

Dunes City Council ~ Regular Session



April 2, 2025 ~ 6:00 pm

The meeting will adjourn not later than 9:00 pm. If agenda items are not completed, they will be addressed at the next scheduled meeting.

AGENDA

- 1. **Call to Order**..... Mayor Ed McGuire
- 2. **Roll Call** City Administrator
- 3. **Pledge of Allegiance to the Flag**..... Mayor Ed McGuire
- 4. **Consideration of the Agenda**..... **Action Item**
- 5. **Announcements / Correspondence**
- 6. **Citizen Input on Items Not Discussed in Agenda**

*The public comment period is an essential part of local government meetings. Each person has **three** minutes to speak. Our governing body takes the input into consideration. However, in observance of Oregon open meeting laws, this isn't the time for dialogue, but rather a time for us to **listen** to you. The Council may choose not to respond to comments and lack of response does not indicate support or disagreement. Our City Administrator is taking notes of action, as needed.*
- 7. **Reports**
A. Mayor's Report..... Discussion
- 8. **Work Session**
Chapter 91..... Discussion
- 9. **Executive Session – None**
- 10. **For the Good of the Order**
- 11. **Adjournment**

Ordinance No. 270

AN ORDINANCE AMENDING CHAPTER 91 OF THE DUNES CITY CODE OF ORDINANCES REGARDING NUISANCES; REPEALING ORDINANCE NO. 252; AND OTHER MATTERS RELATING THERETO.

WHEREAS, on December 15, 1986, the City Council of Dunes City adopted Ordinance No. 108, which established Chapter 91 within the Dunes City Code of Ordinances entitled “Nuisances” and;

WHEREAS, on May 12, 2005, the City Council of Dunes City adopted Ordinance No. 176, amending Ordinance No. 108 in various ways; and

WHEREAS, the City Council of Dunes City adopted Ordinance No. 219, entitled “Code Enforcement” which, among other things, establishes an abatement process to be used by the City under Chapter 36 of Dunes City Code; and

WHEREAS, the City Council of Dunes City wishes to amend its nuisance provisions to make them less restrictive on Dunes City residents and easier to administer;

NOW, THEREFORE, THE CITY OF DUNES CITY ORDAINS AS FOLLOWS:

Section 1. Chapter 91 of the Dunes City Code is hereby amended to read as follows:

TITLE IX – GENERAL PROVISIONS

CHAPTER 91 – NUISANCES

Section

- § 91.01 Purpose and Process
- § 91.02 Definitions
- § 91.03 Nuisances Declared
- § 91.04 Animals
- § 91.05 Nuisances Affecting Public Health & Safety
- § 91.06 Attractive Nuisances
- § 91.07 Vegetation and Vision Obstructions
- § 91.08 Rubbish, Composting, and Burning
- § 91.09 Fences
- § 91.10 Surface Water and Drainage
- § 91.11 Graffiti
- § 91.12 Notices and Advertisements
- § 91.13 Buildings and Structures

- § 91.14 Garage Sales
- § 91.15 Dangerous Excavations
- § 91.16 Outdoor Storage
- § 91.17 Nuisances Affecting the Public Peace
- § 91.18 Chronic Nuisance Property
- § 91.19 Code Enforcement

§91.01 Purpose and Process

The purpose of this chapter is to protect the public health and safety and to improve the aesthetics of the City by eliminating health and safety hazards and prohibiting or restricting conditions and actions that adversely impact the beauty and livability of the City. The nuisance process described in this Chapter is intended to abate ongoing conditions, which is to lessen, reduce, or remove such conditions. But some nuisances may be of short duration, and the civil infraction process may be used to impose sanctions on those responsible for the nuisance, whether or not the nuisance abatement process is also used.

