

## Chapter 1.08. COUNTY POWERS

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### 1.08.025. Code Enforcement Powers; Designation.

In addition to the authority and powers granted to the County by ORS Chapter 153, and any other provisions of the Deschutes County Code, and upon authorization of the supervising department head/elected official, the county job classifications listed below shall be deemed a "civil code enforcement officer" for purposes of DCC and ORS, and shall have full authority to issue and prosecute any and all citations for violations of the Deschutes County Code:

- A. Field Law Enforcement Technician;
  - B. Code ~~Enforcement Compliance Technician~~ Specialist;
  - C. Building Official;
  - D. Assistant Building Official;
  - E. Forester;
  - F. Sanitarian/Environmental Health Specialist;
  - G. Community Development Director;
  - H. Planning Manager/Planning Director/Planner;
  - I. Legal Counsel; and
  - J. Assistant Legal Counsel
- (Ord. 2021-010, §1, 2021; Ord. 2020-005 2020; Ord. 2014-105 2014)

## Chapter 1.16. CODE VIOLATIONS AND ENFORCEMENT

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1.16.100 Abatement Procedure

1.16.110 Continuing Violations

1.16.115 Summary Abatement

1.16.120 Remedies Not Exclusive

1.16.130 Notice of Public Nuisance and Abatement Procedure

1.16.140 Abatement

1.16.145 Abatement Cost, Notice and Collection

1.16.150 Habitual Nuisance Property

1.16.155 Abatement Procedure for Habitual Nuisance Property

1.16.160 Appeal of Code Compliance Interpretation

1.16.170 Penalties

1.16.180 Separate Violations

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### 1.16.010. Violations Deemed Class A or B Classification-Penalties.

- A. Violation of a county ordinance shall be punishable, upon conviction, by fine or by the specific remedies specified within the County Code, including but not limited to equitable and injunctive relief ordered by a County Hearings Officer, Justice Court, or Circuit Court.
- B. Each county ordinance specifying a county offense shall classify the ordinance violation as a Class A or Class B violation.
- C. A sentence to pay a fine for a violation of a county ordinance shall be a sentence to pay an amount not exceeding the Maximum Fines provided in ORS 153.018.
- D. Notwithstanding this section and DCC 1. 16.030, for violations of Chapters 13.04, 13.08, 13.36, 15.04 and 15.10 and Titles 17 18 and 19, the Presumptive and Minimum fine amount shall be the Maximum Fine amount described in DCC 1.16.010(C).
- E. For violations of County Code provisions not listed in DCC 1.16.010(D), the Presumptive and Minimum Fine amounts shall be as provided in ORS Chapter 153.
- F. A land use application for a property with an existing code violation will be accepted, but may not be processed by the County based on application of DCC 2220.015.
- G. Notwithstanding DCC 1. 16.010(D), the court or the hearings officer may (but is not required) impose a fine lower than the fine provided in those two sections, upon an identified finding of mitigating factors including, but not limited to, indigence of the defendant, severity of the violation, number of times the defendant has been previously cited for Deschutes County Code violations; length of time the violation has existed; and reason(s) the violation has not been cured.

(Ord. 2021-010, §2, 2021; Ord. 2020-001 §1 2020; Ord. 2015-020 §1, 2015; Ord. 2014-003§1, 2014; Ord. 2013-015 §1 2013; Ord. 2008-026 §1, 2008; Ord. 2003-021 §3, 2003; Ord. 2002-016 §1, 2002; 86-076 §1, 1986)

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### 1.16.035. Search warrants-Statutory Provisions Adopted.

- A. The definition of "offense" as set forth in ORS 161.505 is adopted:
- B. An offense is conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law or ordinance of a political subdivision of this state. An offense is a crime or a violation.
- C. ORS 133.535 (3), which allows for property that has been used, or is possessed for the purpose of being used, to commit or conceal the commission of an offense to be the subject of search and seizure is adopted hereby by reference.
- D. Unless otherwise specified in DCC or ORS, ~~t~~The procedure established for obtaining search warrants as set forth in ORS 133.545 through 133.703 is adopted hereby by reference.  
(Ord. 2021-010, §2, 2021; Ord. 2003-021 2003; Ord. 96-025 §1, 1996)

