

BEFORE THE LAKE COUNTY BOARD OF COMMISSIONERS

FOR THE STATE OF OREGON

In the Matter of an Ordinance)
Relating to the Prohibition and) Ordinance No. 116
Abatement of Nuisances)

LAKE COUNTY, OREGON, BY IT'S BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

1.100 Definitions.

(a) For the construction, interpretation and implementation of this Ordinance the following definitions are established:

(1) "Property owner" means any contract purchaser, mortgagor, trust deed grantor, fee owner, lessee, or any other person having possession and/or control of property located within Lake County.

(2) "Property" means a developed or undeveloped lot or parcel and all improvements located thereon as located within Lake County.

(3) "County" means Lake County, Oregon.

(4) "County Commissioners" means the governing body of the County.

(5) "Person" means every natural person, partnership, association, corporation, limited partnership, limited liability company, family limited partnership or any other type of personal or business entity.

(6) As used in this Ordinance the singular includes the plural and the masculine includes the feminine.

(7) This Ordinance is not to be interpreted to disallow what may be permitted in any zone. Many uses of private property are implied by definition, outright permitted by zone, or allowed by a zoning permit or conditional use permit. The County will work with other Local, State and Federal Partners where their jurisdictions may have the opportunity to accomplish enforcement and or give clarification as to what is allowed.

1.200 Nuisance Defined.

(a) "Nuisance," where not otherwise specifically enumerated or described herein, means any act, event or condition that works or causes injury, damage, inconvenience, annoyance, or discomfort to another and the legitimate enjoyment of a person's reasonable

rights of person or property, or is capable of causing an unreasonable threat to the public health, safety, and welfare under the circumstances.

(b) In addition to the general definition of “Nuisance” contained in Section (a), the following specific conditions, situations or occurrences are deemed to be “Nuisances” and therefore within the parameters of this Ordinance and subject to abatement and enforcement as hereinafter set forth:

(1) The depositing or accumulation upon property of any junk, trash, garbage, vegetative debris, human or animal waste, vehicles, vehicle parts, or any other material which substantially detracts from the cleanliness of the area, creates a stench or fire or safety hazard which would be likely to injure any person including children.

(2) The keeping of any dangerous animal, wild or domesticated, the permitting of such animals to run at large, or the keeping of animal carcasses on property.

(3) The keeping of any outdoor porta pot except those used in connection with construction projects approved by the County’s Building Official or Land Use. All porta pots will be secured and placed in a manner not to be offensive to adjoining land owners and /or the public. Porta pots will be maintained in a sanitary fashion and pumped on a regular basis.

(4) Any pool or stagnant water which is without a proper inlet or outlet and which is utilized as a breeding place for mosquitoes or other similar insects.

(5) The pollution of any body of water, stream or river by sewage, industrial wastes or other substances placed in or near such water in a manner that will cause harmful material to pollute the water.

(6) The keeping, storing or accumulation of unused appliances including refrigerators for more than seven (7) days.

(7) An open excavation that remains open and not protected or surrounded by safety barriers.

(8) The accumulation of weeds, grass or other noxious growth on property that has grown to a height of ten inches (10") or more which may offer vector or rodent harborage, or constitute a fire hazard.

(9) The installation of any fence or the keeping of any trees, shrubs or vegetative growth that encroaches upon or overhangs any street or sidewalk so as to interfere with vehicles or pedestrian traffic.

(10) The making, assistance in making or the permitting of any loud, disturbing or unnecessary noise which either annoys, disturbs, injures or endangers the comfort, health, safety or peace of others. Such loud, disturbing or unnecessary noise would include, but is not necessary limited to the following:

(i) The keeping of any bird or any animal which by causing frequent or long continued noise shall disturb the comfort and peace of any person in

the vicinity.

(ii) The use of any vehicle or engine either stationary or moving so operated as to create any loud or unnecessary noise.

(iii) The use of any other electrical, compression, battery, mechanical or amplified device so loudly as to disturb persons in the vicinity thereof.

