

ORDINANCE NO. 220

AN ORDINANCE AMENDING CHAPTER 91 OF THE DUNES CITY CODE OF ORDINANCES REGARDING NUISANCES; REPEALING ORDINANCE NUMBERS 108 AND 176; AND OTHER MATTERS PROPERTY RELATING THERETO.

WHEREAS, on December 15, 1986, the City Council of Dunes City adopted Ordinance No. 108, which established Chapter 91 within the Dunes City Code of Ordinances entitled “Nuisances” and;

WHEREAS, on May 12, 2005, the City Council of Dunes City adopted Ordinance No. 176, amending Ordinance No. 108 in various ways; and

WHEREAS, the City Council of Dunes City adopted Ordinance Number 219, entitled “Code Enforcement” which, among other things, establishes an abatement process to be used by the City under Chapter 36 of the Dunes City Code; and

WHEREAS, as a result of the passage of Ordinance No. 219, the abatement process established by Ordinance Number 108 , as amended by Ordinance Number 176, is redundant and unnecessary; and

WHEREAS, the City Council of Dunes City wishes to amend its nuisance provisions to make them less intrusive on Dunes City residents and easier to administer;

NOW, THEREFORE, THE CITY OF DUNES CITY ORDAINS AS FOLLOWS:

Section 1. Chapter 91 of the Dunes City Code is hereby amended to read as follows:

TITLE IX - GENERAL REGULATIONS

CHAPTER 91 - NUISANCES

Section

§ 91.01	Definitions
§ 91.02	Nuisances declared; Unenumerated nuisances
§ 91.03	Nuisances affecting public health
§ 91.04	Nuisances affecting public peace
§ 91.05	Abatement procedure
§ 91.06 to§ 91.98	Reserved
§ 91.99	Penalty

§ 91.01 DEFINITIONS.

For the purposes of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

DISCARDED VEHICLE. A vehicle, whether it has an unexpired license plate lawfully affixed or not, except as provided herein, that is in one or more of the following conditions:

- A. Inoperative;
- B. Wrecked;
- C. Dismantled in whole or in part;
- D. Abandoned.

Vehicles that are in the process of being repaired or restored shall not be considered “discarded” provided no more than two (2) such vehicles are visible by persons walking or driving upon any street or other public right-of-way and from adjacent properties.

ENCLOSURE. Any garage, carport, building, basement, or area fenced by a fence which is solid, not to exceed fence height limitations set by City Code, maintained in a good state of repair, which shields the junk from view from all public rights-of-way and adjacent properties.

JUNK. Includes inoperable motors, discarded vehicles or parts thereof, inoperable hauling or travel equipment or machinery or parts thereof, inoperable appliances or parts thereof, iron or metal, glass, paper, lumber, wood, tires or other waste or discarded material that are 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 and from adjacent properties.

PERSONAL IN CHARGE OF PROPERTY. An owner, agent, occupant, lessee, contract purchaser, or other person having possession or control of property or supervision of a construction project.

PERSONAL RESPONSIBLE. The person responsible for abating a nuisance includes:

- A. The owner;
- B. The person in charge of property, as defined in this section;
- C. The person who caused a nuisance, as defined in this Chapter or another ordinance of the City, to come into or continue in existence.

WRECKED. Substantially damaged through accident or other cause.

§ 91.02 NUISANCES DECLARED; UNENUMERATED NUISANCES.

A. The acts, conditions, or objects specifically enumerated and defined in this Chapter are declared public nuisances and may be abated by the procedures set forth in Chapter 36 of the Dunes City Code.

B. In addition to the nuisances specifically enumerated in this Chapter, every other thing, substance, or act that is determined by the City Code Enforcement officer to be injurious or detrimental to the public health, safety, or welfare of the City is declared a nuisance and may be subject to City-initiated abatement or penalty as provided in this Chapter.

§ 91.03 NUISANCES AFFECTING PUBLIC SAFETY.

A. *Containers, cisterns, and the like.* No person shall create a hazard by:

1. Maintaining or leaving, in a place accessible to children, a container with a compartment of more than one and one half (1 ½) cubic feet capacity and a door or lid that locks or fastens automatically when closed and that cannot be easily opened from the inside.

2. Being the owner or otherwise having possession of property on which there is a well, cistern, cesspool, excavation, or other hole of a depth of four (4) feet or more and a top width of twelve (12) inches or more and failing to cover or fence it with suitable protective construction.

B. *Unsafe buildings.* No person shall permit a building owned by the person to be in an unsafe condition, as defined in the building code of the State.

C. *Rights of Way.*

1. No person shall place on any public right-of-way debris, materials, refuse, buildings, structures, or other human constructed improvements.

2. No person shall fail to apply for a right-of-way permit as required by Dunes City Code.

3. No person shall commit or permit trespass upon the public right-of-way, with or without a permit to do so, when demand to cease or remove said trespass is issued by the City.

4. No person shall commit any act upon a public right-of-way when such act is prohibited by Dunes City Code or State statute.

D. Nuisances affecting public safety may be subject to a penalty as provided herein.

§ 91.03 NUISANCES AFFECTING PUBLIC HEALTH.

