

AN ORDINANCE DEFINING NUISANCES; PROVIDING FOR THEIR ABATEMENT;
AND PRESCRIBING PENALTIES.

The City of Sweet Home does ordain as follows:

Definitions

Section 1. Definitions.

- (1) As used in this ordinance except where the context indicates otherwise, the following shall mean:
- (a) Person in charge of property. Any owner, agent, lessee, contract purchaser, or other person having the possession or control of property.
 - (b) City. The City of Sweet Home.
 - (c) Council. The governing body of the city.
 - (d) Person. Every natural person, firm, partnership, association or corporation.
 - (e) Public Place. Any building, place or accommodations, whether publicly or privately owned, open and available to the public.
- (2) As used in this ordinance the singular includes the plural and the masculine includes the feminine.

Animals

Section 2. Communicable Disease.

- (1) No person shall permit any animal or bird owned or controlled by him to be at large within the city if such animal or bird is afflicted with a communicable disease.

- Section 3. Animals and Fowls. No person shall keep any animal or fowls, wild or domesticated, in the city except as permitted by the city zoning ordinance.

- Section 4. Removal of Animal Carcasses. No person shall permit any animal carcass owned by him or under his control to remain upon the public streets or places for a period of time longer than is reasonably necessary to remove such carcass, and no person who is the owner of or has control over any animal carcass shall permit the carcass to remain on any private property for a period of time longer than is reasonably necessary to dispose of such carcass.

Nuisances Affecting the Public Health

Section 5. Nuisances Affecting the Public Health.

- (1) The following are hereby declared to be nuisances affecting the public health and may be abated in the manner prescribed by Sections 17 to 21 of this ordinance.
- (a) Privies. Any open vault or privy maintained within the city except those privies used in connection with construction projects and constructed in accordance with the Oregon State Board of Health regulations.
 - (b) Debris on private property. All accumulations of debris, rubbish, manure and other refuse located on private property or sidewalks abutting thereon, and which has not been removed within a reasonable time and which affect the health, safety or welfare of the city.
 - (c) Stagnant water. Any pool of water which is without a proper inlet or outlet and which, if not controlled will be a breeding place for mosquitos and other similar insects.

- (d) Water pollution. The pollution of any body of water or stream or river by sewage, industrial wastes or other substances placed in or near such water in a manner that will cause harmful material to pollute the water.
- (e) Food. All decayed or unwholesome food which is offered for human consumption.
- (f) Odor. Any premises which are in such state or condition as to cause a noisome or offensive odor or which are in an unsanitary condition.

Nuisances Affecting the Public Safety

Section 6. Abandoned Ice Boxes. No person shall leave in any place accessible to children any abandoned, unattended or discarded ice box, refrigerator or similar container which has an airtight door with a snap lock or other mechanism which may not be released for opening from the inside without first removing such snap lock or door from such ice box, refrigerator or similar container.

Section 7. Attractive Nuisances.

- (1) No person in charge of any premises shall permit:
 - (a) Any machinery, equipment or other devices on such premises which are attractive and dangerous to children and which are accessible to children.
 - (b) The piling of any lumber, logs or piling in such a manner as to be attractive and dangerous to children and which is accessible to children.
 - (c) Any excavation to remain open for an unreasonable length of time without erecting proper safeguards or barriers to prevent such excavation from being used by children.
- (2) The provisions of this section shall not apply to authorized construction projects provided that during the course of construction reasonable safeguards are maintained to prevent injury or death to playing children.
- (3) Any nuisance as described in this section may be abated as provided in Sections 17 to 21 of this ordinance.

Section 8. Trees, Shrubs, and Weeds.

- (1) No person in charge of any lot or land shall permit upon such property or upon any sidewalk, parking strip or sidewalk area abutting such property, any grass, weeds or other noxious growth. It shall be the duty of every person in charge of lots or land in the city to cut down or otherwise to destroy any noxious weeds on such property, parking strip or sidewalk area bordering thereon as often as necessary to prevent such weeds from maturing or going to seed.
- (2) Nothing in this section shall be construed to prohibit lawns, or bushes, trees and other shrubbery grown or maintained for ornamental purposes nor shall it prohibit the growth or maintenance of any vegetation designed for food or fuel purposes, except that the person in charge of any real property shall not permit the limbs of any shrub or tree projecting into or extending over the street to interfere with the use of the sidewalk or roadway, or to obstruct a driver's view of an intersection or traffic upon streets approaching an intersection or otherwise to constitute a hazard to the public. Trees shall be trimmed so that the minimum clearance of any overhanging portion thereof shall be 8 feet above the sidewalk and 12 feet above the roadway. Hedges and other shrubbery shall not overhang the sidewalk or roadway.
- (3) Weeds, grass and other noxious growth, and any obstructing or hazardous trees and shrubs as set forth in this section are hereby declared to be a nuisance and may be abated as provided in Sections 17 to 21 of this ordinance, except that it shall be the duty of the person in charge of the property to remove or abate any nuisance defined in this section within not more than five days from the date of the notice, and it shall be so stated in the notice.

