

GENERAL ORDINANCE NO. 99-1234**AN ORDINANCE PROVIDING FOR THE CONTROL
AND REMOVAL OF NOXIOUS VEGETATION****THE COUNCIL OF THE CITY OF THE DALLES ORDAINS AS FOLLOWS:**Section 1. Definitions.

1. As used in this ordinance, “noxious vegetation” means:
 1. Weeds more than twelve inches in height;
 2. Grass more than twelve inches in height, except agricultural crops, provided such crops do not constitute a fire hazard or traffic hazard, as defined in this ordinance;
 3. Puncture vines;
 4. Poison oak, poison ivy, or other rank, noxious, and dangerous vegetation; and
 5. Blackberry bushes that extend into a public way or pathway, cross a property line, or that are used for a habitation for trespassers; or
 6. Any vegetation that is
 1. A health hazard
 2. A fire hazard. In determining whether a fire hazard exists, the code enforcement officer may consider the following factors:
 1. Whether the situation is present during the dry season, May 1 through October 30;
 2. Whether lack of rain for ten continuous days has negatively affected soil moisture content;
 3. Whether the average air temperature has been above seventy degrees Fahrenheit for ten continuous days; and

4. Whether the vegetation is within ten feet of any combustible material, or other structure or property which could be damaged in a fire.
3. A traffic hazard; because it impairs the view of a public street, or impairs the view of any traffic control device, which device is defined by the Oregon Vehicle Code, or otherwise makes use of the street hazardous.
2. “Person” means a natural person, firm, partnership, association, or corporation.
3. “Person in charge of property” means an agent, occupant, lessee, contract purchaser or other person having possession or control of property or supervision of a construction project.
4. “Person responsible” means the owner, the person in charge of property, as defined in this section, or the person who caused a nuisance, as defined in this ordinance, to come into or continue in existence.
5. “Code Enforcement Officer” means the duly appointed Code Enforcement officer for the City of the Dalles, or any other person authorized by the City Manager to enforce the provisions of this ordinance.

Section 2. Nuisance Declared. The City council hereby finds, declares, and determines that the existence of noxious vegetation, as defined in Section 1, upon any lot or parcel of land is a detriment or menace to neighboring property and to the health, safety and welfare of the residents in the vicinity, and as such, is a public nuisance and shall be abated in the manner provided in this ordinance.

Section 3. Duty of Person Responsible. No owner or person in charge of property shall allow noxious vegetation to be on their property or in the right-of-way of a public street abutting on the property. It shall be the duty of the person responsible to cut down or destroy noxious vegetation as often as needed in order to comply with the provisions of this ordinance.

Section 4. Notice. If the person responsible for the property within the City of The Dalles shall fail or neglect to remove the noxious vegetation from that property as required by this ordinance, the Code Enforcement Officer shall cause written notice to remove the noxious vegetation within fourteen (14) days, to be served upon the person responsible by personal service or by certified mail, return receipt requested, to the address shown on the most recent property tax assessment roll. If the notice is returned by mail as undeliverable, a copy of the notice shall be posted in a conspicuous place upon the property. The notice shall state the person responsible for the property shall either request an appeal as set forth in Section 5, or remove the noxious vegetation within fourteen (14) days, or the City will cause the noxious vegetation to be

removed and charge the cost thereof as a lien against the property. The notice may also direct the removal of any junk, rubbish, trash, fallen trees, tree limbs, tree trunks, concrete rubble or other debris existing on the property found necessary to be removed and abated to effectively carry out the provisions of this ordinance.

Section 5. Appeal.

