

ORDINANCE # 138

AN ORDINANCE PROVIDING FOR THE ABATEMENT OF NUISANCES WITHIN THE CITY OF WESTFIR, DEFINING NUISANCES; ESTABLISHING PENALTIES; AND REPEALING WESTFIR ORDINANCE #129.

The City of Westfir, 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 person other than the owner having possession or control of the 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.
 - (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 or accommodation, whether publicly or privately owned, open and available to the general public
- (5) City – The City of Westfir, Oregon.
- (6) Recreational Vehicle – a vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreation, shall include:
 - (a) travel trailers,
 - (b) motor homes,
 - (c) bus conversions,
 - (d) van conversions,
 - (e) tent trailers,
 - (f) truck campers
 - (g) any vehicle converted for use or partial use as a recreational vehicle.
- (7) Noxious Growth
 - (a) Grass and weeds more than 12 inches high
 - (b) Poison oak and poison ivy
 - (c) Blackberry bushes that extend into a public thoroughfare or cross a property line
 - (d) Vegetation that is:
 1. A health hazard
 2. A fire hazard
 3. A traffic hazard, because it impairs the view of a public thoroughfare, or otherwise makes the use of the thoroughfare hazardous.

Section 2. Nuisances Affecting Public Health – No person shall cause, or permit on property owned or controlled by them, a nuisance affecting public health. The following are nuisances affecting public health and may be abated as provided in this ordinance.

- (1) Privies – Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the State Health Division regulations.
- (2) Trash – Accumulations of cans, bottles, metals, plastics, cardboards, paper, or other waste materials that are not enclosed in trash cans or other enclosed containers.
- (3) Organic Waste – Accumulations of organic waste, including food scraps, tree limbs, leaves, grass clippings and other organic materials, if such accumulation attracts rodents or other animals or otherwise creates a substantial risk of affecting the health of any person or animal.
- (4) Stagnant Water – Stagnant water which affords a breeding place for mosquitos and other insect pests.
- (5) Water Pollution – Pollution of a body of water, well, spring, stream or drainage ditches 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.
- (6) Food – Decayed or unwholesome food which is offered for human consumption.
- (7) Odor – Premises which are in such a state or condition as to cause an offensive odor, or which are in an unsanitary condition.
- (8) Surface Drainage – Drainage of liquid wastes from private premises.
- (9) Cesspools – Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor.
- (10) Slaughterhouses, etc. – Slaughterhouses, tanneries or pigsties.

Section 3. Creating A Hazard – 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 cubic feet capacity and a door or lid which locks or fastens automatically when closed or which cannot be easily opened from the inside; or
- (2) Maintaining 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, and failing or refusing to cover or fence it with a suitable protective construction.

Section 4. Attractive Nuisances – No person shall maintain property with:

- (1) Unguarded machinery, equipment or other devices which are attractive, dangerous and accessible to children.
- (2) An open pit, quarry, cistern, or other excavation without safeguards or barriers to prevent such places from being used by children.
- (3) This section shall not apply to authorized and permitted construction projects with reasonable safeguards to prevent injury or death to playing children.

Section 5. Scattering Rubbish – No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse or any substances that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property or would be likely to injure a person, animal or vehicle traveling upon a public way.

Section 6. Junk – No person shall keep any junk outdoors on any street, lot or premises, or in a building that is not wholly or entirely enclosed, except doors used for ingress and egress. “Junk” as used in this section includes but is not limited to:

- (1) Discarded vehicles which do not have lawfully affixed thereto an un-expired plate (or expired less than 30 days) or is in one or more of the following conditions:
 - a) Inoperative;
 - b) Wrecked;
 - c) Dismantled;
 - d) Partially dismantled, including portions of a dismantled vehicle, such as vehicle bodies, engines, transmissions, and rear ends; or
 - e) Abandoned
- (2) Old machinery, old machinery parts, old appliances or parts thereof.
- (3) Old iron, or other metal, glass, paper, decayed lumber or wood or other waste or discarded materials.
- (4) Used materials, including but not limited to waste, debris or discarded items, used building supplies, tires, cartons, paper, scrap, used furniture, plumbing or electrical supplies, appliances and barrels, vehicle engine and body parts, lumber, used wood, pallets, or materials that are stockpiled for the purpose of recycling which are visible from public view. Firewood or materials to be used as firewood must be cut and stacked outside of the front yard setback within 30 days of delivery.

