

## RESOLUTION NO. 1255

### A RESOLUTION ASSESSING NUISANCE ABATEMENT COSTS (ZLATEK)

WHEREAS, Sections 93.70 to 93.75 of the Code of Prineville address abatement procedures to remove nuisances within the City of Prineville ("City"); and

WHEREAS, Robert L. Zlatek, Jr., and Kelly J. Zlatek ("Zlateks") own real property located at 705 NW Fifth Street, Prineville, Oregon, and legally described as Lot 1 and the East 10 feet of Lot 2 of Block 8 of Nobles Addition to Prineville, Oregon, according to the official plat thereof on file and of record in the office of the County Clerk for Crook County, Oregon (the "Zlatek Property"); and

WHEREAS, on May 1, 2014, the City ordinance officer determined that noxious vegetation (weeds and/or grass over ten inches in height) was present on the Zlatek Property; and

WHEREAS, on May 1, 2014, Zlateks were mailed by certified mail, return receipt requested, and regular mail a letter advising Zlateks of the ordinance violation and a ten-day compliance notice giving them ten days to bring the Zlatek Property into compliance by removing the noxious vegetation. The letter and notice mailed by regular mail was not returned. The certified letter and notice was returned on May 20, 2014, marked "unclaimed" and showed attempts for delivery on May 3, May 14, and May 18, 2014; and

WHEREAS, on July 3, 2014, a notice to abate the nuisance of noxious vegetation was posted on the Zlatek Property and was sent by regular and certified mail to Zlateks advising them they had ten days to cut and remove the noxious vegetation on the Zlatek Property or file a protest with the City Manager if they believed no nuisance existed on the Zlatek Property; and

WHEREAS, the certified notice was returned unclaimed, but the notice sent by regular mail was not returned, indicating it had been received; and

WHEREAS, the noxious vegetation was not cut and removed within the ten-day period and Zlateks did not protest the existence of the nuisance within the ten-day period; and

WHEREAS, in late July 2014, the City contracted with a landscaping company to have the noxious vegetation on the Zlatek Property cut and removed for the sum of \$250; and

WHEREAS, on January 27, 2015, the City sent the Zlateks, by regular and certified mail, a notice that the cost of the nuisance abatement on the Zlatek Property was \$287.50 (\$250 costs, plus \$37.50 administrative overhead) and they had 30 days to pay that amount or ten days to file an objection to that amount; and

WHEREAS, no objection was filed within the ten day period and the \$287.50 abatement cost was not paid within the 30 day period; and

WHEREAS, Section 93.74 of the Code of Prineville authorizes the City Council to assess the abatement costs by resolution;

1 – Resolution No. \_\_\_\_\_

Dutli & Borneman, LLP  
545 NE Seventh Street • Prineville, OR 97754 • 541-447-3910

(15)

NOW, THEREFORE, the City of Prineville resolves as follows:

1. The sum of \$287.50 is assessed against the Zlateks, and each of them, and the Zlatek Property.
2. Such assessment shall be entered in the docket of City Liens and upon entry shall constitute a lien upon the Zlatek Property.
3. The lien amount shall bear interest at the rate of seven percent (7%) per annum from the date of this Resolution and shall be enforced as allowed by law.

Dated: April \_\_\_\_\_, 2015

\_\_\_\_\_  
Betty J. Roppe, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Morgan, City Recorder



**Staff Report for Resolution No. 1255**  
**Carl M. Dutli, City Attorney**

Resolution No. 1255 is being brought before the Council so that the Council can assess the cost of the nuisance abatement against the owners of the property and the property upon which the nuisance existed. Before getting into specifics regarding the nuisance that existed on the Robert L. Zlatek, Jr. and Kelly J. Zlatek property, background information may be helpful.

Chapter 93 of the Code of Prineville deals with nuisances. Some of the nuisances enumerated include no pigs within the City; no snow or ice to remain on the sidewalks more than two hours after daylight; property which is such a condition as to cause an offensive odor; no junk kept outdoors; no dead or decaying trees that are a hazard; no car or pickup parked in a public street in excess of ten days; and no other vehicle parked on a public street for three days and burn barrel restrictions. There are many more nuisances described and prohibited, but the above gives an idea of some of the nuisances that are not allowed in the City.

Many of the nuisances are what I would refer to as quality of life issues. Most of the nuisance complaints are in relation to junk and debris kept on property and noxious vegetation, which is defined as weeds more than ten inches high, grass more than ten inches high (unless it is an agricultural crop), and weeds, grass, or vegetation that is a health hazard, a fire hazard, or a traffic hazard. Noxious vegetation is prohibited only between May 1 and November 1 of each year.

