

ORDINANCE NO. 2051

AN ORDINANCE AMENDING IN PART AND REPEALING IN PART THE CENTRAL POINT MUNICIPAL CODE SECTIONS 8.08.005 THROUGH 8.08.040 REGARDING WEED ABATEMENT

RECITALS:

- A. Pursuant to CPMC, Chapter 1.01.040, the City Council, may from time to time make revisions to its municipal code which shall become part of the overall document and citation.
- B. Upon review, the staff and city attorney for the City of Central Point determined that amendment to Chapter 8.08 Weed Abatement is advisable to provide additional notice options, clarify terms, and more clearly define the process for weed abatement.
- C. In particular, the amended provisions set forth the weed abatement season; allow for general notice of weed abatement to be published in the local newspaper; allow the fire marshal to declare fire hazards outside the weed abatement season, and removes the need for a second notice of assessment making the lien process more streamlined in the event the City is required to abate the weeds.
- D. Words ~~lined through~~ are to be deleted and words **in bold** are added.

THE PEOPLE OF THE CITY OF CENTRAL POINT DO ORDAIN AS FOLLOWS:

SECTION 1. Chapter 8.08.005 through 8.08.020 are amended in part and repealed in as set forth below hereto and incorporated herein by reference.

**Chapter 8.08
WEED ABATEMENT**

Sections:

- 8.08.005 Purpose and Scope**
- 8.08.007 Definitions**
- 8.08.010 Nuisance described--Offense punishable.**
- 8.08.020 Notice and Abatement Proceedings.**
- ~~8.08.030—Assessment of costs.~~
- ~~8.08.040—Penalty.~~

8.08.005 Purpose and Scope.

The uncontrolled growth of high grass, weeds, brush, and other like vegetation on property in city areas causes:

- 1. A fire hazard endangering people and property;**
- 2. An interference with the use and enjoyment of other properties by propagating noxious weeds and causing them to spread; and**
- 3. A health hazard by furnishing an area for the breeding of vermin and by generating irritants. Therefore, permitting such uncontrolled growth is unreasonable and unnecessary in an urban area and constitutes a public nuisance. Any person who owns and has the right to control real property assumes an obligation to the rest of the community and is therefore chargeable with knowledge of the growth of vegetation on that property and has a duty to remove any nuisance which reasonable inspection would reveal.**

8.08.007 Definitions.

For purposes of Sections 8.08.010 to 8.08.020, the following definitions shall apply:

“Owner” Any person with an ownership interest or with any leasehold or other possessory interest, of record or otherwise, which gives said person, either alone or jointly with others, a right to occupy, possess, or control real property. In any event, any person who appears as owner on the records of the county assessor shall be presumed to be one of the owners of the property, but such presumption may be rebutted.

“Person” Any natural person, partnership, corporation or other legal entity.

“Occupant” Any person in lawful possession, or with a lawful right to store or keep personal property on, any real property or, in case of corporate ownership, that officer, employee, or agent of a corporate owner having the authority or duty to control or operate the property on behalf of the corporation.

8.08.010 Nuisance described--Offense punishable.

A. Except as provided in subsection (C) hereof, it shall be unlawful and a public nuisance for any owner or occupant of real property in Central Point to allow grass, weeds, brush or bushes or any like vegetation over a height of ten inches to remain upon such real property during the period from June 1 to October 31 in each calendar year, or at any other time prior to June 1 or after October 31, if the City Manager or his designee determines that such growth constitutes a fire hazard. In the event

the City Manager or his designee determines there exists a fire hazard prior to June 1 or after October 31, the owner or occupant shall be notified in writing as provided in the notice provisions of section 8.08.0010(B).; provided, that this shall not apply to ornamental shrubs, bushes or other like vegetation maintained and kept in a landscaped yard or place, or any crop grown and maintained for agricultural purposes or grass or other like vegetation grown and maintained for pasturage upon property fenced, zoned and otherwise lawfully used for said purpose.

