

ORDINANCE 129

AN ORDINANCE AMENDING ORDINANCE NO. 108 BY ADDING SECTION 22 TO INCLUDE "EYESORES" AS AN ABATABLE NUISANCE.

WHEREAS, there might exist within the City certain situations considered to be eyesores; and,

WHEREAS, the provisions dealing with public eyesores be set forth in ordinance form and defined below; and,

WHEREAS, the City seeks to exercise its enforcement powers and declare these situations eyesores when brought to the attention of Dunes City; and,

WHEREAS, it can be a function of city government to abate these violations as nuisances;

WHEREAS, the City has made a provision in Ordinance 108 for expansion;

THEREFORE, THE CITY OF DUNES CITY DOES ORDAIN AND AMEND ORDINANCE 108 TO ADD A NEW SECTION 22 AS FOLLOWS:

EYESORES

Section 22 (A). Definitions.

(1) The term JUNK, as used in this section shall include old inoperable motors, inoperable motor vehicles or parts thereof, old hauling or travel equipment or machinery or parts thereof, old appliances or parts thereof, old iron or metal, glass, paper, lumber, wood, old tires, or other waste or discarded material.

(2) The term OLD, as used in this section shall include:

(A) In the case of motor vehicles, equipment, machinery, hauling or travel trailers, travel campers or mobile homes or other items which must be licensed under state law, any such item which does not have lawfully attached thereto an unexpired license plate.

(B) In the case of other junk, any item or items in one or more of the following conditions:

- (a) Inoperative
- (b) Wrecked
- (c) Dismantled
- (d) Partially dismantled
- (e) Discarded or abandoned
- (f) Not in current lawful use

(3) The term ENCLOSURE, as used in this section, shall mean any garage, carport, building, basement or area fenced by a fence which is solid, not to exceed fence height limitations in the Dunes City Zoning Ordinance, maintained in a good state of repair, which shields the junk from view from all public rights-of-way.

Section 22 (B). Eyesores Prohibited.

No person shall keep junk or the items described below out of doors on any street or public right-of-way, or on any private property except in an enclosure:

- (1) Abandoned appliances including, but not limited to, freezers, refrigerators, ice boxes, water heaters, washers, dryers, ovens, etc.
- (2) Abandoned furniture including, but not limited to, items such as couches, tables, chairs, mattresses, etc.
- (3) Used wood or lumber containing nails or scattered in such a manner to create a safety hazard.
- (4) Machinery which is inoperable, or parts thereof that would be a safety hazard to children or pets.
- (5) More than one junk vehicle.
- (6) More than two vehicles undergoing repairs.
- (7) More than six vehicles which contain valid, current license plates.
- (8) Abandoned or partially dismantled campers, trailers or other recreational vehicles which carry no valid, current license plates.
- (9) Scattered tires which are not being used for landscaping.
- (10) Any junk kept out of doors on any street or other public right-of-way, or on a lot or premises, except in an enclosure concealing such junk from the view of persons walking or driving upon any street or other public right-of-way.
- (11) Any unguarded machinery, equipment or other devices on property which may be attractive, accessible, and potentially dangerous to children.
- (12) Lumber, logs or pilings placed or stored in such a manner so as to be attractive, accessible and, potentially dangerous to children.
- (13) An open pit, quarry, cistern, or other excavation without adequate safeguards or barriers to prevent such places being used by children. this section shall not apply to authorized construction projects if during the course of construction, reasonable safeguards are maintained to prevent any injury to playing children.

Section 22 (C). Exceptions.

The exceptions to Section 22 (B)(7) are any lawfully established business within Dunes City, if the enforcement would preclude the lawful operation of the business.

Section 22 (D). Enforcement.

The procedure for determining and enforcing the City's Eyesore Ordinance is as follows:

1. The violation must be clearly visible from a public right-of-way.

2. Two or more written complaints from residents of Dunes City, from different addresses, must be received by the City Recorder.

3. The City Recorder, at the direction of the Mayor, shall inform the offending party by letter that a complaint has been lodged.

