

AN ORDINANCE OF THE CITY OF MALAD CITY, IDAHO, DECLARING THE ACCUMULATION OF WEEDS, DEAD TREES AND SHRUBS, RUBBISH, REFUSE, GARBAGE, TRASH, AND MATERIAL UPON PUBLIC AND PRIVATE PROPERTY WHICH CONSTITUTES A FIRE HAZARD OR POSES A POTENTIAL FOR DAMAGE TO PUBLIC WAYS A NUISANCE; DEFINING THE MATTERS AFFECTED; PROVIDING FOR APPEAL OF THE DECLARATION OF NUISANCE; PROVIDING TIME LIMITS ON ABATEMENT AND APPEALS; PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MALAD CITY, IDAHO, AS FOLLOWS:

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Section 1: TITLE - CITATION: This Chapter shall be known and shall be cited as the "Malad City Weed and Waste Matter Abatement Ordinance."

Section 2: NUISANCE - PROHIBITED: No owner of any lot, place or area within the City, or occupant or person in control of same, shall permit on such lot, place or area or upon any street, sidewalk or public right-of-way abutting the same, a public nuisance to exist as herein defined and found to exist by the Fire Chief of the Malad Valley Volunteer Fire Department or his authorized representative, or the Oneida County Sheriff or his authorized representative or duly delegated law enforcement officer.

Section 3: PUBLIC NUISANCES DESIGNATED:

a. All weeds, dry grasses, trees, shrubs and other vegetation, rubbish, refuse, garbage, trash or any material present upon the streets, sidewalks, adjacent public rights-of-way or upon private property within the City of Malad City, which by reason of size, manner of growth, or location, constitutes a fire hazard to any building, improvements, crops or other

property, as well as weeds and other vegetation, which by reason of promiscuous propagation are likely to cause damage to public streets and sidewalks, or which interferes with the reasonable enjoyment of property by the neighbors, are declared to be a public nuisance.

b. Regularly cultivated, mowed and useful grasses and pastures shall not be declared a public nuisance. However, if the Fire Chief or his authorized representative, determines it necessary to protect adjacent improved property from fire exposure, an adequate fire-break may be required.

c. Waste matter as hereinafter defined, which by reason of its location and character is unsightly or which interferes with the reasonable enjoyment of property by the neighbors, or which would materially hamper or interfere with the prevention or suppression of fire upon the premises, or any adjoining premises or the abatement of a nuisance as defined by this Chapter is declared a public nuisance.

d. Waste matter is defined for the purpose of this Ordinance as unused or discarded matter having little or no substantial market value, which is exposed to the elements and/or is not enclosed in any structure or otherwise completely concealed from public view, and which consists (without limitation or exclusion by enumeration) of such matter and material as:

1. Rubble: To include asphalt, concrete, plaster tile, dirt, and/or gravel piles, unused building or mobile home foundations;
2. Rubbish: To include crates, cartons, metal and glass container, newspapers, boxes, wood shavings, lumber scraps, bedding, lawn clippings, furniture, home appliances, washers, dryers, freezers, refrigerators, dilapidated out-buildings, fragments of buildings; and
3. Vehicular components: To include automotive bodies, trailers, tires, farm equipment, and commercial equipment components and/or parts thereof.

Section 4: NUISANCE - ABATEMENT NOTICE: If it is determined by the Fire Chief or his authorized representative, or the Oneida County Sheriff or his authorized representative or duly delegated law enforcement officer that a public nuisance,

as herein defined, exists on any lot, place or area, or upon any street, sidewalk, or public right-of-way abutting the same, the Chief of the Fire Department or the Oneida County Sheriff or an authorized representative or duly delegated law enforcement officer shall cause a notice to be issued to abate such nuisance. Such notice shall be headed "NOTICE TO CLEAN PREMISES"; shall contain a description of the property in general terms reasonably sufficient to identify the location of the nuisance; shall describe the nuisance in terms reasonably sufficient to identify the same; shall direct the abatement of the nuisance; shall specify the penalty provision as provided herein; and shall specify the appeal process as provided herein. Such notice may be on a form prescribed by the City.

Section 5: ABATEMENT NOTICE - SERVICE: The notice required by Section 4 may be served in the following manner:

- a. By personal service on the owner of said lot, place, or area, if the owner lives within the City of Malad City, and by personal service on the occupant or person in charge or control of the property, if such person can be identified; or
- b. If said owner does not live within the City of Malad City, by registered mail to the owner at the address shown on the last available assessment roll, or as otherwise known; and, by personal service on the occupant or person in charge or control of the property, if such person can be identified; or
- c. Should the owner not be known or have an available address, by posting at a conspicuous place on the land or abutting a public right-of-way and by publication of said notice at least once a week for the period of two weeks in a newspaper of general circulation in the City of Malad City and by personal service on the occupant or person in charge or control of the property, if such person can be identified. Said newspaper advertisement shall be a general notice that property in the City of Malad City has been posted in accordance with this Chapter and contain a general statement of the effect of such postings. The date of such newspaper advertisements shall not be considered in

computing the appeal periods provided by this Chapter.

Section 6: APPEAL: Within ten (10) days from the date of posting, mailing, or personal service of the required notice, the owner or person occupying or controlling such lot, place or area affected may appeal to the Council of the City of Malad City. Such appeal shall be in writing and shall be filed with the City Clerk. At the regular meeting, or recessed meeting of the City Council, not less than ten (10) days nor more than twenty-six (26) days thereafter, the City Council shall proceed to hear and pass upon such appeal, and the decision of the City Council thereupon shall be final and conclusive.

Section 7: ABATEMENT REQUIRED - TIME LIMIT: It shall be the duty of the owner or person occupying or controlling any lot, place or area in the City of Malad City which has been declared a public nuisance as provided herein, within ten (10) days from the date of notification as provided herein, or in case of an appeal to the City Council, within ten (10) days from the determination thereof, unless the same is sustained, to remove the nuisance as stated.

Section 8: VIOLATION - PENALTIES: Failure to abate the stated nuisance shall be a misdemeanor. The provisions of this Chapter are not exclusive remedies and the City may invoke all remedies, civil or criminal, provided for abatement of nuisances.

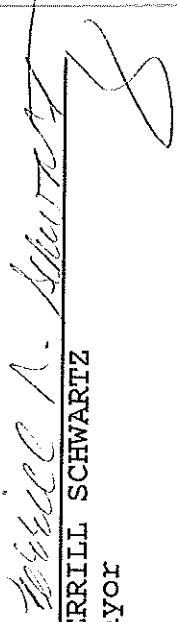
Section 9: ABATEMENT BY CITY - COSTS: Upon the failure to abate a stated nuisance within the time limits of Section 7 herein, the City may remove the same, doing whatever is necessary to accomplish the abatement clean-up, removal, and related work. The costs thereof may be assessed against the property and collected as provided by law, particularly as provided by Idaho Code Title 50, Chapter 10, Special Assessments, or the City may collect the costs by civil action.

Section 10: SEVERABILITY: If any section, paragraph, clause, or provision of this Chapter is held to be invalid for any reason, such invalidation shall not affect the validity and enforceability of any of the remaining provisions hereof.


Section 11: EFFECTIVE DATE: That this Ordinance shall be in full force and effect from and after its passage and publication.

PASSED AND APPROVED BY THE COUNCIL AND SIGNED BY THE MAYOR OF THE CITY OF MALAD CITY, IDAHO, THIS 20 DAY OF April, 1992.

CITY OF MALAD CITY


TERRILL SCHWARTZ
Mayor

ATTEST:


SUSAN WITTMAN, Clerk