

CHAPTER 401
NUISANCE CONTROL

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CHAPTER 401
NUISANCE CONTROL

401.005 Definitions. As used in this Chapter, unless the context requires otherwise, the following terms are defined as follows:

(1) "Abandoned Vehicle" means any vehicle, as defined in this section, which reasonably appears to be in one or more of the following conditions: Inoperable, wrecked, discarded, unoccupied and unclaimed; or totally or partially dismantled upon the roads, streets, alleys, and/or unincorporated areas of Klamath County, Oregon.

(2) "Authorized Officer" means, unless the context requires otherwise, the Director of the Klamath County Community Development Department; the County Health Officer/Public Health Administrator of Klamath County, Oregon; Klamath County Public Works Director; the Solid Waste Director of Klamath County, Oregon; Weed Control Supervisor of Klamath County, Oregon; Klamath County Counsel; and any duly licensed law enforcement officer.

(3) "Chief Administrative Officer" means the Klamath County Director of the Community Development Department or his designee.

(4) "County Health Officer" means the individual responsible for the delivery of public health services in Klamath County, Oregon, his Sanitarian Supervisor or other designee.

(5) "Dangerous Building" means any building or structure, including any portion thereof of any dwelling unit, guest room or suite of rooms where conditions exist to the extent that life, limb, health, property safety or welfare of the public or the occupants shall be endangered; specifically:

(a) Any building or structure which has any of the conditions or defects listed in Section 302, Uniform Code for the Abatement of Dangerous Buildings, as adopted by the International Conference of Building Officials, Library of Congress Number 81-86616, copyrighted 1982 and any amendments thereto.

(b) Any building or structure which has any of the conditions or defects listed in Section 1001, Uniform Housing Code, as adopted by I.C.B.U., Library of Congress Number 81-86609, copyrighted 1982 and any amendments thereto.

(c) Any building or structure which has any of the conditions or defects listed in the Uniform Fire Code, as adopted by I.C.B.U., Library of Congress Number 81-86619, copyrighted 1982.

(6) "Inoperable Vehicle" means a vehicle designated for use on the highway which has been left on public or private property 10 days or more and is not currently licensed or has been

extensively damaged, vandalized or stripped, including, but not limited to missing tires, wheels, motor or transmission.

(7) "Garbage" means all animal and vegetable wastes resulting from the handling, preparation, cooking or consumption of food.

(8) "Hazardous Waste" means the waste that may, by itself or in combination with other wastes, be infectious, explosive, poisonous, caustic, toxic or otherwise dangerous to human, animal or plant life or which are defined as hazardous under O.R.S. 466.005.

(9) "Intersection" means the area embraced within the prolongation or connection of the lateral right-of-way lines of two or more streets or roads which join one another at an angle, whether or not one street or road crosses the other.

(10) "Liquid Waste" means waste oil, septic tank pumping or effluent, liquid industrial wastes or other similar material.

(11) "Noxious Weed" means any weed designated as noxious by the State of Oregon or the Board of County Commissioners.

(12) "Non-authorized Land Use" means any use of real property or improvements which use is expressly prohibited pursuant to the Klamath County Land Use Ordinance or Zoning Ordinance then in effect, or any use of land which fails to conform to conditions established by the governing body on Conditional Use Permits, variances, temporary permits or zone changes. Non-authorized land use does not include lawfully existing non-conforming uses.

(13) "Nuisance", where not otherwise specifically enumerated or described, means anything that works or causes injury, damage, hurt, inconvenience, annoyance, or discomfort to another and the legitimate enjoyment of a person's reasonable rights of person or property, or capable of causing an unreasonable threat to the public health, safety, and welfare under the circumstances.

(14) "Nuisance Abatement Fund" is a dedicated fund, subject to yearly budget proceedings, authorized and funded by the County for the abatement of court decreed nuisances within the Urban Growth Boundary.

(15) "Owner" means any person, as defined in this section, having a legal interest in the real or personal property.

(16) "Parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(17) "Person" means any natural person, association, trust, partnership, firm or corporation.