§ 91.02 Definitions

- A. Fence means a barrier intended to prevent escape or intrusion or to mark a boundary. A fence may consist of wood, metal, masonry, plastic, or similar materials, or a hedge or other planting arranged to form a visual or physical barrier. (One Councilor wanted to delete this section.)
- B. Inoperable Vehicle means any vehicle which has no current valid state vehicle license, or which cannot be moved without being repaired or dismantled, or which is no longer usable for the purposes for which it was manufactured, and which has been in that condition for at least 30 days. (One Councilor wanted to delete this section.)
- C. Person means a natural person, firm, partnership, association, company, corporation, or other entity of any kind. (One Councilor wanted to delete this section.)
- D. Person in Charge of Property means an agent, occupant, lessee, contract purchaser, or other person having possession or control of property or control of the property. (One Councilor wanted to delete this section.)
- E. Person Responsible means the person responsible for abating a nuisance includes the owner, the person in charge of property as defined in this section, and the person who caused a nuisance, as defined in this Chapter or another ordinance of the City, to come into or continue in existence.
- F. Public Place means a building, place, or accommodation, whether publicly or privately owned, open and available to the general public. (One Councilor wanted to delete this section.)
- G. Screened and Fenced means surrounded by a fence to prevent unauthorized entry into an area and effectively screened from view from public rights-of-way and adjacent properties. (One Councilor wanted to delete this section.)

- H. Street means the area within the right-of-way improved for vehicular travel, including bike lanes and motor vehicle travel lanes.
- I. Vermin means wild or feral animals normally considered to be pests such as rats, mice, feral cats, raccoons, and possums. (Two Councilors wanted to delete this section.)

§ 91.03 Nuisances Declared

The following actions or omissions are declared to be nuisances.

- A. The acts, conditions, or objects specifically enumerated in this Chapter or designated a nuisance by City code or ordinance.
- B. Violations of the zoning ordinance and any failure to comply with a condition of a land use approval.
- C. Violation of any ordinance imposing health, safety, or sanitary standards for housing.
- D. Real property where chronic unlawful activities occur, or where those chronic unlawful activities result from the use of the real property.

§ 91.04 Animals

- A. No person may permit an animal or bird owned or controlled by the person to be at large if the animal or bird is unknown to be afflicted with a communicable disease or is a dangerous animal. (One Councilor wanted to delete this section.)
- B. No person may permit livestock or poultry to run at large within the City nor permit any barn, stable, chicken coop or other similar structure to cause an odor noticeable at the property line of the property. (One Councilor wanted to delete this section.)
- C. No person may permit any fowl or animal carcass owned by him or under his control to remain upon the public streets or places, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of such carcass. (One Councilor wanted to delete this section.)
- D. No person shall scatter or deposit any food or other attractants on public or private property with the intent of attracting and/or feeding wild animals, including, but not limited to bears, raccoons, coyotes, cougars, and deer. This subsection does not apply to birdseed held in receptacles that are reasonably designed to avoid access by wild animals as described above. (One Councilor wanted to delete this section.)

§ 91.05 Nuisances Affecting Public Health and Safety

No person may permit or cause a nuisance affecting public health or safety. Nuisances affecting public health or safety include, but are not limited to:

- A. Privies and Improperly Functioning Septic System.
An open vault or privy, cesspool, or improperly maintained septic tank that causes odor or improper disposal of wastes. Portable privies placed on a temporary basis in

connection with construction projects or temporary events in accordance with the State Board of Health regulations are not nuisances, and portable privies placed with City approval are not nuisances.

B. Debris

1. Accumulations of debris, rubbish, manure, junk, and other refuse located on private property or right-of-way that is not removed within a reasonable time. A reasonable time for materials that can be disposed of through normal solid waste collection is one week. A reasonable time for other materials is 30 days.
2. Unprotected garbage or refuse. Garbage or refuse stored or allowed to remain outdoors other than in receptacle that provides protection from weather and animals, including garbage or refuse that overflow from trashcans or dumpsters. A trashcan or dumpster will be considered to be overflowing if the lid cannot be fully closed because due to the accumulation of garbage. For purpose of this section, construction waste is not considered garbage or refuse.

C. Junk Machinery, Junk Vehicles, and Inoperable Vehicles.

Junk machinery, junk vehicles, and inoperable vehicles that are not removed within 30 days. Junk machinery, junk vehicles, and inoperable vehicles within an enclosed building and those that are screened and fenced on the premises of a business lawfully engaged in wrecking, junking, storage or repair of vehicles are exempt from this section.

