

ORDINANCE NUMBER 51

AN ORDINANCE DEFINING NUISANCES: PROVIDING FOR THEIR ABATEMENT AND PRESCRIBING PENALTIES:

THE CITY OF DUNES CITY, does ordain as follows:

SECTION I

The following acts are declared to be nuisances within the boundaries of the CITY OF THE DUNES:

1. ANIMALS

- a) Dogs disturbing the public peace, molesting passers-bys, chasing vehicles, attacking other animals or being upon the property of another and doing damage thereby.
- b) OTHER ANIMALS - Any dangerous animals, wild or domesticated, not under the direct physical control of the owner thereof, or animals doing damage to or endangering property.

2. PUBLIC SAFETY

- a) An abandoned, unattended, or discarded ice-box, refrigerator or similar container, in a place accessible to children, which has an air-tight door with a lock or other mechanism which may not be released for opening from the inside.
- b) Hazardous buildings as defined in the State of Oregon Uniform Building Code.

3. VEHICLES A vehicle left abandoned, unattended or discarded for a period of two weeks upon a public place or a private place in view of a public right of way.

4. NOISE

- a) No person shall create, or assist in creating, or permit the continuance of unreasonably loud, disturbing or unnecessary noise which either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of others.

b) Unreasonably, loud, disturbing or unnecessary noise is defined as follows:

- 1) During the hours of 7:00 o'clock A.M. to 6:00 P.M. a noise audible to a person of normal hearing at a distance of 75 yards. Between the hours of 6:00 o'clock P.M. and 7:00 o'clock A.M. inclusive, a noise audible at a distance of 50 yards.
- 2) When a determination is made as to the necessity, or lack thereof, the decision making person or body will take into consideration the business purpose, or economic necessity of the cause. However, economic necessity is not to be considered a justification, but merely a matter to be considered.

5. ANIMAL CARCASSES

a) No person shall permit an animal carcass owned or controlled by them to remain upon a public place or be exposed on private property for a period of time longer than is necessary to remove or dispose of said carcass, said period of time not to extend any longer than the time it takes said carcass to commence decomposing.

6. NUISANCES AFFECTING PUBLIC HEALTH - No owner or person in charge of property shall permit on such property any nuisance affecting public health nor shall any person cause on any property, public or private, any nuisance affecting health. The following nuisances affecting public health may be abated as provided for in this ordinance:

- a) Privies. An open vault or privy, except those constructed and maintained in connection with construction projects in accordance with the Oregon State Board of Health Regulations.
- b) Cesspools. Cesspools or septic tanks which are in an unsanitary condition, or which causes offensive odors.

- c) Food. Decayed or unwholesome food which is offered for human consumption.
- d) Trash. All trash will be stored in garbage cans, dump boxes, or similar containers, and will not be visible, nor will the smells therefrom be detectable from adjoining property or public rights of way.
- e) Obstruction of drains. The obstruction or interference with the flow of water in any ditch, drain or catch basin constructed upon a public street in connection with an improvement of the street.

7. UNENUMERATED NUISANCES.

- a) In additions to the acts and conditions specifically enumerated in this ordinance, any conditions, things, substance or activity which is detrimental to, injurious to, or constitutes a danger to the public health, safety, or welfare, is declared to be a nuisance and is subject to the abatement procedures set forth in this ordinance.
- b) A condition, thing, substance, or activity declared to be a nuisance by another ordinance of this City is subject to the abatement procedures of this ordinance if no abatement procedures are provided by such ordinance.

SECTION II

ABATEMENT PROCEDURE:

- 1. Upon a signed written allegation to the City Recorder that a nuisance as defined in this ordinance exists, the City, except for paragraphs 1a & 1b of Section 1, shall cause:
 - a) An inspection to be performed by a person, or persons designated by the Mayor.
 - b) If the inspectors conclude, as a result of their inspection, that a nuisance does in fact exist, they shall so inform the Mayor.
 - c) The Mayor will then direct the City Recorder to post upon the property a notice where the nuisance exists, directing the owner and person in charge of the property to abate said nuisance.

2. At the time of posting, the City Recorder shall cause a copy of such notice to be forwarded by registered or certified mail, postage prepaid, to the owner and the person in charge of the property at the last-known address of said owner or other person.
3. The notice to abate shall contain:
 - a) A description of the real property, by street address or otherwise, on which such nuisance exists.
 - b) A description of the nuisance.
 - c) A direction to abate the nuisance within ten (10) days from the date of the notice.
 - d) A statement that unless such nuisance is removed the City may abate the nuisance and the cost of abatement shall be a lien against the property.
 - e) A statement that the owner or other person in charge of the property may protest the abatement by giving notice to the City Recorder within 10 (ten) days of the date on the posted and mailed notice.
4. Upon the completion of the posting and mailing, the City Recorder shall execute and file a certificate stating the date and place of such mailing and posting.
5. An error in the name or address of the owner or person in charge of the property or the use of a name other than that of the owner or person in charge shall not make the notice void and in such a case the posted notice shall be sufficient.

