

ORDINANCE NO. 223

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, AMENDING THE UNIVERSITY PLACE MUNICIPAL CODE BY REPEALING A PORTION OF SECTION 9.050.010, BY ENACTING A NEW CHAPTER 9.35 OF THE UNIVERSITY PLACE MUNICIPAL CODE DEFINING, REGULATING AND PROVIDING FOR THE ABATEMENT OF PUBLIC NUISANCES, REQUIRING THE MAINTENANCE OF REAL PROPERTY, AUTHORIZING THE HEALTH DEPARTMENT TO ASSIST IN THE ENFORCEMENT OF THIS ORDINANCE, AND BY PROVIDING FOR AN EFFECTIVE DATE FOR THE PROVISIONS OF THIS ORDINANCE

WHEREAS, public nuisances are unsightly and unsanitary; create fire, safety and health hazards; interfere with the enjoyment of public and private property; degrade the character of neighborhoods; and have a detrimental effect on property values; and

WHEREAS, residents of the City of University Place have complained about public nuisances in their neighborhoods; and have requested that the city regulate and abate public nuisances within the city; and

WHEREAS, pursuant to RCW 35A.11.020 and RCW 35.23.440 (10) the city has the power to declare what shall be deemed nuisances; to prevent, remove, and abate nuisances at the expense of the parties creating, causing, committing or maintaining nuisances, and to levy a special assessment on the land or premises whereon the nuisance is situated to defray the cost or to reimburse the city for the cost of abating the same.

THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Amending Section 9.05.010 of the University Place Municipal Code. Section 9.05.010 of the University Place Municipal Code is hereby amended effective on March 1, 1999 at 12:01 AM by deleting the reference to PCC Chapter 8.08, Public Nuisances. This amendment shall not effect or abate any criminal prosecution or code enforcement action that is instigated or brought by or on behalf of the City prior to the effective date of this amendment. Such prosecution or enforcement actions shall continue unabated.

9.05.010 Authority to adopt Pierce County Code.

Pursuant to RCW 35A.12.140 and 35A.13.180, the city adopts by reference Chapters ~~8.08 Public Nuisances~~, 8.12, Food Service Sanitation; 8.16, Smoking in Public Places; 8.20, Rodent Control; 8.30, Solid Waste Handling System; 8.32, Solid Waste Collection and Disposal Regulations; 8.34, Underground Storage Tanks; 8.36, On-Site Sewage Disposal Systems; 8.38, Infectious Waste Management; 8.40, Public Water Systems; 8.44, Swimming Pools; 8.72, Motor Vehicles and Public Disturbance Noise; 8.76, Noise Pollution Control; 8.84, Tire Storage Yards, of PCC Title 8, Health and Welfare, as presently constituted or hereinafter amended, as regulations of the city.

Section 2. Adding a New Chapter 9.35, Public Nuisances, to the University Place Municipal Code. The University Place Municipal Code is hereby amended by adding a new Chapter 9.35, Public Nuisances, which defines, regulates and provides for the abatement of public nuisances. Chapter 9.35 is as follows:

Chapter 9.35

PUBLIC NUISANCES

Section 9.35.010 Purpose and construction.

The purpose of this chapter is to define, regulate and provide for the abatement of public nuisances; reduce fire, safety and health hazards; preserve and enhance the attractiveness of the city's neighborhoods; and protect property values within the city. This chapter is an exercise of the police power and is necessary for the health, safety and welfare of the city and to preserve and protect the public peace. Therefore, the provisions of this Chapter shall be liberally construed for the accomplishment of such purposes.

Section 9.35.015 Definitions.

All terms used in this chapter shall have their common definition meaning. In addition to the common definition meaning, the terms used shall mean as follows:

- "Abate" means to repair, replace, remove, destroy or otherwise remedy a condition that violates this chapter.
- "Building materials" means lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing materials, cans of paint and similar materials.
- "Garbage" means waste food products, other organic waste products and packaging materials from food products.
- "Junk" means discarded, broken or disabled items, including, but not limited to, furniture, appliances, toys, vehicle parts, building materials, tools, machinery parts or other items that are not in functioning condition.
- "Person" means human beings of either sex as well as firms, partnerships, corporations, and all associations of human beings, whether acting by themselves or by a servant, agent or employee.
- "Premises" means any building, lot, parcel, real estate, land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.
- "Public nuisance" means a thing, act, failure to act, occupation or use of property which (1) annoys, injures or endangers the comfort, repose, health or safety of the public; (2) unlawfully interferes with, obstructs, or renders dangerous for passage any stream, river, channel, public park, square, street, alley, highway or sidewalk; or (3) renders the public insecure in life or use of property. All of the conditions enumerated in Section 9.35.030, infra, are "public nuisances"
- "Responsible party" means any person owning property, as shown on the real property records of Pierce County or on the last assessment role for taxes, and shall also mean any lessee, tenant or person having possession of the property. There may be more than one responsible party for a particular property.

- "Trash" includes, but is not limited to, used, discarded, torn or broken paper; plastic; glass; cardboard; packaging materials; small pieces of scrap metal; wire; pipe; stone; plaster; cement; office supplies; cosmetics; bottles; cans; jars; or boxes.
- "Yard waste" means any accumulation of leaves; trimmings from trees, brush and shrubs; cut grass and weeds; or garden waste.

Section 9.35.020 Duty to maintain real property.

Any person owning, leasing, renting, occupying or in charge of any real property in the city, including vacant lots, has a duty to maintain the property free from junk, trash, yard waste and any other nuisance as defined in this chapter, in order that such property shall not endanger the safety, health or welfare of the general public.