The normal procedure for nuisance abatement is for the City ordinance officer to contact a property owner or resident and explain the ordinance violation and seek compliance. Depending on the property owner's or resident's willingness to comply, the person may be given a ten day compliance notice which notifies a person that if the nuisance is not abated during the ten-day time period that the person may receive a citation for the nuisance. Most visits to a property by the ordinance compliance officer are due to neighbor complaints. If a person does not abate the nuisance the person may be cited into court and fined up to \$500. Because the City's goal has been compliance we normally request the judge fine the person, but vacate all or a portion of the fine if the person either cleans up the property and/or keeps the property clean for an extended period of time. Usually that extended period of time is six months. If there are persons that have had several warnings or prior citations and do not show any willingness to comply we will ask for larger fines and the ordinance officer will monitor more closely the property upon which the nuisance exists.

There is another option the City has concerning nuisances. Chapter 93 of the Code of Prineville has an abatement procedure which allows the City, after notice, to pay to have the nuisance abated and then seek costs from the property owner. This requires a notice to abate to be posted on the property and mailed to the property owner. That notice describes the property involved, a description of the nuisance, a direction to abate the nuisance within ten days, a statement that the City may abate the nuisance and charge the cost of abatement to the person responsible for the nuisance, a statement that failure to abate the nuisance may warrant imposition of a fine, and a statement that the person may protest the order to abate by giving notice to the City Manager. If the person protests the order to abate, the City Council hears the protest. If the person does not protest the order to abate and does not abate the nuisance the City can cause the nuisance to be abated and the costs of such abatement plus an administrative overhead of \$15 or 15% of the costs, whichever is greater, can be assessed against the property. Notice is then given to the property owner including the total cost of



the abatement, that they have ten days to object to the cost of abatement, and that the cost will be assessed to and become a lien against the property if it is not paid or if no objection to the assessment is filed. If the person objects paying the cost of abatement the Council would hear that objection. If there is no objection and the person does not pay the cost of abatement the Council can assess the abatement cost by resolution, which assessment shall become a lien on the property.

Normally, the City does not go through the process of abating a nuisance. The main reason is the inability to recover costs spent on cleaning up a property. The City can file a lien against the property, but if the property has a mortgage against it and possibly an additional home equity loan the chances the City would get paid are reduced. In addition, if a prior mortgage or lien holder forecloses on the property the City could lose its lien rights.

The Zlatek property is located at the corner of NE Fifth and Harwood Streets. A residence is located on the Zlatek Property. The residence on the Zlatek Property has been red tagged by the Crook County Building Department. I talked to Randy Davis from the Crook County Building Department and he advised me that the residence on the Zlatek Property had been boarded up to keep vandals out. He stated there had been a fire inside the house. He also said the property was red tagged because the electrical system in the house was unsafe, and that water pipes in the house had broken and flooded the house. He said the house could be repaired, but the repair costs would not be small.

There have been issues with noxious vegetation on the Zlatek Property since 2012. Zlateks live in Bend so it makes it difficult to meet with them. A citation was served on the Zlateks in 2012 and they finally cleaned up the property. In June 2013 notices were sent to Zlateks concerning the noxious vegetation on the property. The Zlateks complied with the ordinance in October. In May 2014 Zlateks were sent a letter and a ten-day compliance notice. There was no response from Zlateks. In July a notice of abatement was posted on the Zlateks' property and sent to the Zlateks, together with a letter advising them they had ten days to cut and remove the noxious vegetation or file a protest with the City Manager if they believed no nuisance existed. One letter and notice was sent by certified mail and another by regular mail. There was no response to those letters. Zlateks did not pick up the certified letter, but the letter and notice to abate that was sent by regular mail was not returned, which indicates they received that letter. There was no response to the notice to abate the nuisance so the City hired a landscaping company to cut and remove the noxious vegetation. The landscaping company did not submit a bill to the City until December 2014. In January 2015 two letters were sent to Zlateks advising them of the amount owing for the abatement and the overhead costs and giving them ten days to file an objection to that amount or 30 days to pay the amount owing. One letter was sent by certified mail and the other by regular mail. The receipt for the certified letter was signed and the regular letter was not returned, which indicates they received both copies of the letter. No payment has been received and no objection was filed. Passage of Resolution No. 1255 is the next step in this procedure. Copies of the police report, various letters and notices are attached to this Staff Report. Pictures of the Zlatek property will be available at the April 28<sup>th</sup> council meeting.



