

Model Ordinance: Protecting Groundwater Sources of Drinking Water

Background

Protection of Oregon's drinking water resources is critical to supply a growing population and to support the state's continued economic health. Safe drinking water is fundamental to any community's viability, and the cost of treating contaminated water is extremely high. Source water protection beyond federal Clean Water Act requirements is mainly a voluntary program which relies on local governments to take steps to care for their drinking water resource. Protecting drinking water involves reducing the risk of contamination of the groundwater, rivers, streams and lakes that serve as sources of drinking water for local communities.

This document provides model ordinance language that jurisdictions can use to protect drinking water obtained from groundwater sources. Developing a drinking water protection ordinance is one of many tools communities can voluntarily use to safeguard community health and reduce risk of water supply contamination. DEQ urges communities to examine all potential management options (such as education, outreach, incentives, technical assistance and land acquisition) and tailor a protection strategy to meet their specific needs.

Why use an ordinance or overlay zone?

A jurisdiction might determine that an ordinance is necessary to protect public health if 1) current regulations don't protect the drinking water supply to the level the community desires, 2) other potential management options are not as effective for potential risks addressed, or 3) to limit higher-risk activities in developed areas with a strong hydrologic connection to the drinking water source.

A local ordinance has the potential for reducing risk to drinking water from both new and existing sources of contaminants. However, mechanisms for review, inspection and enforcement associated with new development are different from those for existing development. A local drinking water protection ordinance typically defines the management area using a map and applies an overlay zone in which high-risk activities are restricted to protect the resource. The Oregon Health Authority and

DEQ have prepared source water assessments (<http://www.deq.state.or.us/wq/dwp/dwp.htm>) for all public water supplies serving at least 25 individuals or 15 service connections for at least 60 days each year. These assessments are a valuable for establishing boundaries for a drinking water protection ordinance. They include maps of the drinking water source area and provide important information on: zones that estimate the time for contaminants to move through the aquifer, highly sensitive areas within those source areas, plus an inventory of potential contamination sources.

The model ordinance provides standards for various development and other activities by leveraging natural protective functions of overlying soils and moderating higher-risk human activity. Risk of drinking water contamination will be reduced by:

- Prohibiting known high-risk land uses (such as landfills or certain industrial facilities)
- Setting standards for the use, handling and storage of toxic substances
- Special permitting or siting requirements for land uses that pose a potential risk
- Performance standards such as secondary containment standards for petroleum or chemical storage over a certain volume.

Using the model ordinance

The model ordinance language in the following pages can guide jurisdictions that develop a drinking water protection ordinance and overlay zone. Jurisdictions may alter the language as needed. Within this ordinance language, material to be customized by local jurisdictions is included in [brackets]. Brackets also show where a decision needs to be made. When the word [jurisdiction] is in brackets, the name of the city or county or the word "city" or "county" should be inserted.

For an electronic version of the model ordinance to modify for your community, please contact Julie Harvey, Portland, at 503- 229-5664 (toll-free in Oregon at 1-800-452-4011, ext. 5664) or e-mail harvey.julie@deq.state.or.us.



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7-12-13
Date

New Business
Agenda Item

Special Committee
Gov. Body

A
Exhibit #

Drinking Water Protection Overlay District Model Code (For groundwater sources)

Section 1.0 - General

The regulations that apply to this Drinking Water Protection (DWP) Overlay District are in addition to those of the underlying zoning districts and other [jurisdiction] regulations. Where the regulations and permitted uses of an underlying district conflict with those of an overlay district, the more restrictive standards shall apply.

Section 2.0 - Purpose

The [jurisdiction] recognizes: (a) that residents of [jurisdiction] rely exclusively on groundwater for a safe drinking water supply, and (b) that certain land uses in [jurisdiction] can contaminate groundwater, particularly in shallow and surficial aquifers. The purpose of the Drinking Water Protection (DWP) Overlay District is to protect public health and safety by minimizing contamination risks to the aquifer(s) that supplies (supply) [jurisdiction] with drinking water. This ordinance establishes standards for the use and storage of hazardous materials and other contaminant sources within the DWP Overlay District.

Section 3.0 - Definitions

AQUIFER. A geological formation, group of formations or part of a formation capable of storing and yielding groundwater to wells and springs.

DENSE NON-AQUEOUS PHASE LIQUID (DNAPL). A dense nonaqueous phase liquid is a liquid that is denser than water and does not dissolve or mix easily in water (it is immiscible). In the presence of water it forms a separate phase from the water.

DEVELOPMENT. The carrying out of any construction, reconstruction, alteration of surface or structure or change of land use or intensity of use that requires a permit.

HAZARDOUS MATERIALS. Substances defined as such in any of the following:

- (a) Hazardous waste as defined in ORS 466.005(7).
- (b) Toxic substances as defined in ORS 465.003(9)
- (c) Any substance defined as a hazardous substance pursuant to Comprehensive section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act, P.L. 96-510, as amended, and P.L. 99-499.
- (d) Oil as defined in ORS 465.200(19); and
- (e) Any substance designated by the Environmental Quality Commission under ORS 465.400.

INERT. Containing only constituents that are biologically and chemically inactive and that, when exposed to biodegradation and/or leaching, will not adversely impact the waters of the state or public health.

PRIMARY CONTAINMENT. A tank, pit, container, pipe or vessel of first containment of liquid or chemical.

RELEASE. Any unplanned or improper discharge, leak, or spill of a potential contaminant including a hazardous material.

SECONDARY CONTAINMENT. A second tank, catchment pit, pipe, or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area; monitoring and recovery are required.

TIME-OF-TRAVEL ZONE. The amount of time it takes groundwater to flow within an aquifer to a given well.

Section 4.0 - Drinking Water Protection (DWP) Overlay District and Zones

[Note: the Drinking Water Source Area is identified in the Source Water Assessment and may be certified by Oregon Health Authority (formerly the Department of Human Services). Jurisdictions are encouraged to update or enhance the Source Water Assessment delineation and assessment of sensitive areas to account for changes in well usage or pumping rates. When defining Zone A the jurisdiction should consider areas



that are highly sensitive and have a higher susceptibility. The jurisdiction may consider establishing administrative boundaries of the DWP Overlay District (based on streets or other landforms) that would encompass the Drinking Water Source Area for ease of implementation and enforcement.]

The Drinking Water Protection Overlay District is composed of the surface and subsurface area surrounding a water well, spring or well field supplying the public water system through which contaminants have a potential to move toward and reach that water well, spring, or well field. The Drinking Water Protection Overlay District includes two zones:

Zone A: Includes areas identified as highly sensitive [located within the 2-year time-of-travel zones or areas mapped as highly sensitive] in the Source Water Assessment; and

Zone B: All areas within the DWP Overlay District that are not included in Zone A.

