked cords of firewood. (Ord. 396 § 5, 1999)

8.08.060 Creating a hazard.

No person shall create a hazard by:

A. Allowing to be stored on the premises any and all explosives, inflammable liquids and other dangerous or combustible substances in any manner or any amount in violation of any law; depositing, discharging, storing or otherwise maintaining materials defined by the Oregon Department of Environmental Quality (DEQ) regulations as hazardous;

B. Allowing any and all hanging signs, awnings, wires and other such similar structures to be situated over the streets or sidewalks in such a manner as to endanger public safety. (Ord. 454 § 2, 2009; Ord. 396 § 6, 1999)

**8.08.070 Animals at large—
Domestic cats excepted.**

No owner or person in charge of an animal or fowl shall permit the animal to be at large. (Ord. 454 § 2, 2009; Ord. 396 § 7, 1999)

8.08.080 Fences.

A. No owner or person in charge of property shall construct or maintain a barbed-wire or razor wire fence.

B. Notwithstanding subsection A of this section, a fence constructed of other materials may be capped by barbed-wire that shall be placed no less than six feet, six inches from the ground, provided that the fence is no closer than three feet from a sidewalk, public way, or adjoining residential property lines.

C. No owner or person in charge of property shall construct, maintain or operate an electric fence.

D. No person shall erect, maintain or locate, or permit the erection, maintenance or location of, a fence or barrier within that portion of the public right-of-way abutting property owned by or under the control or possession of any such person. Any fence or barrier located within the public right-of-way in violation of this section is declared to be a nuisance subject to abatement under the provisions of this chapter. The terms "fence" or "barrier" shall not include structures used to establish vines, bushes or other landscaping materials; provided, however, no such structure shall be located or maintained within the public right-of-way for more than twelve (12) calendar months. (Ord. 396 § 8, 1999)

8.08.090 Scattering rubbish.

Except at a city designated dump site, no person shall deposit upon public or private property any kind of rubbish, trash, debris,

refuse or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property or would be likely to injure a person, animal or vehicle traveling upon a public way. (Ord. 396 § 9, 1999)

8.08.100 Sidewalks.

It is the duty of an owner or occupant of land adjoining a street to maintain in good repair and remove obstructions from the adjacent sidewalk. No owner or person in charge of property, improved or unimproved, abutting on a paved public sidewalk, shall permit snow, ice or debris to accumulate so that the sidewalk becomes a hazard to persons using it. (Ord. 396 § 10, 1999)

8.08.110 Surface waters--Drainage.

No person or person in charge of property shall permit rain water, ice or snow to fall from any building or structure thereon onto any street or sidewalk or to flow across any abutting public sidewalk. Drainpipes or a drainage system shall be properly maintained so that any overflow water accumulate on the property will not be carried across or upon any abutting public sidewalk. (Ord. 396 § 11, 1999)

8.08.120 Trees, shrubs and bushes.

A. No owner or person in charge of property shall permit trees, shrubs, bushes, or other vegetation on their property to interfere with street or sidewalk traffic or with overhead utility lines.

B. It shall be the duty of an owner or person in charge of property abutting the right-of-way of an opened public street or a sidewalk to:

1. Keep all trees and shrubs on the premises trimmed so that any overhanging portions are at least eight feet above the sidewalk if it exists, or at least twelve (12) feet above the vehicular travel surface;

2. Keep tree limbs from blocking stop signs, street signs, or other signs;

3. Keep shrubs from growing out over the sidewalk or curb; and

4. Keep all vegetation within the vision clearance area specified for traffic safety in the zoning ordinance, or by the city police department, no more than three feet above the street level.

