

## **ORDINANCE NO. 344**

revised 06/26/00

AN ORDINANCE DEFINING NUISANCES; PROVIDING FOR THEIR ABATEMENT;  
PROVIDING PENALTIES; AND REPEALING ORDINANCE NO. 289 AND ORDINANCE NO. 340

WHEREAS, the City Council wishes to define nuisances, and provide a process for efficient abatement of said nuisances;

THE CITY OF CASCADE LOCKS; HOOD RIVER COUNTY, OREGON, ORDAINS AS FOLLOWS:

### SECTION 1. Definitions.

- (1) Person. A natural person, firm, partnership, association or corporation.
- (2) Person in charge of property. An agent, occupant, lessee, contract Purchaser or other person having possession or control of property or the supervision of any construction project.
- (3) Person responsible. The person responsible for abating a nuisance shall include:
  - (a) The owner.
  - (b) The person in charge of property, as defined in subsection (2).
  - (c) The person who caused to come into or continue in existence a nuisance as defined in this ordinance or another ordinance of this city.
- (4) Public place. A building, way, place of accommodation, whether publicly or privately owned, open and available to the general public.
- (5) Junk. Includes all discarded motor vehicle parts, machinery, machinery parts, appliances or parts thereof; iron or other metal, glass, paper, timber, wood or other waste or discarded material, or material stockpiled for the purpose of recycling.

### SECTION 2. Nuisances Affecting Public Health.

No person shall cause or permit on property owned or controlled by him a nuisance affecting public health. The following are nuisances affecting public health and may be abated as provided in this ordinance:

- (1) Debris. Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the public.
- (2) Stagnant water. Stagnant water which affords a breeding place for mosquitoes and other insect pests.
- (3) Water pollution. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.

(4) Odor. Premises which are in such a state or condition as to cause an offensive odor or which are in an unsanitary condition.

(5) Surface drainage. Drainage of liquid wastes from private premises.

(6) Creating a Hazard. No person shall create a hazard by:

(a) Maintaining or leaving in a place accessible to children a container with a compartment and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside; or

(b) Being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, excavation, or other hole of a depth of four feet or more and a top width of 12 inches or more, fail or refuse to cover or fence it with a suitable protective construction.

7). Attractive Nuisances.

(a) No owner or person in charge of property shall permit thereon:

(i) Unguarded machinery, equipment or other devices which are attractive, dangerous and accessible to children.

(ii) Lumber, logs, or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.

(iii) An open pit, quarry, cistern or other excavation without safeguards or barriers to prevent such places from being used by children.

(b) This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

8). Snow and Ice. No. owner or person in charge of property, improved or unimproved, abutting a public sidewalk shall be responsible for snow removal when the snow has been placed on the sidewalk by a public agency. However, no owner or person in charge of property, improved or unimproved, abutting on public sidewalk shall permit:

(a) Snow to remain on the sidewalk for a period longer than the first eight (8) hours of daylight after the snow has fallen.

(b) Ice to remain on the sidewalk for more than eight (8) hours of daylight after the ice has formed, unless the ice is covered with sand, ashes or other suitable material to assure safe travel.

9). Defective Sidewalks. No owner of property, improved or unimproved, abutting on a public sidewalk, shall permit:

(a) A sidewalk to deteriorate to such a condition that because of cracks, chipping, weeds, settling, covering by dirt, or other similar occurrences, the sidewalk becomes a hazard to persons using it.

(b) The city shall not be liable to any person for loss or injury to a person or property suffered or sustained by reason of any accident on sidewalks caused by ice, snow, encumbrances, obstructions, cracks, chipping, weeds, settling, holes covered by dirt or other similar conditions. Abutting property owners shall maintain sidewalk free from such conditions.

10). Fences Along a Sidewalk.

(a) No owner or person in charge of property shall construct or maintain a barbed-wire fence thereon, or permit barbed-wire to remain as part of a fence along a sidewalk; except such wire may be placed above the top of other fencing not less than six feet, six inches high.

(b) No owner or person in charge of property shall construct, maintain or operate an electric fence along a sidewalk or public way, or along the joining property line of another person.

11). Surface Waters, Drainage.

(a) No owner or person in charge of a building or structure shall suffer or permit rainwater, ice or snow to fall from the building or structure onto a street or public sidewalk or to flow across the sidewalk.

(b) The owner or person in charge of property shall install and maintain in proper state of repair adequate drainpipes or a drainage system, so that any overflow water accumulating on the roof or about the building is not carried across or upon the sidewalk.

12). Trees, Brush, Grass

(a) The owner, person in possession, or the agent of the owner of any tract or parcel of land improved or unimproved shall, on and after May 1 of each year, keep, cut and remove therefrom all dead bushes, dead trees, stumps, and other items likely to cause fire and to spread fire, and shall cause the grass and vegetation to be cut to a height of less than 10 inches at least once each year after May 1 and before July 15.

(b) Brush, Bushes and limbs of all kinds shall be trimmed and back so that they shall not project over the sidewalk or roadway area. Limbs may be allowed to project at an elevation of not less than nine feet above the level of the sidewalk and not less than 14 feet above the level of the roadway. Limbs, trees and other growth shall not be allowed to interfere with City utility lines, or to block the view of the street signs or traffic signs.

(c) Nothing herein contained shall be considered to apply to bushes, trees, or other vegetation grown for food or fuel: providing that the health and safety of the public be not hereby endangered by the growth of such growth or vegetation.

No owner or person in charge of property shall allow to stand, a dead or decaying

tree that is a hazard to the public or to persons or property on or near the property.