1.16.040. Other Remedies Not Precluded—injunctive Relief/Abatement.

- A. The procedure established by DCC 1. 16.010 through DCC 1. 16.060 shall be the exclusive procedure for imposing a fine; provided, however, such sections shall not prohibit, in any manner, alternative remedies, including but not limited to injunction, nor shall the County be prohibited from recovering any expense incurred in any injunction action including abatement.
- B. In addition to a fine, any citation for a violation of a county ordinance may include a request for injunctive relief and/or abatement of the violation.
- C. The county's representative may also request injunctive relief and/or abatement at the time of arraignment or trial.
- D. Upon entering judgment against a person for violating a county ordinance, the court may, in addition any other penalty imposed by law, enter orders for injunctive relief and/or abatement, requiring the person to cease and desist and to correct the violation(s).  
(Ord. 2021-010, §2, 2021; Ord. 2013-015 §1, 2013; Ord. 86-076 §4, 1986)

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ABATEMENT

1.16.100. Unenumerated nuisances

- A. The acts, conditions or objects specifically enumerated and defined within DCC and as applicable, are declared public nuisances and such acts, conditions or objects may be abated by any of the procedures set forth in Sections 1.16.115 and 1.16.140, et seq.
- B. In addition to the nuisances specifically enumerated in this DCC, every other circumstance, substance or act which is determined by the Community Development Director or the County Administrator to be injurious or detrimental to the public health, safety or welfare of the County is declared a nuisance and may be abated as provided in Sections 1.16.115 and 1.16.140 et seq.  
(Ord. 2021-010, §2, 2021)

1.16.110. Continuing Violation

Each day that a nuisance continues to exist constitutes a separate violation and a separate penalty may be assessed for each day the violation continues.  
(Ord. 2021-010, §2, 2021)

#### 1.16.115. Summary Abatement

The procedure(s) provided by DCC Chapter 1.16 are not exclusive, but are in addition to procedures provided by other sections of DCC. The Community Development Director or designee may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers health or property. The cost of the summary abatement shall be paid by the property owner and shall be a lien on the property where the nuisance was abated.  
(Ord. 2021-010, §2, 2021)

#### 1.16.120. Remedies Not Exclusive

The abatement of a nuisance is not a penalty for violating the nuisance provisions of DCC, but is an additional remedy. The imposition of a civil infraction fine or administrative penalty does not relieve a person of the duty to abate the nuisance.  
(Ord. 2021-010, §2, 2021)

#### 1.16.130. Notice of Public Nuisance and Abatement Procedure

- A. If the Community Development Director or designee is satisfied that a public nuisance exists, the Community Development Director or designee shall cause a Notice of Abatement to be posted on the premises, or at the site of the nuisance, directing the person or persons in charge of the property to abate the nuisance.
- B. At the time of posting, the Community Development Director or designee shall cause a copy of the Notice of Abatement to be forwarded by registered or certified mail, postage prepaid, to the person or persons in charge of the property and the owner of the property, if different than the person in charge of property, (or registered agent) at the last known address of such person(s) as shown on the tax rolls of Deschutes County.
- C. If the property is unimproved, the Community Development Director or designee shall cause a Notice of Abatement to be sent by registered or certified mail, postage prepaid, to the person or persons in charge of the property and the owner of the property, if different than the person in charge of property (or registered agent), at the last known address of such person(s) as shown on the tax rolls of Deschutes County.
- D. If the registered/certified Notice of Abatement is returned as undeliverable or is unclaimed by the property owner, nothing shall preclude the County from exercising its option to abate the nuisance as specified herein in Section 1.16.140. The Notice of Abatement to abate shall contain:
  - 1. A description of the real property, by street address or otherwise, on which the nuisance exists.
  - 2. A direction to abate the nuisance within 10 days from the date of notice.
  - 3. A description of the nuisance.
  - 4. A statement that unless the nuisance is removed, the County may abate the nuisance and the full cost of abatement including administrative charges will be charged to the person responsible and shall become a lien on the property.
  - 5. A statement that failure to abate a nuisance may warrant imposition of a fine or administrative penalty upon the person responsible for the nuisance. The fine or administrative penalty may be issued at any time there is a violation of this code.