D. Stagnant Water.

Stagnant water which affords a breeding place or dinking source for mosquitoes, insects, and other insect pests. (Two Councilors wanted to delete this section.)

E. Water Pollution.

Pollution of a body of water, surface water, groundwater, well, spring, stream or drainage ditch by sewage, industrial wastes or other hazardous substances placed in or near such water without necessary permits in a manner that will cause harmful material to pollute the water.

F. Odor.

1. Premises that are not properly maintained so that they are in a state or condition that causes an offensive odor. (One Councilor wanted to delete this section.)
2. Offensive odors noticeable outside the property where the odor is created including chemical odors, odors from coffee roasting, sewage odors, and other offensive odors, beyond the level of odors normally associated with this type of activity. (One Councilor wanted to delete this section.)

G. Surface Drainage.

Drainage of liquid wastes from private premises without required permits. (Two Councilors wanted to delete this section.)

H. Smoke, Fumes, Cinders, and Dust.

Dense smoke, noxious fumes, gas, soot, cinders, or dust in unreasonable quantities. Reasonableness shall take into account the purpose of the action resulting in the smoke, fumes, soot or cinders and the availability of alternatives.

(Two Councilors wanted to delete this section.)

I. Harborage for Vermin.

It is unlawful for any person who owns and/or is in charge of property to allow the accumulation of any litter, filth, garbage, decaying animal or vegetable matter, which may or does offer harborage or source of food for vermin. (Two Councilors wanted to delete this section.)

J. Properties Declared "Unfit for Use."

Property placed on the Oregon Health Division "unfit for use list" because it has been used for the manufacture of illegal drugs and that has not been issued a "Certificate of Fitness" by the Oregon Health Division. (One Councilor wanted to delete this section.)

K. Unsafe Buildings.

No person shall permit a building owned by the person to be in an unsafe condition, as defined in the building code of the State. (Added from DC Code requested by a councilor).

L. Appliances and Containers.

No person may leave in a place accessible to children an abandoned, unattended or discarded appliance or similar container which has a door with a snap lock or lock or other mechanism which may not be released for opening from the inside, without first removing the lock or door. (One Councilor wanted to delete this section.)

M. Offensive Littering.

1. Discarding or depositing any rubbish, trash, garbage, debris, litter or other refuse upon the land of another without permission of the owner, or upon any right-of-way, park, or other public property, other than in a receptacle intended for refuse collection, and then only if the receptacle is intended for public use or with the permission of the person in charge of the receptacle.
2. Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank, recreational or camping vehicle waste holding tank, or other contaminated source, upon the land of another without permission of the owner, or upon any public way.
3. Discarding any lighted tobacco product, matches, or other lighted material. (One Councilor wanted to delete this section.)

§91.06 Attractive Nuisances

A. No owner or person in charge of property may permit:

1. Unguarded machinery, equipment or other devices on such property that are attractive, dangerous, and easily accessible to children;
2. Lumber, logs, firewood, building materials or pilings placed or stored on such property in a manner so as to be attractive, dangerous and easily accessible to children;
3. An open pit, quarry, cistern, or other excavation without erecting adequate safeguards or barriers to prevent such places to be used by children.
4. Structures such as partially completed, partially demolished, or abandoned buildings that are attractive, dangerous and easily accessible to children.

5. Outdoor storage of inoperable vehicles and other vehicles not used for transportation without a sight-obscuring fence, wall, or other visual and physical barrier, regardless of whether vehicle storage is a permitted use in the zone.

(Two Councilors wanted to delete this section.)

- B. This section shall not apply to authorized construction projects, if during the course of construction reasonable safeguards are maintained to prevent injury or death to playing children.

§91.07 Vegetation and Vision Obstructions

The following things, practices, or conditions on any property are nuisances. For purpose of this section, "property" includes any portion of a right-of-way adjacent to the property.

