

ORDINANCE NO. 03-749-O

AN ORDINANCE DEFINING NUISANCES, PROVIDING FOR THEIR ABATEMENT, AND PROVIDING PENALTIES AND REPEALING ORDINANCE # 429 #295 AND #66, PREVIOUS AMENDMENTS ORDINANCES #549 AND #681.

The City of Talent ordains as follows:

Section 1. Definitions

Person: A natural person, firm, partnership, association, or corporation, whether he is acting for himself or as the clerk, servant, employee or agent of another.

Person in Charge of Property: An agent, occupant, lessee, contract purchaser or person other than the owner having possession or control of the property.

Public Place: A building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.

Private Place: Any place other than a public place as defined in above.

ANIMALS

Section 2. Animals at Large

1. No owner or person in charge shall permit animals to run at large, and if found within the city limits may be impounded. Animals shall include but not be limited to dogs, chickens or other domestic fowl, horses, mules, cattle, goats, sheep, llamas or alpacas.
2. No animals of any kind shall be allowed to enter any lake, pond, stream, ditch or other body of water.

Section 3. Keeping of Animals – Dogs

1. All dogs must be confined by fence, leash, or obedience training to the property of the person owning, harboring or having the charge, care, control, or possession of such dog; however, it shall be permissible for a dog to be confined by fence, leash or obedience training to the property of another if such other person has given express permission. Leash lead shall be no greater than six (6) feet.
2. Any dog that is vicious or dangerous to the safety of persons must be confined by an enclosure to the property of its owner or keeper.

3. Any dog not confined to property as set forth above and which is on either public or private property must be on a leash.
4. Dogs not on private property as described above must always be attended by their owner or person having the custody of such a dog; and, it shall be unlawful for any person to tie a dog or any other animal to any tree, hydrant, railing or other object on the public property of the City of Talent for longer than 15 minutes.
5. Dogs are not permitted in any city park or greenway under any condition except in those areas where special rules, as adopted by City Council, may apply.
6. Any person, with the exception of a sightless person, responsible for any dog, shall be in possession of tools for the removal of and shall remove, excrement deposited by the dog in any public area not designated to receive those wastes, including but not limited to streets, sidewalks, parking strips, trails or roads paralleling ditches, swales, culverts, canals, railroad tracks or similar facilities.
7. Seeing eye dogs, dogs for the deaf, and any licensed/certified assistance therapy dogs when in custody and control of a person who legally falls into the category of blind, deaf, or therapy assisted, are exempt from the provisions of this section.
8. No person shall keep more than three (3) dogs over three (3) months of age on any tract within the city.

Section 4. Animal Carcasses – Removal

No person shall permit the carcass of any animal owned by him to remain upon public property, and no person who is the owner or person in charge of property shall permit the carcass of any animal to remain thereon. It shall be the duty of the owner or person in charge forthwith to cause the carcass to be buried or otherwise disposed of.

NUISANCES AFFECTING PUBLIC HEALTH

Section 5. Maintenance of Property – Nuisances

It is hereby declared a public nuisance for any person owning, leasing, occupying or having charge of any premises in this city:

1. To so maintain such premises as to permit the same to become so defective, unsightly or in such condition of deterioration or disrepair that the same causes appreciable harm or is materially detrimental to proximal properties or improvements; or

2. To keep or maintain, to like effect, premises with any of the following conditions:

- a) Buildings which are abandoned or boarded up or partially destroyed.
- b) Broken down or discarded items including furniture and appliances or equipment in any yard visible from the public right-of-way.
- c) Garbage cans strewn over the yards and visible from the street.
- d) Unfinished buildings.
- e) Dead trees, debris, and weeds, which may create a fire hazard.
- f) Packing boxes, or other like storage containers, stored in yards and visible to the public.
- g) Manure, waste matter, or other objectionable accumulations to the annoyance and objection of neighboring property owners.
- h) Conditions causing noisome or objectionable odors to emanate from the premises.
- i) Graffiti upon any portion of a building, shed, fence, or other structure visible to persons outside of any building, provided that advertisements placed on such building, shed, fence or other structure in accordance with applicable law shall not be considered to be graffiti and meet the applicable sign ordinance (No. 723).
- j) Storage of any motor vehicles within the front yard setback of a residentially zoned neighborhood, other than a dedicated driveway.

Section 6. Dumping Refuse

No person shall deposit any foul, decayed, putrid or offensive substance, such as dead animals or fowl, garbage, rubbish, leaves, weeds, cans, manure or animal feces, sewage or other refuse or rubbish along the bank of or in any canal, ditch, creek, or river; in any street, alley, park; or upon any lot, place or premises in the city, whether public or private.

Section 7. Pollution of Water

No person shall pollute the water of any drinking fountain, hydrant, or any source or place of storage for the water supply of the city or any of its inhabitants.