6. A statement that the person responsible may protest the order to abate by giving written notice to the Community Development Director or designee within 10 days from the date of the notice, together with a written statement as to why a nuisance should not be declared.
- E. If the person in charge of the property is not the owner, an additional Notice of Abatement shall be sent to the owner at the time of posting of the Notice of Abatement stating that the cost of abatement not paid by the person responsible shall be assessed to and become a lien on the property. The notice to the owner shall be sent to his or her address as last shown on the Deschutes County tax rolls.
- F. On completion of the posting and mailing, the persons posting and mailing shall execute and file with the Community Development Director or designee certificates stating the date and place of the mailing and posting.
- G. The County shall use all reasonable means to provide notice to the person responsible. Failure to provide actual notice to the person responsible shall not void the procedure to abate the nuisance, however.
- (Ord. 2021-010, §2, 2021)

#### 1.16.140. Abatement

##### A. Abatement by the Owner or Person in Charge of Property.

1. Within 10 days after posting and mailing the notice, as provided in this code, the owner or person in charge of the property shall remove the nuisance, present a plan to remove the nuisance or show that no nuisance exists.
2. A person in charge of the property, disputing the declaration of nuisance shall file within ten (10) days with the Community Development Director or designee a written statement which shall specify the basis for the protest.
3. If after review of the statements, the Community Development Director or designee again determines that a nuisance in fact exists, the person responsible shall abate the nuisance within 10 days after the Community Development Director's or designee's final determination.
4. If the person in charge of the property disagrees with the final determination of the Community Development Director or designee, that person may appeal that determination to the County Administrator by filing a written statement within ten (10) days of the Community Development Director's or designee's final determination specifying the basis for the appeal.
5. The County Administrator shall either affirm, overturn or modify the Community Development Director's or designee's decision. The decision of the County Administrator shall be the final action of the County.

B. Abatement by the County – Without Warrant. If the violation for which a Notice of Abatement has been issued is not corrected within the specified timeframe (within ten (10) days of the posting and/or mailing of the Notice of Abatement, or within ten (10) days of the Community Development Director's or designee's final determination of a dispute, or within ten (10) days of the decision of the County Administrator), and is considered an immediate public health and safety hazard, the Community Development Director or designee may cause the nuisance to be abated without a warrant.

C. Abatement by the County – Nuisance Abatement Warrant Authorized. The Deschutes County Justice Court shall have the authority to issue warrants authorizing any County official authorized by the Community Development Director to enforce provisions of the Deschutes County Code to make

searches and seizures reasonably necessary to enforce any provision of the Deschutes County Code pertaining to nuisances.

1. Every warrant authorized by this section shall be supported by affidavit or sworn testimony establishing probable cause to believe that a nuisance violation has occurred, describing:
  - a. The applicant's status in applying for the warrant;
  - b. The ordinance or regulation requiring or authorizing the removal and abatement;
  - c. The building or property to be entered; the basis upon which cause exists to remove or abate the violation;
  - d. A statement of the violation to be removed or abated; and
  - e. A statement that consent to enter onto the property to abate the violation has been sought and refused or the facts and circumstances that reasonably justify the failure to seek or inability to obtain such consent.
2. Cause shall be deemed to exist if there is reasonable belief that a code violation exists with respect to the designated property, and that the property owner and person in charge of the property have been given notice and an opportunity to abate the violation and has not responded in a timely fashion.
3. The Justice Court may, before issuing an abatement warrant, examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application. If the Justice Court is satisfied that cause for the removal and abatement of the violation(s) exists and that the other requirements for granting the application are satisfied, the Justice Court shall issue the abatement warrant, particularly describing the person or persons authorized to execute the warrant, the property to be entered, and a statement of the general types and estimated quantity of the items to be removed or conditions abated.

D. In issuing an abatement warrant, the Justice Court may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist in any way necessary to enter the property and, remove and abate the violation.

E. Execution of Abatement Warrants

1. Occupied Property. In executing an abatement warrant, the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request. A copy of the warrant shall be left with the occupant or the person in possession. The warrant is not required to be read aloud.
2. Unoccupied Property. In executing an abatement warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person. In such case a copy of the abatement warrant shall be conspicuously posted on the property.
3. Return. An abatement warrant must be executed within 14 working days of its issue and returned to the Justice Court by whom it was issued within 14 working days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant, unless executed, is void.
4. If an abatement warrant to secure entry onto the property subject to the notice of violation has been obtained, no property owner, occupier, or other person in charge of the property, shall

refuse, fail or neglect, after proper request, to promptly permit entry by authorized persons to abate the violation(s). It shall be unlawful for any property owner, occupier, or other person in charge of the property to refuse to permit entry by authorized persons to abate the violations for which an abatement warrant has been obtained. Violation of this subsection is a Class B Violation.