The locations of Zone A and Zone B for each wellhead are shown on the Drinking Water Protection Overlay District Area Maps on file with the [jurisdiction]. The areas within the DWP Overlay District are based on the drinking water source areas certified by Oregon Health Authority, under the Oregon Administrative Rules that apply to Oregon's EPA-approved Drinking Water Protection Program, in Oregon Health Authority (Delineation Certification # [insert number and date].

Section 5.0 – Applicability

- A. The procedures and requirements of the DWP Overlay District:
 - 1. Apply in addition to the standards of the property's underlying zone;
 - 2. Supersede the property's underlying zone where the underlying zone does not provide the level of resource protection afforded by the DWP Overlay Zone.
- B. In determining the location of a property within a Zone of the DWP Overlay District, the following criteria shall apply:
 - 1. That portion of a tax lot that lies within a DWP Overlay District Zone shall be governed by the restriction applicable to that Zone; and
 - 2. Tax lots having parts lying within more than one Zone shall be governed by the standards of the more restrictive Zone. The [City/County Planning Director] may waive the requirement that the more restrictive standards apply when all of the following apply:
 - a) Storage, use, handling, treatment, production, and/or transportation of hazardous materials will not take place within the portion of the tax lot having the more restrictive DWP Overlay District Zone standards;
 - b) Storage, use, handling, treatment, production, and/or transportation of hazardous materials will not take place within 50 feet of the portion of the tax lot having more restrictive DWP Overlay District Zone standards; and
 - c) The tax lot is 20,000 square feet or larger.
- C. Activities Subject to Review. Activities subject to the review shall include all development and permitted use or storage of hazardous materials on properties within the DWP Overlay District that are not specifically exempted from review as outlined in Section 5(D) including:
 - 1. New development and all activities requiring development approval;
 - 2. Applications for a change of occupancy or tenancy that result in a change of use to a use that will store or use 20 or more gallons of non-exempt hazardous materials;
 - 3. Expansion of a non-conforming use, to the extent allowed by the underlying zone, is permitted only under the terms of a special exception and must conform to Section 6(B). Non-conforming uses are existing uses within Zone A of the DWP Overlay District that are otherwise prohibited by Section 6(A).
- D. Exemptions. This ordinance does not exempt any material or use from requirements under the Uniform Fire Code. Except as otherwise provided by this ordinance, the following activities and/or materials are exempt from this regulation:
 - 1. Use, storage, and handling of specific hazardous materials that do not present a risk to the groundwater drinking water source, as determined and listed by the [City/County Planning Director] in consultation with [public water supplier]. These materials may still need to be included on the Hazardous Material Inventory Statement as required by Fire Code. A Hazardous Material Exemption Request may be submitted to the [City/County Planning Director] for hazardous materials that can be demonstrated to pose no threat to the public groundwater source. These materials may be exempt from this regulation and added to the list of materials that do not pose a threat to the drinking water source. The demonstration of no threat is the responsibility of the applicant seeking the exemption and will be subject to review



by [jurisdiction]; [Note: jurisdiction can make this determination in consultation with a technical expert such as a consultant or OHA]

2. Hazardous materials offered for sale in their original containers of five (5) gallons or less; A Hazardous Material Exemption Request for original containers of greater than 5-gallons in size may be submitted to the [City/County Planning Director]. These materials may be exempt from this regulation if an applicant can demonstrate that a larger size container does not pose a threat to the drinking water source. The demonstration of no threat is the responsibility of the applicant seeking the exemption and will be subject to review by technical experts;
 3. Hazardous materials in fuel tanks and fluid reservoirs attached to a private or commercial motor vehicle and used directly in the motoring operation of that vehicle;
 4. Hazardous materials in fuel tanks and fluid reservoirs attached to machinery, including but not limited to fuel, engine oil and coolant;
 5. Fuel oil used in existing heating systems;
 6. Emergency use, storage and handling of hazardous materials by governmental organizations or non-governmental disaster relief organizations in the public interest;
 7. Hazardous materials used and stored specifically for water treatment processes of the public water system and private systems for the same purpose when approved by the [City/County Planning Director];
 8. Hazardous materials contained in properly operating sealed units (transformers, refrigeration units, etc.) that are not opened as part of routine use;
 9. Natural gas distribution lines;
 10. Any commonly used office supply, such as toner or cleaning supplies, where supplies are purchased off-site for use onsite;
 11. Hazardous materials not already listed in this section used in association with Farm Practices as defined in ORS 30.930 in an Exclusive Farm Use Zone and Confined Animal Feeding Operations (CAFOs) as defined OAR 603-074-0010;
 12. Pesticide use and storage specifically addressed by state preemption of local pesticide regulation under OAR 634.055 through 634.065;
 13. Hazardous material use in association with Forest activities conducted under the Forest Practices Act; and
 14. Aggregate quantities equal to or less than 20 gallons of non-exempt hazardous materials, which are not dense non-aqueous phase liquids (DNAPLs)
- E. Agency Review. Decisions made by the [Jurisdiction] under this ordinance do not supersede the authority of the state or federal agencies which may regulate or have an interest in the activity in question. It is the responsibility of the landowner to ensure that any other necessary state or federal permits or clearances are obtained.

6.0 – General Requirements

- A. Prohibited Uses. The following uses shall be prohibited within Zone A of the DWP Overlay District:
1. Storage, use, or production of hazardous materials, except as provided in Section 5(D);
 2. Fueling facilities and automobile service stations, except as provided in Section 5(D);
 3. Injection wells/dry wells/sumps except drywells for roof drainage;
 4. Underground storage tanks except those with spill, overfill, and corrosion protection requirements in place;
 5. Disposal of hazardous materials or solid wastes, except for inert substances such as rock, dirt and concrete as allowed by [reference local provisions and DEQ rule].
 6. Treatment of hazardous material, except remediation programs authorized by a government agency to treat hazardous material present at a site prior to the adoption of this ordinance;
 7. Disposal of septage or septic sludge;
 8. Automobile wrecking yards or activities, commercial or otherwise, that result in the accumulation of [4] or more non-operating vehicles; and
 9. Outside storage of [8] or more nonfunctioning appliances;
- [Note: Consider other uses that might impact your ground water drinking water supply and list them here. Provide clear and objective definitions or otherwise provide standards for activities that are allowable if best management practices (BMPs) are used. Refer to your Source Water Assessment for information on types and location of potential sources of contamination. Consider whether to*



prohibit uses from the entire DWP Overlay District or just the DWP Zone A based on local conditions and risk.]