Section 8. 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 this ordinance:

- 1. Open vaults, privies, or portable toilets 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 and that affect the health of the city.
3. Stagnant water that affords a breeding place for mosquitoes and other insect pests as determined by Jackson County Vector Control.
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 pollute the water. A body of water includes, but is not limited to, Bear Creek, Wagner Creek, designated wetlands and riparian areas.
5. Decayed or unwholesome food offered for human consumption.
6. Premises that are in such a state or condition as to cause an offensive odor or that are in an unsanitary condition.
7. Drainage of liquid wastes from private premises.
8. Cesspools or septic tanks that are in an unsanitary condition or that cause an offensive odor.
9. Mastics, oil, grease or petroleum products shall not be allowed to be introduced into the sewer system by a user connected to the sewer system.

Nuisances Affecting Public Safety

Section 9. Creating a Hazard. 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 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 4 feet or more, and a top width of 12 inches or more and failing to cover or fence it with a suitable protective construction.

Section 10. Cellar Doors, Leaving Open.

No person shall keep or leave open any cellar door or grating of any kind in or upon any sidewalk, except when the same is necessarily open during the immediate use thereof. During such time, such opening shall be properly guarded and protected.

Section 11. Surface Waters, Drainage.

No person in charge of property shall permit rainwater, ice, or snow to fall from any building or structure upon any street or sidewalk, or to flow across any sidewalk; and the person in charge of the property shall at all times keep and maintain in the proper state of repair adequate drain pipes, or a drainage and stormwater system sufficient to carry to the street or other designated stormwater system any overflow stormwater accumulating on the roof or about the building. All stormwater should be directed to a designated public stormwater system. If a public system is not available, the property owner is responsible for constructing and maintaining a similar system to manage any excess stormwater.

Section 12. Ice and Snow Removal. A person in charge of property shall remove all snow or ice, which has fallen or has accumulated upon the sidewalk abutting upon the premises or property within two hours after the snow or ice has ceased to fall thereon. Provided, however, that if snow is falling or ice is accumulating after the hour of 6 p.m., the same shall be removed before 9 a.m. on the next succeeding day.

Section 13. Electric and Barbed Wire Fences.

1. No person shall install or operate any electric fence, unless it is of a type or manufacture which has been approved in the most current edition of the National Board of Fire Underwriters and as part of agriculture or commercial use allowed under the Talent Zoning Ordinance.

2. No owner or person in charge of property shall construct or maintain a barbed-wire fence, or permit barbed wire to remain as part of a fence, along a public right-of-way or private lot; except such wire may be placed above the top of other fencing not less than six feet, six inches high as part of a licensed commercial use.

Section 14. Attractive Nuisances. No person in charge of property shall suffer or permit to remain unguarded upon the premises any machinery, equipment, or other device having the characteristics of an attractive nuisance, or which is liable to attract children. No person in charge of property shall suffer or permit to remain unguarded upon the premises any pit, quarry, cistern, swimming pool, well or other excavation.

Section 15. Dangerous Buildings. No person shall own, possess, make use of, or occupy any building or structure, or portion thereof, or cause or permit such building, structure, or portion thereof under his control to be used or occupied by others, if such building, structure, or portion thereof constitutes a "dangerous building" as defined by, and by reason of any conditions described in the most recent edition of the Uniform Code for the Abatement of Dangerous Buildings, ICBO. For its definitions of dangerous buildings and of the conditions, applicable

sections of the said publication, and all other sections of the Uniform Building Code necessary for the interpretation of said sections, are incorporated by this reference and made a part of this ordinance.

Nuisances Affecting the Public Peace

Section 16. Noises, Unnecessary. No person shall create, assist in creating, permit, continue, or permit the continuance of any loud, disturbing or unnecessary noise. The following acts are declared to be violations of this section, but such enumerations shall not be deemed to be exclusive:

1. The keeping of any animal or fowl which by frequent or loud continued noise, shall disturb the comfort and repose of any person in the vicinity.
2. The use of any automobile, motorcycle, or other vehicle, any engine, stationary or moving instrument, device or things so out of repair, so loaded or operated in such a manner as to create loud or unnecessary grating, grinding, rattling, or other noises.
3. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place, except as a necessary warning of danger to property or persons.
4. The use of any mechanical device operated by compressed air, steam or otherwise, unless the noise created thereby is effectively muffled.
5. The erection, including excavation, demolition, alteration or repair of any building, other than between the hours of 7 a.m. and 9 p.m., except upon special permit granted by the City Council.
6. The use of any gong or siren upon any vehicle other than police, fire or other emergency vehicle.
7. The operation of any gasoline engine without having the same equipped with and using thereupon a muffler.
8. The use of a "muffler cutout" on any motor vehicle upon any street.
9. The use or operation of any automatic or electric piano, phonograph, radio, loudspeaker or any sound-amplifying device so loudly as to disturb the persons in the vicinity thereof, or in such manner as renders the same a public nuisance; provided, however, that upon application to the City Council permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches, or general entertainment or advertisement.