C. No owner or person in charge of property shall allow a dead or decaying tree stand that is a hazard to the public or to persons or property on or near the site of the hazardous tree. It shall be the duty of an owner or person in charge of property that abuts upon a public right-of-way to contact the city public works department and follow the city's instructions prior to trimming or removal of any tree in the right-of-way adjacent to that property. (Ord. 396 § 12, 1999)

8.08.130 Noxious vegetation.

A. As used in this section, the term "noxious vegetation" means vegetation left unmanaged which creates traffic visibility problems at intersections or poses a threat of conflagration that may endanger the safety and welfare of the community. Noxious vegetation includes:

1. Poison oak, poison ivy, night shade, and tansy;

2. Blackberry bushes, except when maintained as prescribed in subsection B of this section;

3. Any vegetation, including grass and weeds that:

a. Poses a fire hazard because it is dry and more than ten (10) inches high; and within one hundred (100) feet of a structure or opened public right-of-way, or within thirty (30) feet of other types of combustibles,

b. Encroaches onto an opened public right-of-way or across a property line,

c. Poses a traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous,

d. Creates an unsafe area to which children may be attracted,

e. Is used for habitation by trespassers, or

f. Harbors rodents or other animals that pose a health threat to humans.

B. The term "noxious vegetation" does not include vegetation that constitutes an agricultural crop unless that vegetation is determined to be a health, fire, or traffic hazard as defined above.

C. It shall be the duty of the owner or person in charge of property to cut down or destroy any noxious vegetation as often as needed to prevent the health and safety hazards described above.

D. No owner or person in charge of property abutting the right-of-way of an opened street or public sidewalk (whether part of a street easement or right-of-way or located on public land) shall permit vegetation to interfere with adjacent street or sidewalk traffic. In addition, vegetation shall not be permitted to impair the view of a public thoroughfare, extend into the sight triangle at any intersection, or otherwise make use of a thoroughfare hazardous. It shall be the duty of an owner or person in charge of such property to keep all vegetation trimmed so that any overhanging portions are at least twelve (12) feet above the vehicular travel surface (roadway). No person shall maintain vegetation in an opened public right-of-way within five feet of the travel surface, which hinders pedestrian traffic adjacent to the roadway, provided that the trimming or removal of trees on public property, easements or rights-of-way shall be the responsibility of the city. (Ord. 396 § 13, 1999)

Article 4.
Nuisances Affecting Public Peace

8.08.140 Smoke and particulate matter.

The discharge of pollutants from any source within the city limits shall not exceed the following limits:

A. Smoke measured at the point of discharge into the air shall not exceed a density of No. 1 on the Ringleman Smoke Chart as published by the U.S. Bureau of Mines.

B. Lime dust, as CaO, measured at the property line of the activity creating such dust, shall not exceed ten (10) micrograms per cubic meter of air.

C. Measurements of air pollution shall be by the procedures and with equipment approved by the State Health Division or equivalent and acceptable methods of measurement approved by the city. Persons responsible for a suspected source of air pollution shall provide, upon request by the city, quantitative and qualitative information regarding the discharge that will adequately and accurately describe operation conditions. (Ord. 396 § 14, 1999)

8.08.150 Adoption of state fireworks law

The city adopts all sections of the Oregon Fireworks Law within the Oregon Revised Statutes and all acts and amendments applicable to cities or towns enacted after the date of the ordinance codified in this chapter. (Ord. 396 § 15, 1999)

8.08.160 Notices and advertisements.

A. No person shall affix or cause to be distributed any placard, bill, advertisement or poster upon any real or personal property, public or private, without first securing permission from the owner or person in control of private property.

B. No person shall scatter, distribute or cause to be distributed on the streets, sidewalks or other public places, or upon any private property, any placards or advertisements whatsoever.

C. This section shall not be construed as an amendment to or repeal of any regulation now or hereafter adopted by the city regulating the use and location of signs and advertising, or to prohibit the distribution of advertising material during any parade or approved public gathering. (Ord. 396 § 16, 1999)

Article 5.
Abatement of Nuisances

8.08.170 Unremunerated nuisances.

A. The acts, conditions or objects specifically defined and enumerated in Sections 8.08.020 through 8.08.170 are declared public nuisances and may be abated by any of the procedures contained in Sections 8.08.190 through 8.08.240.

B. In addition to the nuisances specifically enumerated in this chapter, every other thing, substance or act that is determined by the city council to be unsightly, injurious, or detrimental to the public health, safety or welfare of the city is declared a nuisance and may be abated as provided in this chapter. (Ord. 396 § 17, 1999)

8.08.180 Determination of nuisance and notice procedure.

Whenever a nuisance is found to exist within the city or within its extraterritorial jurisdiction, the city recorder, or designee may follow prescribed procedures as follows to obtain compliance with this chapter from the person responsible:

A. A notice shall be forwarded by certified mail to the person responsible at the person's last known address, directing the person responsible to abate the nuisance.