(iv) The operation of compression brakes.

(11) Any violation of the Oregon Fireworks Law (ORS 480.110 et. seq.) now in effect or which may be amended from time to time.

(12) Any excavation which endangers the lateral support which may cause cracking, settling or other damage to streets, sidewalks or other public property.

(c) The enumeration of the above specific nuisances shall not be construed to limit the power of the County or its authorized representatives to investigate any other thing, practice or condition appearing to be a nuisance which is a danger to public health and safety and to declare the same practice, thing or condition a nuisance when the facts appear that a thing, practice or condition exists which is the cause or a threat to public health and safety. Such nuisances shall become subject to the provisions of this Ordinance upon the said declaration of the authorized representative of the County.

(d) Conditions, situations or occurrences defined in sub-sections 2, 3, 4, 8, 9, 10 and 11, shall not be subject to abatement and enforcement in areas of the County with a land use zoning classification of A-1 (Exclusive Farm Use), A-2 (Agriculture Use) or F-1 (Forest Use).

1.300 Abatement of Nuisance.

Any situation or occurrence deemed to be a nuisance as defined herein shall be abated by cessation, repair, rehabilitation or removal in accordance with the procedures specified in 1.400 of this Ordinance.

1.400 Abatement Notice.

Upon determination by the County Commissioners or any of its duly authorized agents that a nuisance exists as defined in this or any other Ordinance of the County, the County Commissioners or its duly authorized agent (see note at bottom of Ordinance for clarification) shall cause a "Notice of Abatement" to be mailed to the alleged offender, property owner, and to the person occupying the property, if that person is not the property owner, both by certified mail and first class mail directing the cessation or abatement of such nuisance.

The notice shall contain:

(a) A description of the nuisance.

(b) A street address sufficient for identification of premises upon which the nuisance is occurring.

(c) A statement specifying the action required to be taken as determined by the

County or its duly authorized agent and directing that the nuisance be fully removed or abated within ten (10) days after receipt of such notice unless otherwise negotiated between offender and the County.

(d) A statement that unless the nuisance is abated or removed within ten (10) days after receipt of the Notice of Abatement that the County may remove or abate the nuisance with the cost thereof being assessed as a lien against the property.

(e) A statement advising any person who receives a Notice of Abatement of their right to appeal from the Notice provided the appeal is made in writing and received by the County within ten (10) days after receipt of the Notice.

(f) A statement that any failure to appeal the Notice of Abatement will constitute a waiver of rights to a hearing and the right to contest the action required to be taken in the Notice of Abatement.

(g) Those issues overseen by outside agencies such as Department of Environmental Quality (DEQ), Law Enforcement, Federal Lands (Forest Service/BLM) or another entity may be referred for appropriate action to be taken.

1.500 Abatement by Owner.

(a) Within ten (10) days after receipt of the Notice provided in Section 1.400 above the alleged offender, property owner or person occupying the property who receives the Notice of Abatement shall remove or abate the nuisance, unless the matter is appealed pursuant to Section 1.800 below.

1.600 Abatement by County.

Unless otherwise negotiated, if the nuisance has not been removed or abated within ten (10) days and the matter has not otherwise been appealed by the alleged offender, property owner or person occupying the property, then the County may abate the nuisance. In such case, the County shall maintain an accurate record of the expense incurred by the County in abating and removing the nuisance and shall include therein an overhead charge of 10% of the total cost for administration. The total cost, including the administrative overhead, shall thereafter be assessed pursuant to Section 1.900 below.

Upon declaration of the existence of a nuisance the County may take any and all legal action, including removal, impoundment or destruction of the nuisance, to eliminate the nuisance.

1.700 Summary Abatement.

Irrespective of the provisions herein contained, in the event a nuisance exists which reasonably appears to constitute an imminent endangerment to human life, human welfare or property rights, such nuisance may be summarily abated by a County official without notice or other procedural rights. In the case of summary abatement, the costs of the same shall be established an assessment pursuant to Sections 1.600 and 1.900 hereof.