F. The Community Development Director or designee shall have the final authority to decide whether or not to enter onto property to abate a violation in each particular case.

G. Joint Responsibility. If more than one person is a person in charge of the property, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the County in abating the nuisance.

(Ord. 2021-010, §2, 2021)

#### 1.16.145. Abatement Cost, Notice, and Collection

A. The property owner and all persons in charge of the property shall be jointly and severally liable for all costs associated with the abatement of a nuisance or violation, including administrative costs, warrant costs, and attorney fees.

B. The Community Development Director or designee shall keep an accurate record of the expense incurred by the County for abatements. After the violations have been determined by the County to be corrected, the Community Development Director or designee shall mail to the owner and persons in charge of the property an Abatement Costs Notice which includes:

1. The total costs of abatement;

2. Notification that the costs of abatement shall become a lien against the property; and

3. Notification that if the owner objects to the Abatement Cost Notice:

a. The owner may request a quasi-judicial hearing with the Hearings Officer by delivering to the County a written protest and request for a hearing within thirty (30) calendar days from the date of the notification to the owner was mailed.

b. If a written protest and request for a hearing was not submitted for a quasi-judicial hearing with the Hearings Officer within thirty (30) calendar days from the date the notification to the owner was mailed, then a written protest and request for a hearing before the County Administrator or designee may be submitted up to six months the date the notification was mailed to the owner. The decision of the County Administrator or designee is final.

C. Collection and Abatement Costs.

1. The costs listed in the Abatement Costs Notice shall be delinquent if not paid within thirty (30) days from later of the date of the notice or from the date on which the County Administrator or designee makes a final decision on a protest.

2. If the abatement costs are delinquent, the amount due may accrue interest at 10% per annum.

3. The abatement costs shall be entered in the docket of county liens with the County Clerk, and shall constitute a lien upon the property that was in violation of the county code. In addition, the Abatement Costs Notice shall constitute a personal obligation of the owner and persons in charge of the property. The County may seek a money judgment against the owner and/or persons in charge of the property through the Justice Court.

a. The lien may be enforced in the same manner as liens for assessments for local improvement districts. Failure to pay may result in foreclosure in any manner provided by law.

b. An error in the name of the owner shall not void the lien, nor shall a failure to receive the notice render the lien void, but it shall remain a valid lien against the property.

4. The Community Development Director or designee shall have the final authority to decide what form of remedy the County will pursue for collecting abatement costs.

(Ord. 2021-010, §2, 2021)

#### 1.16.150. Habitual Nuisance Property

Any property within the unincorporated County which becomes habitual nuisance property as defined in this subsection or elsewhere in county code or as declared by the Deschutes County Sheriff or designee, is in violation of this chapter and subject to its remedies. Any person who permits property under his or her ownership or control to be a habitual nuisance property shall be in violation of this chapter and subject to its remedies. No person shall allow a residential dwelling to become a habitual nuisance property.

A. Definition. Habitual Nuisance Property means property upon which three (3) or more incidents of any of the below listed behaviors occur, or whose employees, residents, owners or occupants engage in three or more incidents of any of the below listed behaviors within 50 feet of the property, during any 30 day period as a result of three or more separate and documented incidents. (“Incidents” shall be defined as any citation, report, arrest, and/or conviction.)

1. Harassment as defined in ORS 166.065.

2. Intimidation as defined in ORS 166.155.

3. Disorderly conduct as defined in ORS 166.025.

4. Discharge of a firearm as defined in DCC.

5. Noise disturbance as defined in DCC.

6. Minor in possession of alcohol as defined in ORS 471.430.

7. Assault as defined in ORS 163.160, or ORS 163.165 to 166.185.

8. Sexual abuse as defined in ORS 163.415 or 163.427.

9. Public indecency as defined in ORS 163.465.

10. Trespass as defined in ORS 164.245 to 165.265.

11. Criminal mischief as defined in ORS 164.345 to ORS 164.365.

12. Child Abuse and neglect as defined in ORS 163.535 to ORS 163.547 and ORS 163.665 to ORS 163.695.

13. Possession of a Controlled Substance as Defined in ORS 475.992.

14. Delivery of a controlled substance as defined in ORS 475.005.

15. Manufacture of a controlled substance as defined in ORS 475.005.

16. Frequenting a place where controlled substances are used as defined in ORS 167.222.

Abatement Procedure for Habitual Nuisance Property:

A. When the Sheriff or designee believes in good faith that property within the unincorporated County has become habitual nuisance property, the Sheriff or designee shall notify the owner and the occupant, if known, in writing that the property has been determined to be habitual nuisance property. The notice shall contain the following information:

1. The street address or description sufficient for identification of the property.

2. That the Sheriff or designee has found the property to be habitual nuisance property with a concise description of the conditions leading to his/her findings.