10. The conducting, operating or maintaining of any garage within 100 feet of any building used as a private residence, apartment house, rooming house or hotel in such manner as to cause loud or offensive noises to be emitted there from between the hours of 11 p.m. and 7 a.m.

Section 17. Radio Interference.

1. No person shall operate or use any electrical, mechanical or other device, which shall create, on any premises other than his own, any interference with television reception or the reception of public or commercial radio transmissions.

2. This section does not apply to devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission.

Section 18. Vending Goods by Public Outcry. No person shall use or occupy any portion of a street or sidewalk for the purpose of vending goods, wares or merchandise by public outcry, or otherwise; except as permitted by the general terms of a resolution of the City Council allowing such activities in connection with public festivals and fairs and other like occasions held within the city.

Section 19. Declaration of Nuisance, General Nuisance.

1. The acts, conditions, or objects specifically enumerated and defined in Section 2 through Section 18 are hereby declared to be public nuisances; and such acts, conditions or objects may be abated by any of the procedures set forth in Section 20 through Section 24 of this ordinance.

Section 20. Complaint Investigation.

1. When a complaint is received by the City concerning a possible violation of Section 2 through 18, a police officer, code enforcement officer, or other desingee shall investigate the complaint and, if there appears to be a violation, issue a written warning citation to the owner or person in charge of the property. The second warning citation shall be personally served or mailed by certified mail with a return receipt requested.

2. Such warning citation shall include the following information:

a. A description of the real property, by street address or otherwise, on which such nuisance exists.

b. A description of the conditions comprising the nuisance.

c. A direction to abate the nuisance within 7-30 days from the date of the warning citation.

d. A statement that unless the conditions comprising the nuisance are removed or corrected, the owner or person in charge will be cited into municipal court for the violation.

3. After the expiration of the warning citation a police officer, code enforcement officer, or other designee 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 designee shall issue a citation to the owner or person in charge of the property to appear in the municipal court at the next available date. The citation shall be personally served or mailed by certified mail with a return receipt requested.

4. In addition to the citation issued under Section 3 the City designee 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.

Section 21. Summary Abatement. The procedure provided by this ordinance is not exclusive but is in addition to procedure provided by other ordinances; and the county health officer, the chief of the fire department, chief of police, or building official 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.

Section 22. Penalty. A person found guilty of violating any of the provisions of Section 2 through 18 shall be subject to a fine not to exceed \$500.00 per day that the violation exists prior to abatement.

Section 23. Abatement Ordered by Court.

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 under Section 23.1, the owner or person in charge of the property has not abated the nuisance, the court, upon application to 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 as provided in Section 24 of this ordinance.

Section 24. Assessment of Cost of City Ordered Abatement.

1. The City Manager, or designee, shall keep an accurate record of the expense incurred by the City in abating the nuisance, and shall include therein a charge of 20 percent of the expense for administration overhead.

2. The City Manager, by registered or certified mail, postage prepaid, shall forward to the owner or person in charge of the property a notice stating:
 - a. The total cost of abatement, including the administrative overhead.
 - b. That 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.
 - c. That if the owner or person in charge of the property objects to the cost of the abatement as indicated, he may file a notice of objection with the City Manager not more than 10 days from the date of the notice requesting a hearing.
3. Upon receipt of a request for hearing, the Council shall set a date to consider objections. The objector shall be notified of such date and at said hearing the Council shall hear the objection and determine the cost to be assessed. Hearing shall be held within 60 days of date notice of objection is received.
4. If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs as stated or as determined by Council, shall be made by resolution and shall thereupon be entered in the docket of city liens and, upon such entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated.
5. The lien shall be enforced in the same manner as liens for street improvement are enforced, and shall bear interest at the rate of 10 percent per annum. Such interest shall commence to run from date of the entry of the lien in the lien docket.
6. An error in the name of the owner or person in charge of the property shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void; but it shall remain a valid lien against the property.
7. The City may, for purposes of giving notice, rely upon the most current records of the county recorder and county assessor for the purposes of identifying the name and address of the property owner, unless the City has received actual notice that another party owns the property.

Section 25. Separate Violations.

1. Each day's violation of a provision of this ordinance constitutes a separate offense.
2. The abatement of a nuisance is not a penalty for violating this ordinance, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance. However, if a person is given notice, or required

by findings and order of the Council, to abate a nuisance within a time specified in said notice or order, and abates the said nuisance within that time, then this shall excuse the person responsible from the imposition of any fine under Section 22 of this ordinance.

Section 26. Severability. The sections and subsections of this ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections or subsections.

Section 28. Effective Date. The City Council determines that an emergency does exist and this Ordinance therefore takes effect upon adoption.

AYES: 5 NAYS: 0 ABSTAIN: 0 ABSENT: 1



Betty Wheeler, City Recorder and Custodian of City Records

Adopted: November 19, 2003