

**ORDINANCE NO. 4506**

**AN ORDINANCE ADDING SECTION 2.04.101 TO THE BEAVERTON CODE  
RELATING TO NUISANCE ABATEMENT WARRANTS**

**WHEREAS**, Beaverton Code Section 2.04.102 specifies the procedures relating to administrative warrants, and

**WHEREAS**, the existing Beaverton Code Section 2.04.102 does not provide procedures for administrative warrants to enter onto private property to remove and abate nuisances, and

**WHEREAS**, it is sometimes necessary for employees, officers, or agents of the City of Beaverton to enter onto private property to remove and abate nuisances to preserve and protect the public health, safety and welfare, and

**WHEREAS**, an abatement warrant authorizes employees, officers and agents of the City of Beaverton to enter onto private property to remove and abate nuisances when it is not possible to obtain consent to enter onto private property from the owner or person in control of the property, now, therefore,

**THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:**

**Section 1.** Chapter Two of the Beaverton Code is amended by adding the following:

**“2.04.101 Nuisance Abatement Warrants.**

A. A nuisance abatement warrant is an order, in writing, in the name of the City, signed by a judge and directed to a city official or employee charged with the responsibility of enforcing the provisions of this Code, commanding the official or employee to conduct an abatement authorized by any provision of law or to enter onto private property to remove and abate any nuisance.

B. A nuisance abatement warrant shall be issued only upon reasonable cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant, the statute, ordinance or regulation requiring or authorizing the removal or abatement of the nuisance, the building or property to be entered, the basis upon which cause exists to remove or abate the nuisance, and a statement of the general types and estimated quantity of the items to be removed or conditions abated. Before issuing a nuisance abatement warrant, the judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application. If the judge is satisfied that cause for the removal or abatement of any nuisance exists and that the other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement of the general types

and estimated quantity of the items to be removed or conditions abated. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the judge has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night. In issuing a nuisance abatement warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the city official or employee charged with the responsibility of enforcing the provisions of this Code in any way necessary to enter the property and, remove or abate the nuisance.

C. A nuisance abatement warrant must be executed within 21 days of its issue and returned to the judge by whom it was issued within 10 days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed or renewed is void. When executing a nuisance abatement warrant, the person authorized to execute the warrant shall, before entry into an occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request; provided, however, that when executing a nuisance abatement warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the nuisance abatement warrant shall be conspicuously posted on the property. The city official or employee to whom a nuisance abatement ordinance is directed may make use of such labor and service as may be necessary or convenient in the furtherance of the objective of the nuisance abatement warrant, regardless of whether such labor or service is supplied voluntarily, at cost or for profit by an employee, agent or independent contractor of the city.

D. The return of a nuisance abatement warrant shall certify the day and time of execution of the warrant, the name of the city official or employee conducting the abatement and a list in reasonable particularity describing any nuisance items removed from the property. The City may cause any nuisance items removed pursuant to the nuisance abatement warrant to be disposed of as waste whenever the city official or employee charged with the responsibility of enforcing the provisions of this Code finds that the fair and reasonable value of the items at resale would be less than the cost of storing and selling the items. In making this determination, the official or employee may include in the costs of sale the reasonable cost of removing the items to a place of storage, of storing the items for resale, of holding the resale including reasonable staff allowances, and all other reasonable and necessary expenses of holding the sale

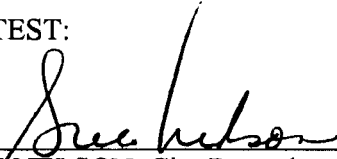
E. Following the procedures set forth in this section, the City Council may issue, and the city may execute, a nuisance abatement warrant in conjunction with a proceeding brought under BC 5.05.145, except that the rights, powers and limitations applicable to a judge under this section are applied instead to the City Council.

First reading this 13th day of April, 2009.

Passed by the Council this 20th day of April, 2009.

Approved by the Mayor this 21st day of April, 2009.

ATTEST:

  
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SUE NELSON, City Recorder

APPROVED:

  
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DENNIS DOYLE, Mayor