RECEIVED
MAR - 4 1994
WASCO CO. CLERK KL

N THE COUNTY COURT OF THE STATE OF OREGON

IN AND FOR THE COUNTY OF WASCO

MAR 4 4 58 PM '94

AN ORDINANCE PROVIDING FOR THE CONTROL OF INSECT PESTS AND DISEASES IN FRUIT TREES; ESTABLISHING PROCEDURES; AND PROVIDING PENALTIES.	ORDINANCE

WHEREAS, a major portion of the economy of Wasco County is derived from commercial fruit orchards; and

WHEREAS, the build-up and spread of injurious plant and tree pests from tree to tree and orchard to orchard, particularly from areas not properly treated, or from areas untreated or abandoned, to commercial or semi-commercial trees, would damage the fruit industry and the economy of Wasco County; and

WHEREAS, it is desirable to have several alternative measures to control the spread of injurious plant and tree pests in the most effective and economic manner; and

WHEREAS, the Wasco County Court recognizes and finds that regulation of insect pests and diseases in fruit trees is a matter of County concern, and ORS Chapter 203 provides a legal basis upon which to enact this Ordinance.

NOW, THEREFORE THE COUNTY COURT OF WASCO COUNTY, OREGON, HEREBY ORDAIN AS FOLLOWS:

SECTION 1

POLICY AND TITLE

It is the intent and purpose of this Ordinance to prevent the build-up and spread of injurious plant and tree pests from tree to tree and orchard to orchard; particularly from areas not properly treated, or from areas untreated or abandoned, to commercial or semi-commercial trees; to offer alternative control measures; to

P94-0117(10)

encourage property owners to implement control measures; and to recoup expenses incurred by Wasco County in treatment of pests due to noncooperation or nonaction of property owners, or any tenant, occupant, lessee or person in possession of subject property. This Ordinance shall be known as the "WASCO COUNTY PEST CONTROL ORDINANCE".

SECTION II

DEFINITIONS

A. GENERAL DEFINITIONS

As used in this Ordinance, the terms defined in this Section shall have the defined meanings unless the context requires otherwise. Words in the present tense include the future; the singular includes the plural; plural usage includes the singular; "shall" means mandatory, not discretionary; and the masculine gender includes the feminine.

B. SPECIFIC DEFINITIONS

As used in this Ordinance:

a. "DISEASE ORGANISMS" means those disease organisms as identified and defined by the Oregon Department of Agriculture, and includes, but is not limited to the following: Pseudomonas Blight (Pseudomonas syringae), Coryneum Blight (Coryneum carpophilum), Peach Leaf Curl (Taphrina deformans), Fire Blight (Erwina amylovora), Apple Scab (Venturia inaequalis), and Pear Scab (Venturia pirina aderh.).

/////

/////

P94 0117 (10)

b. "HOST PLANT" or "HOST TREE" means Pear (Pyrus sp.), Quince (Cydonia sp.), Apple (Malus sp.), Cherry (Prunus spp.), Peach (Prunus sp.), Apricot (Prunus sp.), Hawthorn (Crataegus sp.), and may include other rosaceous hosts of Apple Maggot as deemed necessary by the Oregon Department of Agriculture.

c. "INSECT PEST" means those insect pests as identified and defined by the Oregon Department of Agriculture and includes, but is not limited to, Codling Moth (Carpocapsa pomonella), Oriental Fruit Moth (Grapholita molesta), Pear Psylla (Psylla pyricola), San Jose Scale (Aspidiotus perniciousus), Shot Hole Borer (Scolytus rugulosus), Oblique Banded Leafroller (Choristoneura rosaceana), Western Tentiform Leafminer (Phyllonorycter elmaella), Western Cherry Fruit Fly (Rhagoletis indifferens), Apple Maggot (Rhagoletis pomonella) and Peach Twig Borer (Anarsia lineatella). The term "insect pest" also includes insect-like pests, such as mites.

d. "COUNTY COURT" or "COURT" means the Wasco County Court.

SECTION III

CONTROL AREA

A control area is hereby created for the control of insect pests and diseases related to, but not limited to, Pseudomonas Blight, Coryneum Blight, Peach Leaf Curl, Fire Blight, Apple Scab, Pear Scab, Codling Moth, Oriental Fruit Moth, Pear Psylla, San Jose

/////

Scale, Shot Hole Borer, Apple Maggot, Peach Twig Borer, and Mites, within the boundaries of Wasco County, Oregon.

SECTION IV

CONTROL OFFICER

The Wasco County Court shall appoint a control officer for the control area who shall work under the direction of and be responsible to the Wasco County Court. He shall carry out the provisions of this Ordinance, and shall be paid out of the General Funds of the County such wages as are fixed by the Wasco County Court.

The Pest Control Officer shall furnish regular reports to the Wasco County Court concerning his activities in carrying out his duties under this Ordinance.

SECTION V

CONTROL METHODS

Insect pests and disease organisms on all host plants and host trees including but not limited to host plants and host trees on commercial or semi-commercial orchards, private residential property, public property and abandoned property within the control area shall be controlled by the following methods:

A. CONTROL BY SPRAYING

Host plants and host trees shall, subject to Subsection C below, be sprayed by the owner or person in possession thereof by using the agricultural chemicals or pesticide formulations at the rate, at the times and in the manner recommended by Oregon State University (whether by its own publications, approval of other publications), or the Oregon Department of Agriculture.