1. **Properties Less than One Acre in Size: Weeds and grass on the entire property shall be disked, cut or removed.**
2. **Properties More than One Acre in Size: Firebreaks may be required by the City in addition to clearing the entire parcel. In such event, minimum 30' wide firebreaks shall be provided around the perimeter of the property and the area shall be divided into maximum 2.5 acre parcels with minimum 30' wide cross-breaks. In addition, the City may require a minimum 100' firebreak adjacent to improved subdivisions/properties (Road width may be considered part of the 100' firebreak).**
3. **Unmaintained Agricultural Properties: Minimum 30' wide firebreaks shall be maintained along the perimeter from the edge of road. In addition, minimum 100' wide firebreaks adjacent to improved subdivisions/properties (Road width may be considered part of the 100' firebreak).**
4. **Improved Subdivisions (streets in but structures not yet built): Each lot is required by ordinance to be cut.**
5. **Structures in Hillside Areas: Minimum 100' firebreaks (defensible space) shall be provided around the perimeter of the structure.**

B. Violation of subsection (A) of this section constitutes a violation.

C. The provisions of subsection (A) of this chapter shall not apply to the following:

1. Ornamental shrubs, bushes or other like vegetation maintained and kept in a landscaped yard or place;
2. Any crop grown and maintained for agricultural purposes;
3. Grass or other like vegetation grown and maintained for pasturage upon property fenced, zoned and otherwise lawfully used for said purpose; or

4. To any “natural area” within a Central Point public park. As used herein, “natural area” shall mean any park or portion thereof preserved in its native state and approved in writing by the Central Point Parks Department. Prior to approving any natural area, the Central Point Parks Department shall solicit and comply with any order of the Fire Marshal concerning the elimination or reduction of a fire hazard.

D.B. Each day during which such condition is unlawfully permitted to exist after notice has been given in the manner prescribed by this chapter is a separate offense punishable in the manner prescribed by **Section 1.16.010 of this Code** ~~this chapter~~; provided, that the condition shall be deemed a nuisance and, in addition to the foregoing remedy, may be abated by the city in the manner hereinafter prescribed, and the cost of abatement assessed as a lien against the property, and subject to foreclosure in the same manner and to the same effect as in the case of special benefit-assessment liens.

8.08.020 Notice and Abatement--Proceedings.

A. Each year, the city manager may cause to be published in a newspaper of general circulation within the City of Central Point, Oregon, a public notice that conditions prescribed in section 8.08.010(A) constitute a public nuisance and directing that all growth which would constitute such a nuisance be cut or removed within 15 days from the date of publication of the notice.

B.A. Whenever a condition prohibited by Section 8.08.010 (A) is found to exist, the code enforcement officer may give notice to the owners and occupants of the property by causing the same to be sent by mail to such persons as are sought to be charged, at their last known address, or if the mailing address of any owner or occupant is not known to the city, it shall be sufficient for the purpose of charging such person that the notice be addressed and sent in care of the person appearing as owner on the records of the county assessor of Jackson County. The notice:

1. Shall be directed to all persons shown on the assessor’s records or otherwise known to the city to be owners and occupants, whether corporate or otherwise;
2. Shall refer to the premises involved with convenient certainty, the street address, if any, being sufficient;
3. Shall notify the addressees to remove the unlawful growth within fifteen **(15)** days from the date of mailing, and

4. Shall instruct them to comply therewith within fifteen days from the date of mailing.

5. The notice shall further inform the owners and occupants that, if the condition is not corrected within the said period of time, the owners and occupants may be prosecuted for violation. The mailed notice shall further state that unless the unlawful growth is removed within fifteen (15) days after the date of the mailed notice, the city may cause the unlawful growth to be cut or removed from the premises and will charge the costs thereof, including the costs of administration set forth in therein, to the owners and occupants and make the same a lien against the property.

C.B. Any owner or occupant may, **at any time before such owner becomes in violation, or, if notice has been mailed to said owner or occupant under subsection (B) hereof, within 10 days**~~within ten days after service of the notice is mailed, described in subsection A of this section, appeal to the city manager for relief by filing a petition with the manager.~~ **file with the city recorder a written statement which shall specify the basis for contending that no nuisance exists. The statement shall be referred to the city manager, who shall thereupon determine whether a nuisance in fact exists.** The ~~petition~~ **written statement** shall include the facts upon which the **owner or occupant** ~~petitioner~~ relies for relief from the obligations of this chapter in relation to the property. If the city manager finds that it would work a real and unnecessary hardship upon the **owner or occupant** ~~petitioner~~ to comply with the terms of this chapter, then the city manager may relieve **said person** ~~the petitioner~~ of the obligations of the chapter in relation to the particular property, but nothing therein shall be construed as obligating the city to remove or abate the nuisance without charging the cost as a lien against the said property. **The city manager will mail a decision to the owner or occupant within 15-days of the City's receipt of such written statement. The owner or owner's agent may appeal the city manager's findings to the City Council. A written notice of appeal shall be filed with the city recorder within ten (10) days after the city manager's decision is mailed. The city recorder shall set the matter for public hearing at the next regular meeting of the City Council. If the City Council determines that a nuisance exists, the owner or owner's agent shall abate the nuisance within ten (10) days of the Council's decision; or the nuisance shall be abated by the City in the manner provided in subsection (D).**