1. The owner or person in charge of the property may file a written request for review with the City Manager within the time period specified for removal of the noxious vegetation, as provided for in Section 4. The request for review need not be in any particular form, except that it must be in writing, identify the place and nature of the alleged violation, specify the name and address of the person seeking review, and set forth the reasons why the condition of the subject property does not constitute a nuisance. The City Manager shall, upon receipt of the request for a review, schedule and conduct a hearing after giving notice to the person requesting the review and to the Code Enforcement Officer.
2. The scope of the hearing shall be limited to any or all of the following as may be asserted by the person requesting review:
 1. There has been a failure of the Code Enforcement Officer to follow the procedures prescribed in this ordinance, and that failure has prejudiced the person in respect of some substantial right;
 2. No nuisance, as defined in Section 2 of this ordinance, exists on the premises which is the subject of the notice; or
 3. The time for or method of compliance required in the notice is impossible to comply with or, because of circumstances peculiar to the person or the property, would result in an unreasonable hardship.
3. The City Manager's review shall be de novo, and the person requesting review shall be permitted to present such evidence and argument in support of his or her contentions as the City Manager deems relevant and probative. The Code Enforcement officer shall be given the opportunity to present any evidence, argument or statement in support of the notice; and the person requesting review shall be given the opportunity to cross-examine any witness presenting such testimony.

4. The City Manager shall issue a written decision which either affirms the notice as

given, modifies the notice as the City Manager deems reasonable and just in the circumstances, or rescinds the notice. The action of the City Manager pursuant to this section shall be final.

5. The filing of a request for review shall stay all proceedings for abatement under Section 6 until final disposition of the review. Upon a final disposition ordering abatement of a nuisance, and unless another period for compliance is provided for in the decision, the person responsible for abatement shall have a period equal to that specified in the original notice, commencing from the date of the final disposition, in which to abate the nuisance prior to action by the City under Section 6.

Section 6. Abatement by City. If any person to whom notice has been given, as provided for in Section 4, shall fail or neglect to abate the nuisance as therein required, or as required by a decision issued under Section 5, the Code Enforcement officer may go upon such lots or parcels with such assistance as he or she may deem necessary, and cut and remove or destroy such noxious vegetation in such manner as shall be most effective in his or her judgement. The person authorized to cause, or contracted with to do the abatement, may enter upon property at reasonable times for the purposes of investigating and abating the nuisance.

Section 7. Billing and Lien Procedures.

1. Upon completion of the abatement process, the City Clerk shall notify the person responsible by mail of the sum of money owed to the City of The Dalles. If said costs are not paid within 30 days of the billing date, the City Clerk shall thereafter file with the City Council a statement of the costs thereof. After a reasonable opportunity to heard in objection thereto, the City Council shall then, by ordinance, declare the correctness of such statement and declare the same to be a lien upon the property involved, to be entered in the lien docket and enforced against the property, in the same manner provided as for the enforcement of liens for local improvements.
2. An error in the name of the responsible person 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 assessment against the property.
3. The lien shall bear interest at the rate of ten percent (10%) per annum. The interest shall commence to run from the date of entry of the lien in the lien docket.

Section 8. Payment and Credit of Cost From and to Special Assessment Fund. Upon the

docketing of a lien pursuant to Section 7, the amount of the lien shall be charged to the special assessment fund, and all income resulting from enforcement of the lien shall be credited to such fund.

Section 9. Citation Procedure. In addition to the abatement procedures set forth in this ordinance, the Code Enforcement Officer may issue a citation for a violation of this ordinance, which will result in the filing of a complaint in the Municipal Court. Violation of Section 2 of this ordinance is a violation punishable by a fine of not less than \$100 and not more than \$250. The second and subsequent violation in any one year period is punishable by a fine of not less than \$250, no more than \$500. In addition to any other penalty provided by law, a person adjudged responsible for violation of any of the provisions of this ordinance may be ordered by the court to correct the violation.

Section 10. Repeal. Section 12 of General Ordinance No. 93-1162, is hereby repealed.

Section 11. Severability. The sections and subsections of this ordinance are severable. The invalidity of any one section or subsection shall not affect the validity of the remaining sections or subsections.

Passed by the Council and approved by the Mayor November 22, 1999.