

# Town of Nespelem

## Ordinance 2022-01

*An Ordinance of the Town of Nespelem, Washington, defining public nuisances and declaring certain conditions, places, and things to be public nuisance and prohibiting the same, providing for the abatement thereof and providing penalties and repealing all Ordinances in conflict therewith.*

**WHEREAS**, Town Council for the Town of Nespelem, Washington, has determined that it is in the best interest of the public's health, safety, and welfare to define and prohibit nuisances, provide for an abatement procedure and penalties for violations.

**NOW THEREFORE**, be it ordained by the Town Council for the Town of Nespelem, Washington, as follows:

**Section 1 – Purpose and Authority:** Certain conditions exist within the Town of Nespelem (known as the "Town") which constitute a public nuisance, and the Town is authorized pursuant to RCW 35.27.410 to adopt an Ordinance declaring such public nuisances and providing for the abatement and penalties thereof.

**Section 2 – Definitions:** The words and phrases used in this Ordinance, unless the context otherwise indicated, shall have the following meanings:

"Abate" means to repair, replace, remove, destroy, or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the Enforcement Officer, in their judgment determines is necessary in the interest of the general health, safety and welfare of the Town.

"Building Materials" means and includes but not limited to, lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing material, cans of paint and similar materials.

"Enforcement Officer" means the Mayor, or a uniformed officer of the Colville Confederated Tribes or Okanogan County as designated by the Mayor.

"Junk" means and includes, but not limited to, all old appliances or parts thereof, all old iron, or other metal, automotive parts, old grass chippings, cardboard, old lumber, old mattresses, and tires.

"Litter" means and includes, but not limited to, all other waste, and discarded materials.

"Premises" means any building, lot, parcel, real estate, land, or portion of land whether improved or unimproved including adjacent sidewalks, and parking strips.

"Property" means any object of value that a person may lawfully acquire and hold.

# Town of Nespelem

## Ordinance 2022-01

“Public Nuisance” means a thing, act, omission of act, occupation, or use of property which:

1. Unreasonably annoys, injures, or endangers the safety, health, comfort, or response of the public.
2. Offends public decency.
3. Is offensive to the senses.
4. Unlawfully interferes with, obstructs, or renders dangerous for passage, any stream, canal, or basin, or a public park, square, street, alley, or sidewalk.
5. In any way renders other persons insecure in life and use of property.
6. Obstructs the free use of property so it interferes with the comfortable enjoyment of life and property.

“Refuse” means and includes, but not limited to, all trash, dirt, garbage, discarded food, animal waste, vegetable matter, cans, and ashes.

“Responsible Person” means any agent, lessee, owner, or person occupying or having charge or control of any premises.

“Weed” means and includes, but not limited to, undesired and uncultivated plant growing in profuse or unsightly manner, also includes grasses.

**Section 3 – Conditions Constituting a Public Nuisance:** Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance, and whenever the Enforcement Officer determines any of these conditions exist upon any Premises or at any park, stream, drainage way or wetlands, the Enforcement Officer may require or provide for the abatement thereof pursuant to this Ordinance:

1. All decayed or unwholesome food offered for sale to the public.
2. All diseased animals running at large.
3. All pools or ponds of stagnant water.
4. Accumulations of manure or rubbish.
5. Privy vaults and garbage cans which are not fly tight.
6. Pollution of any public well or cistern, stream, canal, or body of water by sewage, industrial wastes, or other substances.
7. All noxious weeds and other rank growths upon public or private property to include, but not limited to poison oak or ivy, deadly nightshade, or any toxic weed or

# Town of Nespelem

## Ordinance 2022-01

uncultivated plant (whether growing or otherwise), weeds, tall grass, uncultivated shrubs or growth, or any weed designated to be a noxious weed by Okanogan County.