(18) "Person in Charge of Property" means an agent, occupant, lessee, contract purchaser or person other than the owner, having possession or control of property or the rights thereto.

(19) "Rodent" means mouse, rat or other animals commonly known as rodents, including, but not limited to, gophers, moles, shrews, and squirrels.

(20) "Refuse" means all solid wastes except body wastes and shall include garbage, ashes, and rubbish.

(21) "Rubbish" means glass, metal, paper, wood, plastics, or other nonputrescible solid waste.

(22) "Sewage Sludge" means residual waste or sewage treatment plants, consisting of digested organic waste and undigestible solids.

(23) "Sidewalk" means that portion of a public right-of-way, other than the roadway, set apart by curbs, barriers, marking or other delineation for pedestrian travel.

(24) "Solid Waste" means all putrescible and non-putrescible wastes, whether in solid or liquid form (except wastes produced by the human body, liquid-carried industrial waste or sewage, or sewage hauled as an incidental part of septic tank or cesspool cleaning service) and includes garbage, rubbish, refuse, ashes, fill material, sewage sludge, street refuse, industrial wastes, swill, demolition and used construction materials, abandoned vehicles, or parts thereof, discarded home or industrial appliances, vegetable or animal wastes not associated with agricultural or garden activities and semi-solid waste, dead animals and other discarded solid materials.

(25) "Urban Growth Boundary" means the boundary for Urban Growth acknowledged by the Oregon State Land Conservation and Development Commission surrounding the City of Klamath Falls.

(26) "Vector" means any insect organism, including but not limited to flies, fleas, lice, ticks, fly maggots and mosquito larvae, rodent or other animal capable of bearing or carrying disease transmittable to human beings.

(27) "Vehicle" means any self-propelled device which is designed or used for transporting people, goods, or property upon a public street or roadway, including, but not limited to a body, engine, transmission, frame or other major parts, but does not include a device propelled by human power, such as a bicycle, or a device operated exclusively upon fixed rails or tracks. "Vehicle" shall not include devices primarily designed for use in agricultural operations.

401.010 Policy. The Klamath County Board of County Commissioners has determined it necessary to establish and maintain a program for the effective control and abatement of nuisances which constitute a hazard or menace to the health, safety, and welfare of the people of Klamath County, and this Chapter shall be liberally construed to effectuate this purpose.

401.020 Specific Nuisances.

(1) It shall be unlawful for any person to maintain or allow to exist the following things, practices, or conditions on any property, or within public road rights-of-way adjacent thereto, which are hereby declared to be nuisances:

(a) Any small animal carcass not buried, destroyed or removed by an approved method within twenty-four (24) hours after death. A large animal carcass not buried, destroyed or removed by an approved method within three (3) business days after death. An approved method under this Section shall mean a method approved by the State of Oregon Health Department or Agricultural Department.

(b) Accumulation, collection or storage of solid waste, hazardous waste, garbage, sewage sludge, or liquid waste, without prior approval of the County Health Officer/Public Health Administrator, or Solid Waste Department, unless the person is licensed by lawful authority to operate a business specifically for those purposes, franchised or has been issued a permit by lawful authority, and storage or accumulation occurs on such property which allows such use as a permitted use under the Klamath County Zoning and Land Use Ordinances.

(c) A well, septic system or cesspool that has not been safely or securely sealed or properly constructed and maintained, which may cause or have caused an injury to any person or contamination of potable water supply.

(d) An abandoned, discarded or unattended appliance, including but not limited to an icebox or refrigerator that is being stored outside for more than a period of seven (7) days.

(e) Any property, whether vacant or improved, building, residence, structure, or accumulation of any materials, which is infested or provides harborage for vector or rodents.

(f) Uncontrolled or uncultivated growth of weeds, brush, vine, or grasses, over eight inches (8") high which offer vector or rodent harborage, which constitute a fire hazard, or which unreasonably interfere with the use and enjoyment of public and private property within 500 feet of the external property lines on which the vegetation or growth is located.

(g) An open pit, well, quarry, cistern, excavation or other hole of depth of four feet or more and a top width of twelve (12) inches or more without reasonable safeguards or barriers to prevent such places from being accessible to children.