- A. Grass, thistles, cockleburrs, weeds, or **scotch broom** greater than eight inches in height or taller are a fire hazard. The City shall have discretion to not enforce this section based on the totality of circumstances, including the type and location of the property, whether the property is appropriately left in a natural state, whether the property has even been cleared without appropriate measure to prevent invasive plant species, and other similar factors.
- B. **Dead, decaying, or unsafe trees or tree limbs that present a safety hazard to the public or adjacent property.**
- C. **Brush, bushes, shrubbery, tree limbs, or other growth that projects over a sidewalk at less than 8 feet above the sidewalk level, or that projects over a street at less than 13 feet above sea level.**
- D. Any vegetation, wall, fence, or other vision-obstructing structure exceeding 36 inches in height measured from the top of the curb, or where no curb exists, from the street centerline grade. Vegetation, walls, fences, or structures that obstruct vision constitute a safety hazard.

(Two Councilors wanted to delete this section.)

§91.08 Rubbish, Composting and Burning

- A. **No person may throw, dump, deposit or discard in any way upon public or private property any injurious or offensive substance or any kind of litter, rubbish, trash, debris or refuse which would mar the appearance, create a stench or detract from the cleanliness or safety of such property, or would be likely to injure an animal, vehicle or person traveling upon a public way.**
- B. **No person may compost materials that either cause offensive odors, or create a health hazard, or are capable of attracting or providing food for potential disease carries such as birds, rodents, flies or other vermin. A properly contained and maintained compost heap with no noticeable odor at the nearest property line is not a nuisance.**

- C. No person may burn materials that cause offensive odors or create a health hazard. Examples of materials that may not be burned include plastic, rubber, and wet or putrescible garbage. Only plant material is allowed to be burned, no garbage.

(Three Councilors wanted to delete this section.)

§91.09 Fences

- A. No person may construct or maintain a barbed-wire fence or allow barbed wire to remain as a part of a fence along a public way. Fences that include barbed wire above a level at least six feet above ground level and placed and maintained by a governmental entity for the purpose of public safety or security are exempt from this section.
- B. No person may install, maintain, or operate an electric fence along a street, or along the adjoining property line of another person.
- C. Improperly maintained fences are nuisances. A fence is improperly maintained if components are missing or loose, or the fence is sagging, leaning or otherwise not in good repair.

(One Councilor wanted to delete this section.)

§91.10 Surface Water and Drainage

- A. No owner or person in charge of any building or structure may direct or allow rainwater to fall from the building or structure directly onto a street. Rainwater falling from a canopy, awning or similar structure is exempt from this section if the awning, canopy or other structure provides shelter from rain for at least two and half feet of sidewalk width.

Nothing in this section prohibits a person from directing a rain drain into a ditch or portion of the street that operates as part of the storm drainage system, provided that there is no surface flow across a sidewalk.

- B. The owner or person in charge of property shall install and maintain in a proper state of repair adequate drain pipes or a drainage system so that any overflow water accumulating on the roof or about such building is not carried across the surface of any sidewalk. Any flow from a property into a ditch or street portion of the storm drainage system that crosses a sidewalk shall be directed through a pipe or culvert under the sidewalk.
- C. Any owner or person in charge of property shall keep open drainageways on property that they possess or control cleared of debris.
- D. Nonpublic stormwater facilities that malfunction and result in flooding or damage to other property not possessed or controlled by the owner or person in charge of the stormwater facility are nuisances. The owner or person in charge of property served by an access drive is responsible for culverts under the access drive, even if the culvert is in the right of way. Nonpublic stormwater facilities include but are not limited to:

1. A stormwater facility not located on city-owned property, city right-of-way, or city easement.
 2. A private parking lot storm drain or drywell
 3. A stormwater facility not designed and constructed for use by the general public;
 4. Access-drive culverts in the public right-of-way or on private property;
 5. A stormwater detention or retention system not constructed or otherwise acquired by the city.
- E. No person may dispose of waste oil, paints, solvents, or other toxic chemicals into any stream, storm drain, lake, or other portion of the storm drainage system. "Dispose of" includes placing materials in locations where they will ultimately enter the storm drainage system.

(Two Councilors wanted to delete this section.)

