

CITY OF MAUPIN

ORDINANCE NO: 332

**AN ORDINANCE OF THE CITY OF MAUPIN AMENDING ARTICLE II OF
CHAPTER 9.10 REGARDING NUISANCE CONTROL AND ABATEMENT AS
CODIFIED IN THE MAUPIN MUNICIPAL CODE.**

WHEREAS, the City of Maupin (“City”) has certain provisions in the Maupin Municipal Code which relate to nuisances and the control and abatement of nuisances;

WHEREAS, the Common Council of the City desires to amend the Maupin Municipal Code sections that apply to control and abatement of nuisances in order to streamline nuisance enforcement and allow for administrative warrants; and

WHEREAS, the City finds that this amendment will promote the health and safety of the City.

**NOW, THEREFORE, BASED ON THE FOREGOING, THE CITY OF MAUPIN
ORDAINS AS FOLLOWS:**

Section 1: Article II of Chapter 9.10 of the Maupin Municipal Code is amended in its entirety and restated as follows:

9.10.180 Title.

This section shall be known as the “City of Maupin Nuisance Control Ordinance,” and may be so pleaded and referred to and shall apply within the jurisdictional limits of the City.

9.10.190 Definitions.

As used in this chapter, unless the context requires otherwise:

“Abandoned vehicle” means any vehicle which reasonably appears to be inoperative, wrecked, discarded, displays expired vehicle registration plates, has no vehicle registration plates displayed, or is totally or partially dismantled.

“Council” means the City Council of the City of Maupin.

“Excessive noise” shall have the definition(s) as provided by Chapter 8.10 MMC.

“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 nitro jelly, but excluding fireworks as defined by state law, black powder, smokeless powder, small arms ammunition and small arms ammunition primers.

“Garbage” means all animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of food.

“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.

“Junk” includes all old motor vehicles unregistered, old motor vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances or parts thereof, old iron or other metal, glass, plastics, paper, lumber, wood or other waste or discarded material.

“Liquid waste” means waste oil, septic tank pumping, liquid industrial wastes or other similar material.

“Nuisance” means any unsafe, 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 and includes anything defined as a nuisance in MMC Title 18 or other ordinances of the City of Maupin.

“Nuisance abatement officer” or “Code Enforcement Officer” means the individual appointed for that purpose by the City Council of the City of Maupin or that officer’s authorized representative.

“Owner” means any person 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.

“Person” means any natural person, association, trust, partnership, firm or corporation.

“Personal property” means any tangible item including, but not limited to, vehicles, trailers, boats, recreational equipment, structures, carts, tables, racks, and similar items. Personal property shall not include trash or recycling containers placed in the public right-of-way for pick up.

“Radioactive substance” means a substance which omits radiation in the form of gamma rays, X-rays, alpha particles, beta particles, neutrons, protons, high-speed electrons or other nuclear particles, but radiation does not include sound waves, radio waves, visible light, infrared light or ultra-violet light.

“Reasonable time” means not to exceed time agreed upon with Code Enforcement Officer and it doesn’t affect others and does not create a safety, health or environmental hazard.

“Right-of-way” means a public or private area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, streets, sidewalks, bike paths, alleys and walkways. A public right-of-way is a right- of-way that is dedicated or deeded to the public for public use and under the control of a public agency.

“Rodent” means a mouse or rat.

“Rubbish” means glass, metal, paper, wood, plastics or other non-putrescible solid waste.

“Sewage sludge” means residual waste of sewage treatment plants, consisting of digested organic waste and indigestible solids.

“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.

“Solid waste” means all putrescible and non-putrescible 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 semisolid waste, dead animals and other discarded solid materials.

“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.

“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.

9.10.200 Notice and Citation.

- (1) If the City Manager or City Code Enforcement Officer has determined that a nuisance exists, the City Manager or City Code Enforcement Officer shall issue a warning citation to the owner or person in charge of property. The warning citation may be personally served or mailed by certified mail with return receipt requested.
- (2) A warning citation issued under this section shall contain:
 - a. A description of the real property, by street address or otherwise, on which the nuisance exists;
 - b. A description of the nuisance;
 - c. A direction to abate the nuisance within 10 days from the date of the notice;
 - 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;
 - e. A statement that failure to abate the nuisance may warrant a fine; and
 - f. A statement that in addition to the remedy of abatement, the City may cite the person responsible into Municipal Court for the violation and assess a fine, seek costs, and seek attorney fees.
- (3) 10 days after the issuance of the warning citation, the City Manager or City Code Enforcement Officer shall inspect the premises to determine if the owner or person in charge of the property has abated the conditions comprising the nuisance, and if not abated, the City Manager or City Code Enforcement Officer may issue citation to the owner or person in charge of the property to appear in the Municipal Court at the next available date. The citation may be personally served or mailed by certified mail with a return receipt requested.

