

CHAPTER 101: CRIME PROPERTY

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§101.01 PURPOSE.

(1) The Umatilla County Board of Commissioners has determined that any real property employed as the site of repeated criminal activity or nuisance activity is a nuisance and detrimental to the civil peace of the county, and detrimental to the health, safety and welfare of the people of Umatilla County.

(2) The Umatilla County Board of Commissioners has also determined that this chapter is necessary to preserve and protect the habitability of real property in Umatilla County, and the peaceable, safe, sanitary, and secure occupancy, and use of real property in Umatilla County.

(3) Umatilla County has the authority to declare such real property a nuisance and regulate and abate the nuisance created by use of the real property pursuant to ORS 105.550 through 105.600. (Ord. 2008-08, passed 5-21-08)

§101.02 DEFINITIONS.

As used in this chapter, except as the context otherwise requires:

(1) **COSTS.** Those costs actually incurred by the county for the physical securing of real property, court costs, and other expenses incurred in enforcing this chapter.

(2) **ENFORCEMENT OFFICER.** The Sheriff of Umatilla County or his or her designee.

(3) **OWNER.** Any person holding or claiming to hold any legal or equitable title or interest in real property, including, but not limited to, a mortgagee in possession, a vendee under a land sale contract, or a beneficiary under a deed of trust; any person having or claiming to have lawful care, custody, or control of real property; or any lien holder or holder of any security interest in the real property.

(4) **PERSON.** Any natural person, association, partnership, or corporation, or other form of legal entity or entity in fact capable of owning or using property.

(5) **SPECIFIC CRIME PROPERTY.** Any kind of real property upon which three or more separate factual incidents occur during any 90 day period that involve any of the below listed behaviors and that have been independently investigated by any law enforcement agency:

- (a) Crimes involving controlled substances as defined in ORS Chapter 475;
- (b) Gambling or Lottery as defined by ORS 167.117;
- (c) Prostitution as defined by ORS 167.007;
- (d) Harassment as defined by ORS 166.065, excluding provision 1(b);
- (e) Intimidation as defined by ORS 166.155, excluding provision 1(a);
- (f) Disorderly Conduct as defined by ORS 166.025;
- (g) Unlawful use of a weapon as defined by ORS 166.220;
- (h) Noise disturbance as defined in Umatilla County Code of Ordinances Chapter 96;
- (i) Minor in possession of alcohol as defined by ORS 471.430;
- (j) Assault as described by ORS 163.160 through 163.185;
- (k) Sexual Abuse as defined by ORS 163.415 to 163.427;
- (l) Public indecency as defined by ORS 163.465;
- (m) Trespass as defined by ORS 164.245 to 164.265;
- (n) Criminal mischief as defined by ORS 164.345

to 164.365;

- (o) Theft by Receiving as defined by ORS 164.095; or
- (p) Unauthorized Use of a Vehicle as defined by ORS 164.135.

(6) **REAL PROPERTY.** Any real property, including but not limited to, lots, parcels, buildings, houses, rooms, structures, or any separate part or portion thereof, whether temporary or permanent, and whether or not on the ground itself and any conveyance or any part or portion thereof.

(7) **TENANT.** A residential tenant as defined by the Oregon Residential Landlord and Tenant Act, and any other person holding real property under the terms of a lease.

(Ord. 2008-08, passed 5-21-08)

§101.03 NUISANCE DECLARED.

(1) Any real property used or maintained as a Specified Crime Property within Umatilla County Oregon is declared to be a nuisance and shall be abated.

(2) No owner or occupant shall use or maintain or allow the use or maintenance of real property as Specified Crime Property.

(3) No owner or occupant shall use or occupy or allow or permit any person to use or occupy, by lease or otherwise, any real property during any period such property is subject to an order of closure pursuant to §101.07.

(Ord. 2008-08, passed 5-21-08)

§101.04 NOTICE.

(1) When the Enforcement Officer has reasonable grounds to believe that real property is being used or maintained in violation of §101.03, the Enforcement Officer may institute proceedings against the owner for the closure of the real property and the imposition of civil penalties.

(2) The Enforcement Officer shall provide preliminary notice of the institution of proceedings in the following manner:

(a) The Enforcement Officer shall notify the owner in writing that the real property is believed to be a Specified Crime Property. The notice shall contain the following information:

(1) The street address and legal description sufficient for identification of the property;

(2) A statement the property is Specified Crime Property, along with specific findings supporting the determination. The findings shall contain a concise description of the conditions establishing a violation of this chapter.

(b) A copy of the notice shall be served on the owner at least 10 days prior to filing of the complaint. Service of the notice shall be made by personal delivery or by mailing a copy of the notice by certified mail to the owner at the address as it appears on the tax rolls and the address as it appears on the last recorded instrument of conveyance, if different from the address specified on the tax rolls, and to the owner's actual address, if known to be different than the above.

(c) A copy of the notice shall be served on the occupant or occupants of the real property not less than 10 days prior to the filing of the complaint. Notice shall be made by mailing a copy of the notice by first class mail, or by personal delivery to the occupant or occupants of the real property.

(d) A copy of the notice may be posted at the real property if 10 days has elapsed from the service or mailing of the notice to the owner, and no response has been received by the Enforcement Officer during that time.