D.C. If the condition is not corrected within the time limit and no relief has been granted, the city may cause the nuisance to be abated by removing the grass, weeds, brush, bushes or like vegetation from the property, or so much thereof as the city manager may determine to be necessary to remove the hazard to abutting property. **The city manager shall maintain an accurate record of the expenses incurred by**

the City in removing the unlawful growth and shall include an abatement fee, which is established by resolution, for costs of administration. The total cost, including said costs of administration, shall thereafter be assessed against the property owner(s) and may be entered in the docket of City liens not less than 30 days after the mailing of the notice provided in subsection (B). ~~Abatement fees shall be established by resolution and reviewed annually. The total cost, including said overhead, shall thereafter be assessed as a lien against the property as provided in Section 8.08.030.~~

E. If a lien is filed, the lien shall be enforced in the same manner as liens for special assessments in Chapter 11.04.070, and shall bear interest at the rate established for special assessments per Chapter 11.04.080, beginning 10 days after the entry of the lien in the lien docket. An error in the name of the owner or occupant shall not void the lien and it shall remain a valid lien against the property.

~~D. The above remedy shall not be exclusive and, in addition to proceeding by abatement, the city may proceed against the responsible owner or occupant in city court in the manner prescribed by law, or, if the condition is permanent, substantial or continuing, may proceed by suit in equity for mandatory injunction or such other relief as may be afforded by a court of equity. (Ord. 1952 §1, 2011; Ord. 1420 §2, 1981; Ord. 1071 §2, 1972).~~

~~8.08.030 Assessment of costs. (Repealed by Ord. No. _____)~~

~~After the city has abated an unlawful growth by removal thereof and arrived at the total cost as prescribed by resolution, the city shall mail a notice of assessment to the owner and occupant of the property from which the city has abated the nuisance. The notice shall be addressed to the owners and occupants at the address shown in the office of the county assessor for said property and, if different, to the street address, if any, of the property. The notice shall contain:~~

~~A. A statement of the total cost, as defined in Section 8.08.020(C);~~

~~B. A statement that the cost constitutes a lien against the property, payable within thirty days;~~

~~C. A statement that if the owner or occupant objects to the cost, as stated, he may file a written notice of objection with the city recorder within ten days from the date of mailing the notice. Upon the expiration of ten days after the date of mailing the notice, objections to the proposed assessment shall be heard and determined by the city council within thirty days of the filing of the written notice. An assessment for the total cost of cutting or removal shall be determined by the city council and made by resolution and shall~~

~~thereupon be entered in the docket of city liens and then shall constitute a lien against the property from which the unlawful growth was removed. The liens shall bear interest at the rate of seven percent per year from the date of entry in the lien docket and shall be enforced in the same manner as in the case of liens for street improvements. An error in the name of the owner or occupant shall not void the lien nor will a failure to receive notice of the assessment render it void, but it shall nevertheless remain a valid lien against the property. (Ord. 1952 §2, 2011; Ord. 1071 §3, 1972).~~


8.08.040 Penalty. (Repealed by Ord. No. _____)

~~Violation of the terms of this chapter shall be punishable upon conviction under the general penalty ordinance. (Ord. 1716 §11, 1995; Ord. 1071 §4, 1972).~~

SECTION 2. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Recitals A-C) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

SECTION 3. Effective Date. The Central Point City Charter states that an ordinance enacted by the Council shall take effect on the thirtieth day after its enactment. The effective date of this ordinance will be the thirtieth day after the second reading.

PASSED by the Council and signed by me in authentication of its passage this 14th day of February 2019.


Mayor Hank Williams

ATTEST:


City Recorder