

ORDINANCE NO. 718

AN ORDINANCE DEFINING AND PROHIBITING NUISANCES; PROVIDING FOR THEIR ABATEMENT; PROVIDING PENALTIES; AND REPEALING ORDINANCES.

The City of Scappoose 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).
 - (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.

Section 2. Dangerous Animals. No owner or person in charge of an animal shall permit an animal, which is dangerous to the public health or safety, to be exposed in public. If the animal is exposed in public, it may be taken into custody by the city and disposed of in accordance with the procedures provided by ordinance for the impoundment of dogs; except that before the animal is released by the city, the municipal judge must find that proper precautions will be taken to ensure the public health and safety.

Section 3. Animals at Large. No owner or person in charge of an animal shall permit the animal to be at large. Animals at large may be taken into custody by the city and disposed of in accordance with the procedures provided by ordinance for the impoundment of animals.

Section 4. Removal of Carcasses. No person shall permit an animal carcass owned or controlled by him to remain upon public property, or to be exposed on private property, for a period of time longer than 24 hours.

Section 5. Nuisances Affecting Public Health. No owner or person in charge of property shall cause or permit on such property any nuisance affecting public health; nor shall any person cause on any property, public or private, any nuisance affecting public health. The following are nuisances affecting public health and may be abated as provided in this ordinance.

(1) Debris. An accumulation of decomposed animal or vegetable matter, garbage, rubbish, junk, manure, offal, ashes, discarded containers, waste, paper, debris, trash, hay, grass, straw, weeds, litter, inoperable equipment, old furnishings, or similar items, or other refuse matter or substance which, by itself or in conjunction with other substances, is deleterious to public health or comfort, or is unsightly, or creates an offensive odor or condition.

(2) Stagnant Water. An accumulation of stagnant or impure water, which affords or might afford a breeding place for mosquitoes or other insects.

(3) Noxious Weeds. A growth of Russian thistle, Canadian thistle, Chinese thistle, white mustard, cocklebur, silver saltbush, foxtail, or any other noxious weed; and all grass over 10 inches in height.

(4) Animal Carcasses and Waste. The deposition of an animal carcass or part thereof; of any excrement or sewage; or industrial waste; or any putrid, nauseous, decaying, deleterious, offensive, or dangerous substance in a stream, well, spring, brook, ditch, pond, river, or other inland waters within the city; or the placing of such substances in such position that high water or natural seepage will carry the same into such waters.

(5) Privies. An open vault or privy, except those constructed or maintained in connection with construction projects in accordance with the Oregon State Board of Health regulations.

(6) Surface Drainage. Drainage of liquid wastes from private premises.

(7) Cesspools. Cesspools or septic tanks which are in an unsanitary condition, or which cause an offensive odor.

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

(9) Odors. Premises which are in such a state or condition as to cause an offensive odor, or which are in an unsanitary condition.

(10) Slaughterhouses. A pigsty, slaughterhouse, or tannery.

(11) Housing of Animals. A barn, stable, kennel, corral, pen, chicken coop, rabbit hutch, or other place where animals are caged or housed which is in an unsanitary condition or creates a noxious or offensive odor.

(12) Water. The sufferance or allowance by the owner or person in charge of property that water from a roof, ditch, canal, flume, reservoir, pipeline, or conduit above or below ground should leak, seep, flow, overflow, run back or through, or escape or run upon, over, or under any premises, public street, alley, sidewalk, or other public property.

(13) Vector and Vermin. The existence on property of vector or vermin or the conditions which contribute to the growth or sustenance of vector or vermin.

Section 6. Abandoned Refrigerators.

(1) No person shall leave in any place accessible to children an abandoned or discarded icebox, refrigerator, or similar container without first removing the door.

Section 7. 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 pilings placed or stored in a manner so as to be attractive, dangerous, and accessible to children.

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

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

Section 8. Dangerous Excavations.

(1) No owner or person in charge of property shall allow an excavation to remain unguarded by suitable barriers.

(2) In addition to the barriers required by subsection (1) of this section, excavations shall be marked by warning lights during the hours of darkness.