B. If the person responsible is not the property owner, an additional notice shall be sent to the owner.

C. A copy of the notice shall be posted on the premises or at the site of the nuisance. The notice to abate shall contain:

1. A description of the real property by street address or otherwise, on which the nuisance exists;

2. A direction to abate the nuisance within ten (10) days from the date of the notice;

3. A description of the nuisance;

4. A statement that unless the nuisance is removed, the city may abate the nuisance and should it do so, the cost of the abatement will be charged to the person responsible;

5. A statement that failure to abate a nuisance may warrant imposition of a fine;

6. A statement that cost of abatement not paid by the person responsible may be added to and become a lien on the property;

7. A statement that the person responsible may protest the order to abate by giving written notice to the city recorder within ten (10) days from the date of the notice;

8. An error in the name or address of the person responsible shall not make the notice void, and in all such cases, the posted notice shall be sufficient for all purposes where notice is required to be given under the provisions of this chapter;

9. Upon completion of the posting and mailing, the persons posting and mailing shall execute and file affidavits stating the date and place the mailing and posting took place. (Ord. 396 § 18, 1999)

8.08.190 Abatement by the person responsible.

The person responsible has the following options:

A. Within ten (10) days after the posting and mailing of notice as provided in Section 8.08.180, the person responsible shall re-

move the nuisance or show that no nuisance exists.

B. Within ten (10) days of the posting and mailing of notice as provided in Section 8.08.180, a person responsible shall file a written statement with the city recorder that specifies the basis for the protest that no nuisance exists. (Ord. 396 § 19, 1999)

8.08.200 Appeal of administrative determination of nuisance.

A. The person responsible, protesting that no nuisance exists, shall file with the city recorder a written appeal that specifies the basis for the protest. The appeal must be received by the city recorder within ten (10) days of the posting and mailing of the notice as provided in Section 8.08.190.

B. The city council shall hear the matter at the next regularly scheduled meeting, with not less than ten (10) calendar days notice being given to the person responsible.

C. At the time set for consideration of the abatement, the person protesting may appear and be heard by the council, and the council shall determine whether or not a nuisance in fact exists. The determination shall be entered in the official minutes of the council. The decision of the council regarding costs to be assessed and all protests or objections shall be final and conclusive. The council determination shall be required only in those cases where a written statement has been filed as provided. (Ord. 396 § 20, 1999)

8.08.210 Authorization for abatement by the city.

A. If the nuisance has not been privately abated or scheduled for private abatement with the schedule approved by the city recorder within the time allowed, it will be referred by the city recorder to the council at its next regular meeting. The referral will contain a description of the nuisance, an estimate of the cost to abate the nuisance,

and a request for authorization for the city to expend funds to do so, subject to provisions of Section 8.08.220.

B. If the council authorizes abatement by the city, the person authorized to abate the nuisance may enter into or upon the property at reasonable times for purposes of investigating and abating the nuisance.

C. The city recorder shall keep accurate record of the expense incurred by the city in abating the nuisance and shall include a charge equal to twenty (20) percent of those expenses or not less than one hundred dollars (\$100.00) for administrative costs. (Ord. 396 § 21, 1999)

8.08.220 Assessment of costs.

A. The city recorder/treasurer shall forward to the owner and the person responsible a notice mailed certified mail stating:

1. That the total cost of the abatement including administrative costs;

2. That the costs as indicated will be assessed to and become a lien against the property unless paid within thirty (30) days from the date of notice;

3. That if the owner or person responsible objects to the cost of the abatement as indicated, a written notice of objection to be filed with the city recorder not more than ten (10) calendar days from the date of the notice of costs.

B. No sooner than thirty (30) days after the date of the notice of objections, the city council, in the regular course of business, shall hear and make a decision on the objections to the costs assessed.

C. If the costs of the abatement are not paid within thirty (30) days from the date of the notice, an assessment of the costs as stated or as decided by the council shall be made by resolution 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.