- (4) In addition to personal service or certified mail with a return receipt requested, the City Manager or City Code Enforcement Officer shall cause a notice to be posted on the premises, or on the public right-of-way abutting the premises where the condition exists, stating the condition comprising the nuisance and the date and time that the owner or person in charge is to appear in Municipal Court.

19.10.210 Abatement.

- (1) In addition to any fine imposed, the Court may order the person to abate the nuisance within a specified time, as determined reasonable by the Court.
- (2) If, within the time specified by the Court, the owner or person in charge of the property has not abated the nuisance, the Court, upon application by the City, may order the City to abate the nuisance and charge the owner of the property for the cost of abatement and, if necessary, place a lien against the property for the cost of abatement, fines, and city costs, including attorney fees.
- (3) Assessment of costs for Court ordered abatement:
 - a. The City Recorder or designee shall keep an accurate record of the expense incurred by the City in abating the nuisance, and shall include therein an additional charge of 25% of the expense for administrative overhead.
 - b. Upon completion of abatement, the City Recorder or designee shall, by registered or certified mail, postage prepaid, forward to the owner or person in charge of the property a notice stating:
 - i. The total cost of abatement, including the administrative overhead;
 - ii. 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; and
 - iii. If the owner or person in charge of the property objects to the cost of the abatement as indicated, he or she may file a notice of objection and requesting a hearing with the Court not more than 10 days from the date of the notice regarding abatement costs issued under this section.
 - iv. If there is no objection filed by the owner or person in charge of the property regarding abatement costs, the Court may issue judgment assessing costs of abatement, and other applicable costs.

- c. Upon receipt of an objection and request for a hearing, the Court shall set a date to consider objections.
- d. Following a hearing regarding objections, judgment may be issued in favor of the City if the Court finds that the City is owed costs of abatement. Such judgment may be enforceable as a lien against the property from which the nuisance was removed or abated.
- e. Liens shall bear interest at the rate of 9% per annum commencing to run from the date of entry of judgment.
- f. The City may, for purposes of giving notice under this section, rely upon the most current records of the Wasco County Recorder and Wasco County Assessor for the purpose of identifying the name and address of the property owner, unless the City has actual notice that the property is owned by others.

19.10.220 Summary Abatement.

The procedures outlined herein are not exclusive but are in addition to procedures provided by other ordinances; and the City may proceed summarily to abate a health or other nuisance which unmistakably exists and from which there is imminent danger to human life or property.

19.10.230 Administrative Warrants Authorized.

The Court shall have the authority to issue warrants authorizing the City to enforce provisions of the Maupin Municipal Code to make searches and seizures reasonably necessary to enforce any provision of the Maupin Municipal Code pertaining to nuisances. Every warrant authorized by this section shall be supported by affidavit or sworn testimony establishing probable cause to believe that a nuisance violation has occurred. Searches and seizures authorized by this section may be executed by any city or law enforcement official authorized to apply for a warrant under this section or in accordance with state law. All searches and seizures authorized by this section shall be conducted according to the requirements of Oregon Law related to search warrants.

19.10.240 Penalty.

- (1) Generally. Any person who shall be found guilty of a violation of any of the provisions of this Chapter shall be deemed guilty of a violation and, upon conviction thereof, shall be punished by a fine not exceeding \$500, and costs, including attorney's fees, shall be assessed.

(2) Separate violations:

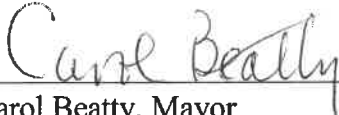
- a. Each day's violation of a provision of this Chapter constitutes a separate offense, for which a separate penalty may be imposed.
- b. The abatement of a nuisance is not a penalty for violating this Chapter, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within 10 days of the date of notice to abate, will relieve the person responsible from the imposition of any fine assessed pursuant to this Chapter.

Section 2: Severability. A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section, or part of this Ordinance shall not affect the validity of the remaining parts to this ordinance.

Section 3: Effective Date. This Ordinance shall become effective 30 days after its date of adoption.


PASSED by the Maupin City Council this 27 day of March, 2024.

Ayes: 6; Nos: 0; Absent: 1; Abstain: 0.



Carol Beatty, Mayor

ATTEST:



Christine Wolfe, City Recorder