(h) Dead or decaying trees and tree limbs that present a safety hazard to the public or to abutting property owners

shall be removed and/or maintained. Maintenance shall include pruning to remove dead, dangerous or hazardous branches; pruning to maintain a minimum height of sixteen (16) feet above all streets and a minimum of eight (8) feet above all sidewalks; pruning to allow line of sight for traffic signs and intersections; and pruning to avoid a nuisance or safety hazard onto abutting properties.

(i) Any abandoned, inoperable, or unlicensed vehicle, or parts thereof, legally or physically incapable of being operated must be completely enclosed within a building and/or carport unless the owner of the property is lawfully authorized to operate a business specifically for the purpose of storage of discarded vehicles.

(j) Signs, hedges, shrubbery, fences, walls, natural growth or other obstructions at or near intersections which hinder the view necessary for the safe operation of vehicles.

(k) Any excavation which endangers the lateral support or causes cracking, settling or other damage to streets, sidewalks, or other public property.

(l) Obstruction to public sidewalks or roadways by trees, bushes, roots, other natural growth, soil, solid waste, or snow removed from adjoining properties.

(m) Any accumulation of discarded tire casings which is not demonstrably a part of short term storage for commercial tire recapping or tire retail business or authorized land fill. Short term storage shall not exceed a period of ninety (90) days.

(n) Any dangerous building or structure as defined in KCC 401.005 (5), which from any cause endangers the life, limb, health, property, safety or welfare of the general public, their uses or occupants, which to correct said nuisance may require its repair, vacation or demolition.

(o) The burning of refuse, liquid waste, solid waste, or waste which emits an obnoxious odor and for which a fire permit has not been issued.

(p) Any noxious weeds or plants as determined by the Klamath County Board of Commissioners which are being permitted to grow and produce bloom or seed.

(q) The parking of trucks with 3 or more axles and a gross vehicle weight rating of 40,000 pounds or more on any County or public road right-of-way within the Urban Growth Boundary.

(r) The parking of trailers with 2 or more axles and a gross vehicle weight rating of 40,000 pounds or more on any County or public road right-of-way within the Urban Growth Boundary.

(s) The obstruction of public ways, i.e. streets, sidewalks, alleys, etc. with vehicles, personal property, snow, blockades, or any other material creating a public nuisance.

(t) Except as authorized by the appropriate governing body, the overflow, seepage or discharge of water from adjacent land onto a public road outside of an incorporated city, including but not limited to water that is passing over the land, diverted from the land by an obstruction on the land or discharged from an irrigation sprinkler or other device.

(u) Storage of non-trash items shall be removed except as authorized by the appropriate governing body. Non-trash items shall include accumulations of wood pallets; firewood that is not stacked and useable; construction materials except those that are stored in a manner to protect their utility and prevent deterioration, and is reasonably expected to be used at the site, indoor furniture which is not stored in a manner to protect its utility and prevent deterioration and is to be used at the property, all recycling materials except for reasonable accumulations (amounts consistent with a policy of regular removal) that are stored in a well maintained manner.

(2) Uniform civil violation citations, in accordance with KCC Chapter 800, for violations of Section 401.020(t), shall be issued by the Klamath County Natural Resource Manger, Klamath County Vegetative Manager, or other Klamath County Public Works employees as delegated by the Director of Public Works and appointed by the Klamath County Board of Commissioners Resolution or Order.

(3) The declaration of the above nuisances shall not be construed to limit the power of the Chief Administrative Officer or his authorized representative to investigate any other thing, practice or condition appearing to be a nuisance which is a danger to public health and safety and to declare the same practice, thing or condition a nuisance when the facts appear that a thing, practice or condition exists which is the cause or a threat to public health and safety. Such nuisance shall become subject to the provisions of this Chapter upon the said declaration of the Chief Administrative Officer.