140973

REPORT NUMBER

City of Prineville  
Police Department  
INCIDENT REPORT



CITY ATTORNEY

AGENCY PPD  
CLASSIFICATION 269 Noxious Vegetation  
MAJOR VIOLATION 911.93.40  
DISPOSITION CLEARED BY EXCEPTION  
OFFENSES 269 Noxious Vegetation

CAD EVENT 1405010013 RELATED CASES

STATUS CLOSED

REPORTED 05/01/14 08:19

OCCURRED 05/01/14 08:19 THU TO 07/03/14 12:00 THU

LOCATION 705 NW 5TH ST

PREMISE

CITY PRINEVILLE 97754

DISTRICT 7

GRID 1

NATURE

☐ Computer Used  
☐ Alcohol Related  
☐ Drug Related  
☐ Gang Related  
☐ Mental Health

☐ Hate/Bias  
☐ Officer Assault  
☐ Senior Citizen  
☐ Juvenile  
☐ Vehicle Pursuit

☐ Child Abuse  
☐ Domestic Violence  
☐ Restrain Order Vio  
☐ Use of Force

☐ Arson  
☐ Sex Crime/Juv  
☐ Sex Crime/Adult  
☐ Prescription Drugs

OFFICER 52718 YOUNG, JAMES  
APPROVED 38069 BAUER, JOANN

REPORT FILED 07/03/14 00:00  
APPROVAL DATE 07/07/14 00:00

SYNOPSIS

On 07/03/2014 at about 1200 hours, Prineville Police Department took a case for Noxious Vegetation following the continued lack of compliance in the area of NW 5th St.

140973

REPORT NUMBER

City of Prineville  
Police Department  
INCIDENT REPORT



CITY ATTORNEY

NAMES

CR REFERENCE # 1 SYSTEM # 1

NAME ZLATEK JR, ROBERT LEE

ADDRESS 1885 NW 18TH ST  
BEND, OR 97754

ALT. ADDRESS

DOB 06/09/1957

AGE 58

DL NO 8005798 OR

LOCAL ID

DESCRIPTION

CAUTION

EMPLOYER

ADDRESS

OCCUPATION

COMMENTS

ADDITIONAL INFO

INVOLVEMENT ☐ Juvenile  
OF Offender/Suspect

☐ Non-Disclosure  
TYPE Individual

PHONE (541) 639-7479

PHONE

PHONE

SSN

FBI ID

STATE ID

HEIGHT

POB

600 WEIGHT 240

PHONE (541)

RES. STATUS R



140973

REPORT NUMBER

**City of Prineville  
Police Department  
INCIDENT REPORT**



**CITY ATTORNEY**

**NARRATIVE**

REPORTED BY 52718 YOUNG, JAMES

REPORT FILED 07/03/2014

On 05/01/2014 at about 0819 hours, I checked the property located at 705 NW 5th Street for compliance with Prineville City Code Section 93.40, Noxious Vegetation. I know the property has had continued issues with lack of compliance and tall weeds for the last several years.

I arrived and observed tall grass, weeds, and piles of dead tree branches on the property. I used a measuring device and observed the weeds were over 10 inches tall. I took digital photos of my observations.

I checked the Crook County GIS to verify the owner of the property was still, Robert Lee Zlatek Jr., of Bend. Robert was still listed as the owner of the property. I filed out a Notice of Ordinance Violation, 10-Day Compliance Notice, # 799607, and attached it to a letter that was sent via certified and regular mail to Robert's address listed in CC GIS, 1385 NW 18th St. Bend. The letter and 10-Day Compliance Notice both advised Robert of the violation present on his property and also advised him he had 10-days to remove the violations from the property. Both the notice and the letter advised Robert to bring the property into compliance with Prineville City Code 93.40 by 05/11/2014. A copy of the notice and letter were submitted to the case packet.

On 05/20/2014, I received the returned certified mail letter sent to Robert. The letter was marked as "Unclaimed" and showed attempts for delivery on 05/03/2014, 05/14/2014, and 05/18/2014. The returned letter was submitted to the case packet.

On 07/01/2014, after receiving multiple complaints about the lack of compliance at 705 NW 5th St. I checked the property for compliance. I observed the property was still not brought into compliance with Prineville City Code 93.40. I observed the tall grass and weeds were even taller than observed of 05/01/2014, and were now also dry in some places.