3. A direction to notify the Sheriff or designee in writing within 15 days from the date of mailing the notice of the actions the owner intends to take to abate the nuisance.
  4. A direction to abate the nuisance, or show good cause to the Sheriff or designee why the owner cannot abate the nuisance, within 60 days from the date of mailing the notice.
  5. That if the nuisance is not abated and good cause for failure to abate is not shown, the Community Development Director or designee may order abatement, with appropriate conditions. The Community Development Director or designee may also employ any other remedy deemed by him/her to be appropriate to abate the nuisance, including but not limited to authorizing a civil complaint in a court of competent jurisdiction which may include seeking closure of the property.
  6. That the owner may be required to pay to the County a civil penalty for each day the nuisance continues after the Community Development Director or designee orders abatement.
  7. That the above remedies are in addition to those otherwise provided by law.
- B. Service of the notice is completed upon mailing the notice first class, postage prepaid, addressed to:
1. The owner at the address of the property believed to be a habitual nuisance property, and to such other address as shown on the tax rolls of the county in which the property is located or such other place which is believed to give the owner actual notice of the determination by the Sheriff or designee.
  2. A copy of the notice shall be served on occupants of the property, if different from the owner. Service shall be completed upon mailing the notice by registered or certified mail, postage prepaid, addressed to "occupant" or each unit of the property believed to be a habitual nuisance property.
  3. The failure of any person or owner to receive actual notice of the determination by the Sheriff or designee shall not invalidate or otherwise affect the proceedings under this chapter.

(Ord. 2021-010, §2, 2021)

#### 1.16.155. Abatement Procedure for Habitual Nuisance Property

##### A. Notice by Sheriff.

1. Within 15 days of the posting and mailing of the notice, the owner shall notify the Sheriff or designee in writing of the actions that owner intends to take to abate the nuisance.
2. Within 60 days of the posting and mailing of the notice, the owner shall abate the nuisance or show good cause to the Sheriff or designee why the owner cannot abate the nuisance within that time.
3. If the owner does not comply with subsection A or B of this section, the Sheriff or designee may refer the matter to the County Administrator or designee for a hearing. The Community Development Director or designee shall give notice of the hearing to the owner and occupants, if different from the owner. At the time set for hearing the owner and occupants may appear and be heard by the County Administrator or designee. The County Administrator or designee shall determine whether the property is habitual nuisance property and whether the owner has complied with subsection 1 and 2 of this section.

##### B. Remedies by County Administrator.

1. In the event the County Administrator or designee determines that property is a habitual nuisance property and the owner has failed to comply with Section (1) above, the County Administrator or designee may order that the nuisance be abated. The order may include conditions under which

abatement is to occur. The County Administrator or designee may also employ any other remedy deemed by it to be appropriate to abate the nuisance, including but not limited to authorizing a civil complaint in a court of competent jurisdiction which may include seeking closure of the property.

2. If the person in charge of the property disagrees with the final determination of the County Administrator or designee, that person may appeal that determination to the County Hearings Officer by filing a written statement within ten (10) calendar days of the County Administrator's or designee's final determination specifying the basis for the appeal and paying applicable appeal fees or deposits per the Community Development Department's Fee Schedule.
3. The Hearings Officer shall either affirm, overturn or modify the County Administrator's or designee's decision. The decision of the Hearings Officer shall be the final action of the County.
4. The remedies in this section are in addition to those otherwise provided by law.

