TOWN OF EATONVILLE

Agenda Staff Report

Agenda Item No.:		Meeting Date:	August 8, 2016
Subject:	Amendment to EMC Chapter 8.08 Nuisances to Add Clarity and Ease Enforcement Efforts	Prepared by:	Town Attorney
		Atty Routing No:	029-14
		Atty Review Date:	August 2, 2016

Summary: The Eatonville Municipal Code contains chapters dealing with general nuisances, junk vehicles, and public noise nuisances. The chapters allow for enforcement via the general penalty chapter of the code. Collectively these chapters are considered the Town's nuisance code. The chapters forming the nuisance code were all drafted at different times and are inconsistent in terms of how enforcement is to take place. Law enforcement and Town officials have encountered difficulty in trying to enforce the nuisance code. Changes have been recommended which will clarify the nuisance code for both the public and enforcement officials.

Recommendation: Staff recommends adoption of Ordinance 2016-17 regarding amending EMC Chapter 8.08, Nuisances.

Motion for consideration: I move to adopt Ordinance 2016-17 regarding amending EMC Chapter 8.08, Nuisances.

Fiscal Impact: None

Attachments: Proposed Ordinance 2016-17 Regarding Nuisances

ORDINANCE NO. 2016-17

AN ORDINANCE OF THE TOWN OF EATONVILLE, WASHINGTON, AMENDING CHAPTER 8.08 OF THE EATONVILLE MUNICIPAL CODE REGARDING NUISANCES

WHEREAS, the Eatonville Municipal Code contains chapters dealing with General Nuisance, Junk Vehicles, Public Noise Nuisances, and a General Penalty (these Chapters are collectively referred to herein as the "Nuisance Code"), which prohibits certain conduct within the Town and provides penalties for violations; and

WHEREAS, law enforcement and Town officers charged with enforcing the Nuisance Code have found the Nuisance Code difficult to interpret and therefore difficult to enforce; and

WHEREAS, the Eatonville Town Council, in an effort to clarify the Nuisance Code in order to better inform the public and ease enforcement efforts, finds that the public health, safety, and welfare will be served by amending the various chapters of the Eatonville Municipal Code which form the Nuisance Code; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF EATONVILLE AS FOLLOWS:

Section 1. Eatonville Municipal Code Chapter 8.08 is AMENDED to read as follows:

Chapter 8.08
NUISANCES

Sections:

8.08.010 Nuisances generally defined.
8.08.020 Nuisances specifically defined.
8.08.030 Person defined.
8.08.040 Abatement.
8.08.050 Liability for costs of abatement.
8.08.060 Buildings to be secured.
8.08.070 Suspension by license or permit.
8.08.080 Violation – Penalty.
8.08.090 Right of Entry – Private Property.

8.08.010 Nuisances generally defined.

A nuisance consists of doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

A. ~~Annoys, i~~Injures or endangers the comfort, repose, health or safety of others;

~~B. Offends decency;~~

~~C. Is offensive to the senses;~~

~~D~~B. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, sidewalk, street or highway in the town;

~~E~~C. In any way renders other persons insecure in life or the use of property; or

~~F~~D. Obstructs the free use of property so as to essentially interfere with the comfortable enjoyment of life and property.

8.08.020 Nuisances specifically defined.

The following specific acts, omissions, places, conditions and things are declared to be nuisances: the erecting, maintaining, using, placing, causing, depositing, 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 town, of any one or more of the following places, conditions, things, or acts to the prejudice, danger or annoyance of others:

A. Privies, vaults, cesspools, sumps, pits, or like places which are not securely protected from flies or rats, or which are foul or malodorous;

B. Filthy, littered, or trash-covered premises and areas adjacent thereto;

C. Tin cans, 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 is kept in covered bins or metal receptacles approved by the building inspector;

D. Trash, litter, rags, accumulations of empty barrels, boxes, crates, packing cases, mattresses, bedding excelsior, packing hay, straw, or other packing material, lumber not neatly piled, scrap iron, tin, and other metal not neatly piled, or anything whatsoever in which flies may breed or multiply or which provides harborage for rats or which may be a fire danger;

E. All places not properly fenced which are used or maintained as junkyards or dumping grounds, or for the wrecking, dissembling, repair, or rebuilding of automobiles, trucks, tractors, or machinery

of any kind or of any of the trucks, tractors, or for the storing or leaving of any machinery parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others;

F. Any putrid, unsound or unwholesome bones, meat, hides, skins, or the whole or any part of any dead animals, fish or fowl, butcher's trimmings and offal, or any waste vegetable or animal matter in any quantity, garbage, human excreta or other offensive substance;~~,~~ provided, nothing herein contained shall prevent the temporary retention of
waste in receptacles in the manner approved by the building inspector of the town;

G. The erection, continuance or use of any building, room or other place in the town for the exercise of any trade, employment or manufacture which, by occasioning noxious exhalations, offensive odors or other annoyances, is discomforting or offensive or detrimental to the health of individuals or of the public;

H. The playing or causing to be played in front of any building where any show, moving picture exhibition or theatrical performance is given, or in the open vestibule or area of any building, of any automatic or mechanical musical instrument for the attraction of customers;