Section 9.35.025 Prohibited conduct.

It is a violation of this chapter for any person to permit, create, maintain or allow upon any premises, any of the acts or things declared to be public nuisances herein.

Section 9.35.030 Public nuisances.

Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance:

A. Any unfenced, uncovered, unguarded or abandoned pit, hole, excavation, well, septic tank, cesspool, pond, or swimming pool into which a child or other person could fall.

B. Attractive nuisances dangerous to children, including, but not limited to, abandoned, broken or neglected vehicles, boats, equipment and machinery; refrigerators, freezers or other insulated containers within which a child could suffocate; and abandoned, dilapidated or structurally unsound buildings.

C. The existence or accumulation of any garbage or organic waste on the premises, including, but not limited to, bones; hides; skins; dead animals, fish or fowl; waste food products; or manure; provided that nothing herein shall prevent the temporary retention of such waste in approved covered receptacles or the temporary retention of waste food products and manure in enclosed compost piles.

D. The existence or accumulation of any trash, litter or inorganic waste, including, but not limited to, used, broken, torn or discarded paper, cardboard, plastic, rags, empty bottles, cans, glass, plaster, barrels, boxes, crates, packing cases, construction debris, styrofoam, excelsior, hay, straw, packing materials, scrap metal, wire, pipe, crockery, and plaster not enclosed in covered bins or metal receptacles approved by the city.

E. The existence or accumulation of any junk, including, but not limited to, broken, discarded, torn, or non-functional furniture, mattresses, bedding, appliances, toys, vehicle parts, building materials or other articles of personal property.

F. The accumulation of yard waste, including, but not limited to, grass cuttings, weeds, brush, tree limbs, vegetation, garden waste, debris or organic matter which may be a fire hazard, or in which flies or rodents may breed and multiply, or which is a hazard to the public health, safety or welfare; provided that nothing herein shall prevent the temporary retention of yard waste in an enclosed compost pile.

G. The existence of noxious or toxic weeds which could be hazardous to health, including, but not limited to, poison oak, poison ivy, and deadly nightshade; or the existence of overgrown grass, weeds or shrubs in which flies and rodents may breed and multiply or which may be a fire hazard pursuant to the Uniform Fire Code as adopted by reference in the University Place Municipal Code.

H. The outdoor burning or disposal of refuse, sawdust, wood or other material in such a manner as to cause or permit ashes, sawdust, soot or cinders to be cast upon private or public property, including city streets, rights of way and alleys, or to cause or permit the smoke, ashes, soot or gases arising from such burning to pollute the air or endanger the health, safety and welfare of the public; provided that this section shall not apply where the party responsible for the action has obtained a burning permit from the applicable fire department or local air quality authority.

I. Any toxic, radioactive, caustic, explosive, flammable, combustible, malodorous, or septic substances, unless kept in proper receptacles as provided by the health and refuse laws or by the Uniform Fire Code.

J. The existence or accumulation of building material, lumber, salvage materials, scrap iron, tin and other metal, wire, stone, cement or brick which is unsightly and may be an attractive nuisance, provided that this subsection shall not apply if the materials are associated with an active building permit, or are neatly piled and screened from view from the public right of way or any neighboring property.

K. Any fence or structure which is sagging, leaning, fallen, decayed, dangerous, or a fire hazard. Any building which is determined to be a dangerous building pursuant to the Uniform Code for the Abatement of Dangerous Buildings as adopted by reference in the University Place Municipal Code.

L. The existence of any dead, diseased, infested or dying tree that may constitute a danger to property or persons.

M. All trees, plants, shrubs, vegetation or fences overhanging or on any sidewalk, street, or public right of way, which:

- (a) obstruct or impair the free and full use of the sidewalk or street by the public,
- or
- (b) damage, obstruct or endanger power lines, cables, conduits, sewers or drains located within a public right-of-way, or
- (c) obstruct the public's vision of intersections from the streets, sidewalks and public right of way.

All tree limbs overhanging a public sidewalk which are less than 10 feet above the surface of the sidewalk, and all tree limbs overhanging a public street which are less than 12 feet above the surface of the street are deemed to obstruct or impair the full use of the sidewalk or street.

Section 9.35.035 Abatement of public nuisance.

The responsible person or persons for any premises on which a nuisance as defined in Section 9.35.030 is found, shall abate such nuisance by removal, trimming, demolition, rehabilitation or repair.

Section 9.35.040 Enforcement.

The provisions of this chapter shall be enforced in accordance with the procedures set forth in Chapter 1.20 of the University Place Municipal Code.


Section 9.35.050 Authorizing Enforcement Assistance from the Tacoma-Pierce County Health Department

The Tacoma-Pierce County Health Department is hereby authorized to assist City officials in the enforcement of this Chapter.

Section 3. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances by a court of competent jurisdiction shall not be affected.

Section 4. Publication and Effective Date. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall be effective five (5) days after its publication.

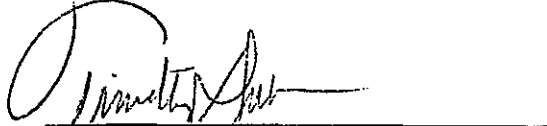
PASSED BY THE CITY COUNCIL ON FEBRUARY 1, 1999.


Debbie Klosowski, Mayor

ATTEST:


Susan Matthew, City Clerk

APPROVED AS TO FORM:


Timothy X. Sullivan, City Attorney

Published: February 4, 1999
Effective Date: February 9, 1999