I contacted the City Attorney's office and advised of the situation. I advised the City Attorney I would continue with the Abatement Procedure as listed in Prineville City Code 93.70 - 93.99.

Per the City Attorney's instructions, I checked with the Crook County Clerk's office to verify Robert was still the owner of the property and there were no liens or loans against the property. The Crook County Clerk staff advised me the Property was clear of any loans and Deeded to Robert and Kelly Zlatek. I advised the City Attorney of this information.

On 07/03/2014, I sent Robert a letter via regular and certified mail in accordance with Prineville City Code 93.70, Notice to Abate. I also went to 705 NW 5th St. and posted a copy of the Notice to Abate on the front door of 705 NW 5th St.

The notice advised Robert he had 10-days from the date the notice was posted to remove the violations from his property. I took digital photos of the notice posted on the residence. A copy of the letter, Notice to Abate, Abatement Procedure, and Prineville Code Section 93.40, Noxious vegetation, sent to Robert was added to the case packet, and long with the post marked Certified Mail Receipt were later added to the case packet.

140973

REPORT NUMBER

**City of Prineville  
Police Department  
INCIDENT REPORT**



**CITY ATTORNEY**

**NARRATIVE**

I then checked the property and took digital photos of the violations I observed. I used a measuring device and measured tall grass and weeds that were over 36 inches tall growing on the property. I also observed dead tree limbs tangled among overhead power lines. I took digital photos of my observations.

**Evidence:**  
**Digital Photos**

**Action Recommended:**  
Recheck 705 NW 5th St. for compliance on/after 07/13/2014.  
Continue with Abatement Procedure if compliance is not met.  
File



140973

REPORT NUMBER

City of Prineville  
Police Department  
SUPPLEMENTAL INCIDENT REPORT



CITY ATTORNEY

NARRATIVE

SUPPLEMENT DATE 10/21/2014  
APPROVAL DATE 10/21/2014

OFFICER 52718 YOUNG, JAMES  
OFFICER 38069 BAUER, JOANN

Supplemental #1

On 07/16/2014, I rechecked the property for compliance. I observed the violations on the property were still present and compliance was not met. I took digital photos of my observations.

On 07/21/2014, I received the Certified Mail copy of the Abatement Notice sent to Robert Zlatek. The letter showed attempted delivers on 07/04/2014, 07/05/2014 and 07/20/2014. The letter was stamped "Unclaimed." The letter was added to the case packet.

I later spoke to the City Attorney and advised the property was still out of compliance. The City Attorney advised to continue with the Abatement Process. I later contacted Wendels Lawn & Landscape Maintenance to complete the removal of the Noxious Vegetation from the property.

On or around 08/09/2014, I observed the Wendels Landscape crew at the property removing the Noxious Vegetation. On 08/09/2014, I rechecked the property for compliance. I observed the Noxious Vegetation was now removed and the property was in compliance. I took digital photos of my observations.

Evidence:  
Digital Photos

Action Recommended:  
Copy to City Attorney to continue with Abatement Process.  
Close Case.  
File

140973

REPORT NUMBER

City of Prineville  
Police Department  
SUPPLEMENTAL INCIDENT REPORT



CITY ATTORNEY

NARRATIVE

SUPPLEMENT DATE 12/20/2014  
APPROVAL DATE 12/22/2014

OFFICER 52718 YOUNG, JAMES  
OFFICER 49519 KURTZ, TOM

Supplemental # 2

On 12/18/2014, I was provided with a copy of an invoice prepared by Wendels Landscaping for the clean-up of 705 NW 5th Street on or around 08/09/2014.

The date of the invoice was 12/02/2014, with a total cost of \$250.00. The services listed were for "clean up weeds and debris" at 705 NW 5th St. A copy of the invoice was attached to the case packet.

Action Recommended:  
Forward to City Attorney  
File





**CERTIFIED MAIL**<sup>TM</sup>



7012 1640 0000 7487 1387

02 1P \$006.48  
0001629105 MAY 01 2014  
MAILED FROM ZIP CODE 97754

UNCLAIMED 5/14  
5/18

ROBERT L. ZLATEK JR.  
1305 NW 18TH ST.  
BEND, OR 97701

RECEIVED  
MAY 20 2014  
BY:

9770114665



**CITY ATTORNEY**

**COPY**



## Prineville Police Department

400 NE THIRD STREET • PRINEVILLE, OREGON 97754  
Phone: (541) 447-4168 FAX: (541) 447-8619  
Web Site: www.cityofprineville.com

### NOTICE OF ORDINANCE VIOLATION 10-DAY COMPLIANCE NOTICE

No 799607

Location of Violation(s): 705 NW 5<sup>th</sup> St.  
Date of Violation(s): 05/01/2014 Deadline for Compliance: 05/11/2014  
Resident: ROBERT L. ZLATEK JR. DOB: 06/09/1957  
ID No: 9505798 Tel No: \_\_\_\_\_  
Property Owner: ☒ (Same as Above) Tel No: \_\_\_\_\_

You are receiving this notice as the occupant/owner of the above mentioned property.