(4) Notwithstanding section 1(i) herein, an owner of property upon which any inoperable vehicle is kept may file an application for storage of a vehicle. Such application shall describe the vehicle, location, value, when the vehicle will be operable and any other information deemed relevant by the Chief Administrative Officer. The filing of such application shall be on a form prescribed by the Chief Administrative Officer. Upon

the filing of such application, the owner shall have six (6) months within which to cause the vehicle to be operational. If it is not made operational, it shall be removed or placed in an enclosed garage. No more than two applications may be filed for one piece of property.

401.100 Administration and Enforcement.

(1) The Chief Administrative Officer, or in the matter of noxious weed control, the Weed Control Supervisor, under this Chapter shall be responsible for the administration and enforcement of this Chapter.

(2) The Chief Administrative Officer, Hearings Officer, or any authorized officer shall have the authority to administer oaths; certify to all official acts; subpoena; require the attendance of witnesses at public hearings before the Hearings Officer or Board of County Commissioners; require production of relevant documents at public hearings; and take the testimony of any person by depositions.

(3) The Board of County Commissioners hereby establishes two non-mutually exclusive methods for enforcement of this Chapter.

(a) Emergency abatement.

(b) Civil action to abate procedure.

The Board may direct the use of one or more of these enforcement methods or may enforce by any other remedy provided by Oregon law. No method shall be deemed exclusive. Any and all remedies may be pursued in the alternative.

401.110 Inspections.

(1) Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the Chief Administrative Officer or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the building official or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this code, provided that if such building or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the building official or his authorized representative shall have recourse to every remedy provided by law to secure entry.

(2) Where an emergency exists, the Klamath County Chief Administrative Officer may enter any property or building at any

reasonable time where he has reasonable cause to believe that a nuisance constitutes an immediate and active danger to the public health, safety, and welfare.

(3) An investigation shall be conducted by the Chief Administrative Officer or other authorized officer:

(a) Upon receiving a written nuisance complaint specifying the name of the owner or name of the person in charge of property, location of the property and the nature of the nuisance involved.

(b) Whenever it appears there is reasonable cause to believe that a nuisance exists.

(4) The Chief Administrative Officer may order immediate abatement if he finds that the existence of the nuisance poses an extreme hazard to the public health, safety and welfare.

401.130 Emergency Abatement.

(1) The Chief Administrative Officer may declare that an emergency exists where the County Health Officer/Public Health Administrator has reasonable cause to believe that a nuisance constitutes an immediate and active danger to public health, safety and welfare.

(2) In an emergency, the County Health Officer/Public Health Administrator or the Chief Administrative Officer may proceed with an immediate abatement of the nuisance if the owner or person in charge of the property is unwilling or unable to carry out the necessary action in a reasonable period of time under the circumstances, or cannot be located after diligent inquiry. The Chief Administrative Officer or the County Health Officer/Public Health Administrator shall forthwith thereunder send or serve written notice of abatement to the owner of the property. This notice shall be served upon the person and shall advise him that he may within ten (10) days from the date of service upon him request a hearing before the Board of County Commissioners. The request for hearing shall include the mailing address of the owner.

(3) Upon the receipt of the request for hearing, the Chief Administrative Officer shall promptly notify the Board of County Commissioners and they shall set a time and place for hearing at the earliest possible time and shall promptly notify the person requesting the hearing as to the time and place of the hearing, by certified mail, return receipt requested, to the last known mailing address. Notice may also be given to such persons as the Board may believe to be interested persons.

(4) The person or persons requesting the hearing and the Chief Administrative Officer may subpoena witnesses, submit testimony, give argument, cross-examine witnesses, and submit

rebuttal evidence on any pertinent issue. Any party may be represented by counsel.

(5) Failure of the person requesting the hearing to appear at the hearing shall constitute a waiver of the right to hearing.

(6) The Chief Administrative Officer shall cause all hearings to be recorded in a manner which will allow for the written transcription thereof and all material submitted at the hearing shall be retained by the Board for a period of two (2) years from the date of Order.

(7) Within ten (10) days following the hearing, the Board shall prepare an Order specifying the facts found to exist.

(8) If the Board determines that a nuisance no longer exists, it can order the return of any property removed by the Chief Administrative Officer upon such condition as the Board may prescribe which will eliminate the nuisance. The person requesting the hearing may claim it upon paying the expense incurred in its removal or storage. The Board may also direct the filing of a civil abatement action or specify steps the owner can take to prevent such action. No other issues shall be determined at said hearing.