8. Burning or disposing of refuse, sawdust, or other material in any such manner to cause or permit ashes, sawdust, soot, or cinders to be cast upon other property, the streets, or alleys, or to cause or permit the smoke, ashes, gases, or noxious fumes rising from such burning to become annoying or to cause injury or endanger the health, comfort, or repose of the public. This section shall not apply where the party responsible for the action has properly obtained a fire permit from Mt. Tolman.
9. Offensive trades and businesses as defined by state statute, CCT Law and Order Code, or other Town Ordinances.
10. Any insufficient covering and sealing of unused wells.
11. All other acts, omissions of acts, occupations or uses of property which are deemed by the Enforcement Officer to be a menace to the health and safety of the inhabitants of the Town, or any considerable number thereof.
12. All limbs of trees, hedges, billboards, fences, or other obstructions which prevent persons from having a clear view of traffic approaching an intersection and cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.
13. All limbs of trees which are less than eight (8) feet above the surface of any public sidewalk, or twelve (12) feet above the surface of any street.
14. The existence of any dead, diseased, infested or dying tree, shrub, or foliage that may constitute danger to the street or sidewalk, or portions thereof.
15. The existence of any tree, shrub, or foliage which is apt to destroy, impair, interfere, or restrict, streets, sidewalk, water and sewer lines, utilities, or other public improvements.
16. The existence of any vines or climbing plants growing into or over any fire hydrant, standpipe, sprinkler system, or any other appliances or facility provided for fire protection services.
17. The existence or placement of any stone, brick, lumber, dirt, or other material or to park, or abandon vehicles or any obstruction around any fire hydrant, standpipe, sprinkler system, or any other appliances or facility provided for fire protection services.
18. All buildings, walls, and other structures which have been damaged by fire, decay or otherwise so as to endanger the safety of the public.

# Town of Nespelem

## Ordinance 2022-01

19. Any unsightly and dangerous building, billboard, or any other structure, which are abandoned, partially destroyed, or condemned. All unoccupied buildings not securely closed against entry or those having no interest in said property.
20. All explosives, flammable liquids and other dangerous substances stored in any manner or in any amount other than that provided by law or ordinance.
21. The existence of any accumulation of materials or objects in a location or in a manner which endangers property or safety or constitutes a fire hazard.
22. Obstruction and excavations affecting the ordinary use by the public of streets, alley, sidewalks, or public ground except under such conditions as are provided by ordinance.
23. Use of any property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of said street or sidewalk.
24. All hanging signs, awnings and other similar structures over the streets or sidewalks, or so situated as to endanger public safety, not constructed, and maintained as provided by ordinance.
25. The keeping or harboring any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or the making of other noises shall annoy or disturb any considerable number of persons.
26. The keeping of any animal, fowl, insects, or reptiles on any premises which pose a threat to property or injury to persons or would otherwise cause detriment to the health, safety and welfare of persons and properties.
27. Any fighting between persons, animals or fowl conducted on any premises or any location.
28. All conditions or things which present an unreasonable danger or injury to persons or property.
29. All loud noises which disturb the peace and quiet of the residents of the Town, between the hours of 9 p.m. to 8 a.m.
30. The dumping, throwing, placing, leaving any filth, paper, cans, glass, rubbish, trash, garbage, and vegetation trimmings of any kind in or upon any street, alley, sidewalk, ditch, or private property of another in the Town.
31. The permitting to remain outside any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure in a place accessible to children, any abandoned, unattended, or discarded icebox, refrigerator, or other container, which has an airtight door or lid, snap lock, or other automating locking device, which may not be released from the inside, without first removing said door or lid, snap lock, or other locking device.

# Town of Nespelem

## Ordinance 2022-01

32. The permitting of any unused well, cistern or storage tank to remain on any property without first demolishing or removing from the Town. Such storage tank or secure closing and barring any entrance or trap door thereto, or without filing any well or cistern, and capping the same without sufficient security.

33. The existence of any drainage onto or over any sidewalk, street, or public right-of-way.

**Section 4 – Exempted Acts:** This Ordinance shall not apply to the Colville Confederated Tribes, the State of Washington, Okanogan County, the Town of Nespelem, or any of their respective officers, employees or contractors when engaged in snow removal, street cleaning, repair to any water/sewer line, street, sidewalk, building or structure, fire suppression, or any other emergency for the preservation of life and property.

**Section 5 – Variance:**

1. The Town Council may, upon written application filed with the Town Clerk, grant a variance from any of the provisions of this Ordinance for any activity when it finds that such a variance is in the public interest or when it finds the activity will have a substantial public participation.
2. A variance shall be granted only after approval by Town Council.
3. Any variance granted shall state the nature of the activity and the date, times, and place for which the variance is granted, and shall state any special provisions or limitation applicable to exercise of the variance.
4. Any activity conducted under a variance shall conform strictly to the terms and provisions of the variance.