- B. Performance Standards. Commercial activities occurring wholly or partly in the DWP Overlay District that involve the storage or use of more than 20 gallons of non-exempt hazardous materials or any volume of hazardous materials that contain dense non-aqueous phase liquids (DNAPLs) including businesses located in the DWP Overlay District Zone A that have received special exemption for non-conforming use as provided for in Section 5(C) shall be allowed upon compliance with the following conditions:
1. Storage, handling, treatment, use, production or otherwise keeping on premises hazardous materials shall be in compliance with containment and safety standards set by the most recent Fire Code adopted by [jurisdiction];
 2. All hazardous materials that pose a risk to groundwater shall be stored in areas with approved secondary containment in place (Uniform Fire Code Articles 2 and 8003.1.3.3);
 3. Underground tanks or buried pipes carrying such materials must have double walls and sumps which provide access for inspection and maintenance;
 4. Requirements found in Uniform Fire Code Appendix II-E 3.2.6 for a monitoring program and in Article 8003.1.3.3 for monitoring methods to detect hazardous materials in the secondary containment system shall be met for all amounts of non-exempt hazardous materials-that pose a risk to groundwater;
 5. Requirements found in Uniform Fire Code Appendix II-E Section 3.2.7 for monthly in-house inspection and maintenance of containment and emergency equipment for all amounts of non-exempt hazardous materials that pose a risk to groundwater shall be met; and
 6. A Safe Drinking Water Plan (SDWP) shall be prepared by the applicant in accordance with Section 7.0 and a copy submitted to [Name of Authority (local government authority or water utility)]. This plan must be updated annually and kept on the premises. SDWP approval in accordance with Section 7(C) shall be obtained before any change of use, construction, storage or development begins.

[Note: The jurisdiction shall verify that the above referenced appendices of the Uniform Fire Code have been adopted by the jurisdiction.]

Section 7.0 - Safe Drinking Water Plans

- A. Safe Drinking Water Plan Submittal Requirements:
1. For new development and all activities requiring development approval, a Safe Drinking Water Plan shall accompany any new application involving the storage or use of non-exempt hazardous materials.
 2. Existing businesses that are required to have a SDWP by Section 6(B) of this ordinance shall submit a copy of the SDWP within [12 months] of the effective date of this ordinance.
 3. New or expanding businesses that that are required to have a SDWP by Section 6(B) of this ordinance and will occupy existing structures or for other reasons will not require review by the planning or building department shall prepare or update their SDWP and submit it to [Name authority] prior to beginning or expanding operations. For the purpose of this ordinance, expansion is defined as a greater than [10%] increase in the use, storage or production of hazardous materials, since the previous SDWP was submitted. *[Note: Without periodic inspection or reporting requirements jurisdictions need to rely on business owners to initiate reporting for this provision. Outreach and education may be needed to inform business of their responsibility.]*
- B. The Safe Drinking Water Plan shall contain the following information:
1. Hazardous Material Inventory Statement and, upon request from the [City/County Planning Director], a Material Safety Data Sheet for any hazardous materials to be used, stored or produced on site that are not exempt by Section 5(D) of this ordinance. Hazardous material weights shall be converted to volume measurement for purposes of determining amounts-10 pounds shall be considered equal to 1 gallon in conformance with Uniform Fire Code 80001.15.1;
 2. A detailed description of the activities conducted at the facility that involve the storage, handling, treatment, use or production of non-exempt hazardous materials;
 3. A description of the primary and secondary containment devices proposed and an explanation of whether such containment devices will drain to sanitary or storm sewer;
 4. A proposed Hazardous Material Management Plan for the facility that describes procedures to



- be followed to prevent, control, collect and dispose of any accidental release of hazardous material including a list of available equipment;
5. Spill reporting procedures, including a list of affected agencies to be contacted in the event of a spill
 6. A description of procedures for inspection and maintenance of containment devices and emergency equipment; and
 7. A description of procedures for disposition of unused hazardous materials or hazardous material waste products including the type of transport and proposed route;
 8. A list of the chemicals to be monitored through the analysis of groundwater samples and a monitoring schedule if ground water monitoring is anticipated to be required under state or local government water quality permit, cleanup agreements, or other requirements ;
 9. Location of all operating, unused and abandoned wells on the property.

C. Safe Drinking Water Plan Review and Approval

The Safe Drinking Water Plan shall be reviewed under Type II procedures [reference appropriate section of jurisdictions code or see Oregon Department of Land Conservation and Development’s *Model Development Code & User’s Guide for Small Cities, 2nd Edition, 2005 for examples*].

[Note: Type II decisions are typically made by the City/County Planning Director or someone he or she officially designates with consultation from appropriate officials such as building, fire, or public water system entity. The jurisdiction may choose to coordinate with the local water utility and direct plan submittals under Section 6(B) and SDWPs to the water utility for review.]

Section 8.0 - On-Site System Inspection and Maintenance

Reserved [For drinking water sources that are at risk for elevated nutrient or bacteria levels the implementation of a periodic inspection and maintenance requirement for owners of individual onsite septic system should be considered to ensure proper functioning of the system. In 2010, an external advisory committee convened by DEQ suggested changes to the state rules governing onsite systems including recommendations for time-of-property-transfer inspections, periodic maintenance and reporting requirements, and increased enforcement for violations. DEQ is implementing portions of these recommendations as resources allow. Contact DEQ’s onsite program for updated rule-making information and DEQ’s drinking water protection program for technical assistance if the local jurisdiction is interested in adopting language that is more restrictive than the state rules].

Section 9.0 - Abandoned Wells

Since it is known that unused or improperly abandoned wells can become a direct conduit for contamination of groundwater by surface water, all unused wells shall be properly abandoned and abandoned wells should be properly plugged according to Oregon Water Resources Department regulations.

Section 10.0 Request for Overlay District Modification

A property owner may request the DWP Overlay District be modified by submitting a DWP Overlay District Change application to the [jurisdiction]. Any request for modification of the DWP Overlay District shall be accompanied by certification of the DWP Overlay District as proposed to be modified by the Oregon Health Authority , under the Administrative Rules that apply to Oregon’s EPA-approved Drinking Water Protection Program. *[Note. Since the overlay zone is a part of the zoning code, any change would also have to be submitted to DLCD as a Post-Acknowledgement Plan Amendment (PAPA).]*

Section 11.0 - Appeals

The portions of this ordinance that are subject to appeal are Section 7(C) approval of Safe Drinking Water Plan, Section 5(D)(1) and 5(D)(2) Hazardous Materials Exemptions Request and *[consider adding other sections if modified from model code.]* The appeal of a decision of the [City/County Planning Director] may be appealed to the [Planning Commission] under [Type III or amend procedure type as appropriate] as specified in [reference appropriate section of code].

Section 12.0 - City/County Liability

Warning and Disclaimer of Liability. The degree of aquifer protection required by this Article in the DWP Overlay District is based on scientific and engineering considerations. The nature of these considerations is such that the exact boundaries of Zone A and Zone B have an associated uncertainty that renders conclusions based on them to be estimates. Under no conditions should this Article be construed to



guarantee the purity of the ambient ground water or guarantee the prevention of ground water contamination. Therefore, this Article shall not create liability on the part of the [jurisdiction], or any [jurisdiction] personnel, for any contamination that may result from reliance on this Article or any administrative decision made under this Article.

Section 13.0 - Enforcement

[Reference to appropriate section of the Development Code.]

Section 14.0 - Saving Clause

Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the ordinance as a whole or any other part thereof.

