

36. NUISANCE ABATEMENT

36.1 DEFINITIONS

36.1.1 ATTRACTIVE NUISANCE: Includes any attractions that may prove detrimental to children whether in a building or not. This includes abandoned well shafts, buildings, excavations, refrigerators and motor vehicles; and includes structurally unsound fences, buildings or other structures. (Ordinance 97-10)

36.1.2 CODE COMPLIANCE SPECIALIST: "Code Compliance Specialist" means a county employee designated by the County Manager to seek compliance with and enforce any county ordinances.

36.1.3 BOARD: The Board of County Commissioners for Clatsop County. (Ordinance 72-3, amended by Ordinance 81-2, amended by Ordinance 83-2, Sec. 3.03)

36.1.4 DANGEROUS OR UNSOUND BUILDING: Includes any building or structure that is structurally unsafe whether by inadequate design, by deterioration or by damage, any building or structure not provided with adequate ingress or any building or structure which constitutes a fire hazard or that is otherwise dangerous to human health or safety.

36.1.5 DISPOSE OR DISPOSAL: Includes accumulation, storage, collection, transportation and disposal of solid waste. (Ordinance 72-3, amended by Ordinance 81-2, amended by Ordinance 83-2, Sec. 3.04)

36.1.6 ENFORCEMENT PROCEEDINGS: Include the notice of hearing provisions (sections 13-23) of the Clatsop County Code Compliance Ordinance (Sections 38.11-38.21 of Code of Regulations) and any order to the owner or occupant of the property to abate the nuisance. If the owner or occupant of the property fails to abate the nuisance as ordered, enforcement proceedings may also include the Code Compliance Specialist causing County or employees to remove the nuisance.

36.1.7 HAZARDOUS WASTES: Does not include radioactive material or the radioactively contaminated containers and receptacles used in the transportation, storage, use or application thereof. Hazardous waste does include all of the following, which are not declassified by the Environmental Quality Commission:

A. Discarded, useless or unwanted materials or residues resulting from any substance or combination of substances intended for the purpose of defoliating plants or for the preventing, destroying, repelling or mitigating of insects, fungi, weeds, rodents or predatory animals, including but not limited to defoliants, desiccants, fungicides, herbicides, insecticides, nematocides and rodenticides as defined by ORS 634.211.

B. Residues resulting from any process of industry, manufacturing, trade or business or government or from the development or recovery of any natural resources, if such residues are classified as hazardous by order of the commission, after notice and

public hearing. For purposes of such classification, the commission must find that such residue, because of its quantity, concentration, or physical, chemical or infectious characteristics may:

i. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

ii. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

C. Discarded, useless or unwanted containers and receptacles used in the transportation, storage, use or application of the substances described in paragraphs A and B of this subsection.

36.1.8 NOXIOUS VEGETATION: Includes Poison Oak, Poison Ivy, vegetation that extends into a public thoroughfare, vegetation that creates a fire hazard, noxious weeds identified by the Oregon Department of Transportation Noxious Weed Management Program.

36.1.9 PERSON: Individuals, the state or a public or private corporation, local government unit, public agency, partnership, association, firm, trust, estate or any legal entity. (Ordinance 72-3, amended by Ordinance 81-2, amended by Ordinance 83-2, Sec. 3.06)

36.1.10 PUBLIC NUISANCE: For the purposes of this ordinance a public nuisance includes, without limitation, the disposal of waste or solid waste, a dangerous or unsound building, an attractive nuisance, noxious vegetation or the violation of any county act or ordinance.

36.1.11 PUTRESCIBLE MATERIAL: Organic materials that can decompose and may give rise to foul smelling, offensive odors. (Ordinance 72-3, amended by Ordinance 81-2, amended by Ordinance 83-2, Sec. 3.08)

36.1.12 REGULATIONS: Regulations promulgated by the Board pursuant to this ordinance. (Ordinance 72-3, amended by Ordinance 81-2, amended by Ordinance 83-2, Sec. 3.09)

36.1.13 RULES: Rules promulgated by state agencies pursuant to ORS Chapter 459. (Ordinance 97-3, amended by Ordinance 81-2, amended by Ordinance 83-2, Sec. 3.10)

36.1.14 SOLID WASTE: All putrescible and nonputrescible wastes, including, but not limited to garbage, rubbish, refuse, ashes, waste paper and cardboard; sewer sludge; commercial, industrial, demolition and construction wastes; discarded and abandoned vehicles or parts thereof; discarded home and industrial appliances; manure, vegetable or animal solid and semisolid wastes, dead animals and other wastes; but the term does not include:

- A. Hazardous wastes,
- B. Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals.

36.1.15 WASTE: Useless or discarded materials. (Ordinance 72-3, amended by Ordinance 81-2, amended by Ordinance 83-2, Sec. 3.12)

36.2 ADMINISTRATION:

The Code Compliance Specialist, under the supervision of the County Manager shall be responsible for the enforcement of this ordinance. In order to carry out the duties imposed by this ordinance, the Code Compliance Specialist shall enter or authorize personnel to enter on the premises of any person regulated by this ordinance at reasonable times and in a reasonable manner to determine compliance with this ordinance and regulations promulgated pursuant thereto.

(Ordinance 72-3, amended by Ordinance 81-2, amended by Ordinance 83-2, Sec. 4.01)

36.3 PERSONS AND AGENCIES EXEMPTED:

This Ordinance shall not apply to:

36.3.1 Areas lying within the limits of any incorporated municipality or within an urban growth boundary of a municipality that has assumed responsibility for enforcement of code violations.

36.3.2 Disposal sites operated in compliance with regulations promulgated by the EQC or other ordinances or regulations of Clatsop County.

36.3.3 Agricultural operations and growing or harvesting of crops and the raising of fowls or animals. (Ordinance 72-3, amended by Ordinance 81-2, amended by Ordinance 83-2, Sec. 4.02)

36.4 PUBLIC NUISANCE PROHIBITED

No property owner or occupant shall create a nuisance or allow a public nuisance to exist.

36.5 ABATEMENT OF NUISANCES

36.5.1 The Code Compliance Specialist may, and upon the bona fide written and signed complaint of any person, shall investigate to determine whether a violation of Section 36.4 of this ordinance exists. The Code Compliance Specialist may request the assistance of the Clatsop County Sheriff for the purpose of conducting any investigation by the Code Compliance Specialist.

36.5.2 After investigation, if the Code Compliance Specialist finds reasonable cause to believe a public nuisance exists, enforcement proceedings may be initiated. The Code Compliance Specialist shall not cause a nuisance abatement to be performed by the County without first giving written notice to the responsible person and to the County Commission.

36.5.3 The notice, hearing and appeal provisions of the Code Compliance Ordinance, 96-15 (Section 38 of Code of Regulations) shall apply to enforcement proceedings under this ordinance.

36.5.4 When a nuisance is removed or abated by the county, or its agents, neither the county nor its agents shall be liable for any trespass or conversion as to any real or personal property. The cost of abatement performed by the County or its agents shall be collected from any property owner or occupant who has failed to comply with the Notice of Violation and also may be asserted as a lien against the property.