Section 7. Radio, Satellite, and Cable Interference – No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio, satellite or cable reception. This section does not apply to devices licensed, approved or operated under the rules and regulations of the Federal Communications Commission.

Section 8. Fences – No person shall construct or maintain:

- (1) Barbed-wire fence thereon, or permit barbed wire to remain as part of a fence along a sidewalk or public way; except such wire may be placed above the top of other fencing not less than six feet, six inches high.
- (2) Electric fence along a sidewalk or public way or along the adjoining property line of another person.

Section 9. Trees & Shrubs – No person, on property that abuts upon a street or public sidewalk, shall permit trees or shrubs on the property to interfere with street or sidewalk traffic. It shall be the duty of an owner or person in charge of the property that abuts upon a street or public sidewalk to keep all trees and shrubs on his premises, including the adjoining parking strip, trimmed to a height of not less than eight feet above the sidewalk and not less than 10 feet from the roadway. 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.

Section 10. Noxious Growth – No owner or person in charge of property shall permit noxious growth (as described in Section 1.7) to grow upon his property. It shall be the duty of an owner or person in charge of property to cut down or to destroy grass, shrubbery, brush, bushes, weeds or other vegetation as often as needed to prevent them from becoming unsightly, from becoming a fire hazard, or, in the case of weeds or other noxious vegetation, from maturing or going to seed.

Section 11. Stored Vehicles – Parking, storing, leaving or permitting the parking or storing of any licensed or unlicensed motor vehicle that is in a wrecked, partially dismantled, inoperative or abandoned condition, whether attended or not, upon any public or private property within the city, unless completely enclosed within a legally permitted building that is wholly or entirely enclosed except for doors for use for ingress and egress. Nothing herein shall prohibit the storage of one vehicle not in violation of other provisions of this ordinance, where it is screened from public view within a legally permitted structure or behind a six foot solid fence. No person shall keep or permit the storage of a discarded vehicle upon private property within the city for more than seven days unless the vehicle is completely enclosed within a legally permitted structure or behind a six foot solid fence.

(Sections 12 through 18 reserved for expansion)

Section 19. Occupied Recreational Vehicle- No owner or person in charge of property shall permit the residential use of a recreational vehicle (as described in Section 1.6) on a residential driveway or property for a period in excess of fourteen (14) consecutive calendar days in any three (3) month period without specific authorization permitted by City Council. Requests for extended stays must be made in writing and presented to the City Recorder at least seven (7) days preceding a regular City Council meeting. During any temporary recreation period of fourteen (14) days and approved extended stays, the recreational vehicle must remain road ready with current tags and registration, with wheels and tongue attached. Disposing of waste from a recreational vehicle into the City sewer system is strictly prohibited unless authorized by City Council and inspected by the City Operator. After 14 days, the occupation of a recreational vehicle shall be considered “residing”, which is prohibited under the Westfir Land Development Code,

and may be enforced under Section 3.11.2 or alternatively enforced and abated by this Ordinance in accordance to Section 3.11.3 of the Westfir Land Development Code.

Section 20. Unenumerated Nuisances –

- (1) The acts, conditions or objects specifically enumerated and defined in Sections 2 through 19 are declared a public nuisance; and such acts, conditions or objects may be abated by any of the procedures set forth in Sections 21 through 32 of this ordinance.
- (2) 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.

ABATEMENT PROCEDURE

Section 21. Notice –

- (1) If the City Recorder or designate of the City Council is satisfied that a nuisance exists, he or she shall cause a notice to be posted on the premises or at the site of the nuisance directing a person responsible to abate the nuisance.
- (1) At the time of posting, the City Recorder shall cause a copy of the notice to be forwarded by registered or certified mail, postage prepaid, to the person responsible at his last known address.
- (3) The notice to abate shall contain:
 - (a) A description of the real property, by street address or otherwise, on which the nuisance exists.
 - (b) A direction to abate the nuisance within ten days from the date of the notice.
 - (c) A description of the nuisance.
 - (d) A statement that unless the nuisance is removed, the city may abate the nuisance and the cost of abatement shall be charged to the person responsible and/or assessed against the property.
 - (e) A statement that the person responsible may protest the order to abate by giving notice to the City Recorder within ten days from the date of the notice.
 - (f) A statement that the person responsible may be assessed a fine of up to \$200.00 per day the nuisance condition is maintained.
- (4) Upon completion of the posting and mailing, the persons posting and mailing shall execute and file certificates stating the date and place of the mailing and posting, respectively.
- (5) An error in the name of address of the person responsible shall not make the notice void, and in such case the posted notice shall be sufficient.