(e) The Enforcement Officer shall send a copy of the notice to the District Attorney of Umatilla County and the Umatilla County Counsel, as well as any other documentation supporting closure and imposition of civil penalties.

(3) After notice has been given pursuant to this section, the County Commissioners may authorize the

filing of a complaint in the Umatilla County Circuit Court to restrain and enjoin the nuisance. Nothing in this section shall limit the power of Umatilla County to enter into an agreement with the owner of the real property for voluntary abatement of the conditions giving rise to the violation.
(Ord. 2008-08, passed 5-21-08)

§101.05 ABATEMENT PROCEEDINGS.

(1) An action shall be commenced by the filing of a complaint and prosecuting the action as provided in ORS 105.565 through 105.590.

(2) If prior to the trial, the owner and the County enter into an agreement, stipulating to the abatement of the conditions giving rise to the complaint, the court upon motion by the County may stay proceedings for a period not to exceed 60 days. The owner may thereafter petition the court for additional periods of time as may be necessary to complete the actions stipulated to in the agreement. If the owner is not diligently pursuing the actions stipulated in the agreement, the County may apply for release at any time prior to the end of the stay.
(Ord. 2008-08, passed 5-21-08)

§101.06 EMERGENCY CLOSURES.

If the Enforcement Officer determines real property is an immediate threat to the public safety and welfare by virtue of activity which would establish a violation of this chapter, the County may apply to the court for a preliminary injunction ordering closure of the real property. In such event, no preliminary notice required under §101.04 need be given.
(Ord. 2008-08, passed 5-21-08)

§101.07 CLOSURE ORDER, CIVIL PENALTIES AND COSTS.

(1) If real property is determined to be a nuisance, the court may order closure of such property for a period of up to one year, and assess a civil penalty against the owner of up to \$500 for a noncontinuing offense and up to \$1,000 for a continuing offense upon finding the owner had knowledge of activities or conditions constituting the violation. A person shall be

deemed to have knowledge at a date no later than the date notice is provided pursuant to §101.04. In establishing the amount of any civil penalty, the court may consider the following factors:

- (a) The actions taken by the owner to mitigate or correct the problem at the real property;
- (b) The financial condition of the owner;
- (c) Whether the problem at the real property was repeated or continuous;
- (d) The magnitude or gravity of the problem;
- (e) The economic or financial benefits accruing or likely to accrue to the owner as a result of the failure to correct conditions at the real property;
- (f) The cooperativeness of the owner with County;
- (g) The costs to the County of investigating and correcting or attempting to correct the condition;
- (h) Any other factors deemed material by the court.

(2) No order of abatement as to that owner shall be entered if the court finds that the owner satisfied the conditions set forth in ORS 105.580(3).

(3) If an order of closure is granted, the County may physically secure the real property against use or occupancy if the owner fails to do so within the time specified by the order. All costs reasonably incurred by the County in such action shall be a lien upon the property as provided by law.

(4) The County shall prepare a statement of costs, which shall be served on the owner and filed with the court. If no objection to the statement is filed as provided by law, the statement of costs shall be entered as part of the judgment, as a general judgment lien against the real property.

(5) The lien shall have priority as set forth in ORS 105.585(1).

(6) A notice of pendency of an action may be filed pursuant to ORS 93.740.
(Ord. 2008-08, passed 5-21-08)

§101.08 RELOCATION COSTS.

(1) Except as provided in subsection 3 of this section, any tenant required to relocate by closure order is entitled to reasonable relocation costs, to be paid by the owner, if the tenant moved into the real property after either:

- (a) The owner received notice under §101.04; or
- (b) The owner was served with summons and complaint for a preliminary injunction under section §101.06.

(2) In any action to recover relocation costs, the tenant shall be entitled to reasonable attorney fees associated with the recovery.

(3) A tenant shall not be entitled to relocation costs if:

- (a) The owner provided the tenant with a copy of the notice given to the owner under §101.04 or a copy of the complaint for a preliminary injunction filed pursuant to §101.06, before the tenant moved into the real property; or
- (b) The tenant took part in any of the behavior that constituted an incident on the real property as described in §101.02(5).

(Ord. 2008-08, passed 5-21-08)

§101.09 RELIEF FROM CLOSURE ORDER.

(1) The owner of real property may obtain relief from a closure order if the owner:

- (a) Appears and pays all costs associated with the proceedings;
- (b) Files a bond, in the amount not less than the tax assessed value of the real property; and keeps such bond in force for a period of not less than 1 year; and
- (c) Enters into a stipulation with the County to immediately abate the conditions and to make every reasonable effort to prevent the same or similar conditions from occurring for a period of one year.

(2) If the owner violates any term of the

stipulation entered into according to subsection (1), the entire bond shall be forfeited.

(3) Nothing in this section shall alter the abatement provisions of ORS 105.580 (4) and (5), where abatement was ordered on the basis of manufacture of a controlled substance.

(Ord. 2008-08, passed 5-21-08)

§101.10 SEVERABILITY.

If any provision of this chapter is held to be invalid for any reason by a court of competent jurisdiction, the remainder shall not in any way be affected.

(Ord. 2008-08, passed 5-21-08)

§101.11 OTHER REMEDIES.

Nothing in this chapter shall limit the authority of Umatilla County and its public officials from taking any other action to restrain or enjoin a nuisance which may be provided by state or local law.

(Ord. 2008-08, passed 5-21-08)