

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR
MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 125

An ordinance relating to nuisance control; defining nuisances; providing for administration, enforcement, penalties and abatement; and repealing Ordinance No. 69.

Multnomah County ordains as follows:

Section 1. Title, Pleading and Jurisdictional Scope.

This ordinance shall be known as the Multnomah County Nuisance Control Ordinance, may be so pleaded, shall be referred to herein as "this ordinance," and shall apply to the unincorporated areas of Multnomah County.

Section 2. Definitions.

A. Unless the context requires otherwise, the following terms are defined as follows:

1. "Abandoned Vehicle" means any vehicle, as defined in this section, which reasonably appears to be inoperative, wrecked, discarded, abandoned or totally or partially dismantled.
2. "Board" means Board of County Commissioners of Multnomah County, Oregon.
3. "Director" means the Director of the Department of Environmental Services of Multnomah County or the Director's authorized representative.
4. "Explosive" means a chemical compound, mixture, or device that is used or intended to be used for the purpose of producing a chemical reaction resulting in

a substantially instantaneous release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin, blasting caps and nitrojelly, but excluding fireworks as defined by Oregon law, black powder, smokeless powder, small arms ammunition and small arms ammunition primers.

5. "Garbage" means all animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of food.
6. "Health Officer" means that person in the Department of Human Services of Multnomah County, Oregon, or an authorized representative, having the authority of the local health officer under Oregon law.
7. "Hearings Officer" means that person appointed by the Board to preside at hearings held pursuant to Section 10.
8. "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines or, if none, then of the lateral boundary lines of two or more streets or highways which join one another at an angle, whether or not one street or highway crosses the other.
9. "Liquid Waste" means waste oil, septic tank pumping, liquid industrial wastes or other similar material.
10. "Nuisance" means any annoying, unpleasant or obnoxious condition or practice causing or capable of causing an unreasonable threat to the public health, safety and welfare in the circumstances, but does not include

noise; provided that anything defined as a nuisance in Section 8 of this ordinance shall be a nuisance.

11. "Owner" means any person, as defined in this section, having a legal interest in real or personal property or any person in possession or control of real or personal property, and excludes any person whose interest is for security only.
12. "Person" means any natural person, association, trust, partnership, firm or corporation.
13. "Radioactive substance" means a substance which emits radiation in the form of gamma rays, x-rays, alpha particles, beta particles, neutrons, protons, high-speed electrons and other nuclear particles, but radiation does not include sound waves, radio waves, visible light, infra-red light or ultra-violet light.
14. "Rodent" means a mouse or rat.
15. "Rubbish" means glass, metal, paper, wood, plastics or other nonputrescible solid waste.
16. "Sewage Sludge" means residual waste of sewage treatment plants, consisting of digested organic waste and undigestible solids.
17. "Sidewalk" means that portion of a public right of way, other than the roadway, set apart by curbs, barriers, markings or other delineation for pedestrian travel.
18. "Solid Waste" means all putrescible and nonputrescible wastes, whether in solid or liquid form (except wastes produced by the human body, liquid-carried industrial

waste or sewage, or sewage hauled as an incidental part of septic tank or cesspool cleaning service) and includes garbage, rubbish, ashes, fill dirt, sewage sludge, street refuse, industrial wastes, swill, demolition and used construction materials, abandoned vehicles or parts thereof, discarded home or industrial appliances, manure, vegetable or animal solids and semi-solid waste, dead animals and other discarded solid materials.

19. "Vector" means any insect organism, including but not limited to flies, fleas, lice, ticks, fly maggots and mosquito larvae, capable of bearing, or carrying a disease transmittable to human beings.
20. "Vehicle" means any device which is designed or used for transporting people, goods, or property upon a public street or roadway, including but not limited to a body, engine, transmission, frame or other major parts, but does not include a device propelled by human power, such as a bicycle, or a device operated exclusively upon fixed rails or tracks.

Section 3. Policy.

The Board has determined it necessary to establish and maintain a program for the effective control and abatement of nuisances which constitute a hazard or menace to the health, safety and welfare of the people of Multnomah County, and this ordinance shall be liberally construed to effectuate that purpose.

Section 4. Administration and Enforcement.

A. The Director shall be responsible for the administration and enforcement of this ordinance.

B. The Director shall have authority to administer oaths, certify all official acts, issue citations, subpoena and require the attendance of witnesses and production of relevant documents at hearings before the Hearings Officer and take testimony of any person by deposition.

Section 5. Notices.

Except as provided in Section 10.A.1. all notices shall be in writing and, if mailed, then postpaid certified or registered mail, return receipt requested, to the addressee's last known address. A mailed notice shall be presumed to have been received on the second mail delivery day after mailing.

Section 6. Rules and Regulations.

The Director may promulgate rules and regulations necessary for the administration and enforcement of this ordinance.

Section 7. Interpretation.

For the purpose of this ordinance, words in the singular include the plural, the word "shall" is mandatory, and the term "this ordinance" shall be deemed to include all amendments hereafter made.

Section 8. Nuisances Defined.