13). Junk

(a) No person shall keep any junk outdoors on any street, lot or premises, or in a building that is not wholly or entirely closed, except doors used for ingress and egress.

(b) This section shall not apply to junk kept in a duly licensed junk yard or automobile wrecking house.

SECTION 3. Nuisances Affecting Public Peace.

1). Radio and Television Interference.

(a) No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.

(b) This section does not apply to devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission.

#### SECTION 4. Unenumerated Nuisances.

##### 1). Declaration of Nuisances, Unenumerated Nuisances.

(a) The acts, conditions or objects specifically enumerated and defined in Sections 2 and 3 are declared public nuisances; and such acts, conditions, or objects may be abated by any of the procedures set forth in Section 5 of this ordinance.

(b) In addition to the nuisances specifically enumerated within this ordinance, every other thing, substance or act which is determined by the council to be injurious or detrimental to the public health, safety or welfare of the city is declared a nuisance and may be abated as provided in this ordinance.

#### SECTIONS. Abatement Procedure.

##### 1). Notice.

(a) Upon determination by the City Administrator, or designee, that a nuisance exists, the administrator, or designee, shall issue a warning citation to the owner or person in charge of the property. The warning citation shall be personally served or mailed by certified mail with a return receipt requested.

(b) Such warning citation shall include the following information:

(i) A description of the real property, by Street address or otherwise, on which such nuisance exists.

(ii) A description of the conditions comprising the nuisance.

(iii) A direction to abate the nuisance within 14 days from the date of the warning citation.

(iv) A statement that unless the conditions comprising the nuisance are removed or corrected, the owner or person in charge will be cited into municipal court for the violation.

(c) Fourteen days after the issuance of the warning citation the city administrator or designee shall inspect the premises to determine if the owner or person in charge of the property has abated the conditions comprising the nuisance, and if not abated, the city administrator or designee may issue a citation to the owner or person in charge of the property to appear in the municipal court at the next available date. The citation shall be personally served or mailed by certified mail with a return receipt requested.

(d) In addition to the citation issued under this section the city administrator or designee shall cause a notice to be posted on the premises, or on the public right-of-way abutting the premises where the condition exists, stating the condition comprising the nuisance and the date and time that the owner or person in charge is to appear in municipal court

2). Summary Abatement. The procedure provided by this ordinance is not exclusive but is in addition to procedure provided by other ordinances; and the health officer, the chief of the fire department or chief of police 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.

3). Abatement Ordered by Court.

(a) In addition to any fine imposed, the court may order the person to abate the nuisance within a specified time, as determined reasonable by the court.

(b) If, within the time specified by the court, the owner or person in charge of the property has not abated the nuisance, the court, upon application by the city, may order the city to abate the nuisance and charge the owner of the property for the cost of abatement and, if necessary, place a lien against the property as provided in subsection 4 of section 5 of this ordinance.

4) Assessment of Cost of City Ordered Abatement

(a) The city recorder, or designee, shall keep an accurate record of the expense incurred by the city in abating the nuisance, and shall include therein a charge of 25 percent of the expense for administration overhead.

(b) The city recorder, by registered or certified mail, postage prepaid, shall forward to the owner or person in charge of the property a notice stating:

(i) The total cost of abatement, including the administrative overhead.

(ii) That the cost as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice

(iii) That if the owner or person in charge of the property objects to the cost of the abatement as indicated, he may file a notice of objection with the city recorder not more than 10 days from the date of the notice requesting a hearing.

(c) Upon receipt of a request for hearing, the council shall set a date to consider objections. The objector shall be notified of such date and at said hearing the council shall hear the objection and determine the cost to be assessed. Hearing shall be held within 60 days of date notice of objection is received.

(d) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs as stated or as determined by 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 or abated.

(e) The lien shall be enforced in the same manner as liens for street improvement are enforced, and shall bear interest at the rate of 9 percent per annum. Such interest shall commence to run from date of the entry of the lien in the lien docket.

(f) 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 the notice of the proposed assessment render the assessment void; but it shall remain a valid lien against the property.

(g) The city may; for purposes of giving notice under this section, rely upon the most current records of the county recorder and county assessor for the purposes of identifying the name and address of the property owner, unless the city has actual notice that the property is owned by others.

SECTION 6. Penalties. Any person who shall be found guilty of a violation of any of the provisions of this ordinance, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding \$500.00.

Separate Violations.

1). Each day's violation of a provision of this ordinance constitutes a separate offense, for which a separate penalty may be imposed.

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; however, abatement of a nuisance within fourteen (14) days of the

date of notice to abate, will relieve the person responsible from the imposition of any fine under Section 5 of this ordinance.

SECTION 7. Repeal of Prior Ordinances. City of Cascade Locks Ordinance(s) No. 2~9 and 3.4Q and amendments thereto are hereby repealed.

Saving Clause. Ordinances repealed shall remain in force for the purpose of authorizing the arrest, prosecution, conviction and punishment of a person who violated those ordinances prior to the effective date of this ordinance.

SECTION 8. Severability. Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance be declared invalid, such declaration shall not affect the validity of any other section, subsection, paragraph, sentence, clause, or phrase; and if this ordinance, or any portion thereof, should be held to be invalid on one ground but valid on another, it shall be construed that the valid ground is the one upon which said ordinance, or such portion thereof, was enacted.

SECTION 9. Effective Date. This ordinance shall become effective upon adoption by the City Council and approval by the Mayor.

ADOPTED by the City Council this 11th day of July, 2000.

APPROVED by the Mayor this 11th day of July, 2000.