For more information

Contact Julie Harvey, DEQ Drinking Water Protection Program, Portland, 503-229-5664 (toll-free in Oregon at 1-800-452-4011, ext. 5664) or e-mail harvey.julie@deq.state.or.us.

To obtain a local or regional map or copy of an individual source water assessment report, or to arrange a presentation on drinking water protection, contact **Julie Harvey**, drinking water protection specialist, DEQ, Portland, phone listed above. For information on land-use planning for drinking water protection, contact **Amanda Punton**, Oregon Department of Land Conservation and Development, **971-673-0961**.

Oregon OHA – Drinking Water Program

<http://www.healthoregon.org/dwp>

Oregon DEQ

<http://www.deq.state.or.us/wq/dwp/dwp.htm>

Oregon Department of Land Conservation and Development

Water Quality Model Code and Guidebook

<http://www.oregon.gov/LCD/waterqualitygb.shtml>

U.S. Environmental Protection Agency

EPA's Office of Ground Water and Drinking Water <http://www.epa.gov/safewater/>

Alternative formats

Alternative formats (Braille, large type) of this document can be made available. Contact DEQ's Office of Communications & Outreach, Portland, at 503-229-5696, or call toll-free in Oregon at 1-800-452-4011, ext. 5696. Hearing-impaired persons may call 711.



7-12-13
DateSpecial Committee
Gov. Body

Boulder, CO

New Business
Agenda ItemB
Exhibit #

Chapter 6-10: Pesticide Use²⁷

6-10-1 Legislative Intent. [top↑](#)

(a) It is the intent of the city council in enacting this chapter to prescribe requirements concerning pesticides in order to preserve the health, safety, and welfare of the inhabitants of the city. The council finds that there are federal and state laws that regulate pesticides, but that those laws do not exclude local government regulation not inconsistent therewith. The council finds that this chapter is not inconsistent with federal and state laws, and is not preempted by any such laws. The city council finds that the provisions of this chapter address the city's local and municipal concerns of storage, disposal, spill, water and sewer system, landlord-tenant, employee notification, trespass, and nuisance concerns not addressed by federal and state law.

(b) The city council finds that the unique wind conditions in the city cause drift to occur during airborne applications of pesticides and that absent pre-application notification, airborne applications of pesticides constitute a nuisance. It is the intent of the city council in enacting this chapter to prescribe requirements concerning the notification of the public of the outdoor use of pesticides. The city council finds that this objective is not inconsistent with federal and state laws, and is not preempted by any such laws. The city council further finds that notification of outdoor pesticide use is a matter of local and municipal concern.

(Ordinance No. 5266 (1990))

6-10-2 Definitions. [top↑](#)

(a) As used in this chapter, the following terms shall have the following meanings unless the context clearly indicates that a different meaning is intended:

"Airborne application" means the application of pesticides by misting or spraying plant materials greater than five feet in height, or by use of a fogger.

"Anti-siphon device" means any device that prevents pesticides from flowing back into the city's water system.

"Commercial applicator" means a person which owns or manages any business activity in which pesticides are applied upon the lands of another for hire or which receives, directly or indirectly, any compensation for such activity. This definition does not include maintenance personnel hired by commercial establishments, if such personnel have a variety of maintenance duties.

"Commercial property" means property owned or leased by a business, industry, church, school, or government on which goods or services are provided to the public.

"Contracting party" means a person which hires a commercial applicator or other person to apply pesticides.

"Defoliant" means any substance or mixture of substances intended to cause leaves or foliage to drop from a plant, with or without causing abscission.

"Desiccant" means any substance or mixture of substances intended to accelerate artificially the drying of plant tissues.

"FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. section 136 et seq., as amended.

"Fogger" means a piece of equipment that breaks some pesticides into very fine droplets (aerosols or smokes) and blows or drifts the fog onto the target area.

"Mist blower" means spray equipment in which hydraulic atomization of the liquid at the nozzle is aided by an air blast past the source of spray.

"Misting" means the production of a cloud-like mass or layer of minute globules of pesticide in the air through use of a mist blower or similar device.

"Pest" means any insect, snail, slug, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacterium, or other microorganism which is declared by the Colorado State Department of Agriculture to be a pest or which is considered a pest under FIFRA, except those on or in the human body or on or in other living animals.

"Pesticide" means any substance or mixture of substances intended for destroying or repelling any pest. This includes, without limitation, fungicides, insecticides, nematocides, herbicides, and rodenticides and any substance or mixture of sub-stances intended for use as a plant regulator, defoliant, or desiccant. The following products are not pesticides:

- (1) Deodorizers, bleaching agents, disinfectants, and cleaning agents for which no pesticidal claims are made in the sale, or distribution thereof, and
- (2) Fertilizers and plant nutrients.

"Pesticide Act" means the Colorado Pesticide Act, section 35-9-101 et seq., C.R.S., as amended.

"Pesticide Applicators' Act" means the Colorado Pesticide Applicator's Act, 35-10-101 et seq., C.R.S., as amended.

"Pesticide regulations" means 40 C.F.R. section 162 et seq., and 8 C.C.R. section 1203-2.

"Plant regulator" means any substance or mixture of substances intended to accelerate or retard, through physiological action, the rate of growth or maturation or otherwise to alter the behavior of plants or their produce, but does not include a plant nutrient, trace element, nutritional chemical, plant inoculant, or soil amendment.

"Spill" means the introduction of any pesticide into the environment in a manner other than that prescribed by the label.

"Spray" means a mixture of a pesticide with water or other liquid applied in fine droplets.

"User of pesticides" means any person which applies or causes the emission of a pesticide into the environment, whether by spraying, misting, fogging, dusting, dragging, or other means. Users of pesticides include, without limitation, commercial applicators, contracting parties, property owners, and governmental entities.

(b) Words defined in chapter 1-2, "Definitions," B.R.C. 1981, have the meanings there expressed if not differently defined by this chapter.

6-10-3 Licensing of Commercial Applicators. [top↑](#)

No commercial applicator shall engage in the use or application of pesticides without a valid current state license as required by the Pesticide Applicators' Act and the regulations promulgated thereunder.

6-10-4 Maintenance of Records. [top↑](#)

(a) Each commercial applicator shall maintain a record of information concerning each pesticide application. The record shall be consistent with state record keeping requirements, as set forth in section 35-10-111, C.R.S., as amended.

(b) Immediately following any pesticide application, each commercial applicator shall provide a full copy of the record set forth in subsection (a) of this section to the contracting party.

(Ordinance No. 5266 (1990))

6-10-5 Reports of Spills. [top↑](#)

No user of pesticides which spills a pesticide or applies a pesticide in violation of any state or city law or regulation shall fail to report such event to the city manager immediately. In addition, no such person shall fail to notify all property owners and tenants who are or may be directly affected by the spill or improper application by making an immediate reasonable attempt at personal or written notification of all such property owners and tenants.

