

**CITY OF DUNES CITY  
LANE COUNTY, OREGON  
ORDINANCE NO. 252**

**AN ORDINANCE AMENDING CHAPTER 91 OF THE DUNES CITY CODE OF ORDINANCES ENTITLED “NUISANCES” BY CORRECTING SCRIVENOR’S ERRORS IN ORDINANCE NO. 220, WHICH LEAD TO A SCRIVENOR’S ERRORS IN ORDINANCE NO. 251; REPEALING ORDINANCE NO. 220 AND ORDINANCE NO. 251.**

**WHEREAS**, Ordinance No. 220, which amended Chapter 91 of the Dunes City Code entitled “Nuisances”, was adopted by the Dunes City Council following public hearing on the 14<sup>th</sup> day of March, 2013; and

**WHEREAS**, said Ordinance No. 220 contained numerous typographical errors, specifically with regard to the numbering of the Sections contained therein; and

**WHEREAS**, in reliance on the language of Ordinance No. 220, Ordinance No. 251 was drafted and now contains an erroneous Section number referral as well; and

**WHEREAS**, in preparing for a new codification of the Dunes City Code, the Dunes City Council believes it to be in the best interests of the citizens of Dunes City for such typographical errors to be corrected by this Ordinance and by repealing Ordinances 220 and 251;

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

**Section 1.** Title IX – General Regulations, Chapter 91 – Nuisances, 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 safety
§ 91.04	Nuisances affecting public health
§ 91.05	Nuisances affecting public peace
§ 91.06	Abatement procedure
§ 91.07 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.

***PERSON 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.

***PERSON 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.

**§ 91.04 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.

C. No person shall knowingly place, deposit, distribute, store or scatter food, garbage or any other attractant so as to knowingly constitute a lure, attraction or enticement for deer raccoon, bear, cougar, coyote, and/or wolf.

#### **§ 91.05 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.

#### **§ 91.06 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. REPEAL.**

The repeal of Ordinances 220 and 251 shall not affect any action occurring before the repeal takes effect. Ordinance Number 220 and Ordinance Number 251 are hereby repealed.

#### **Section 3. 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 4. OTHER REMEDIES.** Nothing in this Ordinance shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Ordinance. Non-exclusive remedies for enforcement are all those available under State and County laws including seizure of property, civil and criminal penalties.

**Section 5. CAPTIONS.** The captions to sections throughout this Ordinance are intended solely to facilitate reading and reference to the sections and provisions contained herein. Such captions shall not affect the meaning or interpretation of this Ordinance.

**Section 6. SCRIVENER'S ERRORS.** Any scrivener's errors in this Ordinance may be corrected by Resolution of the City Council.

**Section 7. EFFECTIVE DATE.**

The City Council declares an emergency to exist in that more than the mandatory 30 days have expired since the adoption of Ordinance 220 and 30 days will have passed since the adoption of Ordinance 251 on May 10, 2019, so there is no need to wait another 30 days due to scrivener's errors. This Ordinance shall take on May 10, 2019.


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First reading performed in a regular meeting of the City Council of Dunes City, Oregon, on the 8<sup>th</sup> day of May, 2019.

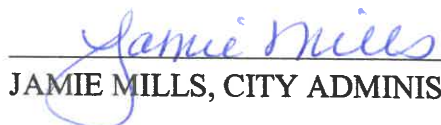
Passed at the second reading and placed on final passage, and adopted by the City Council of Dunes City, Oregon, on this 8<sup>th</sup> day of May, 2019.

Ayes: 5 Nays: 0 Abstain: 0 Absent: 1

**DATED THIS 8<sup>th</sup> DAY OF MAY, 2019.**

  
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ROBERT FORSYTHE, MAYOR

ATTEST:

  
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JAMIE MILLS, CITY ADMINISTRATOR