4. The party against which the complaint has been lodged, shall have fourteen (14) days from the date of the postmark on the notifying letter in which to reply, in writing, to the City.

5. At the end of fourteen (14) days, the Mayor will notify the site review committee of the infraction of Ordinance 129. If the majority of the site review committee agree that there continues to be an infraction, they will in turn notify the Planning Commission.

6. The Planning Commission will review the alleged infraction and, if a majority concur that Ordinance 129 has been violated, they will so inform the City Council.

7. The City Council will investigate the alleged infraction and, if a majority concur, the City may initiate an abatement proceeding at the next City Council meeting.

8. If any of these bodies do not have concurrence of a majority of members that an infraction exists, the City will take no action. All parties will be notified of the outcome of the investigation.

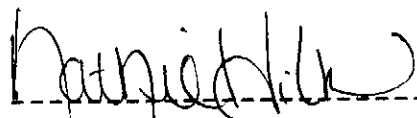
It is the intent of the City Council to have an extensive and time consuming procedure. This will allow ample safeguards that this Ordinance is not abused and, in case of violations, ample time for the offending party to bring violations into compliance and avoid any abatement proceedings.

It is so ordered this by the City Council this 17th day of October, 1991, by the following vote:

Aye 3 Nay 2 Absent 2 Abstain 0

  
\_\_\_\_\_  
Robert Petersdorf, Mayor

ATTEST:

  
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Kathie Hilborn, City Recorder

ORDINANCE NO. 129

AN ORDINANCE AMENDING ORDINANCE NO. 108 BY ADDING SECTION 22 TO INCLUDE "EYESORES" AS AN ABATABLE NUISANCE.

WHEREAS there exists within the City certain situations considered to be "EYESORES"; and

WHEREAS the City seeks to exercise its enforcement powers and declare these situations "EYESORES" when brought to the attention of Dunes City; and

WHEREAS it can be one of the functions of city government to abate these violations as nuisances; and


WHEREAS the City of Dunes City has made a provision in Ordinance 108 for expansion

THEREFORE, THE CITY OF DUNES CITY DOES ORDAIN AS FOLLOWS:


Ordinance No. 108 will now include Section 22 "EYESORES" which will be enumerated by Resolution by the City Council of Dunes City, and will thereafter be considered Nuisances and will be abatable violations according to this Ordinance.

ENACTED BY THE COUNCIL OF THE CITY OF DUNES CITY, OREGON, this 10th day of May, 1990.

APPROVED BY THE MAYOR OF THE CITY OF DUNES CITY, OREGON, this 10 day of MAY, 1990.

  
DARRYL R. EASTMAN, MAYOR

ATTEST:

  
KATHLEEN AITKEN, CITY RECORDER

A RESOLUTION DEFINING EYESORES

Whereas the City of Dunes City has adopted Ordinance Number 129 which provides that eyesores are a nuisance under Ordinance Number 108, the City's nuisance ordinance, and

Whereas the provisions dealing with public eyesores set forth above require that eyesores be defined by resolution,

Whereas the City of Dunes City has elected to define eyesores under the authority granted a city in Ordinance No. 129, and

THEREFORE BE IT RESOLVED BY THE DUNES CITY COUNCIL that the City of Dunes City does define eyesores as follows:

SECTION I

Definitions

A. The term JUNK, as used in this section shall include old motors, motor vehicles or parts thereof, old hauling or travel equipment or machinery or parts thereof, old appliances or parts thereof, and old iron or other metal, glass, paper, lumber, wood, old tires, or other waste or discarded material.

B. The term OLD, as used in this section shall include:

1. In the case of motor vehicles, equipment, machinery, hauling or travel trailers, travel campers or mobile homes or other items which must be licensed under state law, any such item which does not have lawfully attached thereto an unexpired license plate.

