

Chapter 8.08

NUISANCE ABATEMENT

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8.08.010 Title.

The ordinance codified in this chapter shall be known as the "city of Tulelake nuisance abatement ordinance." (Ord. 106 § 1, 1977)

8.08.020 Authority.

The ordinance codified in this chapter is adopted pursuant to authority contained in Government Code Section 38773 et seq. and other applicable laws of the state. (Ord. 106 § 2, 1977)

8.08.030 Nuisance defined.

As used in this chapter, "nuisance" means and includes every act or condition known or described in the common law as a nuisance, whether public or private, and shall include all acts or conditions which are or may be declared to be nuisance under the laws of the city and the state, whether public or private. (Ord. 106 § 3, 1977)

8.08.040 Procedure generally.

The procedure set forth in this chapter

for the abatement of nuisance within the city is intended to be in addition to any other procedure provided by law. (Ord. 106 § 4(a), 1977)

8.08.050 Notice and demand to owner.

Upon determination by the director of public works or the county health officer that a nuisance, as defined in this chapter, exists within the city, and that such nuisance should be abated, such officer shall, by written notice and demand describing such nuisance, require that such nuisance be abated within a reasonable period of time as determined by such officer and specified in such notice and demand, which time shall not be less than fifteen days from service thereof. Such notice shall set forth acceptable methods of abatement and shall state that in the event such nuisance is not abated within the time specified, it will be abated by the city and the cost thereof will be a special assessment on the parcel of land upon which such nuisance exists. Such notice and demand shall be served, together with a copy of the ordinance codified in this chapter, by certified or registered mail upon the owners of the real property, and, if in the opinion of the serving officer the abatement of such nuisance will decrease the market value of the real property by five hundred dollars or more, upon all holders of liens of record upon such real property. In addition, such notice and demand shall be posted upon such real property within seventy-two hours after service. Failure to serve notice on any person except the owner or owners shall not be deemed to invalidate any proceedings taken under this chapter. (Ord. 106 § 4(b), 1977)

8.08.060 Abatement by city.

In the event that such nuisance is not abated within the time specified in the notice and demand and no demand for hearing is filed with the clerk as provided in Section 8.08.080 of this chapter, the matter shall be referred to the director of public works, who shall forthwith determine the cost of such abatement pursuant to Section 8.08.070 and shall certify such cost to the city council, who may then and without further notice or hearing order the director to cause the nuisance to be abated and declare that the cost of abatement will be a special assessment upon the real property on which the nuisance exists. Such assessment shall be collected at the same time and in the same manner as ordinary city taxes are collected and shall be subject to the same penalties and the same procedures, including sale, in case of delinquency. (Ord. 106 § 4(c), 1977)

8.08.070 Determination of costs.

A. Actual abatement may be performed by the department of public works or by contract, at the election of the director of public works.

B. When performed by city personnel and equipment, the cost shall be determined by the public works on the basis of the cost to the city of the man-hours expended on the job, of the machine-hours expended on the job, and of all materials used thereon.

C. When abatement is performed by private individuals or companies under contract with the city, such contract shall be awarded in substantially the same manner as contracts for similar work

done for the city. The cost shall be the amount of such contract.

D. To the cost as set forth in subsections B or C of this section shall be added the amount of all additional sums actually expended by the city with regard to such abatement. To that total shall be added a sum equal to five percent thereof for administration costs. The total thereof shall be certified to the city council as the cost of abatement pursuant to Sections 8.08.040 through 8.08.060 of this chapter. (Ord. 106 § 5, 1977)

8.08.080 Hearing.

A. Should any person receiving the notice and demand pursuant to Sections 8.08.040 through 8.08.060 object thereto, such person may file a written and signed demand for hearing with the city clerk within thirty days of service upon him of such notice and demand. Such demand for hearing shall set forth all of the grounds upon which the objection is based and the mailing address of the claimant. Any other ground for objection not set out in the demand within the time specified in this chapter by any person shall be deemed a waiver of such person's right to object. Within five days after receipt of written demand for hearing as provided in this section, the clerk shall schedule a hearing before the city council and shall serve by personal service or certified mail written notice of the time and place thereof on each party from whom the demand has been received, and on the officer issuing the notice and demand. Such hearing shall be held no sooner than five days after the notice of hearing is served. Pending such hearing, the obligation to comply with

the notice and demand shall be stayed. The officer issuing the notice and demand shall first describe the alleged nuisance and respond specifically to the grounds set out in the demand for hearing, after which the objector shall present his evidence and such officer shall conclude. The hearing need not be conducted according to technical rules relating to evidence and witnesses, except that all testimony shall be given under oath. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely on the conduct of serious affairs. Failure to enter timely objection to evidence constitutes a waiver of the objection. The city council may act only on the basis of evidence properly admitted at the hearing. There shall be reasonable opportunity for presentation of evidence, for cross-examination of all witnesses and for argument. At the conclusion of the hearing the city council shall determine:

1. Whether the acts and/or conditions specified in the notice and demand exist;
2. Whether such acts and/or conditions constitute a nuisance as described in this chapter;

3. Whether such nuisance should be abated; and

4. The manner of abatement.

B. In the event that the determination of the city council is in the affirmative, the council shall make findings of fact with regard thereto, and shall order the abatement of such nuisance. A copy of such findings of fact and order shall be served upon each objector. Such determination by the city council shall be final. Work of abatement shall be commenced by the owner within ten days of the service of the findings of fact and order, or a longer period as provided in the order, and continue with reasonable diligence to conclusion. In the event such work is not commenced and concluded as set forth in this subsection, the director of public works shall proceed to abate such nuisance pursuant to Section 8.08.060 of this chapter. (Ord. 106 § 6, 1977)

8.08.090 Service of notice.

Except as otherwise provided in this chapter, all notices served may be served by mail, postage prepaid, addressed to the party to be notified or his representative, at the address set forth on the notice of objection and demand for hearing. (Ord. 106 § 7, 1977)