This is official notice that you are in violation of one or more of the following city ordinances:

☐ ORD 93.25 ENUMERATION OF NUISANCES

☒ ORD 93.40 NOXIOUS VEGETATION

☐ ORD 93.41 RUBBISH

☐ ORD 93.56 JUNK

☐ ORD \_\_\_\_\_

☐ ORD \_\_\_\_\_

(See back for full Ordinance details)

You are hereby directed to abate the above mentioned nuisance(s) within ten (10) days of the date of this notice. If the above mentioned nuisance(s) is(are) not removed to comply with City of Prineville Ordinance within the ten (10) days, you may be cited to appear in Crook County Circuit Court for the nuisance(s).

The penalty for each above mentioned nuisance(s) is subject to a maximum fine of \$500.00. Each day beyond the ten (10) day allotted time period constitutes a separate violation.

Any continued failure to remove the above mentioned nuisance(s) may result in the City of Prineville taking action to remove the nuisance(s) from the property. All costs associated with this removal may be charged against you, and may become a lien on the property.

05/01/2014  
(Date Issued)

YOUNG  
(Issuing Officer)

Distribution: White-Case, Yellow-Resident, Pink-Property Owner

30677

LAW ENFORCEMENT SYSTEMS, INC. - CORSICANA, TEXAS 75110

# COPY

CITY ATTORNEY

(26)





# Prineville Police Department

400 NE THIRD STREET ♦ PRINEVILLE, OREGON 97754

Phone: (541)447-4168

FAX: (541) 447-8619

Web Site: [www.cityofprineville.com](http://www.cityofprineville.com)

COPY

May 1, 2014

Robert L. Zlatek Jr.  
1385 NW 18<sup>th</sup> St.  
Bend, OR 97701

Dear Robert:

You are receiving this letter as the occupant/owner of property located at **705 NW 5<sup>th</sup> Street Prineville, Oregon**. It appears you are in violation of Prineville Code Section 93.40 by allowing noxious vegetation on the property. Noxious vegetation is defined as "weeds more than 10 inch high or grass more than 10 inches high." The purpose of this ordinance is to prevent properties from becoming unsightly and also becoming a fire hazard or, in the case of weeds, allowing them to mature and go to seed and spread the weed seed to neighboring properties.

If, on or before **May 11, 2014**, all noxious vegetation is removed from your property there will be no action taken on the violation. However, if after that date there is noxious vegetation on the property the City will issue you a citation for violation of Prineville Code Section 93.40. The maximum fine for violation of that code section is \$500, plus court costs.

If you have any questions, please contact me at 541-447-4168.

Respectfully,

A handwritten signature in black ink, appearing to be "James Young", written over a horizontal line.

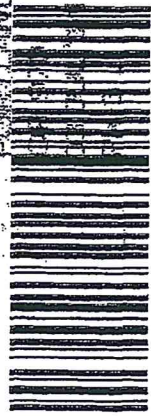
James Young  
Community Service Officer

CITY ATTORNEY

(27)



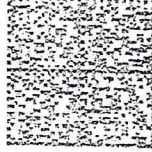
CERTIFIED MAIL™



7012 1640 0000 7487 0106

ROBERT L. ZLATEK JR.  
1385 NW 18TH ST.  
OR 97701

UNCLAIMED



NK  
7-6  
7-24  
7-20

97701145585



CITY ATTORNEY

COPY



*Dutli & Borneman, LLP*

Attorneys At Law

Carl M. Dutli ♦ Nancy A. Borneman

Gary D. Rossi of Counsel

545 NE SEVENTH STREET ♦ PRINEVILLE, OREGON 97754

Phone: (541) 447-3910 ♦ Fax: (541) 447-7827

July 3, 2014

**COPY**

Robert L. Zlatek, Jr. and Kelly J. Zlatek  
1385 NW 18<sup>th</sup> Street  
Bend, OR 97701

Dear Mr. and Mrs. Zlatek:

Enclosed is a Notice to Abate regarding your property located at 705 NW Fifth Street, Prineville, Oregon.