(A) *General nuisances affecting public health.* No person shall cause or permit a nuisance affecting public health on property owned or controlled by the person. The following are nuisances affecting public health and may be abated as provided in Chapter 36 of the Dunes City Code:

(1) Open vaults or privies constructed and maintained within the City, except those constructed or maintained in connection with construction projects in accordance with State Health Division regulations;

(2) Accumulations of debris, rubbish, manure, and other refuse that are not removed within a reasonable time as set by the City and that affect the health of the City's residents;

(3) Stagnant water that affords a breeding place for mosquitoes and other insect pests and rodents;

(4) 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;

(5) Premises that are in such a state or condition as to cause an offensive odor or that are in an unsanitary condition;

(6) Drainage of liquid wastes from private premises;

(7) Cesspools or septic tanks that are in an unsanitary condition or that cause an offensive odor;

(B) *Abandoned and discarded items prohibited.* No person shall keep junk or other items described below within the view persons walking or driving upon any street or public right-of-way, or from adjacent properties:

1. Abandoned appliances, including, but not limited to, freezers, refrigerators, iceboxes, water heaters, washers, dryers, ovens, etc;

2. Abandoned furniture including, but not limited to, items such as couches, chairs, tables, mattresses, etc;

3. Used wood or lumber containing nails or scattered in such a manner as to create a safety hazard;

4. Machinery which is inoperable, or parts thereof that would be a safety hazard to children or pets;

5. Scattered tires which are not being used for landscaping;
6. Any unguarded machinery, equipment, or other devices on property which may be attractive, accessible, and potentially dangerous to children;
7. Lumber, logs, or piling placed or stored in such a manner so as to be attractive, accessible, and potentially dangerous to children;
8. An open pit, quarry, cistern, or other excavation without adequate safeguards or barriers to prevent such places being used by children. This provision shall not apply to authorized construction projects if during the course of construction reasonable safeguards are maintained to prevent any injury to playing children;
9. More than two (2) discarded vehicles as defined in § 91.01 herein.

§ 91.04 NUISANCES AFFECTING THE PUBLIC PEACE.

A. No person shall create or assist in creating or permit the continuance of unreasonable noise in the City. The following enumeration of violations of this section is illustrative of some unreasonable noises, but is not exclusive:

1. Keeping an animal that causes annoyance, alarm, or noise disturbance for more than fifteen (15) minutes at any time of the day or night, be it repeated barking, whining, screeching, howling, braying or other like sounds which can be heard beyond the boundary of the owner's property;
2. Using an engine or device that is so loaded, out of repair, or operated in such a manner that it creates a loud or unnecessary grating, grinding, rattling or other noise;
3. Using a mechanical device operated by compressed air, steam, or otherwise, unless the noise created by it is effectively muffled;
4. Using or operating a loudspeaker or sound amplifying device so loudly that it disturbs persons in the vicinity.

B. Noise is presumed to be unreasonable if, during the hours of 7:00 a.m. to 7:00 p.m. it is audible to a person of normal hearing at a distance of 100 yards, or during the hours of 7:00 p.m. to 7:00 a.m., it is audible at a distance of 50 yards.

- § 91.25, Inspection; Notice to Abate – deleted.
- § 91.26, Abatement by Person Responsible – deleted.
- § 91.27, Joint Responsibility - deleted.
- § 91.28, Abatement by City – deleted.
- § 91.29, Assessment of Costs; Lien – deleted
- § 91.30, Summary Abatement – deleted
- § 91.98, Penalty – deleted and replaced.
- § 91.99, Appeals – deleted.

§ 91.05 ABATEMENT PROCESS.

Violations of the provisions of this Chapter will be abated in accordance with the process described in Chapter 36 of the Dunes City Code.

§ 91.99 PENALTY.

Any person violating any of the provisions of §91.01 *et. seq.* may be deemed guilty of a misdemeanor by the appropriate City authority, and upon conviction shall be fined in an amount set by Resolution of the City Council from time-to-time. Every day a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

Section 2. Severability Clause.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision and that holding shall not affect the validity of the remaining portions of this Ordinance.

Section 3. Effective Date.

This ordinance shall take effect thirty (30) calendar days after adoption and publication of a Notice of Adoption in accordance with Dune City Charter.

Section 4. Repeal.

The repeal of Ordinances 108 and 176 shall not affect any action occurring before the repeal takes effect. Ordinance Numbers 108 and 176 are hereby repealed.

The first reading of this Ordinance was conducted in a regular meeting of the City Council of Dunes City, Oregon, on the 14th day of February 2013.

The second reading of this Ordinance was conducted in a regular meeting and adopted by the City Council of Dunes City, Oregon on this 14th day of March, 2013.

Ayes: 4 Nays: 0 Abstain: 0 Absent: 1 Vacant: 1

ADOPTED BY THE DUNES CITY COUNCIL THIS 14th DAY OF MARCH, 2013.

[Signed copy available at City Hall]

Rebecca Ruede, Mayor

ATTEST:

[Signed copy available at City Hall]

Fred Hilden, City Recorder