

# Ordinance No. 00181

[\(Council Minutes 98/07/20\)](#)

ORDINANCE NO. 181

AN ORDINANCE of the City Council of the City of Lakewood, Washington amending Sections 8.16.050, 8.20.040, 8.24.040, 8.24.060, 8.24.070, 8.24. 120, 8.24.130, 8.32.030, 8.32.050 and 8.52.010 of the Lakewood Municipal Code, relating to Code Enforcement

WHEREAS, with the incorporation of the City of the City of Lakewood, the City became responsible for enforcement of a variety of codes and regulations affecting general health and safety; and,

WHEREAS, although the City had some discretion in the particulars of some of the codes, and in how to pursue enforcement, with a few exceptions, the approach used in the development of the City's health and safety codes was to try to instill some compatibility and uniformity in the codes and regulations of Pierce County and of other cities in the general vicinity; and,

WHEREAS, the various ordinances addressing the areas of such enforcement were also developed separately and adopted somewhat independently from each other; and,

WHEREAS, as a result, the various codes and regulations, as adopted, do not always have the same focus on the methods of enforcement, and the first priority of enforcement procedures; and,

WHEREAS, because the specific facts and circumstances of a case or complaint may vary dramatically from one case to another, there have been instances when the first priority enforcement procedure may not work as well or be as successful as some other procedures; and,

WHEREAS, consistent with the City's intent of being as responsive as reasonably possible to the concerns of the citizens of the City, and the intent to be as fair to the person subject of the complaints, it would be advantageous for the code provisions contain as much flexibility as reasonability in what enforcement methods would be most appropriate under the circumstances of the case, and what procedures would be most effective to fairly and responsibly address the particular complaints; and,

WHEREAS, in adding that flexibility to the enforcement procedures, it is not necessary to amend or change the regulatory provisions of the City Codes, nor are any regulatory provisions proposed for change in this Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON DO ORDAIN as follows:

Section 1. That Section 8.16.050 of the Lakewood Municipal Code is amended to read as follows:

## 8.16.050 Authority for Enforcement.

Whenever any declared nuisance, source of filth or cause or probable cause of injury to health shall be found to exist on any private or public property, the City Manager or designee shall have the power and authority to order verbally and/or in writing the owner or occupant or user thereof, by appropriate action, at the expense of such owner, occupant, or user to correct and remove such nuisance, source of filth or cause or probable cause of injury to health within such time as the City Manager or designee may order. In the event of the refusal or failure to remove such nuisance within said time, the City Manager or designee may cause such nuisance to be abated at the expense of such person or persons, which cost may be recovered by the City from such person or persons in an action brought in the name of the City to recover the same in any court of competent jurisdiction. The City Manager or designee is also authorized to file a lien against the property on which the nuisance was abated in the amount of the City's costs in abating the nuisance, and to enforce said lien against the property. In any such abatement by the City, the City shall also be entitled to interest accruing at the rate of twelve percent (12%) per annum from the time of the expenditure of funds by the City for such abatement. The authority for enforcement provided herein shall be in addition to and as an alternative to the authority of the City to prosecute violations of City Codes as misdemeanors, gross misdemeanors or infractions (Ord. 32 ' 5, 1996.)

Section 2. That Section 8.20.040 of the Lakewood Municipal Code is amended to read as follows:

8.20.040 Graffiti - Notice of Removal.

A. In addition to and as an alternative to the authority of the City to prosecute violations of City Codes as misdemeanors, gross misdemeanors or infractions, whenever the City Manager, or his/her designated representative, determines that graffiti exists on any public or private buildings, structures, and places which are visible to any person utilizing any public road, parkway, alley, sidewalk or other right-of-way within the City, and when seasonal temperatures permit the painting of exterior surfaces, the City Manager or his/her designated representative shall cause a notice to be issued to abate such nuisance. The property owner shall have fifteen (15) days after the date of the notice to remove the graffiti or the same will be subject to abatement by the City.

