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. Injures or endangers the comfort, repose, health or safety of others;

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;

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

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. 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;

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

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;

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 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 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 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 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 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 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 .

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: 08/08/2016
2ND READING: 08/22/2016

PASSED by the Town Council of the Town of Eatonville and attested by

the Clerk in authentication of such passage this 22nd day of August, 2016.

Mike Schaub
Mayor

ATTEST:

Kathy Linnemeyer
Town Clerk

APPROVED AS TO FORM:

Gregory A. Jacoby
Town Attorney