SECTION III

ABATEMENT BY THE OWNER:

1. Within ten (10) days after the posting and mailing of the notice as provided in Section II, the owner or person in charge of the property shall remove the nuisance, or
2. Show that no nuisance exists.

3. If the owner or person in charge protest that no nuisance exists, they shall file with the City Recorder a written statement in which they will specify the basis of so protesting.
4. The statement shall be referred to the Council as a part of the Council's regular agenda at the next succeeding meeting. At the time set for consideration of the abatement, the owner or other person may appear and be heard by the Council, as may the person complaining of a nuisance, and other interested parties. The Council shall thereupon determine whether or not a nuisance exists, and such determination shall be entered in the official minutes of the Council. Council determination shall be required only in those cases where written objection to the notice has been filed as provided.
5. If the inspection designated in Section II, paragraph 1-a determines that an emergency exists, he shall so notify the Mayor, and the Mayor may at his election call an emergency meeting and cause to be served upon the person in charge and the owner of the property a notice that they must attend this meeting or forfeit their right under Section III, paragraphs 2 through 6. The special meetings shall be conducted pursuant to the abatement proceedings in this ordinance in all other matters.
6. If the Council shall determine that a nuisance does in fact exist, the owner or other person shall within five (5) days after such Council meeting and determination abate the nuisance.
 - a) Council may at its election grant the owner a longer time to abate the nuisance for good and sufficient reason.
 - b) If the Council determines that an emergency exists, the Council may order the nuisance abated upon a twenty-four (24) hour notice.

SECTION IV

ABATEMENT BY THE CITY

1. If within the time allowed the nuisance has not been abated by the owner or person in charge of the property, the City may cause the nuisance to be abated.

2. The City Recorder shall keep an accurate record of the expenses incurred by the City in abating the nuisance and shall include therein a charge of fifteen percent (15%) for the expenses of administration overhead.

SECTION V

ASSESSMENT OF COSTS.

1. The City Recorder, by registered or certified mail, postage prepaid, shall forward to the owner or the person in charge of the property a notice stating:
 - a) The total cost of abatement, including the administrative overhead.
 - b) The cost as indicated will be assessed to and become a lien against the property unless paid within thirty (30) days from the date of the notice.
 - c) The owner or person in charge of the property objects to the cost of abatement as indicated, they may file a written notice of objection with the City Recorder, not more than ten (10) days from the date of the notice.
2. Upon the expiration of ten (10) days after the date of the notice, the Council in the regular course of business shall hear and determine the objection to the cost to be assessed.
3. If the costs of the abatement are not paid within thirty (30) days from the date of the notice, the assessment of the cost stated or determined by the Council shall be made by resolution and shall thereupon be entered in the docket of City liens, and upon such entry being made shall constitute a lien upon the property from which the nuisance was removed.
4. The lien shall be enforced in the same manner as liens for street improvements are enforced, and shall bear interest at the rate of six percent (6%) per annum. Such interest shall commence to run from the date of the entry of the lien in the lien docket.

5. An error in the name of the owner or person in charge of the property shall not void the assessment nor will a failure to receive notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

SECTION VI

SUMMARY OF ABATEMENT - The procedure provided by this Ordinance is not exclusive but is in addition to the procedure provided by other ordinances and the City may proceed summarily to abate a health or other nuisance which unmistakably exists and from which there is imminent danger to human life or property.

SECTION VII

PENALTIES. A person violating any of the provisions of this Ordinance shall upon conviction thereof be punished by imprisonment in jail for a period not to exceed thirty (30) days, or by a fine not to exceed Five Hundred Dollars (\$500.00), or both.


SECTION VIII

SEPARATE VIOLATIONS.

1. Each day's violation of a provision of this Ordinance constitutes a separate offense.
2. The abatement of a nuisance is not a penalty for violating this Ordinance, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance.


PASSED by the Council of Dunes City, Oregon, this 14th day of September, 1978.

APPROVED by the Mayor this 15th day of September, 1978.



Robert Duane Petersdorf,
Mayor of Dunes City

ATTEST:



Pat Barber, City Recorder
Dunes City, Oregon