2. In the case of other junk, any item or items in one or more of the following conditions:

- (a) Inoperative
- (b) Wrecked
- (c) Dismantled
- (d) Partially dismantled
- (e) Discarded or abandoned
- (f) Not in current lawful use

3. The term ENCLOSURE, as used in this section, shall mean any garage, carport, building, basement or area fenced by a fence which is solid, not to exceed fence height limitations in the Zoning Ordinance, maintained in a good state of repair, which shields the junk from view from all public rights of way.

## SECTION II

### Eyesores Prohibited

No person shall keep junk or the items described below out of doors on any street or public right of way, or on any private property except in an enclosure:

- A. Abandoned appliances including, but not limited to, freezers, refrigerators, ice boxes, water heaters, washers, dryers, etc.
- B. Abandoned furniture including, but not limited to, items such as couches, tables, chairs, mattresses, etc.
- C. Used wood or lumber scattered in such a manner or containing nails such that the wood or lumber presents a safety hazard.
- D. Machinery which is inoperable, or parts thereof which might be a safety hazard to children or pets.
- E. More than one junk vehicle.
- F. More than two vehicles undergoing repairs.
- G. More than six vehicles which contain valid, current license plates.
- H. Abandoned or partially dismantled campers, trailers or other recreational vehicles which carry no valid, current license plates.
- I. Scattered tires which are not being used for landscaping.
- J. Any junk kept out of doors on any street or other public right of way, or on any lot or premises, except in an enclosure concealing such junk from the view of persons walking or driving upon any street or other public right of way.
- K. Any unguarded machinery, equipment or other devices on property which may be attractive, accessible, and potentially dangerous to children.
- L. Lumber, logs or pilings placed or stored in such a manner so as to be attractive, accessible, and potentially dangerous to children.
- M. An open pit, quarry, cistern, or other excavation without adequate safeguards or barriers to prevent such places being use by children. This section shall not apply to authorized construction projects if, during the course of construction, reasonable safeguards are maintained to prevent any injury to playing children.

### SECTION III

#### Exceptions

Exceptions to Section II are as follows:

A. Any business established within Dunes City will be exempt from Section II. G. if enforcement would preclude the operation of the business.

### SECTION IV

#### Enforcement

The procedure for determining and enforcing the City's eyesore ordinance is as follows:

A. The violation must be clearly visible from a public right of way.

B. Two or more written complaints from residents of Dunes City, from different addresses, must be received by the City Recorder.

C. The City Recorder, at the direction of the Mayor, shall inform the offending party by letter that a complaint has been lodged.

D. The party against which the complaint has been lodged, shall have 14 (fourteen) days from the date of the postmark on the notifying letter in which to reply, in writing, to the City of Dunes City.

E. At the end of 14 (fourteen) days, the Mayor will notify the Site Review Committee of the infraction of Ordinance 129 (6). If the majority of the Site Review Committee agree there continues to be an infraction, they in turn will inform the Planning Commission.

F. The Planning Commission will review the alleged infraction and, if a majority concur that Ordinance 129 has been violated, they will so inform the City Council.

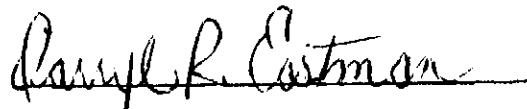
G. The City Council will investigate the alleged infraction; and if a majority concur, the City may initiate an abatement proceeding at the next city council meeting.

H. If any of these bodies do not have concurrence of a majority of members that an infraction exists, the City will not commence abatement proceedings. All parties will be notified of the outcome of the investigation.

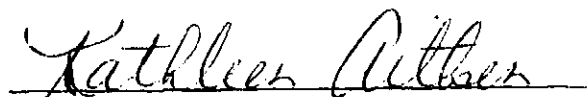
I. It is the intent of the City Council to have an extensive and time consuming procedure. This will allow ample time for any offender to bring violations into compliance with Ordinance 129, and to avoid abatement proceedings.

