

## ORDINANCE NO. 02-716-O

### **AN ORDINANCE PROHIBITING THE UNCONTROLLED GROWTH OF GRASS, WEEDS OR OTHER VEGETATION CAUSING FIRE HAZARDS AND OTHER PUBLIC NUISANCE – PROVIDING FOR ABATEMENT THEREOF AND ASSESSMENT OF THE COST THEREOF – PRESCRIBING PENALTIES FOR FAILURE TO COMPLY, AND REPEALING ORDINANCE NO. 272, ORDINANCE NO. 347, ORDINANCE NO. 518, AND ORDINANCE NO. 641.**

WHEREAS, the City of Talent ordains as follows:

Section 1. [Purpose and Scope] The uncontrolled growth of high grass, weeds, brush, and other like vegetation on property in city areas contributes to fire spread.

Therefore, permitting such uncontrolled growth is unreasonable in an urban area, and constitutes a public nuisance. Any person who owns or has the right to control real property assumes an obligation to the rest of the community and is therefore chargeable with knowledge of the growth of vegetation on that property and has a duty to remove any nuisance which reasonable inspection would reveal.

Section 2. [Definitions] For purposes of this ordinance, the following definitions shall apply:

- a. "Owner" shall mean and include any person with an ownership interest or with any leasehold or other possessory interest, of record or otherwise, which gives him, either alone or jointly with others, a right to occupy, possess or control real property. Any person who appears as owner on the records of the county assessor shall be presumed to be one of the owners of the property; but such presumption may be rebutted.
- b. "Person" means any natural person, partnership or corporation.
- c. "Occupant" means any person in lawful possession.

Section 3. [Nuisance Described – Offense Punishable]

1. It shall be unlawful and a public nuisance for any owner or occupant of real property in Talent to allow grass, weeds, brush or bushes, or any like vegetation over the height of ten inches (10 in.), to remain upon such real property, or upon adjacent streets or alleys, ten days after fire season has been declared of any calendar year and until such time as the last day of fire season as determined by the Oregon Department of Forestry; provided that this shall not apply to ornamental shrubs, bushes, or like vegetation maintained and kept in a landscaped yard or place, or any crop grown and maintained for agricultural purposes or grass or any like vegetation grown and maintained for agricultural purposes or grass or

any like vegetation grown and maintained for pasturage upon property fenced, zoned and other wise lawfully used for said purpose.

2. Each day during which such a condition is unlawfully permitted to exist after notice has been given, in the manner prescribed by Section 4, shall be deemed a separate offense, punishable in the manner prescribed by Section 7 of this ordinance; provided that the said condition shall be deemed a nuisance and, in addition to the foregoing remedy, may be abated by the City in the manner prescribed by law.

#### Section 4. [Notice and Abatement Proceedings]

1. Whenever a condition prohibited by Section 3 is found to exist, the City Administrator or Designee may give notice to the owners and occupants of the property by causing the same to be sent by certified mail to such persons as are sought to be charged hereunder, at their last known address; or, if the mailing address of any owner or occupant is not known to the City, it shall be sufficient for the purpose of charging such person that the notice be addressed to him and sent in care of the person appearing as owner on the record of the county assessor of Jackson County, Oregon. The notice:

- a. shall be directed to all of the known owners and occupants;
- b. shall refer to the premises involved with convenient certainty, the street addresses, if any, being sufficient;
- c. shall notify the owners and occupants of the violation of this ordinance; and
- d. shall instruct them to comply therewith within ten (10) days from the date of mailing. The notice shall further inform the owners and occupants that, if the condition is not corrected within the said period of time, the owners and occupants may be prosecuted for violation; and that the City may, at its discretion, in lieu thereof or in addition thereto, proceed to remove the unlawful condition and thereafter charge the owner with the reasonable cost of such removal.

2. If, thereafter, the condition is not corrected within ten (10) days after the mailing of said notice in the manner above prescribed, the City Administrator or Designee may abate the nuisance by removing the grass, weeds, brush, bushes or other like vegetation from the property, or so much thereof as the City Administrator or Designee may determine to be necessary to remove the hazard to abutting property.

3. The said remedy shall not be exclusive; and in addition to proceeding by abatement hereunder, City Administrator or Designee may proceed against the

responsible owner or occupant in city court in the manner prescribed by law; or, may proceed by suit in equity for mandatory injunction or such other relief as may be afforded by a court of equity.

Section 5. [Notice and Recovery of Cost] If the City abates the nuisance, as prescribed in Section 4, the City Administrator or Designee shall mail notice to the owner according to the records of the county assessor, notifying the said owner of the amount chargeable to him as the reasonable cost of the abatement. An additional administrative fee in the amount of \$50.00 will be added to each abated property. Owners having more than one property in violation will be charged \$50.00 for the first abated property and \$25.00 for each additional property abated thereafter. The sum shall be due the City in addition to any penalty imposed by the city court in prosecution hereunder.

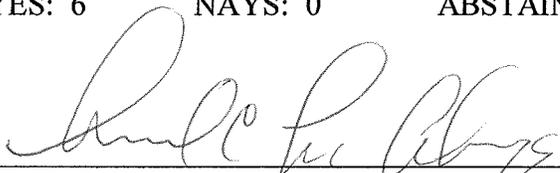
Section 6. [Search and Inspection] If it is necessary to go upon property for inspection thereof, hereunder, and, if access is specifically denied by the owner or person in lawful control of the property, application shall be made to the city court for a search warrant.

Section 7. [Penalty] A person violating a provision of this ordinance shall, upon conviction thereof, be punished by a fine not to exceed the sum of \$100.00.

Section 8. Ordinance No. 272, Ordinance No. 347, Ordinance No. 518, and Ordinance No. 641 are hereby repealed and this ordinance is enacted in replacement thereof.

Duly enacted by the City Council in open session on March 6, 2002 by the following vote:

AYES: 6      NAYS: 0      ABSTAIN: 0      ABSENT: 0

  
\_\_\_\_\_  
Mike McAlvage, Interim City Recorder and Custodian of City records