

ORDINANCE NO. A-200

AN ORDINANCE OF THE CITY OF MARSING, IDAHO, AMENDING SECTION 3-1-3 OF THE MARSING CITY CODE, ENUMERATING AND DEFINING PUBLIC NUISANCES AND ADDING FUGITIVE DUST AS A PROHIBITED PUBLIC NUISANCE; AMENDING SECTION 3-1-3-1A OF THE MARSING CITY CODE DECLARING PUBLIC DISTURBANCE NOISES TO BE PUBLIC NUISANCES; AMENDING SECTION 3-1-4 TO PROVIDE FOR ABATEMENT OF PUBLIC NUISANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Marsing finds that fugitive dust from construction or other soil disturbances is contrary to the preservation of public safety, health and welfare; and

WHEREAS, The City of Marsing has authority under Idaho Code Section 50-334 to declare and abate public nuisances.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MARSING, IDAHO:

SECTION 1: That Title 3, Chapter 1, Section 3, "Enumeration of Nuisances" is hereby amended to read as follows:

3-1-3: ENUMERATION OF PUBLIC NUISANCES:

Public Nuisances shall be defined as follows:

- A. Any condition or use of a premises or property which creates a fire hazard and/or creates a condition for the harborage of rodents and insects which may pose a health risk or are injurious to the health, safety and welfare of the inhabitants of the city.
- B. The keeping or depositing on or the scattering over any premises or real property any of the following:
 1. Lumber, paper, junk, trash, boxes or debris.
 2. Abandoned, discarded or unused objects, personal property and/or equipment such as furniture, stoves, refrigerators, freezers, cans, containers, tools or parts of personal property.
 3. Partially dismantled, wrecked, junked, discarded or otherwise nonoperating motor vehicles or parts thereof except at a licensed salvage yard or property where the primary business is the repair of motor vehicles.
- C. Any cattle, horses, sheep, llamas or goats, or combination of said animals, which are not contained in a fenced area of at least one-fourth ($\frac{1}{4}$) acre per animal, including any dwelling.

D. Any fowl not kept or maintained in coops or cages, any fowl in excess of twelve (12) in number at any time and any fowl which is not hooded or otherwise kept silent from sunset to sunrise. Roosters are prohibited from being kept or maintained within the city limits. .]

E. Any horse or other animal in the streets, alleys or other public places or allowed to run loose or unattended within the city.

F. Any hog or pig or its offspring.

G. Any "dangerous animal", which shall mean any wild animal including, but not limited to, mountain lions, cougars, lynx, bobcats, badgers, bears, ocelots, or any other animal normally found in the wild; any dog which has exhibited dangerous propensities toward other animals or human beings¹; or any other animal exhibiting characteristics which pose a potential threat to the health and welfare of other animals or human beings.

H. Any bones, putrid, unsound, or unwholesome refuse or flesh of any kind of animal, fish or fowl; any unsound, putrid or unwholesome substance; the carcass of any animal; any offal, garbage or other offensive matter; or any stagnant or impure water cast, left, or kept in or upon any portion of the city.

I. Any stagnant or impure water, refuse vegetables, decayed or decaying matter, or garbage or filth of any kind permitted or allowed to accumulate in or upon any yard, lot or premises within the city.

J. All rubbish, trash, litter, debris, garbage or other waste substances and any noxious, deleterious, harmful and/or unhealthy growths of weeds which exceed eight inches (8") in height and are located on a lot or premises within the city and which are not removed and/or cut and chopped into small pieces.

K. Any chemical, compound mixture, substance or article which is designated by the United States environmental protection agency or appropriate agency of the state to be "hazardous waste" as that term is defined by or pursuant to federal or state law.

L. Any fugitive dust emanating from any property within city limits, or, from property outside the city limits, which enters any property within city limits.

1. Fugitive dust is defined as particulate matter suspended in the air, such as that from soil that has been disturbed by wind or human activities, like earthmoving and vehicular or equipment traffic on unpaved surfaces.

2. All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. Failure to take reasonable precautions to prevent fugitive dust may result in abatement proceedings as set forth below, in addition to any enforcement actions by the Idaho Department of Environmental Quality under Idaho Administrative Rule 58.01.01.651.

¹ See also section 4-2-4 of this code.

3. For agricultural activity purposes, operating in conformance with generally recognized agricultural practices as defined in IDAPA 58.01.01.652 constitutes reasonable control of fugitive dust.

SECTION 2: That Title 3, Chapter 1, Section 3, Subsection 1A, "Public Disturbance Noise" is hereby amended as follows:

3-1-3-1: PUBLIC DISTURBANCE NOISE:

A. Public Nuisance Declared: It is hereby declared to be a public nuisance and to be unlawful for any person to cause or for any person in possession of property to allow to originate from the property, sound that is a public disturbance noise.

SECTION 3: That Title 3, Chapter 1, Section 4, "NOTICE TO ABATE" is hereby amended as follows:

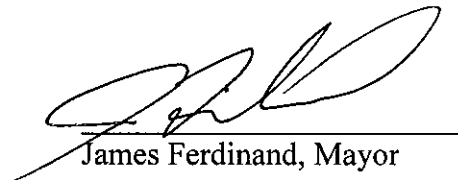
3-1-4: NOTICE TO ABATE:

A. Issuance: Whenever the mayor, city clerk-treasurer, building inspector or such other officer as provided by law finds that a public nuisance exists, he shall cause to be served upon the owner, agent, or occupant of the property on which the nuisance is located, or upon the person causing or maintaining the public nuisance, a written notice to abate or to request a hearing as provided in section 3-1-5 of this chapter.


SECTION 4: This ordinance shall be in full force and effect upon its passage, approval, and publication in the official newspaper of the City.

APPROVED by the Mayor and City Council this 8th day of November, 2017.

CITY OF MARSING
Owyhee County, Idaho


James Ferdinand, Mayor

ATTEST:


Janice Bicandi, City Clerk