B. The notice to abate graffiti pursuant to this section shall cause a written notice to be served upon the owner(s) of the affected premises, as such owners' name and address appears on the last property tax assessment rolls of Pierce County, Washington. If there is no known address for the owner, the notice shall be sent in care of the property address. The notice required by this section may be served in any one of the following manners:

1. By personal service on the owner, occupant or person in charge or control of the property;
2. By registered or certified mail addressed to the owner at the last known address of said owner. If this address is unknown, the notice will be sent to the property address.

The notice shall be substantially in the following form:

Notice of Intent to Remove Graffiti

Date:

To:

NOTICE IS HEREBY GIVEN that you are required, by Ordinance of the City of Lakewood, at your own expense, to remove or paint over the graffiti located on the property commonly known as (address), Lakewood, Washington, which is visible to public view, within fifteen (15) days after the date of this notice; or, if you fail to do so, the City requires the nuisance to be abated by removal or painting over of the graffiti. The cost of the abatement by the City or private contractors employed by the City to abate the nuisance will be assessed upon your property and such costs will constitute a lien upon the land until paid.

All persons having any objection to, or interest in said matters, are hereby notified to submit any objections or comments to the City Manager of the City of Lakewood or his/her designated representative, within ten (10) days from the date of this notice. If no objections or comments to the notice are received by the City, the City will, at the conclusion of the fifteen (15) day period, proceed with abatement of the graffiti inscribed on your property at your expense without further notice.

(Ord. 37 ' 4, 1996.)

Section 3. That Section 8.24.040 of the Lakewood Municipal Code is amended to read as follows:

8.24.040 Junk Vehicle Violations.

It shall be unlawful to park, store or abandon junk vehicles on private property, subject only to the exceptions provided in Section 8.24.050. Such a violation shall be deemed a nuisance subject to abatement as provided in this Chapter, or Chapter 8.16 of the City Code, or such other process as is provided in the City Codes, and/or subject to prosecution as a violation of City Codes as a misdemeanor, gross misdemeanor or infraction, whichever applies. (Ord. 39 ' 1 (part), 1996.)

Section 4. That Section 8.24.060 of the Lakewood Municipal Code is amended to read as follows:

8.24.060 Notices Required.

In cases where the City seeks to abate a junk vehicle through the process identified in this Chapter, or Chapter 8.16 of the City Code, or such other process as is provided in the City Codes, the last registered owner of the junk vehicle and the property owner of record shall each be given a notice and order pursuant to this Chapter. Each shall have the right of appeal as provided by this Chapter. The notice and order need not be provided to the last registered owner of the vehicle if the vehicle is in such condition that the identification numbers cannot be readily determined or if the owner of the land has prevented access to the vehicle. (Ord. 39 ' 1 (part), 1996.)

Section 5. That Section 8.24.070 of the Lakewood Municipal Code is amended to read as follows:

8.24.070 Abatement and Removal.

In cases where the City seeks to abate a junk vehicle through the process identified in this Chapter, or Chapter 8.16 of the City Code, or such other process as is provided in the City Codes, after the notice and order becomes final, the junk vehicle or vehicles shall be removed by a licensed tow truck operator or hulk hauler and the City Manager or designee shall give notice to the Washington State Patrol and to the Washington State Department of Licensing. (Ord. 39 ' 1 (part), 1996.)

Section 6. That Section 8.24.120 of the Lakewood Municipal Code is amended to read as follows:

8.24.120 Declaration of Public Nuisance.

The retaining or storage of any vehicle or component in violation of Section 8.24.100, and not within the exception of Section 8.24.110, of this Chapter, is hereby declared to be a public nuisance and ~~shall may~~ be abated by removal through the process for abatement of nuisances as provided in this Chapter, or Chapter 8.16 of the City Code, or such other process as is provided in the City Codes, and/or may be prosecuted as a violation of City Codes as a misdemeanor, gross misdemeanor or infraction, whichever applies. (Ord. 39 ' 1 (part), 1996.)