B. CONTROL BY REMOVAL OF HOST PLANTS OR TREES

If control by spraying and/or fruit stripping are not possible or practicable, the Pest Control Officer may, by written order delivered or mailed to the owner or the person in possession of property, direct that the host plants or host trees be removed and destroyed.

The only approved method for removal and destruction of host plants or host trees is as follows:

1. Digging out of the trees or plants and their complete root structures; or

2. Cutting down the trees or plants and thereafter treating the remaining stump and root systems thereof with an effective chemical to prevent their regrowth or resprouting.

C. OTHER METHODS OF CONTROL

As necessary or at the request of a property owner or possessor, the Pest Control Officer may authorize other methods of control as deemed effective by qualified experts such as the Oregon Department of Agriculture or Oregon State University. In all cases, the most current Integrated Pest Management techniques for control shall be given precedence when making control decisions.

SECTION VI

CONTROL OFFICER RIGHT OF ACCESS

In order to determine whether the provisions of this Ordinance have been complied with by the persons obligated to do so, the Control Officer or his designee may inspect any field, orchard,

P940 117(10)

private residential property, public property, or abandoned property within the control area at reasonable times, and shall not be subject, civilly or criminally, to liability for trespass.

SECTION VII

PROHIBITIONS

It shall be a violation of this Ordinance for any owner or possessor of public or private property to fail to control disease organisms or insect pests on host plants or host trees on his property as required by this Ordinance.

SECTION VIII

REMEDIES AND ENFORCEMENT

A. ABATEMENT OF NUISANCE

Violation of this Ordinance shall be considered to be a public nuisance which may be abated as provided in this Subsection.

1. The Wasco County Pest Control Officer, or his designee, may, and upon the written complaint of any person shall, make an investigation to determine whether a violation of this Ordinance exists.

2. If after investigation, the Pest Control Officer finds that there is reasonable cause to believe that a public nuisance exists, he shall forward written notice to County Counsel and the County Judge.

/////

/////

/////

Pg 1 0117 (10)

3. County Counsel is hereby authorized to bring suit in the name of the County in the Wasco County Circuit Court to abate any public nuisance alleged to exist under the terms of this Ordinance.

4. Where a writ of abatement is issued by the Circuit Court, the County may enter onto the subject premises to abate the nuisance by treating or removing the host plants or host trees or their produce. The most effective and practical method as approved by the Pest Control Officer shall be used. Where such treatment or removal is performed by the County, the County shall not be liable for any trespass or conversion as to any real or personal property and the costs of abatement may be collected from the owner, tenant or person in possession of the subject premises, or may be collected as a lien against such property.

B. CRIMINAL ENFORCEMENT AND PENALTIES

In addition to any other remedy provided herein, any individual, firm or corporation, whether as principal, agent or employee who intentionally, knowingly, recklessly, or with criminal negligence violates any provision of this Ordinance shall be guilty of an offense punishable by a fine of not more than $500. Any individual, firm or corporation, whether as principal, agent or employee who has been convicted of a violation of this Ordinance and who is found by a Court to have been formally convicted of a violation of this Ordinance within the two years preceding the date of the alleged violation may be

P94011 7(10)

punished by a fine of up to $1,000. The penalties described in this Section shall be in addition to any other fees or charges collectible under other provisions of this Ordinance.

It shall be the responsibility of the Wasco County Sheriff to enforce the provisions of this Ordinance as set forth in this Subsection.

The District Court of the State of Oregon for the County of Wasco shall have jurisdiction over complaints issued pursuant to this Subsection.

C. OTHER REMEDIES

In addition to any remedies provided herein, the Wasco County Court may institute proceedings under ORS Chapter 203, injunction, mandamus, abatement or any other appropriate proceedings to prevent, temporarily or permanently enjoin, abate or remove any activity or use of real or personal property which it has reasonable cause to believe does or will violate this Ordinance.

SECTION IX

EXEMPTION

There shall be an exemption from the provisions of this Ordinance for the conducting of accepted scientific experiments by Oregon State University or its designee on test plots for the benefit of the fruit industry.

Should any such experiments cause complaints, the Pest Control Officer shall contact the Mid Columbia Experiment Station or Oregon State University who shall take action to alleviate the complaint.

Page 0 117(10)

SECTION X

SEVERABILITY

Should any article, section, subsection, paragraph, sentence, clause or phrase of this Ordinance be declared invalid, such declaration shall not affect the validity of any other article, section, subsection, paragraph, sentence, clause or phrase; and if this Ordinance or any portion thereof should be held to be invalid on one ground but valid on another, it shall be construed that the valid ground is the one upon which said Ordinance or such portion thereof was enacted.

SECTION XI

EMERGENCY DECLARED

This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance shall take effect on March 2, 1994.

Regularly passed and adopted by an unanimous vote of all members of the County Court of the County of Wasco, State of Oregon, present on this day.

/////

/////

/////

/////

/////

/////

/////

/////

Page 117(10)

DONE AND DATED this 2nd day of March, 1994.

WASCO COUNTY COURT

John Mabrey, County Judge

Scott McKay, County Commissioner

C.E. Filbin, County Commissioner

ATTEST:

Karen LeBreton
Wasco County Clerk

APPROVED AS TO FORM:

Bernard L. Smith
Wasco County District Attorney

P940117 (10)