(9) Review of any action of the Board taken pursuant to this Ordinance, and the rules and regulations adopted pursuant hereto, shall be taken solely and exclusively by writ of review.

401.150 Notice of Future Abatement Action. The Chief Administrative Officer or other authorized officer shall issue and serve written notice upon the owner, or the person in charge of the property prior to the filing of a civil abatement action. The notice provided herein shall describe with reasonable certainty the property, nature of the nuisance and require the person in charge of the property, or owner thereof, to abate the nuisance within the time specified in the notice or to sign a voluntary compliance with all the specifications of the notice within the time set forth in the notice. In the event it can be reasonably determined, written notice shall be served personally upon the owner, or person in charge of the property. Additionally, if the nuisance concerns the condition of real property, or improvement thereon including the existence of any noxious weeds, the notice shall be posted in a conspicuous place upon the real property or improvement. If the nuisance concerns a vehicle, the notice shall additionally be posted in a conspicuous place upon the vehicle, provided that the Chief Administrative Officer can legally obtain access to the vehicle without the necessity of securing a search warrant. If the owner or person in charge of the property cannot be reasonably determined, the notice provided for herein shall be mailed by prepaid, certified mail, return receipt requested, to the addressee's last known address. A mailed notice shall be

presumed to have been received on the fourth mail delivery day after mailing.

401.160 Form of Notices. All notices required by this Ordinance shall be of a form authorized by the County Counsel.

401.200 Civil Action to Abate Nuisance.

(1) If an owner fails to abate a nuisance within ten (10) days after the expiration of the time period set out in the Notice of Violation, the Chief Administrative Officer may cause abatement of the nuisance by civil action. This action will be filed to seek judgment in favor of the County and a Decree to Abate. After the Judgment and Decree of Abatement is issued by the court providing for abatement by the County, the Chief Administrative Officer is authorized to abate the decreed nuisance by soliciting three (3) bids from licensed contractors and awarding the abatement project to the low bidder. If, in the opinion of the Chief Administrative Officer, abatement cost will not exceed \$500.00, the bid process is not required. If the decreed nuisance is within the Urban Growth Boundary, the Nuisance Abatement Fund shall be utilized. A 25% surcharge will be added to the actual cost of abatement for administrative costs and an invoice mailed via certified mail to the person responsible. Should payment not be received for abatement cost within thirty (30) days, the Board of County Commissioners shall order the filing of a lien against the real or personal property.

(2) After the Decree of Abatement is issued by the court providing for abatement by the County, should it reasonably appear to the Chief Administrative Officer that the property removed by Klamath County is of a value to be determined periodically by the Klamath County Board of Commissioners or more, the Chief Administrative Officer shall cause an appraisal to be made of the property.

(a) In the event that the property is valued at an amount to be determined periodically by the Klamath County Board of Commissioners or less, the Chief Administrative Officer may order the disposition of the property without notice or public auction. In the event that the personal property is a vehicle, the Chief Administrative Officer shall file with the Department of Motor Vehicles an Affidavit describing the vehicle, including license plate, if any, stating the location and appraised value of the vehicle and stating it will be junked or dismantled.

(b) In the event that the property is appraised at a value to be determined periodically by the Klamath County Board of Commissioners or more, the Chief Administrative Officer shall cause notice of sale to be published in a

newspaper of general circulation within the County. The notice shall state:

(i) The sale is of discarded property under this Chapter.

(ii) A description of the property (and if a vehicle, the type, make, model, year, license number and I.D. number, if available) and any other information which will aid in identification;

(iii) The terms of the sale;

(iv) The date, time and place of the sale, and that Klamath County will bid in the amount claimed against the property for abatement costs;

(v) The location of the property and where it can be inspected;

(vi) Notice shall be published two times, once not less than fifteen (15) days prior to the sale, and the second not less than five (5) days prior to the sale.