Section 7. That Section 8.24.130 of the Lakewood Municipal Code is amended to read as follows:

8.24.130 Enforcement.

The provisions of this Chapter ~~shall may~~ be enforced through the process for abatement of nuisances pursuant to ~~Ordinance No. 32 Chapter 8.16 of the City Code~~ as it presently exists or as it may subsequently be amended, and as allowed by law, provided that the following additional provisions shall be followed:

- A. The person(s) designated by the City Manager with duties of enforcement of this Ordinance shall give notice to the last registered owner of record of the vehicle and to the property owner of record that a hearing may be requested but that, if no hearing is requested, the vehicle will be removed and impounded;
- B. If a request for a hearing is received, the City shall provide a written notice giving the time, location and date of a hearing on the question of abatement and removal of the vehicle, or part thereof as a public nuisance, which notice shall be mailed, by certified mail with return receipt requested to the owner of the property as shown on the last equalized assessment role and to the last registered and legal owner of record unless the vehicle is in such condition that identification numbers are not available to determine ownership;
- C. The owner of the property on which the vehicle, recreational vehicle, boat, trailer, or component thereof, is located may

appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle or item on the property, with his or her reasons for the denial and, if it is determined at the hearing that the vehicle or item was placed on the land without the consent of the owner, and that the owner has not subsequently acquiesced in its presence, then the City Hearing Examiner shall not assess costs of administration or removal against the property upon which the vehicle or item is located;

D. After notice has been given of the intent of the City to dispose of the vehicle and, after a hearing, if requested, the vehicle shall be removed at the request of a law enforcement officer with notice to the Washington State Patrol and to the Department of Licensing that the vehicle has been wrecked; and

E. In addition to the enforcement provisions above, violation of this Chapter shall constitute a civil infraction punishable by a fine of up to \$500, with a minimum fine of \$250 per violation, and may be prosecuted accordingly. (Ord. 39 ' 1 (part), 1996.)

Section 8. That Section 8.32.030 of the Lakewood Municipal Code is amended to read as follows:

#### 8.32.030 Enforcement.

City law enforcement officers, code enforcement officers, and those employees otherwise duly delegated and vested with enforcement authority all shall enforce the provisions of this Chapter and all rules and regulations adopted hereunder. In addition, mailing by certified mail, of such citations, complaints, informations or notices or other process to the last known place of residence of a ~~period~~ person charged, or as otherwise provided by applicable court rules, shall be deemed as personal service upon that person. The City shall also have the authority to contract with the Department of Ecology for purposes of providing litter control/enforcement services and personnel reasonably necessary to carry out the enforcement provisions of State law. Additionally, litter violations on private property may also be deemed a nuisance subject to abatement as provided in Chapter 8.16 of the City Code, or such other process as is provided in the City Codes. (Ord. 38 ' 1 (part), 1996.)

Section 9. That Section 8.32.050 of the Lakewood Municipal Code is amended to read as follows:

#### 8.32.050 Notice to Public Contents of Chapter--Required.

Pertinent portions of this Chapter, or pertinent notices, may be posted along the public streets and highways of the City and at all entrances to City parks, recreational areas, at all public beaches, and at all other public places in the City where persons are likely to be informed of the existence and content of this Chapter and the penalties for violating its provision. (Ord. 38 ' 1 (part), 1996.)