Section 22. Public Notice and Abatement of noxious growth

- (1) Between May 1st and June 15th of each year the City Recorder shall cause to be published not less than three times in a newspaper of general circulation in the City the requirements of this ordinance, as notice to all owners and persons in charge of property to abate their property of “noxious growths.” The notice shall also state that the City intends to abate all such “noxious growths” ten or more days after the final publication of the notice, and to charge the cost of doing so on any particular parcel of property to the owner thereof, the person in charge thereof, or the property itself.
- (2) In addition to the public notice required in subsection 1 and prior to the initiation of abatement activity, the City shall attempt to notify the property owner of the requirements of this ordinance and the City’s intention to abate the “noxious growths.” The City may initiate abatement no sooner than ten days after mailing of the required notice by certified mail.
 - (a) Notice shall be mailed to the property owner shown on the most recent tax roll available to the City. A contract purchaser of record shall be considered to be the property owner.
 - (b) Personal notice to the property owner or person in charge shall not be required.

Section 23. Abatement by the Person Responsible –

- (1) Within ten days after the posting and mailing of such notice, as provided in Sections 21 and 22, the person responsible shall remove the nuisance or show that no nuisance exists.
- (2) A person responsible, protesting that no nuisance exists, shall file with the City Recorder a written statement which shall specify the basis for so protesting.
- (3) The statement shall be referred to the City Council as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the council; and the council shall determine whether or not a nuisance in fact exists; and the determination shall be entered in the official minutes of the council. Council determination shall be required only in those cases where a written statement has been filed as provided.
- (4) If the council determines that a nuisance does in fact exist, the person responsible shall, within ten days after the council determination, abate the nuisance.

Section 24. Abatement by the City –

- (1) If, within the time allowed, the nuisance has not been abated by the person responsible, the City may cause the nuisance to be abated.
- (2) The person authorized to cause, or the person retained to do the abating, may make lawful entry upon the property at reasonable times for the purpose of investigating and abating conditions prohibited by this ordinance.

- (3) The City Recorder shall keep an accurate record of the expense incurred by the city in physically abating the nuisance, and shall include therein a charge of 10% of those expenses for administrative overhead.

Section 25. Joint Responsibility – If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance, or for the costs incurred by the city in abating the nuisance.

Section 26. Assessment of Costs –

- (1) The City Recorder, by registered or certified mail, postage prepaid, shall forward to the person responsible a notice stating:
 - (a) The total cost of abatement, including the administrative overhead.
 - (b) 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.
 - (c) The bill shall state that it may be protested in writing to the City Council of Westfir within ten days after its date. If it is so protested, the City Council of Westfir shall consider such protest at its next regular meeting, determine the proper amount of the bill and notify the person protesting of that amount. That determination shall be final.
- (2) If the bill is not paid within the thirty days from date of notice, or Council final decision, the City Recorder may proceed to cause a lien to be established against the property for the amount of the bill. The lien shall bear interest at the rate of 10% per annum.
- (3) An error in the name of the person responsible 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.

Section 27. Summary Abatement – The procedure provided by this ordinance is not exclusive, but is in addition to any procedure provided by other ordinances; the Chief of the Fire Department or any other city official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers life and/or property.

Section 28. Penalties – In addition to the remedy of abatement, the City may assess a fine not to exceed \$200.00 against any person responsible for violating any of the provisions of this ordinance.

Section 29. Separate Violations –

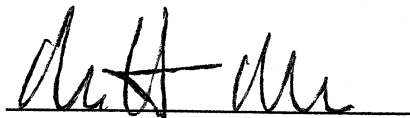
- (1) Each day's violation of a provision of this ordinance shall constitute a separate violation.
- (2) The abatement of a nuisance as herein provided shall not constitute a penalty for a violation of this ordinance, but shall be in addition to any penalty imposed for a violation of this ordinance.

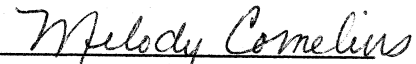
Section 30. Severability – The sections and subsections of this ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections and subsections.

Section 31. Repealing Clause – Ordinance #129 is hereby repealed in its entirety.

Passed by the Council and approved by the Mayor on this 6th day of March, 2017.

AYE: 5 NAY: 0 ABSENT 0.


Matt Meske, Mayor

ATTEST: 
Melody Cornelius, City Recorder

DATE: 3/6/2017