D. The lien shall be enforced in the same manner as liens for street improvements are enforced, and shall bear interest at the current statutory interest rate. The interest shall begin to accrue from the date of entry of the lien in the lien docket.

E. 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. (Ord. 396 § 22, 1999)

**Article 6.
Enforcement**

8.08.230 Enforcement and discharge of duties.

In case a duty under Sections 8.08.010 through 8.08.220 bears on two or more persons, discharge of the duty by one of the persons shall discharge the duty for the other person and preclude any lien to enforce discharge of the duty from being imposed on the other person's property. (Ord. 396 § 23, 1999)

8.08.240 Summary abatement.

The procedure set forth in this chapter is not exclusive but is in addition to procedures provided by other ordinances. The fire chief, the police chief 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. (Ord. 396 § 24, 1999)

8.08.250 Violations--Penalties.

Violation of a provision of this chapter is punishable by a fine not to exceed five hundred dollars (\$500.00) for the first offense, and may be prosecuted in a court of competent jurisdiction. (Ord. 396 § 25, 1999)

8.08.260 Separate violations.

A. Each day's violation of a provision of this chapter constitutes a separate violation.

B. The imposition of a penalty does not relieve a person of the duty to abate the nuisance.

C. The abatement of a nuisance is not a penalty for violation of this chapter, but is an additional remedy. Private abatement within the time allowed will relieve the person responsible from the imposition of any fine under subsection A of this section. (Ord. 396 § 26, 1999)

Chapter 8.10

**AURORA DANGEROUS BUILDING
CODE**

Sections:

- 8.10.010 Short Title.**
- 8.10.020 Purpose and scope.**
- 8.10.030 Alterations, additions, and repairs.**
- 8.10.040 Definitions.**
- 8.10.050 "Dangerous Building" defined.**
- 8.10.060 Enforcement and inspections.**
- 8.10.070 Nuisance declared.**
- 8.10.080 Commencement of proceedings.**
- 8.10.090 Contents of notice and order.**
- 8.10.100 Service of notice and order.**
- 8.10.110 Recordation of notice and order.**
- 8.10.120 Standards to be followed.**
- 8.10.130 Notice to vacate.**
- 8.10.140 Appeal from notice and order.**
- 8.10.150 Effect of failure to appeal.**
- 8.10.160 Stay of order pending appeal.**
- 8.10.170 Procedure for conduct of hearing appeals.**
- 8.10.180 Failure to commence work.**
- 8.10.190 Extension of time.**
- 8.10.200 Interference with work prohibited.**
- 8.10.210 Performance of work of repair or demolition.**

8.10.220 Recovery of cost for repair

8.10.230 Violations.

8.10.010 Short Title.

Section 1 to Section 24 shall be known and may be cited as the "Aurora Dangerous Building Code." (Ord. 453 § 1, 2009)

8.10.020 Purpose and Scope.

A. Purpose. It is the purpose of the provisions of this code to provide a just, equitable, and practicable method, to be cumulative with and in addition to, any other remedy provided by the Oregon Structural Specialty Code, the Aurora Municipal Code, or otherwise available at law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety, or welfare of the general public or their occupants, may be required to be repaired, vacated, or demolished.

The purpose of this code is not to create or otherwise establish or designate any particular class or group of person who will or should be especially protected or benefited by the terms of this code.

B. Scope. The provisions of this code shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter exist in this city. (Ord. 453 § 2, 2009)

8.10.030 Alterations, Additions, and Repairs

All buildings or structures which are required to be repaired under the provisions of this code shall also be subject to the provisions of the Building Code or other applicable laws. (Ord. 453 § 3, 2009)

8.10.040 Definitions.

A. General. For the purpose of this code, certain terms, phrases, words, and their derivatives shall be construed as specified in either this chapter or as specified in the Building Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

B. Specific Definitions.

1. Building Code is the current version of the Oregon Structural Specialty Code.

2. Building Official means the City Recorder, Police Chief, or any other individual that is authorized to enforce the provisions of this code pursuant to Section 6(A).

2. Dangerous Building is any building or structure set out in Section 5 of this code. (Ord. 453 § 4, 2009)

8.10.050 "Dangerous Building" defined.