**Section 6 – Enforcement and Notice:** An Enforcement Officer having knowledge of any public nuisance shall cause any owner or other responsible person to be notified of the existence of a public nuisance on any premises and shall direct the owner or other responsible person to abate the condition with ten (10) day after the notice or other reasonable period. The notice shall be substantially in the following form:

NOTICE TO ABATE UNSAFE OR UNLAWFUL CONDITON

(name and address of person notified)

As owner, agent, lessee, or other person occupying or having charge or control of the building, lot, or premises at \_\_\_\_\_, Nespelem, WA, you are hereby notified that the undersigned has determined that there exists upon or adjoining said premises the following condition contrary to the provision of Section \_\_\_ of the Town of Nespelem Ordinance No. 2022-01. You are hereby notified to abate said condition to the satisfaction of the undersigned with ten (10) days of the date of this notice. If you do not abate to such condition the Town will abate the condition at your expense.

Abatement is to be accomplished in the following manner: (insert manner)

Dated this \_\_\_ day of \_\_\_\_\_. By \_\_\_\_\_

# Town of Nespelem

## Ordinance 2022-01

**Section 7 – Abatement by the Town:** In all cases where the Enforcement Officer has determined to proceed with abatement, ten (10) day after giving notice, the Town shall acquire jurisdiction to abate the condition at the person's expense as herein provide. Upon the abatement of the condition or any portion thereof by the Town, all expenses thereof shall constitute a civil debt owing the Town jointly and severally by such of the person who have been given notice as herein provided. The debt shall be collectable in the same manner as any other civil debt owing to the Town.

**Section 8 – Lien:** In the event the Town abates the nuisance pursuant to Section 7 of this Ordinance, the cost to the Town of such abatement shall become a charge against the owner of the property and a lien against the property. Notice of the lien herein authorized shall, as nearly as practicable, be in substantially the same form, filed with the same officer within the same time and manner, and enforced and foreclosed as is provide by law for liens for labor and materials. The provisions of this section are supplemental and additional to any other powers granted or held by the Town on the same or a similar subject or elsewhere in this Ordinance.

**Section 9 – Abatement by Owner or Other Responsible Person:** If and when an owner or other responsible person shall undertake to abate any condition described in this Ordinance, whether by order of the Enforcement Officer or otherwise, all needful and legal conditions pertinent to the abatement may be imposed by the Enforcement Officer. It is unlawful for the owner or other responsible person to fail to comply with such conditions. Nothing in this Ordinance shall relive any owner or other responsible person of the obligation of obtaining any required permit to do any work incidental to the abatement.

**Section 10 – Successive Liability:** Every successive owner, occupant or caretaker on the property who neglects to abate a continuing nuisance upon or in the use of such property, caused by a former owner, occupant, or caretaker, is liable therefore in the same manner as the one who created it.

**Section 11 – Immediate Danger, Summary Abatement:** Whenever any condition on or use of property causes or constitutes or reasonably appears to cause or constitute any imminent or immediate danger to the health and safety of the public or a significance portion thereof, the Enforcement Officer shall have the authority to summarily and with notice abate the same. The expenses of such abatement shall become a civil debt against the owner or other responsible party and be collected as provided in Sections 7 and 8 of this Ordinance.

**Section 12 – Violation and Penalty:** Violation of the terms of this Ordinance shall constitute a civil infraction with monetary penalty of not more than Two Hundred Fifty Dollars (\$250.00) for each violation. For the purposed of this Ordinance, each day that a person is found to be in violation constitutes a separate violation.

# Town of Nespelem Ordinance 2022-01

**Section 13 – Repealed:** Town of Nespelem Ordinance No. 85, 99, 131, 265 and Section 1 of Ordinance No. 206 and any Ordinance or parts thereof in conflict of this Ordinance are hereby repealed in its entirety.

**Section 14 – Severability:** If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this Ordinance.


**Section 15 – Short Title:** This Ordinance shall be known as the Town of Nespelem Nuisance Ordinance and may be cited as such.

**Section 16 – Effective Date:** This Ordinance shall take effect after its passage by the Town Council, approval by the Mayor and publication as required by law.

Passed by the Town Council for the Town of Nespelem, Washington, at a regular meeting on the 16<sup>th</sup> day of March, 2022.

  
DARCY EPPERSON, Mayor

Attest:

  
KELLY ROSS, Clerk/Treasurer

Approved as to Form:

  
W. Scott DeTro, Town Attorney