(3) An obstruction on a street, sidewalk, public way, or pathway commonly used by the public shall be marked by warning lights during the hours of darkness. It shall be the responsibility of the person creating, maintaining, or in charge of such obstruction to ensure the installation and operation of the warning lights.

Section 9. Sidewalk Defect or Dangerous Place.

(1) No owner or property, improved or unimproved, abutting on a public sidewalk, shall permit the sidewalk to deteriorate to such a condition, that because of cracks, chipping, weeds, settling, holes covered by dirt, or similar occurrences, the sidewalk becomes a hazard to persons using it.

(2) 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 sidewalks free from such conditions and are liable for any and all injuries to persons or property arising as a result of their failure to so maintain the sidewalks.

Section 10. Trees.

(1) No owner or person in charge of abutting property shall allow any brush, bushes, trees, limbs, shrubbery, flowers, or other growth, whether grown for food, fuel, shade, or ornamentation, to project over a sidewalk at an elevation of less than eight feet above the level of the sidewalk, or over a street at an elevation of less than 13 feet 6 inches above the level of the street.

(2) No owner or person in charge of property shall allow to stand a dead or decaying tree that may be a hazard to the public or to persons or property on or near the property.

(3) The owner or occupant of property abutting a parking strip shall be responsible to maintain in good order brush, bushes, trees, limbs, shrubbery, flowers, or other growth on such parking strip.

Section 11. Fences.

(1) No owner or person in charge of property shall construct or maintain a barbed-wire fence along a sidewalk or public way below six feet above the level of the sidewalk or public way.

(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 12. Discarded Motor Vehicles.

(1) No person shall store or permit the storing of a discarded vehicle upon any private property within the city unless the vehicle is completely enclosed within a building or unless it is in connection with a business enterprise dealing in junked vehicles lawfully conducted within the city.

(2) The chief of police shall report to the city manager all cases of nuisances described in this section. He shall promptly examine every such case reported to him; and he shall have the right to enter any premises where he may have reason to believe such nuisance exists, and shall give immediate notice to the occupant or owner of the premises where such may be found to abate the same.

(3) The city manager may, after receiving said report, direct that notice be given to the owner of the discarded motor vehicle and to the owner of the property upon which said vehicle is located, directing that said motor vehicle be placed in compliance with this section. If compliance is not effected within 10 days from the date of the notice, the chief of police is authorized to remove said nuisance and dispose of said nuisance as allowed by law.

(4) For purposes of this section, "discarded" shall mean any vehicle which does not have lawfully affixed thereto an un-expired license plate or is in one or more of the following conditions:

- (a) Inoperative.
- (b) Wrecked.
- (c) Dismantled.
- (d) Partially dismantled.
- (e) Abandoned.

(f) Junked. Discarded vehicles may be deemed to include major parts thereof, including but not limited to bodies, engines, transmissions, and rear ends.

Section 13. 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 (FCC).

Section 14. Unnecessary Noise.

(1) No person shall 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) Any violation of City Ordinance No. 709 relating to noise, is a violation of this ordinance.

Section 15. Un-Enumerated Nuisances.

(1) In addition to the acts and conditions specifically enumerated in this ordinance, any condition, thing, substance, conduct, or activity which is detrimental to, injurious to, or constitutes a danger to the public health, safety, or welfare is declared to be a nuisance and is subject to the abatement procedures set forth in this ordinance.

(2) A condition, thing, substance, conduct, or activity declared to be a nuisance by another ordinance of this city is subject to the abatement procedures of this ordinance, if no abatement procedures are provided by such ordinance.

Section 16. Enforcement Procedures.

(1) If the Chief of Police or his/her delegate is satisfied that a nuisance exists, he may cause either a warning or a citation into the Municipal Court to be issued to the person responsible for the nuisance charging the person with violating this ordinance.

Section 17. Abatement by the City.

(1) If a nuisance is found by the court and said nuisance is not abated within the time ordered by the court, the city may cause the nuisance to be abated.

(2) The Chief of Police or other City Official charged with abatement of the nuisance shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance.

(3) The Chief or Police or other City Official charged with the abatement shall keep an accurate record of all expenses incurred by the city in abating the nuisance and shall include therein a charge of 15 per cent of those expenses for administrative overhead.