A. As used in this code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property, or safety of the public or its occupants are endangered:

1. Whenever any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size, or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

2. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose, or location.

3. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose, or location.

4. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

5. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the Building Code for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted in the Building Code for such buildings.

6. Whenever any part of the building has wracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

7. Whenever any part of the building or structure is likely to partially or completely collapse because of, but not limited to, the following causes:

a. Dilapidation, deterioration, or decay;

- b. Faulty construction;
- c. The removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building;
- d. The deterioration, decay, or inadequacy of the foundation; or
- e. Any other cause, that is likely to cause partial or complete collapse of the building.

8. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

9. Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

10. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

11. Whenever the building or structure, as a result of damage by fire, wind, earthquake, or flood, dilapidation or deterioration, or for any other reason, has become one of the following:

- a. An attractive nuisance to children;
- b. A harbor for vagrants, criminals, or immoral persons; or
- c. A place that will enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

12. Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by any applicable

building regulations of this city, the Building Code, or any other applicable law of the state or city relating to the condition, location, or structure of buildings.

13. Whenever any building or structure, whether or not erected in accordance with all applicable laws and ordinances, has less than the amount specified in this paragraph of the strength, fire-resisting qualities or characteristics, or weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same or similar location.

a. 50 percent for any non-supporting part, member or portion of the building or structure; or

b. 66 percent for any supporting part, member, or portion of the building or structure.

14. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.

15. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

16. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of 30 days so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

17. Whenever any building or structure has been removed from its foundation and has, for a period of more than 90 days, re-

mained unattached to a permanent foundation meeting the requirements of this chapter. (Ord. 453 § 5, 2009)

8.10.060 Enforcement and Inspections.

A. Administration. The City Recorder and Police Chief are authorized to enforce the provisions of this code. The City Council may authorize any other city staff or personnel to enforce the provisions of this code.

B. Inspections. The building official is authorized to make necessary inspections and take necessary actions to enforce the provisions of this code.

C. Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the building official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous, or hazardous, the building official may enter such building or premises at any reasonable time to inspect the same or to perform any duty imposed upon the building official by this code, provided that if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If such entry is refused, the building official shall have recourse to every remedy provided by law to secure entry. (Ord. 453 § 6, 2009)

8.10.070 Nuisance Declared.

All buildings or portions thereof which are determined after inspection by the building official to be dangerous as defined in Section 5 are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this code. (Ord. 453 § 7, 2009)

8.10.080 Commencement of proceedings.

Whenever the building official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, the building official shall commence proceedings to cause the repair, vacation, or demolition of the building by issuing a notice and order as provided in Section 9. (Ord. 453 § 8, 2009)

8.10.090 Contents of Notice and Order.

A. The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.

2. A statement that the building official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of Section 5.

3. A statement of the action required to be taken as determined by the building official:

a. If the building official has determined that the building or structure must be repaired, the order shall require that the owner

secure all required permits and that the construction is started within a reasonable time, but not to exceed 60 days from the date of the order, and is completed within such time as the building official shall determine is reasonable under all of the circumstances.

b. If the building official has determined that the building or structure must be vacated, the order shall require that the building or structure be vacated within a time certain from the date of the order as determined by the building official to be reasonable.

c. If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable, but not exceeding 60 days from the date of the order, that the owner obtain all required permits within 60 days from the date of the order, and that the demolition be completed within such time as the building official shall determine is reasonable.

4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the building official will order the building vacated and posted to prevent further occupancy until the work is completed, and may proceed to cause the work to be done and charge the costs of the work against the property or its owner.

5. Statements advising:

a. that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the building official to the Aurora City Council, provided the appeal is made in writing as provided in Section 14, and filed with the building official within 30 days

from the date of service of such notice and order; and

b. that failure to appeal will constitute a waiver of all right to hearing and determination of the matter. (Ord. 453 § 9, 2009)

8.10.100 Service of Notice and Order.

A. Service of Notice and Order. The building official shall cause the notice and order, and any amended or supplemental notice and order, to be served upon the record owner, and posted on the property.