Section 9. Scattering Rubbish. No person shall throw, dump or deposit upon any street, alley or other public place, any injurious or offensive substance or any sort of rubbish, trash, debris or refuse, or any substance which would mar the appearance, create a stench or detract from the cleanliness or safety of such public place, or would be likely to injure any animal, vehicle or person traveling upon such public way.

Section 10. Sifting or Leaking Loads.

- (1) No person shall drive or move a vehicle on any street unless it is so constructed or loaded as to prevent its content from dropping, sifting, leaking or otherwise escaping therefrom.
- (2) It shall be the duty of any person driving a vehicle from which the contents have escaped to remove an escaped substance or material from the street.
- (3) Any escaped substance or material as set forth in this section is hereby declared to be a nuisance and may be abated as provided in Sections 17 to 21 of this ordinance.

Section 11. Fences.

- (1) No person shall construct or maintain any barbed-wire fence or allow barbed wire to remain as part of any fence, unless such wire is placed not less than six inches above the top of a board or picket fence which is not less than six feet high.
- (2) No person shall install, maintain or operate any electric fence within the city.

Section 12. Surface Water, Drainage.

- (1) No person in charge of any building or structure shall suffer or permit rain water to fall from any such building or structure onto any street or sidewalk or to flow across such sidewalk; and every such person in charge of property shall at all times keep and maintain in a proper state of repair adequate drainpipes or a drainage system so that any overflow water accumulating on the roof or about such building will not be carried across or upon any sidewalk.

Nuisances Affecting the Public Peace.

Section 13. Unnecessary Noise.

- (1) No person shall make, assist in making, or permit any loud, disturbing, or unnecessary noise which either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of others.
- (2) The following acts are declared to be loud, disturbing, and unnecessary noises in violation of this section but the enumeration shall not be construed to be exclusive:
 - (a) The keeping of any bird or animal which by causing frequent or long-continued noise shall disturb the comfort and repose of any person in the vicinity.
 - (b) The keeping of any dog which by barking, growling, yelping, scratching, whining, or otherwise makes a noise shall disturb the comfort and repose of any person in the vicinity.
 - (c) The attaching of any bell to any animal or allowing a bell to remain on any animal which is disturbing to any person in the immediate vicinity.
 - (d) The use of any vehicle or engine, either stationary or moving, so operated as to create any loud or unnecessary grating, grinding, rattling or other noise.
 - (e) The sounding of any horn or signaling device on any vehicle on any street, public or private place, except as a necessary warning of danger.

- (f) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of danger, or upon request of proper city authorities.
- (g) The use of any mechanical device operated by compressed air, steam, or otherwise, unless the noise thereby created is effectively muffled.
- (h) The erection, including excavation, demolition, alteration, or repair of any building in residential districts, other than between the hours of 7:00 a.m. and 6:00 p.m. except in case of urgent necessity in the interest of the public welfare and safety, and then only with a permit granted by the building officials.
- (i) The use of any gong or siren upon any vehicle, other than police, fire or other emergency vehicle.
- (j) The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court of justice while the same are in use, or adjacent to any hospital or institution for the care of the sick or infirm, which unreasonably interferes with the operation of such institution, or which disturbs or unduly annoys patients.
- (k) The discharge in the open air of the exhaust of any steam engine, internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises and the emission of annoying smoke.
- (l) The use or operation of any automatic or electric piano, phonograph, radio, television, loudspeaker or any instrument for sound producing or any sound amplifying device so loudly as to disturb persons in the vicinity thereof or in such a manner as renders the use thereof a nuisance provided, however, that upon application to the chief of police, permits may be granted for the broadcast or amplification of entertainment programs, or to any organization for the broadcast of programs of music, speeches, or general entertainment as a part of a national, state or city event, public festivals or outstanding events of a noncommercial nature, provided that such broadcast or amplification shall not be audible for a distance of more than 1,000 feet from the instrument, speaker or amplifier, and in no event shall a permit be granted where any obstruction to the free and uninterrupted traffic, both vehicular and pedestrian, will result.
- (m) The making of any noise by crying, calling or shouting, or by any means of any whistle, rattle, bell, gong, clapper, horn, hammer, drum, musical instrument or other device for the purpose of advertising goods, wares or merchandise or of attracting attention or of inviting patronage of any person to any business whatsoever; provided that newsboys may sell newspapers and magazines by public outcry.
- (n) The conducting, operating or maintaining of any garage within 100 feet of any private residence, apartment, rooming house or hotel in such manner as to cause loud or offensive noises to be emitted therefrom between the hours of 11:00 p.m. and 7:00 a.m.

Section 14. Notices and Advertisements.

- (1) No person shall affix any placard, bill, advertisement or poster upon any real or personal property, public or private, without first securing permission from the owner or person in control of private property. This section shall not be construed as an amendment to or a repeal of any regulation now or hereafter adopted by the city regulating the use of and the location of signs and advertising.

Section 15. General Nuisance. In addition to those nuisances specifically enumerated within this ordinance, every other thing, substance or act which is determined by the common council to be injurious or detrimental to the public health, safety or welfare of the city is hereby declared to be a nuisance and may be abated as provided in Sections 17 to 21 of this ordinance.