C. Assessment of Costs for Habitual Nuisance Property.

1. The Community Development Director or designee, by registered or certified mail, postage prepaid, shall send to the owner and the person in charge of property a notice stating:
  - a. The total cost of abatement, including the administrative overhead.
  - b. That the cost as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice.
  - c. That if the owner or person responsible objects to the cost of the abatement as indicated, a notice of objection may be filed with the Community Development Director or designee no more than 10 days from the date of the notice.
2. On the expiration of 10 days after the date of the notice, the Community Development Director or designee shall hear and make a decision on the objections to the costs assessed.
3. If the costs of the abatement are not paid within 30 days from the date of the notice, the assessment of the costs shall be entered in the docket of the county liens with the County Clerk. When the entry is made it shall constitute a lien on the property from which the nuisance was removed or abated.
4. The lien shall be enforced in the same manner as liens for improvement districts and/or street improvements are enforced and interest shall begin to run from the date of entry of the lien in the lien docket
5. The County shall use all reasonable means to provide notice of the assessment to the person responsible. However, an error in the name of the owner or person responsible 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 lien against the property.

(Ord. 2021-010, §2, 2021)

1.16.160. Appeal of Code Compliance Interpretation

- A. Any reporting party who disagrees with a Code Compliance Specialist decision may appeal this decision to the Community Development Director or designee by making application on forms provided by the County and paying the required fees. The appeal application shall include:
  1. The name and address of the person(s) submitting the appeal.
  2. The street address or a description sufficient for identification of the property upon which the alleged violation has occurred or is occurring.

3. A detailed description of the alleged violation and a reference to the specific laws, regulations, County Code, or permit conditions that has allegedly been misinterpreted or applied.

4. Additional burden of proof as to why the Code Enforcement Officer's decision is incorrect demonstrating why the decision should be reversed or modified.

B. Upon receiving an appeal application, the County shall schedule a hearing with the Community Development Director or designee within thirty (30) days. Notification of the hearing shall be made to both the person(s) appealing the decision and person(s) or property owner directly impacted by the decision no less than twenty (20) days prior to the hearing by certified mail, return receipt requested.

C. The following hearing procedures shall apply to the hearing before the Community Development Director or designee:

1. Subject to requirements of County Code, the Community Development Director may adopt additional procedures to conduct of the hearing.

2. Evidence, including rebuttal evidence, may be presented at the hearing and shall be limited to that which is relevant to the alleged interpretation.

3. If the appellant fails to appear at the scheduled hearing, the Community Development Director or designee will enter an order finding that the Code Enforcement Officer's decision was valid and assessing the cost of the hearing against the appellant.

4. The Community Development Director or designee has the authority to administer oaths and take the testimony of witnesses.

5. The parties shall have the right to cross-examine witnesses who testify.

6. The Community Development Director or designee shall determine whether the appellant has established by a preponderance of the evidence that the Code Enforcement Officer's decisions should be reversed or modified.

7. The Community Development Director or designee shall hear the appeal de novo. The decision of the Community Development Director or designee is final.

8. The County shall mail a copy of the decision to the appellant, applicable department director, Code Enforcement Officer and all parties of record within ten-working days of the hearing.

9. If the Community Development Director or designee determines that the appellant is correct, the County shall pursue correction or abatement as provided in County Code.

(Ord. 2021-010, §2, 2021)

#### 1.16.170. Penalties

A. Any person or person who shall be found to be an owner and/or a person in charge of property for a nuisance, or otherwise guilty of a violation of any of the provisions of the County Code shall be subject to the penalty provisions set forth herein.

B. All persons responsible shall be liable for any injuries resulting from a violation of the County Code.

C. Any violations of this Section 1.16 shall be deemed a Class B Civil Infraction.

(Ord. 2021-010, §2, 2021)

#### 1.16.180. Separate Violations

- A. For habitual nuisance property, a nuisance continues to exist if there is any further single occurrence of a behavior listed in the definitions of habitual nuisance property upon the property or by any employee, resident, owner or occupant within 50 feet of the property.
- B. The abatement of a nuisance is not a penalty for violating this ordinance, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within ten (10) days of the date of notice to abate, or if a written protest has been filed, then abatement within ten (10) days of the Community Development Director's or designee's determination that a nuisance exists will relieve the person responsible from the imposition of any or administrative penalty under these code provisions.
- (Ord. 2021-010, §2, 2021)

**Chapter 13.12. GENERAL PROVISIONS**

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**13.12.041. Definition-Abandoned Vehicle**

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**13.12.126. Definition-Inoperable Vehicle**

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**13.12.041. Definition-Abandoned Vehicle.**

“Abandoned Vehicle” means any vehicle which reasonably appears to be inoperable, wrecked, discarded, abandoned or totally or partially dismantled.  
(Ord. 2021-010 §3, 2021)

**13.12.126. Definition-Inoperable Vehicle.**

“Inoperable Vehicle” means any vehicle that has broken or missing windows, windshield, inoperative wheels or tires, lacks an engine or has an inoperable engine or lacks a transmission or has an inoperable transmission.  
(Ord. 2021-010, §3, 2021)

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**13.12.205. Definition-Solid Waste.**

“Solid Waste” means all useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid materials, dead animals and infectious waste, or other discarded solid material.