Also enclosed is a copy of the City of Prineville Code Sections regarding noxious vegetation. As you can see from these Code sections, if within ten days from the Notice to Abate you do not take the necessary steps to abate the nuisance the City has indicated its intent to abate the nuisance. In your case, abating the nuisance would require you to cut and remove the grass and weeds that are over 10" in height. If the City abates the nuisance, the City's cost, plus administrative expenses, will be charged to you and may become a lien against your property unless paid within 30 days from the date of the Notice.

I hope to hear that you have taken the necessary steps to abate the nuisance on your property within the ten day time period.

Sincerely yours,

Carl M. Dutli  
Prineville City Attorney

cmc

Enclosures

c James Young – Police Dept.

**CITY ATTORNEY**



# NOTICE TO ABATE

COPY

To: Owner of 705 NW 5<sup>th</sup> Street, Prineville, OR 97754

The City of Prineville has determined the following nuisance exists at the above referenced real property:  
Noxious Vegetation, Code Section 93.40.

All Noxious Vegetation must be abated (removed) from:

**705 NW 5<sup>th</sup> Street**

Within 10 days from the date of this notice.

As noted in Prineville City Code Section 93.70

If all Noxious Vegetation is not removed within 10 days of this notice, the City may abate the nuisance and the cost of the abatement, plus administrative expenses, if not paid may become a lien on the property.

The responsible person(s) may protest this order to abate by giving notice in writing along with a statement as to why they feel no nuisance exists to the Prineville City Manager within 10 days from the date of this notice.

Failure to abate the above mentioned nuisance may warrant imposition of a fine.

For information please call the City of Prineville at (541) 447-4168.

  
\_\_\_\_\_  
Authorizing Signature

\_\_\_\_\_  
Date

07/03/2014



## 93.40 NOXIOUS VEGETATION.

COPY

### (A) Definitions.

(1) The term NOXIOUS VEGETATION does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard or a fire or traffic hazard within the meaning of division (2).

(2) The term NOXIOUS VEGETATION does include, at any time between May 1 and November 1 of any year the following.

(a) Weeds more than ten inches high.

(b) Grass more than ten inches high and not within the exception stated in division (1).

(c) Weeds, grass or vegetation that is a health hazard, a fire hazard because it is near other combustibles or a traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous.

(B) Between May 1 and November 1 of any year, no owner or person in charge of property may allow noxious vegetation to be on the property or in the right-of-way of a public thoroughfare abutting on the property. It shall be the duty of an owner or person in charge of property to cut down and haul away or to destroy grass, shrubbery, brush, bushes, weeds or other noxious vegetation as often as needed to prevent them from becoming unsightly, from becoming a fire hazard or in the case of weeds or other noxious vegetation, from maturing or from going to seed.

(\*91 Code, § 4-4.18) (Ord. 911, passed 4-28-87) Penalty, see § 93.99

## ABATEMENT PROCEDURE

### 93.70 NOTICE TO ABATE.

(A) Upon determination by the City Manager or his/her designees that a nuisance exists, the City Manager shall cause a notice to be posted on the premises or at the site of the nuisance directing the person responsible to abate the nuisance.

(B) At the time of posting, the City Manager shall cause a copy of the notice to be forwarded by registered or certified mail, postage prepaid, to the person responsible including the owner or contract purchaser of the real property upon which the nuisance exists if they are not the person defined in § 93.01 of this chapter, at his/her last known address.

(C) The notice to abate shall contain the following.

(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 ten days from the date of the notice.

(3) A description of the nuisance.

(4) A statement that, unless the nuisance is removed, the city may abate the nuisance and the cost of abatement will be charged to the person responsible and could become a lien on the property.

(5) A statement that failure to abate a nuisance may warrant imposition of a fine.

(6) A statement that the person responsible may protest the order to abate by giving notice to the City Manager within ten days from the date of the notice, together with a statement from the person responsible as to why they feel no nuisance exists.

(D) Upon completion of the posting and mailing, the persons posting and mailing shall execute and file certificates stating the date and place of the mailing and posting, respectively.

(E) An error in the name or address of the person responsible shall not make the notice void, and in such case the posted notice shall be sufficient.

('91 Code, § 4-4.46) (Ord. 911, passed 4-28-87)

### 93.71 ABATEMENT BY PERSONS RESPONSIBLE.

(A) Within ten days after the posting and mailing of the notice, as provided in § 93.70, the person responsible shall remove the nuisance or show that no nuisance exists.