(Ordinance No. 5266 (1990))

6-10-6 Storage, Disposal, and Use. [top↑](#)

(a) No person shall transport, store, dispose of, or use any pesticide or pesticide container in such a manner as to cause injury to human beings, vegetation, crops, livestock, wildlife, or other animals or so as to contaminate any surface water or groundwater.

(b) No person shall fail to comply with the safety precautions recommended by the manufacturer of the pesticides in using, storing, or disposing of a pesticide container.

(c) No person shall use city water to fill any tank or for any other purpose except for application in accordance with subsection (d) of this section, without keeping a six-inch space between any connection to the city water supply and any pesticide.

(d) No person shall fail to use an anti-siphon device for any pesticide application method which connects to the city water system.

(e) No person shall flush, dump, or dispose of any pesticide into any city sanitary sewer, storm sewer, ditch, lake, or any other area that may flow into such a sewer, ditch, or lake. No person shall fail to dispose of pesticides pursuant to any applicable state statutes and regulations.

(Ordinance No. 5266 (1990))

6-10-7 Notification to Tenants and Employees of Indoor Application. [top↑](#)

(a) Unless all affected tenants agree that an emergency exists and consent in writing to a shorter period, no property owner or contracting party shall fail to provide written notification to tenants not less than forty-eight hours and not more than seven days before the application of a pesticide to rental residential property owned by such property owner or contracted for by such contracting party or any common area associated with such property. Such notice may be accomplished by mail, by personal delivery, by doorknob hangers or by putting notices under doors. Such notice shall contain, at a minimum, the proposed date and time when the application is to occur, the dwelling or rooming unit number where the application is to occur, the pesticide to be used, and the names and telephone numbers of the property owner or manager and the applicator. All tenants of each dwelling unit in which pesticides are to be applied must be given written notice. For applications to common areas, it is sufficient to post a notice at a common point of entry to that area.

(b) Except for manufacturing businesses regulated under the Occupational Safety and Health Hazard Communication Standard, 29 C.F.R. section 1910, as amended, in SIC codes 20-39, no employer or contracting party which causes pesticides to be applied shall fail to provide reasonable notification of such application sufficient to allow an opportunity to avoid exposure to all persons having their principal place of employment at a work site prior to any pesticide application to any part of the work site where such employee would, upon reasonable inquiry, be expected to work within twenty-four hours following the pesticide application.

(c) Subsections (a) and (b) of this section apply only to indoor applications of pesticides.

(Ordinance No. 5358 (1991))²⁸

6-10-8 Enforcement. [top↑](#)

(a) For the purpose of carrying out the provisions of this chapter, the city manager or the manager's designee may enter upon any public or private land in a reasonable and lawful manner during reasonable business hours for the purposes of inspection and observation.

(b) If denied access to any land or building, the city manager may apply to the municipal court for a search warrant or other appropriate court order.

6-10-9 Federal and State Statutes and Regulations. [top↑](#)

Repealed.

6-10-10 Emergency Suspension. [top↑](#)

The city manager or the manager's designee may suspend any portion of this chapter in the event of an emergency situation which threatens irreparable harm to the health, safety or welfare of the inhabitants of the city or to the city's environment.

6-10-11 Pre-Application Notification of Airborne Application. [top↑](#)

(a) Prior to airborne application of any pesticide, no contracting party or other user of pesticides, shall fail to give notice to all occupants of all adjacent properties. For purposes of this section, properties located diagonally from the affected property and touching only on a property corner or other point shall be considered to be adjacent, and rights-of-way shall be disregarded in such determinations.

(b) The notice shall be given at least twenty-four hours prior to application.

- (c) The notice shall be valid for seven days after it is given.
- (d) The notice may be given by posting signs on the property to be treated or by giving verbal or written notice.
- (e) The notice shall contain at a minimum the following information:
 - (1) Date notice given;
 - (2) Indication that pesticides will be applied and the approximate date of application;
 - (3) The name and telephone number of the contracting party or other user of pesticides; and
 - (4) Date notice expires.
- (f) If notice is given by posting signs on the property to be treated, such signs shall conform to the following criteria:
 - (1) There shall be a minimum of one water-resistant sign along the principal street frontage of the property.
 - (2) Signs shall be placed so that the warning is conspicuous from the public right-of-way. All required information shall be on one face of the sign.
 - (3) For property surrounding commercial buildings or attached dwelling units, signs shall be posted at common access points.
 - (4) For city park or open space property, signs shall be posted at each trailhead, street access, or sidewalk entry point, and any additional common access points.
 - (5) Signs shall be a minimum of one foot by one foot in area, and a maximum of two square feet in area per face.
 - (6) Signs shall be placed at a maximum height of six feet.
 - (7) There shall be no greater size of letters for identification of the applicator than for any other information on the sign.
 - (8) Signs shall be dark lettering on a bright yellow background.
- (g) If a commercial property or an attached (i.e., multi-family) residential dwelling is located adjacent to property on which an airborne application of any pesticide is to occur as set forth above, no contracting party or other user of pesticides shall fail to make a reasonable attempt to notify the owner or manager of the property at least forty-eight hours prior to the pesticide application. Upon receipt of such notice, such owner or manager shall not fail to post in a prominent place the information that the adjacent property will be treated.

(Ordinance No. 5358 (1991))

6-10-12 Post-Application Notification of Outdoor Application. [top↑](#)

- (a) No contracting party or other user of pesticides which applies pesticides outdoors shall fail to display at least one warning sign for at least twenty-four hours following each pesticide application, or longer if suggested or required by the manufacturer's label. All signs shall be posted at the time of the pesticide application.
- (b) Signs shall conform to the following criteria:
 - (1) Signs shall include the following statement:

"WARNING, PESTICIDES APPLIED.

Name: Phone: .

Remove sign after 24 hours, or per label requirements."
 - (2) The name and telephone number shall be either the contracting party or other user of pesticides.
 - (3) Signs shall be at a mini-mum of four inches by five inches in area per face, and a maximum of two square feet

in area per face.

(c) Signs shall comply with all other criteria set forth in subsection 6-10-11(f), B.R.C. 1981, except subparagraph 6-10-11(f)(5), B.R.C. 1981.



(Ordinance Nos. 5358 (1991); 5393 (1991))

6-10-13 Exceptions. [top↑](#)

No notice of outdoor application is required pursuant to [section 6-10-12](#), "Post-Application Notification of Outdoor Application," B.R.C. 1981, under the following circumstances:

- (a) Individual spraying of weeds if the spraying distance is less than three feet; and
- (b) Spot treatment of areas that are less than a total area of one hundred square feet on a lot.

6-10-14 Post-Application Notification of Lake Application. [top↑](#)

(a) In addition to the notice required pursuant to [section 6-10-11](#), "Pre-Application Notification of Airborne Application," B.R.C. 1981, no contracting party or other user of pesticides which applies pesticides to a lake or other open body of water shall fail to post the shoreline of that body of water with a warning sign. Such signs shall be placed every three hundred feet for the period of time during which the manufacturer's label warns against reentering the lake or using its water, but under no circumstances shall such time be less than twenty-four hours.