Section 10. That Section 8.52.010 of the Lakewood Municipal Code is amended to read as follows:

#### 8.52.010 Uncontrolled Weeds and Vegetation.

~~4~~A. It is unlawful for any person to permit or allow weeds or vegetation to become uncontrolled on any property within the City over which he or she has ownership, occupancy or control. ~~A~~Uncontrolled weeds or vegetation@ shall be defined as follows:

A1. Any undesired, uncultivated and unsightly plants growing in profusion so as to crowd out desired plant growth or disfigure a lawn; or

1. Any undesired, uncultivated and unsightly plants growing in profusion so as to crowd out desired plant growth or disfigure a lawn; or

B2. Any vegetation growth, including but not limited to weed, grasses, bushes, hedges and trees or tree branches, which obstructs the vision of people in vehicles or on sidewalks or right-of-ways so as to interfere with the safe, full and free use of any street, sidewalk or right-of-way within the City; or

2. Any vegetation growth, including but not limited to weed, grasses, bushes, hedges and trees or tree branches, which obstructs the vision of people in vehicles or on sidewalks or right-of-ways so as to interfere with the safe, full and free use of any street, sidewalk or right-of-way within the City; or

C3. Any vegetation growth that creates a fire or other safety hazard;

3. Any vegetation growth that creates a fire or other safety hazard;

D4. Any accumulation of weeds, brambles, berry vines, or other vegetation which is over-growing any structure or which exceeds an average height of fifteen (15) inches. It is provided, however, that the City Manager or designee is authorized to grant a variance from the provisions of this sub-section D where the accumulation of vegetation does not constitute a fire hazard, does not constitute a safety hazard and does not constitute a harborage of insects, rodents or other pests, and where, because of the unique topographical, agricultural or rural character of the property on which the accumulation is located, the accumulation of vegetation enhances the property or is not visible from any other property. The granting of any such requested variance shall be conditioned on the accumulation of vegetation not thereafter constituting a fire hazard, a safety hazard or a harborage of insects, rodents or other pests. The decision of the City Manager or designee granting or denying any such requested variance may be appealed within 14 days of the decision as follows: The decision of the City Manager or designee denying any such requested variance may be appealed to the City Council by the person or persons owning, occupying or controlling the property, and the decision of the City Manager or designee granting any such requested variance may be appealed to the City Council only by persons living or owning property in the immediate vicinity of the property on which the accumulation of vegetation is located and where the accumulation of vegetation is visible from the property of such persons.

4. Any accumulation of weeds, brambles, berry vines, or other vegetation which is over-growing any structure or which exceeds an average height of fifteen (15) inches. It is provided, however, that the City Manager or designee is authorized to grant a variance from the provisions of this sub-section D where the accumulation of vegetation does not constitute a fire hazard, does not constitute a safety hazard and does not constitute a harborage of insects, rodents or other pests, and where, because of the unique topographical, agricultural or rural character of the property on which the accumulation is located, the accumulation of vegetation enhances the property or is not visible from any other property. The granting of any such requested variance shall be conditioned on the accumulation of vegetation not thereafter constituting a fire hazard, a safety hazard or a harborage of insects, rodents or other pests. The decision of the City Manager or designee granting or denying any such requested variance may be appealed within 14 days of the decision as follows: The decision of the City Manager or designee denying any such requested variance may be appealed to the City Council by the person or persons owning, occupying or controlling the property, and the decision of the City Manager or designee granting any such requested variance may be appealed to the City Council only by persons living or owning property in the immediate vicinity of the property on which the accumulation of vegetation is located and where the accumulation of vegetation is visible from the property of such persons.2B. Violation of this Section shall be punishable by a civil fine in the amount of up to five hundred dollars (\$500) per violation, providing that each day of violation shall constitute a separate violation. In addition to the civil fine(s), violations of this Section may be abated by the City in accordance with the provisions of Chapter 8.16 of this Code. (Ord. 112 ' 2, 1997; Ord. 45 ' 1, 1996.)

Section 11 That if any provision of this Ordinance or the application thereof to any person or circumstance is held to be invalid, the remainder of such code, ordinance or regulation or the application thereof to other person or circumstances shall not be affected.

Section 12. That this Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary as required by law.

ADOPTED by the City Council this 20th day of July, 1998.

CITY OF LAKEWOOD

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Bill Harrison, Mayor

Attest:

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Alice M. Bush, CMC, City Clerk

Approved as to Form:

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Daniel B. Heid, City Attorney

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