§ 91.11 Graffiti

- A. It is every property owner's duty to remove graffiti promptly from their property in a manner acceptable to the city.
- B. Graffiti means any unauthorized painting, writing, drawing, carving or inscription which can be seen from any public right-of-way, sidewalk, alley or park and which damages, defaces or destroys any real or personal property through the use of paint, spray paint, indelible marker, ink, knives or any similar method, regardless of the content of the message delivered or nature of the material used in the commission of the act.

(Three Councilors wanted to delete this section.)

§ 91.12 Notices and Advertisements

- A. No person may affix or cause to be distributed any placard, bill, advertisement, poster or other thing upon real or personal property, public or private, without first securing permission from the owner or person in control of the property. This section shall not be construed as an amendment to or a repeal of any regulation now or hereafter adopted by the city regulating the use of and the location of signs and advertising or as a prohibition on distributing information to the owner or occupant of a property.
- B. No person, either as principal or agent, may scatter or cause to be scattered on public or private property any placards, advertisements or any other materials.
- C. This section does not prohibit any person from distributing information or other materials directly to a person, to leave information at a property directed to the owner or occupant of the property in such a way that the information will not become litter, or to make materials available from a table, display rack or similar structure where the person has the right to place the table, display rack, or other structure. This section is to be interpreted so that it does not restrict any person's constitutional rights.

(One Councilor wanted to delete this section.)

§ 91.13 Buildings and Structures

- A. An improperly maintained building or structure is a nuisance. An improperly maintained building is one that is in an obviously dilapidated state, such as a building or structure that has:
 - 1. A substantial amount of missing siding, roofing or other component. A building with a temporary covering such as a tarp or plywood for more than 30 days is considered to have missing siding or roofing.
 - 2. Has missing windows, doors, or screens that are not properly attached or that do not properly close.
 - 3. Has substantial visible damage or deterioration of any type, including smoke damage or peeling or flaking paint.
 - 4. Has any component or attachment that is visibly broken or damaged.
(Three Councilors wanted to delete this section.)

§91.14 Garage Sales

- A. Garage Sale means an event in a residential zone at which personal belongings and other goods are displayed and offered for sale by one or more persons at the residential premises of one of the owners. Garage sales include events such as yard sales, patio sales, rummage sales, and other similar sales.
- B. Garage sales have benefits for those holding the sales and their customers, but have a detrimental impact on neighboring property because of additional traffic and noise. Garage sales in excess of four per calendar year or in excess of 48 consecutive hours are a nuisance. Garage sales in excess of two per calendar month are a nuisance.

(Two Councilors wanted to delete this section.)

§91.15 Dangerous Excavations

No owner or person in charge of property shall allow an excavation with a depth of four (4) feet or more and a top width of twelve (12) inches or more to be unguarded in the absence of suitable barriers, with warning lights or area lighting to be provided during hours of darkness. (Two Councilors wanted to delete this section.)

§ 91.16 Outdoor Storage

Outdoor storage of machinery, equipment, parts, supplies, and other items shall be maintained so as to present a neat and orderly appearance or shall be screened from view from public rights-of-way and adjacent properties. Failure to maintain outdoor storage in compliance with the section is a nuisance. Normal outdoor storage of fishing gear on boats or on docks or harbor areas is exempt from this section. (One Councilor wanted to delete this section.)

§ 91.17 Nuisances Affecting The Public Peace.

- A. No person shall create or assist in creating or permit the continuance of unreasonable noise in the City. The following enumeration of violations of this section is illustrative of some unreasonable noises, but is not exclusive:
1. Keeping an animal that causes annoyance, alarm, or noise disturbance for more than fifteen (15) minutes at any time of the day or night, be it repeated barking, whining, screeching, howling, braying or other like sounds which can be heard beyond the boundary of the owner's property;
 2. Using an engine or device that is so loaded, out of repair, or operated in such a manner that it creates a loud or unnecessary grating, grinding, rattling or other noise;
 3. Using a mechanical device operated by compressed air, steam, or otherwise, unless the noise created by it is effectively muffled;
 4. Using or operating a loudspeaker or sound amplifying device so loudly that it disturbs persons in the vicinity.
- B. Noise is presumed to be unreasonable if, during the hours of 7:00 a.m. to 7:00 p.m. it is audible to a person of normal hearing at a distance of 100 yards, or during the hours of 7:00 p.m. to 7:00 a.m., it is audible at a distance of 50 yards.