B. One copy of the notice and order shall be served on each of the following if known to the building official or disclosed from official public records:

1. the holder of any mortgage or deed of trust or other lien or encumbrance of record;

2. the owner or holder of any lease of record; and

3. the holder of any other estate or legal interest of record in or to the building or the land on which it is located.

C. The failure of the building official to serve any person required to be served in subsection B shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed on him by the provisions of this section.

D. Method of Service. Service of the notice and order shall be made upon all persons entitled to service either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at his address as it appears on the last equalized assessment roll of the county or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the

notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

E. Proof of Service. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date, and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the building official. (Ord. 453 § 10, 2009)

8.10.110 Recordation of Notice and Order.

If compliance is not had with the order within the time specified therein, and no appeal has been properly and timely filed, the building official shall file in the office of the county recorder a certificate describing the property and certifying that the building is a dangerous building and that the owner has been so notified. Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a dangerous building on the property described in the certificate, the building official shall file a new certificate with the county recorder certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate. (Ord. 453 § 11, 2009)

8.10.120 Standards to Be Followed.

The following standards shall be followed by the building official or, if an appeal is taken, the City Council in ordering the repair, vacation, or demolition of any dangerous building or structure:

A. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property, or safety of the public or its occupants, it shall be ordered vacated and secured; and

B. The building or structure shall be repaired or demolished as follows:

1. If it is economically and practicably feasible to repair the building or structure in compliance with all applicable codes, including but not limited to the Building Code, then such building or structure shall be repaired;

2. If it is not economically or practicably feasible to repair the building or structure in compliance with all applicable codes, including but not limited to the Building Code, then such building or structure shall be demolished; or

3. Regardless of whether it is economically or practicably feasible to repair the building, the owner may opt to have the building demolished.

C. Whenever a building has been vacated pursuant to this section it shall be the responsibility of the owner to secure all doors and windows against unauthorized entry. Where necessary for such security the building shall be securely boarded up. Upon failure of the building owner to comply with this subsection within five days of actual written or oral notice to do so, the building official may cause the building to be secured by any means the building official deems appropriate. The cost of securing the build-

ing shall be charged as a lien against the property. (Ord. 453 § 12, 2009)

8.10.130 Notice to Vacate.

A. Every notice to vacate shall, in addition to being served as provided in Section 10, be posted at or upon each exit of the building, and shall be in substantially the following form:

"DO NOT ENTER UNSAFE TO OCCUPY
It is a misdemeanor to occupy this building,
or to remove or deface this notice.

Building Official City of Aurora"

B. Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued by him under Section 9, reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish, or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition, or removal have been completed and a Certificate of Occupancy issued pursuant to the provisions of the Building Code. (Ord. 453 § 13, 2009)

8.10.140 Appeal from Notice and Order.

A. Any person entitled to service under Section 10 may appeal from any notice and order or any action of the building official under this code by filing at the office of the city recorder a written appeal containing:

1. A heading in the words: "Before the City Council of the City of Aurora."

2. A caption stating: "Appeal of _____," giving the names of all appellants participating in the appeal.

3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.

4. A brief statement in ordinary and concise wording of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.

5. A brief statement in ordinary and concise wording of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside.

6. The signatures of all parties named as appellants and their official mailing addresses.

7. The verification, by declaration under penalty of perjury, of at least one appellant as to the truth of the matters stated in the appeal.

B. Except as provided in Subsection C, the appeal shall be filed within 30 days from the date of the service of such order or action of the building official.

C. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public, or adjacent property and is ordered vacated and is posted in accordance with Section 13, such appeal must be filed within 10 days from the date of the service of the notice and order of the building official.

D. Upon receipt of any appeal filed pursuant to this section, the city recorder shall present it at the next regular or special meeting of the City Council.