(3) Any property abated under provisions of this Ordinance may be redeemed five (5) days prior to the sale by its owner, or by the person in charge of the property by applying to the Chief Administrative Officer with:

(a) Evidence of ownership or interest therein;

(b) Payments of the costs due and owing up to the time of application for redemption for abatement;

(c) Provide sufficient evidence that the nuisance will not be allowed to be resumed.

(4) The lien as provided for in Section 401.200 (1) above shall be given priority over all liens except those for taxes and assessments and shall include interest at the legal rate.

(5) The lien provided for shall be foreclosed in the manner prescribed by state law for the enforcement of liens and collection of assessments for municipal corporations.

401.210 Civil Enforcement Procedures; Injunction; Voluntary Compliance.

(1) In addition to the abatement proceedings under KCC 401.200, the enforcement officer or his designee, if he or she has probable cause to believe that a person is maintaining or allowing a nuisance to exist within an unincorporated area of Klamath County, may bring suit in the name of Klamath County in the Circuit Court to restrain such person from allowing the alleged nuisance to continue.

(2) Before filing a suit under this section, the enforcement officer shall, in writing, notify the person charged with maintaining the alleged nuisance of its existence and the relief to be sought. Such notice shall be served in the manner set forth in KCC 401.150. The person charged thereupon shall have ten (10)

days within which to execute and deliver to the enforcement officer or his designee an assurance of voluntary compliance. Such assurance shall set forth what actions, if any, the person charged intends to take with respect to the abatement of the alleged nuisance. If the enforcement officer or his designee is satisfied with the assurance of voluntary compliance, it may be submitted to an appropriate court for approval and, if approved, shall thereafter be filed with the clerk of the court. The enforcement officer may reject as unsatisfactory any assurance which in his opinion will not abate the nuisance within a reasonable time.

(3) Violation of any of the terms of an assurance of voluntary compliance which has been approved by and filed with the Court may constitute a contempt of court upon cause being shown therefor.

(4) If the enforcement officer or his designee alleges that he or she has reason to believe that the delay caused by complying with the provisions of this Ordinance would cause immediate harm to the public health, safety or welfare, enforcement officer or his designee may immediately institute a suit under this section.

(5) A temporary restraining order may be granted without prior notice (under the provisions of ORCP) to the person if the court finds there is a threat of immediate harm to the public health, safety or welfare. Such a temporary restraining order shall expire by its terms within such time after entry, not to exceed ten (10) days, as the court fixes, unless, within the time so fixed, the order for good cause shown is extended for a like period or unless the person restrained consents that it may be extended for a longer period.

(6) Any person who willfully violates the terms of an injunction issued under this section shall be punished pursuant to O.R.S. 33.015, *et seq.* For purposes of this section, the court issuing the injunction shall retain jurisdiction and the cause shall be continued and in such cases the enforcement officer acting in the name of the County may petition for enforcement of the decree.

(7) Any person who willfully violates any provision of an assurance of voluntary compliance approved and filed with an appropriate court under this section shall forfeit and pay to the County a civil penalty to be set by the court of not more than \$720 per violation, in addition to being subject to the provisions of O.R.S. 33.015, *et seq.* The enforcement officer may apply to the appropriate court for recovery of such civil penalty and other enforcement.

(8) The court may continue a hearing on contempt for a fixed or indefinite basis should it appear to the satisfaction of the

court that the party is making reasonable progress in abating the nuisance per the court's original decree.

(9) The remedies provided in this section are in addition to all other remedies provided by this Chapter.

401.300 Receiver. In any proceeding commenced under this Chapter the County shall, upon application to the court and notice to all parties, be entitled to the appointment of a receiver, either before or after judgment, if it is established that the appointment is necessary to fulfill the purpose and intent of this Chapter. Such appointment shall be in addition to all other remedies available to the County.

401.310 Penalties. Any person, firm, corporation or other entity who has been found to have violated any of the provisions of this Chapter shall be subject to a fine not exceeding \$720; however, each and every day any violation is committed, continued or permitted by any such person, is a separate violation subject to a separate fine of \$720. County Counsel shall not appear unless Defendant is represented by an attorney. Defense counsel shall not be provided at public expense. Circuit Court or Justice Court shall have concurrent jurisdiction over violations of this Code. Imposition and collection of the money penalty shall be a civil judgment enforceable in any manner permitted by law including assignment to a private collections company.