~~I. Making, causing or permitting to be made by means of any whistle, rattle, bell, gong, clapper, hammer, drum, sound tract, loudspeaker or other sound-amplifying device, or horn or other mechanical device, or by outcry, loud speaking, singing or by any other means any discordant and unnecessary noise of any kind which annoys any considerable number of persons lawfully in the immediate area;~~

~~J~~I. Burning or disposal of refuse, sawdust or other material in such a manner to cause or permit ashes, sawdust, soot or cinders to be cast upon the streets or alleys of the town, or to cause or permit the smoke, ashes, soot or gases arising from such burning to become annoying to any considerable number of persons or to injure or endanger the health, comfort, or repose of said persons; provided, this section shall not apply where the party
responsible for the action has properly obtained a fire permit from the fire department;

~~K~~J. Any unguarded or abandoned excavation, pit, well, or hole dangerous to life;

~~L~~K. To allow outside of any dwelling, building or other structures or within any unoccupied or abandoned building,

dwelling or other structure, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock or other automatic locking device which may
not be released from the inside, without first removing said door or lid, snap lock or other locking device from said refrigerator, icebox or container;

~~M. Nonoperational or abandoned vehicles or parts thereof, which are discarded or left in a state of partial construction or repair in any front yard, side yard, rear yard or vacant lot. The responsible person may have on his or her premises, at any one time, only one nonoperational or abandoned vehicle outside an enclosed building for a period not to exceed 14 days.~~

8.08.030 Person defined.

For the purposes of this chapter, the word "person," wherever used in this chapter, is held and construed to mean and include natural persons of either sex, firms, partnerships and corporations, and all associations of natural persons, whether acting by themselves or by a servant or employee.

8.08.040 Abatement.

A. When judgment is rendered against any person~~, firm or corporation~~ finding them guilty of creating, keeping or maintaining a nuisance, as provided in this chapter, it shall be the duty of the court before whom the conviction is had, in addition to imposing the penalty or penalties provided in this chapter, to order the defendant or defendants in such action to forthwith abate and remove such nuisance, and if the same is not done by the offender within ~~24 hours~~a reasonable time as determined by the court, the same shall be abated and removed under the direction of the chief of police of the town, or any other officer authorized by the order of the court, and made a part of the judgment in the action.

B. Summary Abatement. Whenever any condition or use of the premises causes or constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health or safety of the public or a significant portion thereof, and the responsible person(s) cannot be contacted or refuse(s) to immediately abate the condition, the enforcement officer shall have the authority to summarily and without notice abate the same. The expenses of such abatement may become a civil debt against the owner or the responsible person and shall be collectible in the same manner as

any other civil debt owing to the town or as otherwise provided in this chapter.

8.08.050 Liability for costs of abatement.

Any person~~, firm or corporation~~ found guilty of keeping or maintaining a nuisance as provided in this chapter is liable for all costs and expenses of abating the same when said nuisance has been abated by any officer of the town, which costs and expenses shall be taxed as part of ~~. The~~ the prosecution against the party liable, to be recovered as other costs are recovered; provided, that in such cases the town shall be liable in the first instance to pay the same, and in all cases where the chief of police or other officer abates any such nuisance, he shall keep an account of all expenses attending such abatement and in addition to the powers herein given to collect such costs and expenses, the town may bring suit for the same in any court of competent jurisdiction against the person~~, firm or corporation~~ creating, keeping or maintaining the nuisance so abated.

8.08.060 Buildings to be secured.

Every agent or owner of any unoccupied building in the town shall keep the same securely closed at all times against persons who may enter and commit a nuisance therein.

8.08.070 Suspension by license or permit.

These provisions, or any of these provisions, may be suspended by the issuance of a proper license or permit by the town.

8.08.080 Violation – Penalty.

Any violation of the provisions of this chapter shall be considered a civil infraction and shall subject the person~~, firm or corporation~~ committing the violation to the procedures, terms and conditions set forth in Chapter 1.12 EMC, as well as the abatement remedies set forth herein ~~violating any of the provisions of this chapter or who creates, keeps or maintains any nuisance defined, shall be subject to fine or imprisonment as provided in the general penalty ordinance; and for each act herein prohibited of a continuing nature, each day shall be considered a separate offense~~.

8.08.090 Right of Entry – Private Property.

When the enforcement officer has probable cause to believe that a nuisance exists on private property in violation of this chapter, he or she may request permission to enter the premises to inspect for evidence thereof if the property owner is present. If permissive

entry cannot be obtained, the enforcement officer or prosecuting attorney may apply to a court of competent jurisdiction for a warrant to enter the property, notwithstanding the inability to locate the property owner.

Section 2. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. This ordinance shall take effect after publication of a summary, consisting of the title, pursuant to RCW 35.27.300.

1ST READING:
2ND READING: 08/08/2016

PASSED by the Town Council of the Town of Eatonville and attested by the Clerk in authentication of such passage this _____day of August, 2016.

_____
Mike Schaub
Mayor

ATTEST:

_____
Kathy Linnemeyer
Town Clerk

APPROVED AS TO FORM:

_____
Gregory A. Jacoby
Town Attorney