E. Not less than 10 days or more than 60 days from the date the appeal was filed with the City Recorder, the City Council shall fix a date, time, and place for the hearing of the appeal. The City Recorder must provide

written notice of the time and place of the hearing to each appellant by mailing a copy to the appellants to the addresses provided in the appeal. (Ord. 453 § 14, 2009)

8.10.150 Effect of Failure to Appeal.

Failure of any person to file an appeal in accordance with Section 14 shall constitute a waiver of the person's right to a hearing and adjudication of the notice and order. (Ord. 453 § 15, 2009)

8.10.160 Stay of Order Pending Appeal.

Except for vacation orders made pursuant to Section 12(B), enforcement of any notice and order of the Building Official issued under this code shall be stayed during the pendency of an appeal therefore which is properly and timely filed. (Ord. 453 § 16, 2009)

8.10.170 Procedure for Conduct of Hearing Appeals

A. At the hearing, the building official shall present whatever information, evidence or testimony the building official may deem relevant in support of the building official's determination and the appellant shall be accorded a like opportunity to rebut the determination. Any information, opinion, testimony, or evidence may be received which the City Council deems material, relevant, and probative of the matters in issue. The appellant may represent himself or be represented by counsel of his choice provided that such counsel is admitted to the practice of law in the State of Oregon.

B. The City Council may adjourn the hearing for any period of up to two weeks. During adjournment, any member may conduct personal inspection of the building alleged to be dangerous; provided, however, that no member of the council shall discuss the case with any interested person during a period of adjournment.

C. The City Council may affirm, reverse, or modify the notice and order provided that a majority is persuaded to such determination by a preponderance of the evidence. The burden of proof shall be upon the building official, and if a majority of the council is unable to agree upon a disposition, and so declares, the notice and order shall be vacated.

D. The appeal provided for herein shall be the exclusive means whereby the decision of the building official may be reviewed on appeal. (Ord. 453 § 17, 2009)

8.10.180 Failure to Commence Work.

A. Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this code becomes effective the building official shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

"DANGEROUS BUILDING DO NOT
OCCUPY

It is a misdemeanor to occupy this building, or to remove or deface this notice. Building
Official, City of Aurora"

B. No person shall occupy any building which has been posted as specified in this section. No persons shall remove or deface any such notice so posted until the repairs, demolition, or removal ordered by the build-

ing official have been completed and a Certificate of Occupancy issued pursuant to the provisions of the Building Code.

C. The building official may file with the City Council a petition to have the repair or demolition performed as provided in Section 21 and the cost thereof assessed as a lien against the property upon which the building is located. Upon filing of the petition, the city recorder shall set the petition for prompt public hearing, and cause notice thereof to be served as provided for a notice and order under Section 10. At the hearing, any person entitled to service shall be accorded an opportunity to show cause why the work should not be performed as provided in Section 21 and the cost thereof assessed as a lien against the property. No issue heard and decided on appeal shall be reintroduced or considered at the hearing provided in this section unless the council, for good cause shown, determines that the interest of justice and fundamental fairness would best be served thereby. (Ord. 453 § 18, 2009)

8.10.190 Extension of Time.

A. Upon receipt of an application from the person required to conform to the order and a written agreement by such person that he will comply with the order if allowed additional time, the building official may, in his discretion, grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation, or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property.

B. The building official's authority to extend time is limited to the physical repair,

rehabilitation, or demolition of the premises and will not in any way affect or extend the time to appeal his notice and order. Any person who fails to comply with an agreement made under this section shall be punished, upon conviction, with a misdemeanor. (Ord. 453 § 19, 2009)

8.10.200 Interference with Work Prohibited.

No person shall obstruct, impede, or interfere with any officer, employee, contractor, or authorized representative of the city, or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated, or demolished under the provisions of this code; or with any person to whom such building has been lawfully sold, whenever such officer, employee, contractor, or authorized representative of the city, person having an interest or estate in such building or structure, or purchaser is engaged in the work or repairing, vacating, and repairing or demolishing any such building, pursuant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code. Violation of this section is a misdemeanor. (Ord. 453 § 20, 2009)

8.10.210 Performance of Work of Repair or Demolition.

A. Procedure When any work of repair or demolition is to be done pursuant to Section 18(C), the building official shall issue his order therefore to the Mayor and the work shall be accomplished by city person-

nel or by private contract under the direction of the Mayor. Plans and specifications therefore may be prepared by the Mayor, or he may employ such architectural and engineering assistance on a contract basis as he may deem reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

B. Costs. The cost of such work shall be paid from the general fund, and may be made a special assessment against the property involved, or may be made a personal obligation of the property owner, whichever the City Council of the City of Aurora shall determine appropriate. (Ord. 453 § 21, 2009)

8.10.220 Recovery of Cost for Repair or Demolition

A. Account of Expense, Filing of Report, Contents. The Director of Public Works shall keep an itemized account of the expense incurred by the City of Aurora in the repair or demolition of any building done pursuant to Section 18(C). Upon the completion of the work or repair or demolition the Director of Public Works shall prepare and file with the City Recorder a report specifying the work done, the itemized total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to Section 10(B).