1.800 Appeal.

(a) Any person who receives a Notice of Abatement under Section 1.400 above may appeal from the Notice and the action required to be taken by such Notice by personally delivering or mailing by certified mail to the County Commissioners a written request for an appeal. The appeal shall be received by the County Commissioners within ten (10) days after receipt of the Notice of Abatement. The written request for such an appeal shall contain a brief statement setting forth the fact that an appeal is requested and in concise language the relief sought and the reasons why the relief is being sought.

(b) As soon as practical after receiving the written appeal the County Commissioners shall fix a date, time and place for the hearing of the appeal. Such date shall not be less than ten (10) days not more than sixty (60) days from the date the appeal was received by the County. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of such hearing to the person filing the appeal either by personal delivery or by mailing a copy thereof, addressed to the person filing the appeal at the address shown on the appeal.

(c) Failure of any person to file an appeal in accordance with the provisions herein contained shall constitute a waiver of the right to a hearing and adjudication of the Notice or any portion thereof.

(d) All hearings shall be heard by the County Commissioners and conducted in such a manner as to allow all interested persons full opportunity to be heard. Hearings need not be conducted according to technical rules relating to evidence and witnesses.

(e) Following the hearing the County Commissioners may uphold, overrule or modify any decision or requirement as set forth in the Notice of Abatement, and shall set forth findings and conclusions for such decision. A copy of the decision shall be delivered to the person filing the appeal personally or shall be sent certified mail, return receipt requested. The effective date of the decision shall be as stated therein.

(f) A decision of the County Commissioners after the hearing shall be final.

1.900 Enforcement.

(a) After any Notice of Abatement or decision of the County Commissioners becomes final, no person to whom any such Notice or decision is directed shall fail, neglect or refuse to obey such notice or decision.

(b) If, after any Notice of Abatement or decision of the County Commissioners becomes final, the person to whom such order is directed shall fail, neglect or refuse to obey such Notice or decision the County may institute any appropriate action to abate such nuisance.

(c) When any nuisance abatement work is accomplished by the County or by private contract under the direction of the County the cost of such work shall be paid by the County and may be made a special assessment against the property involved, or may be made a personal obligation of the property owner or property occupier, whichever the County

Commissioners shall determine is appropriate.

(d) The County Commissioners, in its discretion, may determine payment be payable in installments. The County Commissioner's determination to allow payment of such assessment in installments, the number of installments, whether they shall bear interest, and a rate thereof shall be by a resolution adopted by the County Commissioners prior to the confirmation of the assessment. If default occurs the County reserves the right to seek other means of collection.

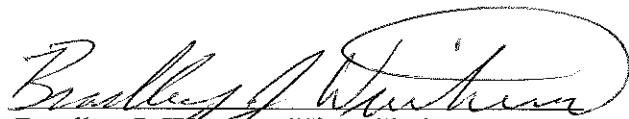
(e) If the County Commissioners order that the charge shall be assessed against the property, the County Commissioners shall confirm the assessment and cause the same to be certified as a lien to the Lake County Clerk and thereafter said assessment shall constitute as a special assessment against and a lien upon the property and bear interest at the rate of 9% per annum commencing as of the date of recording. The lien shall continue until the assessment and all accrued interest has been fully paid.

(f) If the County Commissioners order that the charge shall be a personal obligation of the property owner or occupier it shall direct the County's attorney to collect the same on behalf of the County by use of all appropriate legal remedies.

ADOPTED AND ORDAINED by the above entitled Lake County Board of Commissioners this 5th day of April, 2017.



Dan Shoun, Chair



Bradley J. Winters, Vice-Chair



Ken Kestner, Commissioner

****Note: Although the Ordinance allows the Board of Commissioners to function as both the initial decision-making body and the appeal body, the Board will act only as an appeal body as long as a Nuisance Control Officer is employed by the County. The initial decision regarding the existence of a nuisance will be made by the Nuisance Control Officer.*