(b) Signs shall include at a minimum the following information:

(1) The statement:

"THIS LAKE TREATED WITH PESTICIDES. STAY OUT.

Name: _____ Phone: _____

Remove sign after 24 hours, or per label requirements."

(2) The name and telephone number shall be either the contracting party or other user of pesticides.

(3) Signs shall be a minimum of four inches by five inches in area per face, and a maximum of two square feet in area per face.

(c) Signs shall comply with all other criteria set forth in subsection 6-10-11(f), B.R.C. 1981, except subparagraph 6-10-11(f)(5), B.R.C. 1981.

(d) The requirements of this section shall not apply to commercial applicators, unless they voluntarily assume such duty on behalf of the contracting party.

HAZARDOUS SUBSTANCE DISCHARGE AND REMOVAL

6.340 **Hazardous Substance - Definitions.** For purposes of sections 6.345 to 6.380, the following words and phrases mean:

City Manager. City Manager or designee.

Environment. Waters in the city, surface and underground drinking water supply, land surface, subsurface strata and ambient air.

Facility. Any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located and where a release has occurred or where there is a threat of a release, but does not include any consumer product in consumer use or any vessel.

Hazardous Substance. Any hazardous waste as defined in ORS 466.005; any substance defined as a hazardous substance pursuant to Section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act, P.L. 96-510, as amended, and P.L. 99-499; oil, including gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge or refuse of any other petroleum-related product or waste or fraction thereof that is liquid at a temperature of 60 degrees Fahrenheit and pressure of 14.7 pounds per square inch absolute.

Owner or operator. Any person who owned, leased, operated, controlled or exercised significant control over the operation of a facility. "Owner or operator" does not include a person, who, without participating in the management of a facility, holds indicia of ownership primarily to protect a security interest in the facility.

Person. An individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, partnership, association, corporation, commission, state and any agency thereof, political subdivision of the state, interstate body or the Federal Government including any agency thereof.

Release. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment including the abandonment or discarding of barrels, containers, underground storage tanks and other closed receptacles containing any hazardous substance, or threat thereof, but excludes:

- (a) Any release which results in exposure to a person solely within a work place, with respect to a claim that the person may assert against the person's employer under ORS chapter 656;
- (b) Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel or pipeline pumping station engine;

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- (c) Any release of source, by-product or special nuclear material from a nuclear incident, as these terms are defined in the Atomic Energy Act of 1954, as amended, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of the Atomic Energy Act of 1954, as amended, or, for the purposes of any removal or remedial action, any release of source by-product or special nuclear material from any processing site designated under section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978;
- (d) A discharge in accordance with federal, state or local governing regulations or permits of the Lane Regional Air Pollution Authority, with a National Pollutant Discharge Elimination System Permit, with waste discharge requirements established by the Oregon Department of Environmental Quality (DEQ), or with the sewer pretreatment requirements of the Industrial Monitoring Section of the city's Public Works Department's Wastewater Division;
- (e) The normal application of fertilizer
- (f) Application of pesticides as defined by ORS Chapter 634, when such application is made within the provision of applicable state and federal regulations;
- (g) Application of agricultural lime, gypsum and other agricultural/horticultural soil amendments when made for that purpose and according to current industry practice;
- (h) Application of water based paint, when used as athletic field marking; and
- (i) Any release from a residential heating oil tank serving an owner-occupied single family dwelling.

Removal. The cleanup or removal of a released hazardous substance from the environment, such actions as may be necessary in the event of the threat of release of a hazardous substance into the environment, such actions as may be necessary to monitor, assess and evaluate the release or threat of release of a hazardous substance, the disposal of removed material, or the taking of such other actions as may be necessary to prevent, minimize or mitigate damage to the public health, safety or welfare which may otherwise result from a release or threat of release. "Removal" also includes but is not limited to security fencing or other measures to limit access, provision of alternative drinking and household water supplies, temporary evacuation and housing of threatened individuals and action taken under ORS 465.260.

Removal action costs. Reasonable costs which are attributable to or associated with a removal action at a facility, including but not limited to the costs of administration, investigation, legal or enforcement activities, contracts and health studies.

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Responsible Party. The current owner or operator; any owner or operator at or during the time of the acts or omissions that resulted in the release; any owner or operator who became the owner or operator after the time of the acts or omissions that resulted in the release, and who knew or reasonably should have known of the release when the person first became the owner or operator; any owner or operator who obtained actual knowledge of the release at the facility during the time the person was the owner or operator of the facility and then subsequently transferred ownership or operation of the facility to another person without disclosing such knowledge; any person who unlawfully hinders or delays entry to, investigation of or removal action at a facility; and any person who, by any acts or omissions, caused, contributed to, or exacerbated the release, unless the acts or omissions were in material compliance with applicable laws, standards, regulations, licenses or permits.

Underground storage tank. Any one or combination of tanks and underground pipes connected to the tank, used to contain an accumulation of a regulated substance, and the volume of which, including the volume of the underground pipes connected to the tank, is ten percent or more beneath the surface of the ground.

Waters. Includes lakes, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, canals, and all other bodies of surface or underground waters, natural or artificial, public or private, which are wholly or partially within the city or within its jurisdiction.

(Section 6.340 added by Ordinance No. 19862, enacted June 22, 1992, effective July 22, 1992; and amended by Ordinance No. 20301, enacted November 10, 2003, effective December 10, 2003.)

- 6.345 Hazardous Substance - Purpose.** The release of hazardous substances into the environment may present imminent and substantial threats to the public health, safety and welfare. In some, but not all cases, the United States Environmental Protection Agency or the Oregon Department of Environmental Quality become involved to ensure cleanup of contamination. It is not the intent of sections 6.345 to 6.380 of this code to have the city become involved where the Environmental Protection Agency and Department of Environmental Quality are involved. Due to the limited resources of the Environmental Protection Agency and Department of Environmental Quality, however, those agencies do not always have the ability to immediately respond to the release or identification of hazardous substances which threaten the public health, safety and welfare. The purpose of sections 6.345 to 6.380 is to minimize those threats by ensuring:
- (a) Prompt identification of discharges or threats of discharges into the environment of hazardous substances which present imminent risks to the public health, safety and welfare; and
 - (b) Implementation of removal actions.

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The authorizations contained in sections 6.340 to 6.380 of this code are in addition to any other authority the city manager may have under other provisions of this code or applicable federal or state laws or regulations.

(Section 6.345 added by Ordinance No. 19862, enacted June 22, 1992, effective July 22, 1992.)

6.350 Hazardous Substance - City Manager Authority to Undertake Removal Action.

- (1) In addition to any other authority granted by law, the city manager, when he or she has reason to believe that hazardous substances pose imminent threats to the public health, safety or welfare, may:
 - (a) Undertake independently, in cooperation with others or by contract, investigations, studies, sampling, monitoring, assessments, surveying, testing, analyzing, planning, inspecting, training, engineering, design, construction, operation, maintenance and any other activity necessary to conduct removal action and to carry out the provisions of sections 6.345 to 6.380.
 - (b) Recover the city's removal action costs.
- (2) Each responsible party is jointly, severally and strictly liable for those removal action costs incurred by the city that are attributable to or associated with a facility.