B. Report Transmitted to Council – Set For Hearing. Upon receipt of said report, the City Recorder shall present it to the City Council for consideration. The City Council shall fix a time, date, and place for hearing said report and any protests or objections thereto. The City Recorder shall cause

notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in the City of Aurora, and served by both first class and certified mail, postage prepaid, addressed to the owner of the property as the owner's name and address appear on the last equalized assessment roll of the county, if such so appear, or as known to the City Recorder. Such notice shall be given at least 10 days prior to the date set for hearing and shall specify the day, hour, and place when the City Council will hear and pass upon the Director of Public Work's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge.

C. Protests and Objections – How Made. Any person interested in or affected by the proposed charge may file written protests or objections with the City Recorder at any time prior to the time set for the hearing on the report of the Director of Public Works. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The City Recorder shall endorse on every such protest or objection the date it was received. The City Recorder shall present such protests or objections to the City Council at the time set for the hearing, and no other protests or objections shall be considered.

D. Hearing of Protests. Upon the day and hour fixed for the hearing the City Council shall hear and pass upon the report of the Director of Public Works together with any such objections or protests. The City Council may make such revision, correction, or modification in the report or the charge as it may deem just. When the City

Council is satisfied with the correctness of the charge, the report (as submitted or as revised) together with the charge shall be confirmed or rejected. The decision of the City Council on the report and the charge and on all protests or objections is final and conclusive.

E. Personal Obligation or Special Assessment.

1. General. The City Council may order that the charge must be made a personal obligation of the property own or assess the charge against the property involved, or both.

2. Personal Obligation. The City Attorney may collect personal obligations on behalf of the City of Aurora by use of all appropriate legal remedies.

3. Special Assessment. Special assessments shall be recorded on the city lien docket and constitute a special assessment against and a lien upon the property.

F. Contest. The validity of any assessment made under the provisions of this section must be contested within 30 days after the assessment is placed upon the assessment roll as provided in subsection E.

G. Authority for Installment Payment of Assessments with Interest. The City Council may determine that assessments in amount of \$500.00 or more shall be payable in not to exceed five equal annual installments. The City Council's determination to allow payment of such assessments in installments, the number of installments, whether they shall bear interest, and the rate thereof shall be by a resolution adopted prior to the confirmation of the assessment.

H. Lien of Assessment

1. Priority. When the City Recorder places the assessment on the lien docket it is complete, the several amounts assessed

pursuant to subsection G are payable, and it is a lien against the lots or parcels of land assessed, respectively. The lien is subordinate to all existing special assessment liens previously imposed upon the same property and is paramount to all other liens except for state, county, and property taxes, with which it is equal. The lien will continue until the assessment and all interest due and payable thereon are paid. The lien may be foreclosed in the manner provided for by law for the foreclosure of liens for street improvements.

2. Interest. All such assessments remaining unpaid after 30 days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 9 percent per annum from that date. (Ord. 453 § 22, 2009)

8.10.230 Violations.

A. No person, firm, or corporation, whether as owner, lessee, sub-lessee, or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this code or any order issued by the building official hereunder.

B. Except as provided otherwise, violation of any provision of this code is an infraction.

C. Penalties for offenses defined in this code shall be as follows:

1. Misdemeanor-- six months imprisonment or a fine of \$500, or both.

2. Infraction-- a maximum fine of \$250.

D. Each day's violation of a provision of this code constitutes a separate violation. (Ord. 454 § 1, 2009)

E. Costs from violations of this code shall be recovered by the City in the manner set out in Section 22 of this code. (Ord. 454 § 1, 2009)

F. The imposition of a penalty does not relieve a person of the duty to abate the nuisance. (Ord. 454 § 1, 2009; (Ord. 453 § 23, 2009)