

ORDINANCE NO. 911

AN ORDINANCE DEFINING NUISANCES; PROVIDING FOR THEIR ABATEMENT;  
PROVIDING PENALTIES; AND REPEALING ORDINANCES  
NO. 202, 275, 440, AND 568

The People of the City of Prineville ordain as follows:

Section 1. Definitions.

(1) Person. A natural person, firm, partnership, association or corporation, trust, estate or any other public or private entity whatsoever.

(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) Animal. All animals and birds except cats and dogs.

(5) At Large. Within the City of Prineville upon any street, alley, park, public place or property not owned by an owner or person in charge of an animal.

(6) Public place. A building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.

Animals

Section 2. Removal of Carcasses.

(1) No person shall permit a carcass of an animal, dog or cat owned or controlled by him to remain upon public property, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of the carcass.

(2) No person shall permit animal, cat or dog feces to

remain on property controlled by the person for a period of time longer than is reasonably necessary to remove and dispose of the feces.

Section 3 Animals at Large. No owner or person in charge of an animal shall permit the animal to be at large.

Section 4. Impoundment. Any animal found at large may be taken in custody by the City Police and held by the City. If the owner or person in charge of the animal is known, that person shall be notified in writing of the impoundment and given notice that unless the fee for the transfer of the animal to the place of impoundment, costs of impoundment, costs of care and feeding of the animal together with an administrative fee of not more than \$20.00 is paid, the City within not less than five (5) days from the date of the letter, that the animal will be disposed of or sold by the City. If the value of the animal is estimated to be \$100.00 or more sale will be by public auction with notice being given as to the date, time and place of the sale by posting the notice in three (3) public places within the City. Notification of the owner or person in charge will be effective upon personal delivery of the notice or mailing a certified letter, return receipt requested, to the last known address of the owner or person in charge of an impounded animal.

Section 5. Swine. No person shall keep any pig, hog or swine within the City of Prineville.

Section 6. Horses in Parks. No person shall permit any horse owned by him or under his control to be in or upon any public park property except on a designated bridle path.

Section 7. Dangerous Animals or Reptiles. No person may permit a wild or domesticated dangerous animal to run at large. No person may keep any dangerous or venomous reptile in captivity, or transport any snake into the City of Prineville.

#### Nuisances Affecting Public Health

Section 11. 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) 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 health division regulations.

(2) Debris. Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the City.

(3) Stagnant water. Stagnant water which affords a breeding place for mosquitoes and other insect pests.

(4) 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.

(5) Food. Decayed or unwholesome food which is offered for human consumption.

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

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

(8) Septic Tanks. Septic Tanks which are in an unsanitary condition or which cause an offensive odor.

#### Nuisances Affecting Public Safety

Section 15. Creating a Hazard. No owner or person in charge of property 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 and which cannot be easily opened from the inside; or

(2) 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 twelve inches, or more, fail or refuse to cover or fence it with a suitable protective construction.

(3) Being the owner or otherwise having possession of property upon which there is a fence that is not structurally stable or which is in such disrepair that children could get through such disrepaired areas.

#### Section 16. Attractive Nuisances.

(1) No owner or person in charge of property shall permit

thereon:

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

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

(c) An open pit, quarry, cistern or other excavation projects without reasonable safeguards to prevent injury or death to playing children.

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

Section 17. Snow and Ice. No owner or person in charge of property, improved or unimproved, abutting on a public sidewalk shall permit:

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

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

Section 18. Noxious Vegetation.

(1) The term "noxious vegetation" does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard or a fire or traffic hazard within the meaning of Subsection (2) of this section.

(2) The term "noxious vegetation" does include, at any time between May 1 and November 1 of any year:

(a) Weeds more than 10 inches high.

(b) Grass more than 10 inches high and not within the exception stated in Subsection (1) of this section.

(c) Weeds, Grass or Vegetation that is:

(i) A health hazard;

(ii) A fire hazard because it is near other combustibles; or

(iii) A traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous.

(3) Between May 1 and November 1 of any year, no owner or person in charge of property may allow noxious vegetation to be on the property or in the right-of-way of a public thoroughfare abutting on the property. It shall be the duty of an owner or person in charge of property to cut down and haul away or to destroy grass, shrubbery, brush, bushes, weeds or other noxious 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 from going to seed.

Section 19. Scattering Rubbish. No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse or any substance 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 20. Trees.

(1) 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 21. Fences.

(1) 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 or public way; except such wire may be placed above the top of other fencing not less than six feet high.

(2) 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 adjoining property line of another person.

Section 22. Surface Waters, Drainage.

(1) No owner or person in charge of a building or structure shall allow 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.

(2) 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.

## Nuisances Affecting Public Peace

### Section 31. Radio and Television Interference.

(1) 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.

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

### Section 32. Junk.

(1) No person responsible shall keep any junk outdoors on any street, lot or premises, or in a building that is not wholly or entirely closed.

(2) The term "junk" as used in this section includes all inoperative vehicles, abandoned vehicles, unlicensed vehicles, old vehicle parts, old machinery, old machinery parts, old appliances or parts thereof, appliances that are not being used for the purpose they were manufactured for, discarded furniture, mattresses, carpeting, old iron or other metal, glass, paper or any other discarded material.

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

(4) An "inoperative vehicle" is a vehicle that cannot be immediately operated.

(5) This section shall not apply to repair work being done on vehicles when the repairs last less than 30 days and when the repairs are done on a vehicle not located on public property.