(Section 6.350 added by Ordinance No. 19862, enacted June 22, 1992, effective July 22, 1992.)

6.355 Hazardous Substance - Prohibition on Releases. Unless authorized by state or federal law, no person may release, or cause to be released, any hazardous substance into the environment, or into the waters upstream of the boundaries of the city when such release results in detectable levels of contamination in the waters that subsequently enter the city's jurisdiction.

(Section 6.355 added by Ordinance No. 19862, enacted June 22, 1992, effective July 22, 1992.)

6.360 Hazardous Substance - Duty to Report. Any person who releases, or who causes or discovers a release of, a hazardous substance into the environment shall immediately report the release to the city if state or federal law imposes an obligation on such person to report the release to a state or federal agency.

(Section 6.360 added by Ordinance No. 19862, enacted June 22, 1992, effective July 22, 1992.)

6.365 Hazardous Substance - Assessment, Evaluation and Investigation.

- (1) The city manager, when he or she has reason to believe that hazardous substances pose imminent threats to the public health, safety or welfare, may undertake any assessment, evaluation or investigation of known or suspected contamination where necessary to protect the public health, safety and welfare. Notwithstanding the foregoing, nothing in this section 6.365 authorizes the city manager to undertake, or to order any action related to property which is subject to an enforceable order issued by the Oregon Department of Environmental Quality or United States Environmental Protection Agency if the order

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requires investigation or remediation of suspected or known contamination.

- (2) The city manager, when he or she has reason to believe that hazardous substances pose imminent threats to the public health, safety or welfare, may authorize any person to carry out any assessment, evaluation or investigation in accordance with any requirements of or directions from the city manager, if the city manager determines that the person will commence and complete the assessment, evaluation or investigation properly and in a timely manner.
- (3) The city manager, when he or she has reason to believe that hazardous substances pose imminent threats to the public health, safety or welfare, may require any responsible party to conduct any assessment, evaluation or investigation which the city manager determines is necessary to protect the public health, safety and welfare. An order of the city manager is appealable only as provided by subsection (4) of this section.
- (4) Any person who receives and complies with the terms of an order issued pursuant to subsection (3) of this section may, within 60 days after completion of the required action, petition the city manager for reimbursement for the reasonable costs of such action. If the city manager denies reimbursement, the person may appeal the city manager's denial to a hearings officer in accordance with the timelines and procedures established by section 2.021 of this code. To obtain reimbursement, the person must establish by a preponderance of the evidence that the person is not a responsible party, and that the costs for which the person seeks reimbursement are reasonable in light of the action required by the relevant order; these criteria are the sole basis for reimbursement.
- (5) If any responsible party fails without sufficient cause to conduct an assessment, evaluation or investigation as required by an order of the city manager under subsection (3) of this section the responsible party shall be liable to the city for the city's removal action costs and for punitive damages not to exceed three times the amount of the city's removal action costs.

(Section 6.365 added by Ordinance No. 19862, enacted June 22, 1992, effective July 22, 1992.)

6.370 Hazardous Substance - Removal Action.

- (1) The city manager, when he or she has reason to believe that hazardous substances pose imminent threats to the public health, safety or welfare, may undertake any removal action necessary to protect the public health, safety and welfare. Notwithstanding the foregoing, nothing in this section authorizes the city manager to undertake or order any action related to property which is subject to an enforceable order issued by the Oregon Department of Environmental Quality or United States Environmental Protection Agency if the order requires investigation or removal of suspected or known contamination.

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- (2) The city manager, when he or she has reason to believe that hazardous substances pose imminent threats to the public health, safety or welfare, may authorize any person to carry out any removal action in accordance with any requirements of or directions from the city manager, if the city manager determines that the person will commence and complete removal action properly and in a timely manner.
- (3) The city manager, when he or she has reason to believe that hazardous substances pose imminent threats to the public health, safety or welfare, may require any responsible party to conduct any removal action necessary to protect the public health, safety and welfare. The city manager's action under this subsection may include but need not be limited to issuing an order specifying the removal action the person must take. An order of the city manager is appealable only as provided by subsection (4) of this section.
- (4) Any person who receives and complies with the terms of an order issued pursuant to subsection (3) of this section may, within 60 days after completion of the required action, petition the city manager for reimbursement for the reasonable costs of such action. If the city manager denies reimbursement, the person may appeal the city manager's denial to a hearings officer in accordance with the timelines and procedures established by section 2.021 of this code. To obtain reimbursement, the person must establish by a preponderance of the evidence that the person is not a responsible party, and that the costs for which the person seeks reimbursement are reasonable in light of the action required by the relevant order; these criteria are the sole basis for reimbursement.
- (5) If any responsible party fails without sufficient cause to conduct a removal action as required by an order of the city manager issued under subsection (3) of this section, the responsible party shall be liable to the city for the city's removal action costs and for punitive damages not to exceed three times the amount of the city's removal action costs.

(Section 6.370 added by Ordinance No. 19862, enacted June 22, 1992, effective July 22, 1992.)

6.375 Hazardous Substance - Prohibition on Building. Where the city manager has reason to believe that a proposed building site is contaminated by a release of hazardous substances, and that such contamination poses an imminent threat to the public health, safety and welfare, the city manager may refuse to issue a building permit, or where a permit has been issued, stop work on the permit, until such time as a removal action is implemented. If the responsible party can demonstrate that construction and the removal action can occur simultaneously, and satisfies the city manager that the removal action will continue even if construction is allowed to proceed, the city manager may authorize construction to continue or may issue permits prior to completion of the removal action. In order to ensure completion of the removal action, the city manager may require a bond in an amount sufficient to cover the costs of the removal action.

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(Section 6.375 added by Ordinance No. 19862, enacted June 22, 1992, effective July 22, 1992.)

- 6.380** **Hazardous Substance - Violations.** In addition to the penalties set forth in subsections (8), (9), and (10) of section 6.990 of this code:
- (a)** For violations of sections 6.345 to 6.375 of this code, the city manager may proceed either by imposing an administrative civil penalty pursuant to section 2.018 of this code, except that the amount of the penalty shall be governed by subsection (b) of this section or subsections (8), (9) or (10) of section 6.990, or by citing responsible party into municipal court.
 - (b)** In setting the amount of a civil penalty, the city manager (for an administrative civil penalty) and the municipal court shall impose a penalty sufficient to deter persons from violating sections 6.345 to 6.375 of this code, and shall be not less than three times the economic benefit which the responsible party would derive if the violation had not been discovered.

(Section 6.380 added by Ordinance No. 19862, enacted June 22, 1992, effective July 22, 1992.)

