

O-06-26

AN ORDINANCE
of the City Council of the City of Berkley, Michigan, to amend Section 78-2
through Section 78-9 of Chapter 78, Nuisances, of the Berkley City Code to
remove and modify redundant language and provisions and insert references to
the municipal civil infractions' ordinance, where applicable.

THE CITY OF BERKLEY ORDAINS:

CHAPTER 78 – NUISANCES

ARTICLE I – AMENDMENT.

Section 78-2 through Section 78-9 of the Berkley City Code is amended to remove and modify redundant language, and provisions and insert references to the municipal civil infractions' ordinance, where applicable, as follows:

Sec. 78-2. - Illustrative enumeration.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, that this enumeration will not be deemed or construed to be conclusive, limiting or restrictive:

- (1) Noxious weeds and other rank vegetation.
- (2) The storage upon any property of building materials unless there is in force a valid building permit issued by the city for construction upon such property and such building materials are intended for use in connection with such construction; building materials will include, but will not be limited to, lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure (all unused building materials will be removed from the premises by the contractor prior to issuance of any occupancy permit or final acceptance by the building inspector).
- (3) The storage or accumulation of junk, trash, rubbish or refuse of any kind, except domestic refuse stored in such a manner as not to create a nuisance. The term "junk" will include parts of machinery or motor vehicles, unused stoves or other appliances stored in the open, remnants of wood, metal or any other material or other castoff material of any kind whether or not the material could be put to any reasonable use.
- (4) Storage on any property of junk vehicles except in a completely enclosed building; for the purpose of this chapter the term "junk vehicles" will include any motor vehicle which is inoperative for any reason such as being in a state of

disassembly, disrepair, stripped, dismantled, unregistered or unlicensed. No vehicle will undergo major overhaul or body work in a residential district of this city.

(5) The outdoor or open storage of any salable material, equipment or merchandise on any property, where such open storage is permitted in this city, will be placed, stored or stacked in such a manner that it is not dangerous to human life or otherwise hazardous to the general public safety or welfare. If such hazardous conditions exist they are hereby deemed to be a public nuisance and unsafe and the city manager or their ~~his~~-designee will cause immediate compliance to remove the unsafe conditions. Further, the outdoor or open storage of any material, equipment, products, or merchandise on any property in this city, where such storage is permitted, will be screened from public view, from a public street, and from adjoining properties not of a similar nature, by an enclosure consisting of an obscuring wall, as approved by the building inspector, so as to reduce or mitigate any blighting effects on the surrounding area.

(6) The existence of any structure or damaged partial structure which because of fire, wind or other natural disaster, or physical deterioration is no longer habitable if a dwelling, nor useful of any other purpose for which it may have been intended.

(7) The existence of any vacant building, garage or other outbuilding unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals.

(8) The existence of any incomplete structures unless such structure is in the course of construction in accordance with a valid and subsisting building permit issued by the city. ~~and unless such construction is completed within a reasonable time.~~

(9) Any condition which provides harborage for rats, mice, snakes and other vermin.

(10) Any building material, containers, machinery, junk, raw materials, and similar items will be stored on a paved surface or at least 18 inches above the ground, to prevent harborage for rats, mice, snakes and other vermin.

~~(11) All unnecessary or unauthorized noises and annoying vibrations, including animal noises.~~

(12) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.

(12~~3~~) The carcasses of animals or fowl not disposed of within a reasonable time after death.

(134) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.

(145) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.

(156) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.

(167) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

~~(18) Any public safety alarm system the activation of which has resulted in four or more false alarms in a calendar year.~~

(179) No person will feed wild birds other than by means of bird feeders elevated at least 48 inches above the ground levels. Birdfeeders will be designed to be "rodent proof" or will be properly installed with tray and baffle to prevent spillage onto the ground. No more than five birdfeeders may be placed on a lot or property.

(1820) Properties will be kept free of dog droppings, uneaten food, and improperly composted waste.

(1921) No person will leave pet or human food outside on the ground or in open containers where it is accessible to rats. No ground feeding.

(2022) All garbage stored outside will be in watertight plastic or metal containers with tight fitting covers sufficient to keep rats out. Plastic bags are not rat proof and will not be used for overnight outside storage except when placed at curbside for weekly trash pickup.

Sec. 78-3. - Prohibited generally.

It will be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance. Violations of this chapter shall be municipal civil infractions subject to the civil fine and sanctions assessable under Chapter 82 of the City Code.

Sec. 78-4. – Penalties.

Any person who violates this article shall be responsible for a municipal civil infraction under Chapter 82 of the City Code.

~~Sec. 78-4. -- Notice to abate.~~

~~Whenever a nuisance is found to exist within the city, the city manager or his designee will give five days' written notice to the owner or occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance.~~

~~Sec. 78-5. – Contents of notice.~~

~~The notice to abate a nuisance issued under the provisions of this chapter will contain: (1) An order to abate the nuisance or to request a hearing within a stated time, which will be reasonable under the circumstances; (2) The location of the nuisance, if the nuisance is stationary; (3) A description of what constitutes the nuisance; (4) A statement of acts necessary to abate the nuisance; and (5) A statement that if the nuisance is not abated as directed and no request for hearing is made before the city manager within the prescribed time, the city will abate such nuisance and assess the cost thereof against such person.~~

~~Sec. 78-6. – Service of notice.~~

~~The notice to abate a nuisance will be served as any other legal process may be served pursuant to law.~~

~~Sec. 78-7. – Abatement by city.~~

~~Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this chapter to abate the nuisance, the city manager or his designee will proceed to abate such nuisance and will prepare a statement of costs incurred in the abatement thereof.~~

~~Sec. 78-8. – Emergency abatement by city.~~

~~When, in the opinion of the city manager or his designee, there is actual and immediate danger to the public or occupants of a particular premise caused by a nuisance on such premises, the city manager or his designee is hereby authorized and empowered, without any notice or hearing, to order and require such premises to be vacated. The city manager or his designee will immediately post the premises, warning of the dangerous condition, and will then abate such nuisance and prepare a statement of costs incurred in the abatement thereof.~~

~~Sec. 78-9. – City's costs.~~

~~Any and all costs incurred by the city in the abatement of a nuisance under the provision of this chapter will constitute a lien against the property upon which such nuisance existed, which costs will be collected as a special assessment under chapter 102.~~

ARTICLE II – SEVERABILITY.

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any Court of competent jurisdiction, such selection, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of the Ordinance shall stand and be in full force and effect.

ARTICLE III - EFFECTIVE DATE.

This Ordinance shall take effect following publication in the manner prescribed by law.

ARTICLE IV: REPEALER.

All other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect

ARTICLE V: ADOPTION.

This Ordinance is hereby declared to have been adopted by the Berkley City Council at a meeting thereof duly called and held on the ____ day of _____, 2026, and ordered to be given publication in the manner prescribed by the law.

BY: _____

BY: _____

DRAFT