Section 33. Burn Barrels. No person responsible shall burn garbage containing animal or vegetable matter or other matter causing offensive odor. All persons using burn barrels shall comply with the uniform fire code and any amendment of the uniform fire code adopted by ordinance of the City of Prineville.

### Section 34. Unnecessary Noise.

(1) No person may make, assist in making, continue or cause to be made any loud, disturbing, or unnecessary noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, safety, or peace of others.

(2) Loud, disturbing, and necessary noises in violation of this section include but are not limited to the following:

(a) The keeping of any animal which by causing frequent or long-continued noise shall disturb the comfort and repose of any person in the vicinity.

(b) The playing of a radio, television, stereo, or similar device which disturbs the comfort and repose of any person in the vicinity.

#### Section 35. Parking of Vehicles.

(1) No person shall park any car or pickup on any public street for a period in excess of 10 days. No person shall park any other vehicle on any public street for a period in excess of 3 days. The intent of this section is to penalize people who use the street as a parking area for their vehicles but not to penalize people who use their cars or pickups on a day-to-day or other similar regular basis and park that vehicle on the street.

(2) "Vehicle" means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means. "Street" means every public way, road, thoroughfare, alley, and place, including bridges and other structures within the boundaries of this city, open, used, or intended for use of the general public for vehicles or vehicular traffic as a matter of right.

### Unenumerated Nuisances

#### Section 45. Unenumerated Nuisances.

(1) The acts, conditions or objects specifically enumerated and defined in Sections 2 to 44 are declared public nuisances; and such acts, conditions or objects may be abated by any of the procedures set forth in Sections 46 to 51 of this ordinance.

### Abatement Procedure

#### Section 46. Notice.

(1) Upon determination by the City Administrator or his designees that a nuisance exists, the City Administrator shall cause a notice to be posted on the premises or at the site of the nuisance, directing the person responsible to abate the nuisance.

(2) At the time of posting, the City Administrator shall

cause a copy of the notice to be forwarded by registered or certified mail, postage prepaid, to the person responsible including the owner or contract purchaser of the real property upon which the nuisance exists if they are not the person defined in Section 1(3)(c) of this ordinance, 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 10 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 will be charged to the person responsible and could become a lien on the property.

(e) A statement that failure to abate a nuisance may warrant imposition of a fine.

(f) A statement that the person responsible may protest the order to abate by giving notice to the City Administrator within 10 days from the date of the notice, together with a statement from the person responsible as to why they feel no nuisance exists.

(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 or address of the person responsible shall not make the notice void, and in such case the posted notice shall be sufficient.

#### Section 47. Abatement by the Person Responsible.

(1) Within 10 days after the posting and mailing of such notice, as provided in Section 46, 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 Administrator 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 10 days after the Council determination, abate the nuisance.

Section 48. 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 49. 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 officer charged with abatement of the nuisance shall have the right at reasonable times to enter into or upon property to investigate the nuisance. The office charged with abatement of the nuisance and others as necessary shall have the right at reasonable times to enter into or upon the property to cause the removal of the nuisance.

(3) The City Administrator shall keep an accurate record of the expense incurred by the City in physically abating the nuisance and shall include therein a charge of \$15.00 or 15 percent of those expenses whichever is the greater for administrative overhead.

Section 50. Assessment of Costs.

(1) The City Administrator by registered or certified mail, postage prepaid, shall forward to all persons 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) That if the person responsible objects to the cost of the abatement as indicated, he may file a notice of objection with the City Administrator not more than 10 days from the date of the notice.

(2) Upon the expiration of 10 days after the date of the notice, the Council, in the regular course of business, shall hear and determine the objections to the costs assessed if any.

(3) If the costs of the abatement are not paid within 30 days from the date of the notice or the hearing on the objections, an assessment of the costs, as stated or as 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 or abated.

(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 7 percent per annum. The interest shall commence to run from the date of the entry of the lien in the lien document.

(5) 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.

#### General

Section 51. Summary Abatement. The procedure provided by this ordinance is not exclusive, but is in addition to procedure provided by other ordinances; and the chief of the fire department, the chief of police, or any other City official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.

#### Section 52. Penalties.

(1) Any person or persons who shall be convicted of being the author or keeper of a nuisance, or otherwise guilty of a violation of any of the provisions of this ordinance, shall be fined not less than \$10.00, nor more than \$50.00 for the first offense, and for the second and all subsequent offenses, not less than \$25.00, nor more than \$500.00.

(2) All persons responsible shall be liable for any injuries resulting from a violation of any of Sections 2 through 45 of this ordinance.

#### Section 53. Separate Violations.

(1) Each day's violation of a provision of this ordinance

constitutes a separate offense.

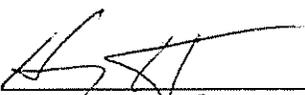
(2) The abatement of a nuisance is not a penalty for violating this ordinance, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within 10 days of the date of notice to abate, or if a written protest has been filed, then abatement within 10 days of Council determination that a nuisance exists will relieve the person responsible from the imposition of any fine or imprisonment under Section 52 of this ordinance.

Section 54. Severability Clause. If any clause, sentence, paragraph, section or portion of this ordinance for any reason shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder of this ordinance, but shall be confined to its operation to the clause, sentence, paragraph, section or portion of this ordinance directly involved in the controversy in which judgment is rendered.

Section 55. Repeal. Ordinances No. 202, 275, 440, and 568 are hereby repealed.

Passed by the Council and approved by the Mayor  
April 28, 1987.

  
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Wallace L. Boe, Mayor

  
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Henry Hartley, City Administrator  
Recorder