Hillsboro – code 6.12.040

6.12.040 Recreational vehicles and trailers

A. No person may:

1. Park, store or leave a recreational vehicle or trailer on a public street or lot owned or operated by the city for longer than 24 hours unless the recreational vehicle or trailer is owned by a public agency;

2. Live, sleep or reside in a recreational vehicle or trailer located on a lot or on a public street unless the street or lot is designated for **overnight camping**; or

3. Park, store or leave a recreational vehicle or trailer containing items or materials defined as a nuisance on private or public property for longer than 24 hours.

B. An uninhabited recreational vehicle or trailer may be parked, stored or left on a public street for up to five cumulative days in a 14-day period, but only if the vehicle is parked directly in front of the owner's property. Such vehicle must be parked in a manner not to interfere with emergency, utility and postal vehicles and must be parked in compliance with state law.

C. A recreational vehicle or trailer containing any hazardous, combustible or explosive materials parked, stored or left in a residential zone or near a school, hospital, nursing facility or any other place where groups of people gather, will be declared an immediate hazard and removed immediately under authority of the manager. (Ord. 5997 § 2, 2011)

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Van Horn, Texas, Code of Ordinances >> Title 12 - STREETS, SIDEWALKS AND PUBLIC PLACES >>
Chapter 12.12 - OVERNIGHT PARKING AND CAMPING REGULATIONS >>

Chapter 12.12 - OVERNIGHT PARKING AND CAMPING REGULATIONS

Sections:

- [12.12.010 - Title.](#)
- [12.12.020 - Purpose.](#)
- [12.12.030 - Definitions.](#)
- [12.12.040 - Regulations and restrictions on camping.](#)
- [12.12.050 - Enforcement and penalties.](#)

12.12.010 - Title.

This chapter shall be known as the ordinance regulating overnight parking and camping within the town of Van Horn and its extra-territorial jurisdiction.

12.12.020 - Purpose.

- A. This chapter is adopted in order to promote and protect the health, safety, welfare and property of the city and its inhabitants through the regulation of overnight parking, congregating, sleeping, standing and/or camping on and near public areas, vacant lots, roadways, alleyways, rights-of-way, and public thoroughfares.

12.12.030 - Definitions.

- A. The term "public area" shall mean an outdoor area to which the public has access and includes, but is not limited to, streets, highways, parks, parking lots, alleyways, pedestrian ways, vacant or uninhabited lots or parcels of land, rights-of-way, and the common areas of schools, hospitals, apartment houses, office buildings, service stations, transport facilities, churches and shops.
- B. The term "camp" means to use a public area for living accommodation purposes for a period of time in excess of four (4) consecutive hours, for activities such as, but not limited to, the following:
 - 1. Sleeping, or making preparations to sleep, including the laying down of bedding for the purpose of sleeping;
 - 2. Parking of a motor vehicle, motor home, or trailer for the apparent purpose of overnight occupancy;
 - 3. Storing personal belongings;
 - 4. Making any fire;
 - 5. Carrying on cooking activities; or
 - 6. Doing any digging or earth breaking.

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12.12.040 - Regulations and restrictions on camping.

- A. Except in designated areas or in areas in which prior written permission has been granted by the owner or agent in charge of the real property, it shall be unlawful for any person to camp within the city limits of the town of Van Horn, Texas.
- B. The activities listed in [Section 12.12.030](#) of this chapter shall constitute camping when it reasonably appears, in light of all the circumstances, that the participants, in conducting these activities, are in fact using the area for living, sleeping, or overnight accommodation purposes regardless of the intent of the participants or the nature of any other activities in which they may also be engaging.

(Ord. 2012-01-201)

12.12.050 - Enforcement and penalties.

- A. A person or entity who violates any provision of this chapter has committed an offense.
- B. Each day or part of a day during which the offense is committed, continued, or permitted constitutes a separate offense.
- C. The violation of any provision of this article shall be unlawful and a misdemeanor offense punishable by a fine not exceeding the amount set forth in [Section 1.20.010](#) of the general provisions of the Van Horn Municipal Code. Each twenty-four (24) hour period constitutes a separate offense for which a fine may be levied or assessed under the Van Horn Municipal Code.

(Ord. 2012-01-201)

15.8 Human habitation of motor vehicles—Prohibited.

(a) No motor vehicle shall be connected to utilities or used for the purpose of human habitation within the city except for the same to be located and maintained within a trailer or recreational vehicle park as provided in the city’s zoning ordinance.

(b) For purposes of this section, “motor vehicle” shall mean a motor vehicle as defined by the California Vehicle Code section 415, and shall also include recreational vehicles as defined by the California Vehicle Code sections 242, 243, 643, 415(b) and Health and Safety Code section 18010(a), which includes any travel trailer, camper, motor home or trailer, or any camper shell or boat.

(c) For purpose of this section, “human habitation” means the use of a motor vehicle for living, cooking or sleeping purposes or as a dwelling place.

(d) This section shall not apply to motor vehicles that are located and maintained within a permitted trailer or recreational vehicle park as provided in the city’s zoning ordinance.

(e) This section shall not apply to motor vehicles parked for temporary visitation purposes for a period not to exceed seventy-two (72) consecutive hours and not for more than one (1) occasion during any thirty-day period. Said motor vehicles shall not exceed eighteen (18) feet in length, shall be parked entirely on residential private property, shall be fully contained and must not require any electrical or plumbing hookups to the residential structure.

(f) In the event that any motor vehicle is placed on, located or allowed to stand in any place in the city in violation of the provisions of this section, or is used for any purpose in violation of this section, a city police officer shall give the motor vehicle owner written notice of the violation and that if the illegal use of the motor vehicle is not corrected within seventy-two (72) hours, that the city police officer may impound each motor vehicle and cause the same to be taken to an approved storage facility or impound area. The expense of towing such motor vehicle to such facility or impound area and the storage of same, as herein provided, shall be paid by the person or persons owning and/or operating such motor vehicle prior to its release.

(g) Any person, persons, firm or corporation violating any provisions of this section, is guilty of a misdemeanor. (Ord. No. 99-16, § I, 9-20-99; Ord. No. 2005-01, § I, 1-18-05)

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L. Trailers, RV's, and Boats

- 1. Parking or placement of a camping or vacation trailer, recreational vehicle, utility trailer or boat in any zone for residential or storage purposes shall be prohibited except as determined by Subsection 2 below.
- 2. A camping or vacation trailer, recreation vehicle, utility trailer, or boat may be stored in the rear or interior side setback behind the front of the building, garage, or carport on any parcel in any zone, provided that:
 - a. There is a principal use of the property, to which such storage would be accessory;
 - b. No living quarters shall be maintained or any business conducted within a parked or stored trailer or vehicle; and,
 - c. The required parking on the parcel is maintained in addition to the area used for the stored vehicle(s).
- 3. Overnight parking of travel trailers, motor homes, boats or other recreational vehicles is prohibited in commercial zones where camping activities are not specifically permitted by this Zoning Code. Owners of such properties shall be prohibited from posting signs indicating that camping is permitted.

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