Section 18. 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 19. Assessment of Costs.

(1) Upon abatement of a nuisance by the City, 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) That if the person responsible objects to the cost of the abatement as indicated, he/she may file a notice of objection with the City Recorder not more than 10 days from the date of the notice.

(2) At the next regular meeting of the City Council after the date of the notice of objection, the Council, in the regular course of business, shall hear and determine the objections to the costs assessed.

(3) 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 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 6 percent per annum. The interest shall commence to run from date of the entry of the lien in the lien docket.

(5) An error in the name of the person responsible shall not void the assessment, nor will failure to receive the notice of the proposed assessment render the assessment void; but it shall remain a valid lien against the property.

Section 20. Summary Abatement. The abatement procedure provided by this ordinance is not exclusive, but is in addition to any procedure provided by other ordinances; and the chief of police may proceed summarily to abate a health or other nuisance which is reasonably found to exist and which imminently endangers human life or property.

Section 21. Penalties.

(1) A person violating Section 15 or 16 of this ordinance shall be guilty of a violation. Such violation shall be punishable by a fine fixed by the court not less than \$50.00 plus court assessments, nor more than \$250.00 plus court assessments.

(2) A person violating any provision of this ordinance other than Sections 15 and 16, shall, upon conviction, be guilty of a misdemeanor. Such a conviction under this ordinance is punishable by up to thirty (30) days in jail and a fine of no less than \$250.00 plus court assessments nor more than \$1,000.00 plus court assessments.

(3) In addition to other penalties, the court may order the nuisance abated and establish time limits for compliance. Failure to timely comply with a court order of abatement shall be punishable by the fines indicated in subsection (1) of this section.

Section 22. Affirmative Defense. Charges filed under this Ordinance, other than charges under Sections 15 and 16, may be dismissed by the court if at the trial the defendant proves by a preponderance of the evidence that the nuisance then existing had been satisfactorily abated no more than ten (10) calendar days after the defendant received the citation to appear in court for the nuisance, except that the city shall be reimbursed for reasonable costs pertaining to exercising the nuisance process as ordered by the Municipal Court.

Section 23. Separate Violations.

(1) Each day's violation of a section of this ordinance is a separate offense.

(2) The abatement of a nuisance by the City 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.

Section 24. 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 25. Repeal.


(1) Ordinance No. 556 and Chapter 8.20 of the Scappoose Code, as amended by Ordinance No. 696 are repealed. Ordinance No. 696, Sections 35 and 36 are repealed.

(2) Notwithstanding subsection (1) of this section, those ordinances listed therein shall remain in force for the purpose of abatement of a nuisance or authorizing the arrest, prosecution, conviction, and punishment of a person who violated said ordinances prior to the effective date of this ordinance.

Section 26. Emergency. Because the control of nuisances is necessary for preservation of public health, peace, and safety, an emergency is declared to exist and this ordinance shall take effect immediately upon its adoption.


PASSED AND ADOPTED by the council and approved by the mayor this 4th day of June, 2002, and signed by me in authentication of its passage.

CITY OF SCAPPOOSE, OREGON


Glenn E. Dorschler, Mayor

First Reading: June 4, 2002

Second Reading: June 4, 2002

Attest: 
Debi G. Schmit, City Recorder

May 13, 2002

Tim Repass
LexisNexis
201 Westlake Avenue, North
Seattle, WA 98109-5293

Dear Mr. Repass:

Enclosed are City of Scappoose Ordinances 688 through 717. In order to keep cost down, I am sending hard copies, a CD-Rom, and a diskette.

It appears that exhibits generally are not codified. I am depending on your professional staff to assist me in the final decision on what should be codified and what is not. Some of the ordinances may be comprehensive plan revisions and should not be included in the Municipal Code. Please verify this with me, and let me know the estimated cost of this project as soon as possible.

If you have any questions, please do not hesitate to contact me at the name and address above. Or you may e-mail me at debischmit@ci.scappoose.or.us.

Thank you.

Sincerely,

CITY OF SCAPPOOSE

Debi G. Schmit
City Recorder/Finance Director

Enclosures