401.400 Tire Definitions.

(1) "New Tire" means any tire that has never been used.

(2) "Used Tire" means any tire with a greater tread life than $\frac{4}{32}$ of an inch as measured where the greatest amount of tread remains.

(3) "Waste Tire" means any tire with less than $\frac{4}{32}$ of an inch as measured where the greatest amount of tread remains.

401.410 New Tire Storage. Any business may store any amount of new tires inside buildings. Exterior storage is allowed if:

(1) The tires are stored in a fenced area with fences being 6 feet or higher and which are secured for access by the public.

(2) All tires stored in exterior areas shall be either vertically stacked, not to exceed six (6) feet in height, or placed in racks not more than six (6) feet high designed for the storage of such tires. Rows shall not exceed fifty (50) feet in length and ten (10) feet in depth. There shall be fifteen (15) feet of clear space between rows for fire protection.

(3) No exterior storage shall be closer than twenty-five (25) feet from any building and no closer than ten (10) feet to any property line.

(4) For purposes of this section, any container which is sealed shall be considered a building.

401.420 Used Tire Storage.

(1) The requirements for used tire storage shall be the same as for new tire storage as set out in KCC 401.410 for any business which sells or distributes new or used tires, including wrecking yards.

(2) Used tire storage at places other than those provided for in paragraph (1) of this section shall be limited to 100 square feet and any tires shall be stacked in the manner provided in KCC 401.410.

401.430 Waste Tire Storage.

(1) A business which sells new or used tires may store up to 3200 square feet of waste tires in interior storage. Interior storage shall include any vehicle which will be used to transport waste tires, including trailers, dumpsters or semi-truck trailers.

(2) A business which sells new or used tires may store up to 800 square feet of waste tires in exterior storage. Such storage shall be done in the same manner as that provided for new tires in KCC 401.410.

(3) All other storage of waste tires shall be limited to 350 square feet of interior or exterior storage. Such storage shall be done in the same manner as that provided for new tires in KCC 401.410 except that no stack may exceed 4 feet in height.

(4) No person shall store more than 100 waste tires without a DEQ permit unless exempt from the permit requirement established by ORS Chapter 459.

401.440 Schedule of Compliance. These provisions shall be effective and shall be complied with upon passage of this Chapter for any tire not stored at the time of passage of this Chapter. For tires that were stored on the date of passage of this Chapter the following schedule of compliance shall govern the removal of such tires:

(1) Any individual or business not in compliance with the terms of this Chapter shall notify the Fire District responsible for fire protection for that individual or business, or if the property is unprotected, then notification shall be given to the Klamath County Code Enforcement Officer, that such individual or business is not in compliance with the provisions of this Chapter.

(2) Within ninety (90) days of the date of passage of this Chapter, any individual or business not in compliance with this Chapter shall reduce the number of tires not in compliance by 50% of that amount present upon passage of this Chapter.

(3) Within 150 days of the date of passage of this Chapter, such individuals or business shall reduce the number of tires not in compliance to 25% of that amount present upon passage of this Chapter.

(4) Within 210 days of the passage of this Chapter, all individuals or business shall be in compliance with the provisions of this Chapter.

401.450 Enforcement. The provisions of KCC 401.400, 401.410, 401.420, and 401.430 shall be enforced by any police officer, any enforcement officer appointed by the Board of County Commissioners, and any fire official authorized by the governing body of that official's fire district to enforce these provisions.

401.470 Exemptions. Any Fire District, for property within its boundaries, or the Klamath County Building Official, may grant a permit to any business involved in the disposal of waste or used tires to exceed the limits provided by this Chapter. Nothing in this Chapter shall be deemed to limit or constrain the storage or disposal of used or waste tires by Klamath County in any facility operated or permitted by Klamath County for the disposal of such tires.