(B) A person responsible, protesting that no nuisance exists, shall file with the City Manager a written statement which shall specify the basis for so protesting.

(C) The statement shall be referred to the City Council as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the Council; and the Council shall determine whether or not a nuisance in fact exists; and the determination shall be entered in the official minutes of the Council. Council determination shall be required only in those cases where a written statement has been filed as provided.

(D) If the Council determines that a nuisance does in fact exist, the person responsible shall, within ten days after the Council determination, abate the nuisance.

('91 Code, § 4-4.47) (Ord. 911, passed 4-28-87) Penalty, see § 93.99

### 93.72 LIABILITY FOR ABATEMENT

If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the city in abating the nuisance.

('91 Code, § 4-4.48) (Ord. 911, passed 4-28-87) Penalty, see § 93.99

### 93.73 ABATEMENT BY CITY.

(A) If, within the time allowed, the nuisance has not been abated by the person responsible, the city may cause the nuisance to be abated.

(B) The officer charged with abatement of the nuisance shall have

the right at reasonable times to enter into or upon property to investigate the nuisance. The officer charged with abatement of the nuisance and others as necessary shall have the right at reasonable times to enter into or upon the property to cause the removal of the nuisance.

(C) The City Manager shall keep an accurate record of the expense incurred by the city in physically abating the nuisance and shall include therein a charge of \$15 or 15% of those expenses whichever is the greater for administrative overhead.

('91 Code, § 4-4.49) (Ord. 911, passed 4-28-87)

### 93.74 ASSESSMENT OF COSTS.

(A) The City Manager by registered or certified mail, postage prepaid, shall forward to all persons responsible a notice stating the following.

(1) The total cost of abatement, including the administrative overhead.

(2) 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.

(3) That if the person responsible objects to the cost of the abatement as indicated, he/she may file a notice of objection with the City Manager not more than ten days from the date of the notice.

(B) Upon the expiration of ten days after the date of the notice, the Council, in the regular course of business, shall hear and determine the objections to the costs assessed if any.

(C) If the costs of the abatement are not paid within 30 days from the date of the notice or the hearing on the objections, an assessment of the costs, as stated or as determined by the Council, shall be made by resolution and shall thereupon be entered in the docket of city liens; and, upon the entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated.

(D) The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of 7% per annum. The interest shall commence to run from the date of the entry of the lien in the lien document.

(E) An error in the name of the 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.

('91 Code, § 4-4.50) (Ord. 911, passed 4-28-87)

### 93.75 SUMMARY ABATEMENT.

The procedure provided by this chapter is not exclusive, but is in addition to procedure provided by other ordinances; and the Chief of the Fire Department, the Chief of Police or any other city official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.

('91 Code, § 4-4.51) (Ord. 911, passed 4-28-87)

### 93.99 PENALTY.

(A) (1) Any person or persons who shall be convicted of being the author or keeper of a nuisance, or otherwise guilty of a violation of any of the provisions of this chapter, shall be fined not less than \$10, nor more than \$50 for the first offense, and for the second and all subsequent offenses, not less than \$25, nor more than \$500.

(2) All persons responsible shall be liable for any injuries resulting from a violation of any of provisions of this chapter.

('91 Code, § 4-4.52)

(B) (1) Each day's violation of a provision of this chapter constitutes a separate offense.

(2) The abatement of a nuisance is not a penalty for violating this chapter, 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 days of the date of notice to abate, or if a written protest has been filed, then abatement within ten days of Council determination that a nuisance exists, will relieve the person responsible from the imposition of any fine or imprisonment under division (A) of this section.

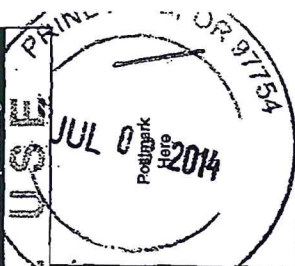


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Postage	\$ 4.48
Certified Fee	3.30
Return Receipt Fee (Endorsement Required)	2.70
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.48



Sent To **ROBERT L. ZATEK JR.**  
 Street, Apt. No., **1385 NW 10th St.**  
 or PO Box No. **BEND, OR 97701**  
 City, State, ZIP+4

PS Form 3800, August 2006 See Reverse for Instructions

7012 2190 0000 0491 2102



PO Box 949  
Prineville, OR 97754

# CITY ATTORNEY

## Invoice

Date	Invoice #
12/2/2014	7901

LCB# 8534 CCB# 175208

Bill To

City of Prineville  
387 NE Third St.  
Prineville, OR 97754

**COPY**

☐ Please check box if address is incorrect or has changed, and indicate change(s) on reverse side.