Abatement Procedure

Section 16. Abatement Notice.

- (1) Upon determination by the common council that a nuisance as defined in this or any other ordinance of the city exists, the common council shall forthwith cause a notice to be posted on the premises liable for the abatement directing the removal of such nuisance.
- (2) At the time of posting, the city recorder shall cause a copy of such notice to be forwarded by registered or certified mail, postage prepaid, to the person in charge of the property at the last known address of such owner or agent.
- (3) The notice to abate shall contain:
 - (a) A description of the real property, by street address or otherwise, on which such nuisance exists.
 - (b) A direction to remove the nuisance within 30 days from the date of the notice.
 - (c) A description of the nuisance.
 - (d) A statement that unless such nuisance is removed the city will remove the nuisance and the cost of removal shall be a lien against the property.
 - (e) A statement that the person in charge of the property may protest the action by giving notice to the city recorder within 10 days from the date of the notice.
- (4) The person posting and mailing the notice as provided herein shall, upon completion of the posting and mailing, execute and file a certificate stating the date and place of such mailing and posting.
- (5) An error in the name and address of the person in charge of the property or the use of a name other than that of such person shall not make the notice void and in such a case the posted notice shall be deemed sufficient.

Section 17. Abatement by the Owner.

- (1) Within 30 days after the posting and mailing of the notice as provided in Section 17, the person in charge of the property shall remove and abate the nuisance or show that no nuisance exists.
- (2) The person in charge protesting that no nuisance in fact exists shall file with the city recorder a written statement which shall specify the basis for contending that no nuisance exists.
- (3) The statement shall be referred to the council as a part of the council's regular agenda at its next succeeding meeting. At the time set for the consideration of the abatement, such person may appear and be heard by the council, and the council shall thereupon determine whether a nuisance in fact exists and such 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 herein.
- (4) Upon council determination that a nuisance does in fact exist, the person in charge of the property shall within 30 days after such council determination, remove or abate such nuisance.

Section 18. Abatement by the City.

- (1) If within the time fixed, as provided in this ordinance, the nuisance has not been abated by the person in charge of the property, the common council shall cause the nuisance to be abated.
- (2) The city recorder shall maintain an accurate record of the expense incurred by the city in abating the nuisance and shall include therein an overhead charge of 5 per cent of the total cost for administration.
- (3) The total cost, including the administrative overhead, shall thereupon be assessed to the property as hereinafter provided.

Section 19. Assessment of Costs.

- (1) A notice of the assessment shall be forwarded by registered mail, postage prepaid, to the person in charge of the property by the city recorder. The notice shall contain:
 - (a) The total cost, including the administrative overhead, of the abatement.
 - (b) A statement that the cost as indicated will become a lien against the property unless paid within 60 days.
 - (c) A statement that if the person in charge of the property objects to the cost of the abatement as indicated, he may file a notice of objection with the city recorder within 30 days from the date of the notice.
- (2) Upon the expiration of 30 days after the date of the notice, objections to the proposed assessment shall be heard and determined by the council in its regular course of business.
- (3) An assessment for the cost of abatement as determined by the council shall be made by ordinance passed by the council. The council shall then order by resolution for the lien to be entered in the docket of city liens, and upon such entry being made, it shall constitute a lien upon the property from which the nuisance was removed or abated.
- (4) The lien shall be collected in the same manner as liens for street improvements are collected, and shall bear interest at the rate of 6 per cent per annum. Such interest shall commence to run 30 days after the entry of the lien in the lien docket.
- (5) An error in the name of the person in charge of the property shall not void the assessment nor will a failure to receive the notice of the assessment render the assessment void, but it shall remain a valid lien against the property.

General

Section 20. Penalties. Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by imprisonment for a period not to exceed 90 days, or by a fine not to exceed \$500.00 or both.

Section 21. Separate Violations.

- (1) Each day's violation of a provision of this ordinance shall constitute a separate offense.
- (2) The abatement of a nuisance as herein provided shall not constitute a penalty for a violation of this ordinance, but shall be in addition to any penalty imposed for a violation of the ordinance.

Section 22. Severability. The sections and subsections of this ordinance are hereby declared severable. The invalidity of any one section or subsection shall not affect the validity of the remaining sections or subsections.

Section 23. Repealing Conflicting Ordinances. That Ordinances Nos. 72, 209, and 214 and all ordinances and parts thereof in conflict herewith be and the same are hereby repealed.

Section 24. Emergency Clause. It is hereby adjudged and declared that existing conditions are such that this ordinance is necessary for the immediate preservation of the public peace, health and safety, and an emergency is hereby declared to exist and this ordinance shall take effect and be in full force from and after the passage and approval of the mayor.

PASSED by the council and approved by the Mayor this 27th day of December, 1960.

William J. Carney
Mayor

ATTEST:

ROSEANES
City Manager

First Reading: November 22, 1960

Second Reading: December 13, 1960

Third Reading: December 27, 1960