NOXIOUS WEED CONTROL

401.500 Noxious Weeds. The Board of County Commissioners may declare the County or any portion of the County a weed control district for the purpose of destroying and preventing the seeding and spread of noxious weeds **as defined in ORS 570.510 to 570.575.**

401.510 Administration and Duties for Enforcement of Noxious Weed Provisions.

(1) The Board of County Commissioners shall appoint a Weed Control Supervisor who shall be responsible for the administration and enforcement of noxious weed control.

(2) In the discretion of the Weed Control Supervisor he/she may:

(a) find out if any noxious weeds or plants are being permitted to grow and produce bloom or seed within a weed control district;

(b) serve notices;

(c) When necessary, to destroy or cut or to supervise the destruction or cutting of noxious weeds growing or seeding within the weed control district;

(d) Issue Uniform Civil Violation citations in accordance with KCC Chapter 800 for violations of Klamath County Code Section 401.530.

401.520 Notice of Future Abatement Action.

(1) The Weed Control supervisor shall have access to the land within the weed control district.

(2) When the provisions of the Oregon State Statutes and this code are not being complied with, the Weed Control Supervisor shall serve a written notice to the owner or occupant of the land. When unable to serve such notice personally, the Weed Control Supervisor or his designee shall post the notice and two copies thereof in three (3) conspicuous places on the land. Such notice shall contain:

(a) The date of service or posting of notice.

(b) The name of the weed or weeds growing on such land, and a statement setting forth that such weeds must be destroyed or must be prevented from producing seed within a specified time of not less than two (2) days or more than twenty (20) days, to be established by the Weed Control Supervisor, from the date of service of such notice.

(c) The service of such notice as provided in this section shall have the effect to require the owner or occupant of such land to destroy or prevent such weeds from seeding or spreading during the continuation of ownership or occupancy of the land or until the land is no longer part of a weed control district. A copy of such notice together with proof of service endorsed thereon, shall be filed with the Board of County Commissioners.

401.530 Owner or Occupant to Destroy Weeds.

(1) Each person, firm or corporation owning or occupying land within a weed control district shall destroy or prevent the seeding on such land of any noxious weeds by the use of the best means at hand and within the time required in the notice served under the provisions of KCC 401.520 (2), except that no noxious weed shall be permitted to produce seed.

(2) The State Highway Commission, Klamath County, Reclamation Districts and cities shall destroy or prevent the spread or seeding of any noxious weed on any land owned by them or constituting the right-of-way for any highway, county road, drainage or irrigation ditch, power or transmission line or other purposes under their respective jurisdictions.

401.540 Eradication of Weeds When Owner or Occupant Refuses to do so.

(1) If the owner or occupant of the land fails or refuses to immediately destroy or cut the noxious weed, the Weed Control Supervisor shall at once issue a Uniform Civil Violation Citation in accordance with KCC Chapter 800 for violation of KCC Section

401.530 or notify the District Attorney of the County who shall at once take necessary steps for enforcement of this code. The County Commissioners shall authorize the Weed Control Supervisor or such assistants as the Weed Control Supervisor may employ to go upon the land or premises and destroy the noxious weeds or control them in such manner as will destroy all seeds of such noxious weeds. In all cases where the Weed Control Supervisor undertakes to destroy or control noxious weeds, the most effective and practical method, in the judgment of the Weed Control Supervisor, and with least injury to the land or crops, may be used.

(2) Upon completion of such work the Weed Control Supervisor shall file with the County Clerk an itemized statement of the expenses necessarily incurred in the destruction of such weeds, verified by the oath of the Weed Control Supervisor.

(3) When the statement of expenses is filed, the County Clerk shall cause it to be entered upon a lien docket prepared for that purpose. The amount of the charges and expenses when so docketed shall constitute a first lien upon such lands or premises, except those for taxes and assessments and shall include interest at the legal rate.

(4) The lien provided for shall be foreclosed in the manner prescribed by state law for the enforcement of liens and collections of assessments for municipal corporations.

401.560 Severability. The provisions of this Ordinance are severable, and any invalid section, subsection, sentence, clause, phrase or portion of this Ordinance if for any reason is held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions of the Ordinance.