New e-mail address? Enter here: \_\_\_\_\_

**Balance Due**

**\$250.00**



PO Box 949  
Prineville, OR 97754

Assembly Address

705 NW 5th St.

Description	Qty	Rate	Amount
Clean up weeds and debris.	5	50.00	250.00
<div>RECEIVED DEC 03 2014</div> <div>APPROVED FOR PAYMENT \$ <u>250.00</u> BUDGET # <u>01-42100-2425</u> BY <u>MD</u> DATE <u>12/19/14</u></div>			

A \$20.00 late fee will be added to all invoices not paid within 15 days of receipt. There will be a \$25 charge for all returned checks. For billing inquiries: 541-447-3959.

Total	\$250.00
Balance Due	\$250.00

Thank you for your business.



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*Dutli & Borneman, LLP*

Attorneys At Law

Carl M. Dutli ♦ Nancy A. Borneman

545 NE SEVENTH STREET ♦ PRINEVILLE, OREGON 97754

Phone: (541) 447-3910 ♦ Fax: (541) 447-7827

January 27, 2015

**Sent by Certified and Regular Mail**

Robert L. Zlatek, Jr.  
Kelly J. Zlatek  
1385 NW 18<sup>th</sup> Street  
Bend, OR 97701

Dear Mr. and Mrs. Zlatek:

As you are aware, I am Prineville City Attorney. I wrote you a letter on July 3, 2014, regarding noxious vegetation on your property located at 705 NW Fifth Street, Prineville, Oregon. Under the Prineville Code of Ordinances, noxious vegetation (weeds and/or grass over ten inches high) is declared a nuisance. I advised you that if you did not cut and remove the noxious vegetation on your property the City indicated its intent to abate the nuisance by removing that vegetation and you would be responsible for the City's cost, plus administrative expenses. The City did hire a company to cut and remove the grass and weeds and the City was charged \$250. A copy of the bill is enclosed.

Pursuant to Prineville Code Section 93.74 we are providing you a notice stating that the total cost of the abatement is \$287.50, including the administrative overhead. The \$287.50 will become a lien against your property located at 705 NW Fifth Street, Prineville, Oregon, unless you pay it within 30 days from the date of this notice. If you object to the cost of the abatement you may file a notice of objection with the Prineville City Manager. That notice must be filed on or before February 9, 2015. Any notice of objection you file must contain the specific objections you have to the cost of the abatement. If an objection is filed, Prineville City Council shall hear your objections.

If the cost of the abatement is not paid within 30 days from the date of this notice (February 26, 2015) or 30 days from the date of any hearing on the objection, Prineville City Council shall by Resolution assess the costs and such costs, when filed in the docket of City Liens, shall constitute a lien upon your property located at 705 NW Fifth Street, Prineville, Oregon. The lien shall bear interest at the rate of seven percent (7%) per annum from the date of entry of the lien in the lien docket. It will be my recommendation that the City foreclose the lien shortly after the lien is docketed.

If you are not filing an objection and want to pay off the amount owing please send to me a check payable to the City of Prineville in the amount of \$287.50.

Sincerely yours,

Carl M. Dutli

cmc  
Enclosures

(35)



CND-COP

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature  <input checked="" type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p>	
<p>1. Article(s) sent to:            Robert L. Zlatek, Jr.            Kelly J. Zlatek            1385 NW 18th Street            Bend, OR 97701</p>		<p>B. Received by (Printed Name)            C. Date of Delivery            1/29/15</p>	
		<p>D. Is delivery address different from item 1?            If YES, enter delivery address below: <input type="checkbox"/> Yes  <input checked="" type="checkbox"/> No</p>	
		<p>3. Service Type  <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>Article Number (Transfer from service label) 7011 3500 0002 8829 9845</p>			
<p>S Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>			

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Return Receipt Fee (Endorsement Required)	2.70
Restricted Delivery Fee (Endorsement Required)	
<b>Total Postage &amp; Fees</b>	<b>\$ 6.48</b>

Sent To  
 Robert L. Zlatek, Jr. & Kelly J. Zlatek  
 Street, Apt. No., or PO Box No. 1385 NW 18th Street  
 City, State, ZIP+4 Bend, OR 97701

PS Form 3800, August 2006 See Reverse for Instructions

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