~~“Solidwaste” means all putrescible and nonputrescible waste, whether in solid or liquid form, except liquid-carried industrial waste or sewage or sewage sludge hauled as an incidental part of a septic tank or cesspool cleaning service, but including garbage, rubbish, ashes, paper, cardboard, sewage sludge, street refuse, industrial waste, infectious waste, swill, demolition and construction waste, inoperative and/or unlicensed or dismantled or partially dismantled vehicles or parts thereof, discarded home or industrial appliances, manure, vegetable or animal solid and semisolid waste, dead animals or other discarded solid material.~~

(Ord. 2021-010, §3, 2021; Ord. 92-071 §1, 1992; Ord. 91-004 §1, 1991; Ord. 85-037 §4.01, 1985)

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## Chapter 13.36. NUISANCES AND ABATEMENT

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### 13.36.010. Creation of Nuisance.

Except as otherwise authorized under DCC 13.36, no person shall create or maintain a nuisance on private property. Such nuisances are declared to be public nuisances which may be abated as provided under DCC 15.04.070, DCC 1.16, or by instituting ~~judicial court~~ proceedings.

(Ord. 2021-010, §4, 2021; Ord. 95-002, §1, 1995; Ord. 85-037 §12.01(1), 1985)

### 13.36.012. Definition-Nuisance.

A. "Nuisance" includes:

1. All open holes, wells, cisterns, cesspools, or unsanitary septic tanks, foundations or non-operating refrigerators, freezers, or iceboxes with attached doors;
2. Accumulations of solid waste on private property in such a manner as to create a nuisance, hazard to health, or condition of unsightliness; Solid Waste defined under DCC 13.12.205~~Solid waste; as defined under DCC 13.12.205;~~
3. Those definitions of nuisance pursuant to DCC 1.16.100, DCC 1.16.150, DCC 12.35.160, DCC 15.04.190, and DCC 18.144.040; or
4. Land that as a result of grading operations, excavation or fill causes erosion, subsidence or surface water drainage problems of such magnitude as to be injurious or potentially injurious to adjacent properties or to the public health, safety and welfare.

B. Except as to regulations allowed by ORS 475B.486, and/or ORS 475B.928, generally accepted, reasonable and prudent farming and forest practices as described in ORS 30.930 to 30.937 and DCC 9.12 do not constitute nuisances under DCC 13.36.012.

(Ord. 2021-010, §4, 2021; Ord. 2020-005 §1, 2020; Ord. 95-024 §13, 1995; Ord. 95-002 §4, 1995)

### 13.36.020. Disposal Site-Board Approval- Nuisances.

Except as provided in DCC 13.16.020 and in the definition of "disposal site" in DCC 13.12.040, no person shall use or permit to be used any land within the County as a public or private disposal site without approval of the Board. The disposal of waste or solid waste in or upon such land is declared to be a public nuisance which may be abated as provided in DCC 1.16, DCC 13.36.050, or any other applicable provision of law.

(Ord. 2021-010, §4, 2021; Ord. 85-037 §12.01(2), 1985)

\* \* \*

### 13.36.050. Abatement of Nuisances.

A. Except as otherwise authorized under Deschutes County Code, the condition of a building or land which has been determined to constitute a nuisance is in violation of this code, and may be abated

by repair, rehabilitation, demolition or removal in accordance with the procedures provided under [DCC 1.16](#), DCC 15.04.070 (Abatement of Dangerous Buildings).

- B. Nothing in [DCC 1.16 or](#) DCC 13.36 shall be deemed to limit or otherwise modify the ability of the Board and/or any person who has suffered special damage from the nuisance, to abate nuisances through alternative remedies as provided for under the law.

([Ord. 2021-010, §4, 2021](#); Ord. 95-002 §2, 1995; Ord. 88-002 §1, 1988; Ord. 85-037 §12.02, 1985)