It is so resolved by the City Council this 11 day of Oct., 1990, by the following vote:

Aye 4      Nay 0      Absent 2      Abstain 0

  
DARRYL R. EASTMAN, MAYOR

ATTEST:

  
Kathleen Aitken, City Recorder



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IN THE CIRCUIT COURT OF THE STATE OF OREGON IN LANE COUNTY

MARILYN V. MILLER )  
 ) Case No. 16-90-04867  
Petitioner, )  
 )  
vs. ) REPLY  
 )  
DUNES CITY, )  
 )  
Respondent. )

COMES NOW the Respondent, Dunes City, through it's City Attorney, D. Ronald Gerber, and replies to Petitioner's petition as follows:

1.

Respondent admits all matters contained on page 1 of petitioner's petition. Respondent further admits all matters contained in paragraph 1.

2.

Respondent denies the remainder of the Petitioner's petition and the amended petition not admitted to herein, or admitted to in Respondent's responding memorandum previously filed in this case, said memorandum being incorporated herein by reference as though fully set forth, for the reason that the additional issues are the essence of the political dispute between various political factions, said political persuasions being inappropriate material set forth in a ballot title explanations.

WHEREFORE the Respondent prays for a judgment as follows:

1. Denying those portions of Petitioner's petition not conceded by Respondent.

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REPLY  
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2. Awarding Respondent costs and disbursements as the prevailing party.

Respectfully submitted this 29<sup>th</sup> day of June, 1990.

/s/ DWIGHT RONALD GERBER

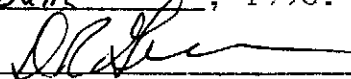
D. RONALD GERBER  
Attorney for Respondent

REPLY  
Page 2

CERTIFICATE - TRUE COPY - WELL FOUNDED IN LAW

I hereby certify that the foregoing copy of REPLY is a correct copy of the original. That said pleading in my opinion is well founded in law.

DATED this 29<sup>th</sup> day of June, 1990.

  
D. RONALD GERBER  
Attorney for Dunes City

\* \* \* \* \*

CERTIFICATE OF MAILING

I hereby certify that I served the foregoing REPLY on the persons, as shown below, on the date shown below, by mailing to said persons a correct copy thereof, certified by me as such, contained in a sealed envelope, addressed to said attorneys at the addresses shown below and deposited in the post office at Florence, Oregon, on said day. Between the said post office and the address to which said copy was mailed, there was a regular communication by U. S. Mail.

Marilyn V. Miller  
P. O. Box 2080  
Florence, Oregon 97439

Dunes City  
P. O. Box 97  
Westlake, Oregon 97493

DATED this 29<sup>th</sup> day of June, 1990.

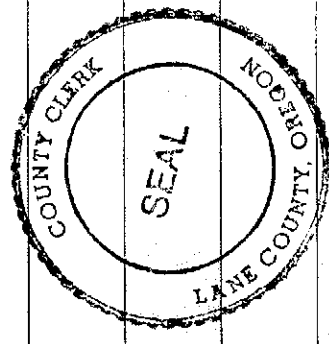
/s/ DWIGHT RONALD GERBER  
D. RONALD GERBER  
Attorney for Dunes City

D. RONALD GERBER  
Attorney at Law  
Post Office Box 0  
1932 Pine Street  
Florence, Oregon 97439  
(503) 997-8285  
OSB #75131

CITY OF DUNES  
MEASURE NO. 20-04 - REFERENDUM ON DUNES  
CITY EYESORE ORDINANCE

	COUNT	PERCENT
C O N T E S T T O T A L		
REGISTERED VOTERS	710	
YES	189	51.08
NO	166	44.86
OVERVOTES	0	.00
UNDERVOTES	15	4.05
TOTAL	370	52.11
DUNES CITY		
REGISTERED VOTERS	710	
YES	189	51.08
NO	166	44.86
OVERVOTES	0	.00
UNDERVOTES	15	4.05
TOTAL	370	52.11

COUNT PERCENT



*John E. Faw*  
 JOHN E. FAW  
 COUNTY CLERK  
 LANE COUNTY, OREGON

I CERTIFY THAT THE VOTES RECORDED ON THIS ABSTRACT CORRECTLY  
 SUMMARIZE THE VOTES CAST FOR THIS OFFICE/MEASURE

DATED THIS 5 DAY OF April 1991