OR

No person shall produce or permit to be produced, with a sound producing device, sound which:

1. When measured at the boundary of the adjacent property, the source of the sound exceeds:
 - a. 50 dBA between the hours of 10 p.m. and 7 a.m.
 - b. 80 dBA between the hours of 7 a.m. and 10 p.m.
 - c. 90 dBA between the hours of 7 a.m. and 6 p.m. for construction, landscaping, auto tuning and all other allowable uses of your property.

OR

No person shall operator or permit the use or operation of any device designed for sound production, amplification, or reproduction, including but not limited to radio, drums and other musical instruments, phonograph, television set, tape recorder, loud speaker, or other similar device;

1. Between the hours of 10 p.m. and 7 a.m. the following day, excess of 55 dBA as measured at the property line.

2. On public property or on a public right-of-way so as to be plainly audible fifty feet or more from such device, except as specifically authorized in writing by the City.

No person shall keep or permit the keeping of any animal or fowl otherwise permitted to be kept which, by any sound, cry or behavior causes vocal or other sounds on a sustained basis during a 15-minute period, audible from fifty feet beyond the property line, shall constitute a noise disturbance.

§ 91.18 Chronic Nuisance Property

Any real property within the City that becomes a chronic nuisance property is in violation of the Chapter and subject to remedies.

A. Chronic nuisance property means:

1. Property upon which the owner or person in charge of property permits three or more separate incidents listed below to occur within any 30-day period, or five or more separate incidents listed below within any 90-day period, at least one of which separate incidents must have resulted in a fine;
2. Property, the use of which has a causal relation to three or more separate incidents listed below occurring within any 30-day period, or five or more separate incidents listed below within any 90-day period, at least one of which separate incidents must have resulted in a fine, and all of which occurred within 100 feet of the boundary line of the subject property; or
3. Any combination of separate incidents as specified in Subsection (A)(1) or (A)(2) above which amounts to three or more separate incidents listed below occurring within any 30-day period, or five or more separate incidents listed below within any 90-day period, at least one of which separate incidents must have resulted in a fine.

B. For purposes of Section § 91.17, the following offenses shall constitute incidents which would support a finding of chronic nuisance property:

1. Disorderly conduct under ORS 166.025;
2. Unlawful use of weapon or possession of firearms under ORS 166.220 or 166.250;
3. Providing alcohol to minor or minor in possession of alcohol under ORS 471.140 or 471.430;
4. Public indecency under ORS 163.465;
5. Criminal mischief under ORS 164.345 or 164.365;
6. Prostitution or related offenses under ORS 167.002 to 167.027;
7. Possession, manufacture, or delivery of controlled substances or related offenses under ORS 167.206 to 167.262, 475.005 to 475.285, or 475.940 to 975.980;
8. Endangering the welfare of a minor under ORS 163.575;
9. Harassment under ORS 166.065;

10. Assault under ORS 163.160 to 163.185
 11. Public consumption of alcohol.
 12. Menacing or bias under ORS 163.190, 166.155, and 166.165;
 13. Recklessly endangering another person under ORS 163.195;
 14. Animal abuse, neglect, abandonment or fighting, or dogfighting under ORS 167.315 to 167.330, 167.340, 167.355, and 167.365;
 15. Theft or related offenses under ORS 164.015 to 164.140;
 16. Any act or omission that causes injury to or endangers the comfort, health, or safety or citizens of the city generally;
 17. Any act or omission that unlawfully interferes with, obstructs, or renders unsafe personal safety or property.
- C. To qualify, all incidents must be based on either:
1. The statement of a person who personally witnessed the alleged incident;
 2. Personal observation of a Code Enforcement Officer or member of the City Staff;
 3. A determination by Code Enforcement Officer after an investigation that there are reasonable grounds to conclude that the alleged incident did, in fact, occur.
- (Three Councilors wanted to delete this section.)

§ 91.19 Code Enforcement

See Code Enforcement Chapter 36 of Dunes City Code.