A. It shall be unlawful for any person to maintain or allow to exist the following things, practices, or conditions on any property, or within public road rights of way adjacent thereto, which are hereby declared to be nuisances:

1. A pond or pool of stagnant water which emits an

obnoxious odor or is a source of vector breeding or otherwise presents a threat to the public health, safety and welfare.

2. An animal carcass not buried or destroyed within twenty-four (24) hours after death.
3. Accumulation, collection or storage of solid waste, without prior approval of the County Health Officer and the Director, unless person is licensed by lawful authority to operate a business specifically for those purposes.
4. A well, septic system or cesspool that has not been safely or securely sealed or properly maintained, which may cause or have caused an injury to any person or contamination of a potable water supply.
5. An abandoned, discarded or unattended icebox, refrigerator, or other 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.
6. Any property, whether vacant or improved building, residence structure or accumulation of any materials which is infested by vector or rodents.
7. Uncontrolled or uncultivated growth of weeds, brush, berry vines, poison oak, poison ivy, tansy ragwort, or grasses which offer vector or rodent harborage, contribute noxious pollens to the atmosphere, constitute

a fire hazard, or unreasonably interfere with the use and enjoyment of abutting public or private property.

8. Any explosive or radioactive substance, unless the possession is authorized by law.
9. Any accumulation of dirt, sand, gravel, pieces or chunks of concrete and/or other similar inorganic material, which is unsightly and reduces the aesthetic appearance of the neighborhood.
10. An open pit, well, quarry, cistern, excavation or other hole of a depth of four feet or more and a top width of twelve (12) inches or more without reasonable safeguards or barriers to prevent such places from being accessible to children.
11. Dead or decaying trees and tree limbs that present a safety hazard to the public or to abutting property owners.
12. A fence, barrier, partition or obstruction located in a residential zone, except RL-C or F-2, and which is partially or totally constructed with barbed wire or is electrically charged in such a manner as to transmit an electrical shock or charge upon contact.
13. Any abandoned vehicle upon private or public property, unless the owner of the property is lawfully authorized to operate a business specifically for that purpose.
14. Signs, hedges, shrubbery, natural growth or other obstructions at or near intersections which hinder

the view necessary for the safe operation of vehicles.

15. Obstruction to public sidewalks or roadways by trees, bushes, roots, other natural growth, soil, or solid waste.

16. Any excavation which endangers the lateral support or causes cracking, settling or other damage to streets, sidewalks or other public property.

B. The enumeration of the above nuisances shall not limit the power of the County Health Officer or Director to investigate or declare any other condition a nuisance which is within the scope of Section 2.A.10. of this ordinance.

Section 9. Inspection and Abatement.

A. The Health Officer or Director may enter any property or building at any reasonable time for the purpose of inspection or enforcing this ordinance. Except when an emergency exists, the Health Officer or Director shall obtain the consent of the owner or a court warrant before entering private property or a private building. As used in this section, an emergency exists when the Health Officer or Director has reasonable cause to believe that a nuisance constitutes an immediate and active danger to the public health, safety and welfare.

B. An investigation may be conducted whenever the Health Officer or Director receives a complaint that a nuisance exists.

C. Whenever it appears there is reasonable cause to believe that a nuisance exists, or upon receipt of such declaration

from the Health Officer, the Director shall provide written notice to the owner of the existence of the nuisance, and shall demand abatement within thirty (30) days from the date of said written notice, or such lesser time as may be set by the Director to protect the public health, safety and welfare. The notice shall describe with reasonable certainty the property, the nature of the nuisance and the action necessary to abate the nuisance; and inform the owner of his rights under Sections 10 and 11 and the procedure by which the owner may contact the Director for more information.

D. In an emergency defined by Section 9.A. the Health Officer or Director may order immediate abatement of a nuisance. The Director shall give notice of the requirement for immediate abatement to the owner.

E. In an emergency defined by Section 9.A., and in lieu of action under subparagraph D of this section, the Health Officer or Director may proceed with immediate abatement of the nuisance. The Health Officer or Director shall forthwith thereafter send written notice of abatement to the owner of the property.

Section 10. Appeals and Hearings.

A. Any person receiving a notice pursuant to Section 9.C., 9.D. or 9.E. may request a hearing by writing the Director within 7 days of the date of the notice.

1. The Director shall, upon receipt of request for a hearing, promptly notify the Hearings Officer who shall set a time and place for the hearing at the

earliest possible time and shall promptly notify the person requesting the hearing as to the time and place for such hearing. Such notice may be by any means of giving actual notice. Notice may also be given to such persons as the Hearings Officer may determine to be interested persons.

2. The person requesting the hearing and the Director may make argument, submit testimony, cross-examine witnesses and submit rebuttal evidence on the pertinent issues. Any party may be represented by counsel.
3. All hearings shall be recorded in a manner which will allow for written transcription to be made thereof, and all materials submitted at the hearing shall be retained by the Hearings Officer for a period of two (2) years.
4. Failure of the person requesting the hearing to appear at the hearing shall constitute a waiver of the right to a hearing.
5. After the hearing the Hearings Officer shall issue and mail a copy of the order determining the question within fifteen (15) days from the date of the hearing, or any continuance thereof not to exceed fifteen (15) days, to the person requesting the hearing and the Director.
6. If the Hearings Officer finds the nuisance to exist, the order shall set a date for abatement to be accomplished by the owner.

7. If the Hearings Officer determines that anything removed pursuant to Section 9.E. no longer constitutes a nuisance or can be released upon such condition as the Hearings Officer may prescribe that will eliminate the nuisance, the person requesting the hearing may claim it upon paying the expense incurred in its removal and storage.
8. If the Hearings Officer determines there was a wrongful abatement pursuant to Section 9.E., he may order the Director to make reasonable restitution.

Section 11. Review.

Review of any action of the Hearings Officer taken pursuant to this ordinance and the rules and regulations adopted pursuant hereto shall be taken solely and exclusively by writ of review in the manner set forth in ORS Section 34.010 through Section 34.110.

Section 12. Violations.

Failure of the owner to abate the nuisance within thirty (30) days as provided by Section 9.C. or within the time set by the Hearings Officer pursuant to Section 10 shall be a violation of this ordinance and a county offense under ORS 203.810.

Section 13. Penalties.

- A. Any owner who is convicted of a violation of this ordinance shall be fined not more than \$500. No greater penalty shall be imposed, however, than the penalty prescribed by any Oregon statute for the same act or omission.
- B. The penalties of this section are in addition to and not in lieu of civil procedures and remedies.

Section 14. Abatement by Multnomah County.

A. If an owner fails to abate a nuisance as required under this ordinance, the Director may cause abatement of the nuisance. Accurate record of the abatement costs shall be kept and shall include a surcharge of twenty-five (25) percent of the cost of the abatement for administrative overhead. A billing for the amount of said costs shall be forwarded by certified or registered mail, return receipt requested, to the owner. Payment shall be due to the Department of Environmental Services within thirty (30) days from date of the billing.

B. The cost of abating a nuisance may be waived for low income, elderly, or disabled persons, if upon timely application it appears to the Director that the following conditions are met:

1. The owner shall be disabled or over sixty-five (65) years of age, and, if single, have an income during the preceding calendar year from all sources of less than \$3,600, or, if the head of a family, have an income during the preceding calendar year from all sources of less than \$5,400; and
2. Be living on the property from which the nuisance is to be abated.

C. Applications for waiver of nuisance abatement costs shall be filed with the Director on forms supplied by the county within ten (10) days from the date of notice of the amount of said cost of abatement. All information required to be given on such forms shall be supplied by

and verified by the applicant. An application for waiver of nuisance assessment costs must be submitted for each cost of abatement notice sent to the applicant.

D. The Board shall file a lien against the property if payment is not made as provided in Section 14.A. or waived under Section 14.B.

E. The lien provided for in Section 14.D. shall be given priority over all liens except those for taxes and assessments and shall include interest at the legal rate accruing from the date billing is sent to the owner of property.

F. The lien provided for in Section 14.D. shall be foreclosed in the manner prescribed by state law for the enforcement of liens and collection of assessments.

Section 15. Ordinance Repealed.

A. Ordinance 69 is repealed; provided, however, this ordinance shall not affect any proceeding where an order of the Board has been issued declaring that a public nuisance exists pursuant to Ordinance 69; such proceeding shall be prosecuted and determined in accordance with Ordinance 69 as if this ordinance had not been adopted.

B. Petitions submitted pursuant to Ordinance 69, pending before the Board, shall be referred to the Director for investigation and such further proceedings as may be required pursuant to this ordinance.

Section 16. Conformance with Law.

This ordinance shall in no way be a substitute for nor eliminate the necessity of conforming with any and all state laws, rules and regulations and other county ordinances which are now or may in the

future be in effect, which relate to the activities herein regulated.

Section 17. Separability.

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, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

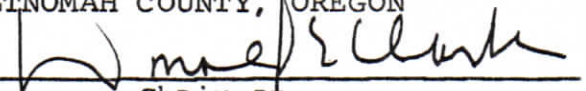
Section 18. Adoption.

This ordinance being necessary for the health, safety and welfare of the people of Multnomah County for the immediate implementation of its purposes so that the county may have a nuisance control program and for replacement of Ordinance No. 69, an emergency is declared to exist and this ordinance shall take effect upon its enactment, pursuant to Section 5.50 of the Charter of Multnomah County.

ADOPTED this 27th day of May, 1976, being the date of its 2nd reading, before the Board of County Commissioners of Multnomah County, Oregon.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

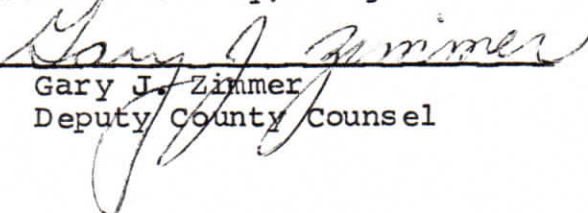
BY


Chairman

APPROVED AS TO FORM:

GEORGE M. JOSEPH
County Counsel for
Multnomah County, Oregon

By


Gary J. Zimmer
Deputy County Counsel