

ORDINANCE No. 3848

AN ORDINANCE DEFINING NUISANCES; PROVIDING FOR THEIR ABATEMENT; PRESCRIBING PENALTIES; AND REPEALING ORDINANCE No. 2422 and ORDINANCE No. 3755

(As amended by Ordinance No. 3868)

CITY OF PENDLETON ORDAINS AS FOLLOWS:

SECTION 1. Definitions. Except where the context indicates otherwise, the singular number includes the plural and the masculine gender includes the feminine, and the following mean:

- A. Person in charge of property. An agent, occupant, lessee, contract purchaser or person, other than the owners, having possession or control of the property.
- B. Person. A natural person, firm, partnership, association or corporation.
- C. City. The City of Pendleton.
- D. Council. The governing body of the City.
- E. Domestic animal. A dog rabbit, other household pet, or like animal, excluding cat.
- F. Livestock. Animals of the bovine species, horses, mules, asses, sheep, goats, and swine, or other like animals and bees, but does not include pygmy goats.
- G. Fowl. A duck, goose, chicken, pigeon or other like bird.
- H. Wild or fur-bearing animal. All wild animals, and other animals raised for their fur, such as chinchillas, mink and similar animals.
- I. Keep. To provide food or shelter of a permanent or semi-permanent nature.
- J. Pygmy Goat. A genetically small, cobby, and compact goat whose body circumference in relation to height and weight is proportionately greater than other breeds of goats; having a maximum height of not exceeding 23 inches for a Doe (female), 24 inches for a Buck (unneutered male), and 27 inches for a Wether (neutered male), with measurement taken at the highest part of the back at the base of the neck where the shoulder blades almost touch. It does not include Bucks (unneutered males) of more than six months of age.
- K. Solid Waste. All useless and discarded putrescible and non-putrescible waste, including, but not limited to, garbage, rubbish, refuse, ashes and swill; grass clippings; compost; residential, commercial, industrial, demolition and construction wastes; discarded residential, commercial and industrial appliances, equipment and furniture; discarded, inoperable or abandoned vehicles or vehicle parts and vehicle tires; manure, vegetable or animal solid or semisolid waste, dead animal and all other wastes.

ANIMALS AND FOWL

SECTION 2. Livestock.

- A. No person may keep livestock upon premises or in a stable, building, corral or enclosure located within 100 feet of a dwelling, school, church, hospital, public playground or public building.
- B. The provisions of this section shall not apply to livestock used in connection with:
 - (1) The Pendleton Round-Up or Happy Canyon shows during their preparation or production.
 - (2) A formally organized exhibition, parade, sale or race at the Pendleton Round-Up Grounds if the animal is kept within the grounds.
- C. No person owning or having custody, possession or control of any livestock shall:
 - (1) Permit the animal to run at large on any of the public streets, highways, or other public places within the City; or,
 - (2) Permit the animal to be herded, to be pastured or to go upon the land of another without permission of the owner.
- D. This section shall not prohibit:
 - (1) A person from riding, leading or driving livestock along a public street or highway; however, the use of sidewalk(s) for said activities is prohibited.
 - (2) Continuing the boarding or pasturing of livestock on NE Riverside Avenue provided the practice was established before being annexed into the City.
 - (3) Grazing services performed for or with the permission of City.

SECTION 3. Domestic Animals. No person owning or having custody, possession or control of any domestic animal shall permit the animal to run at large on any of the public streets, highways, or other public places within the city.

SECTION 4. Rabbit, Fowl, Wild or Fur-Bearing Animals. No person may keep a rabbit, fowl, or wild or fur-bearing animal within or about a building, structure, pen or enclosure located within 100 feet of a dwelling, school, church, hospital, public park, public playground, or public building.

SECTION 5. Area of Enclosure.

- A. No person may keep livestock or bees except within an enclosure having a minimum area of 2,500 square feet for each animal or hive.
- B. No person may keep a rabbit, fowl, wild or fur-bearing animal except within an enclosure having a minimum area of 15 square feet of space for each such animal (rabbit or fowl).
- C. Sanitary conditions required. Livestock, a rabbit, fowl, wild or fur-bearing animal, shall be properly caged, fenced or housed and maintained in a sanitary condition. Accumulations of manure, droppings and other materials soiled by animal or fowl waste shall be collected at least once a week, and immediately deposited in flyproof containers before being disposed of in such a manner as to prevent and eliminate fly breeding and nuisance conditions. The presence of live larvae of flies on or about such places or premises is prima facie evidence of the reproduction or propagation of flies, and of the keeping or maintaining of such places or property in violation of this section.

SECTION 6. Diseased Animals.

- A. No person may keep or permit an animal or bird owned or controlled by him that is infected with a communicable disease, to run at large.
- B. An animal or bird infected with a communicable disease and that is dangerous to the public or to another domestic animal may be summarily seized by the police. After certification by a licensed veterinarian that the animal or bird is incurable and dangerous, the police shall dispose of the animal or bird in a humane manner.
- C. Expense, including veterinarian fees, food, medicines and housing, incurred by the City in keeping a diseased animal or bird, shall be charged to the owner or person controlling the animal and shall be collected before the release of the animal or bird, or may be collected after disposition of the animal pursuant to Section 6.B.

SECTION 7. Dangerous Animals; Removal of Animal Carcasses.

- A. No person may permit a wild or domesticated dangerous animal owned or controlled by him, to run at large.
- B. No person may permit an animal carcass owned or controlled by him to remain exposed upon public or private property for more than 24 hours.

SECTION 8. Cats.

- A. The following definitions apply cat regulation in this ordinance:
 - (1) "Cat" means any feline, household pet, domesticated or wild cat, which is over the age of five months, or an adult.
 - (2) "Unsterilized" means a cat that has not been sterilized or spayed.
 - (3) "Having an interest in" includes feeding, watering, or providing care, comfort or shelter for a cat more than once.
 - (4) "Outdoors" means outside of an enclosed building that restricts ingress and egress of animal passage.
- B. It is unlawful for any person possessing, harboring, keeping, having an interest in, or having control or custody of a cat, which is five months of age or older, to permit or keep any such unsterilized cat outdoors.
- C. It shall constitute a defense to violation of this ordinance if a cited or warned person provides, within 30 days of the date of citation or warning, competent written proof that the subject cat has been sterilized, is relocated to home or shelter, or moved indoors, in such a manner that future violation will not occur.
- D. A violation of this Ordinance shall be punishable as follows:
 - (1) First offense shall be punishable by a fine of not less than Twenty-Five dollars and not more One-Hundred-Twenty-Five dollars.
 - (2) Second offense shall be punishable by a fine of not less than Fifty dollars and not more Two-Hundred-Fifty dollars.
 - (3) Third or more offenses shall be punishable by a fine of not less than Fifty dollars and not more than Five-Hundred dollars.
- E. For purposes of this section, a violation of any of the provisions of this ordinance or receipt of a written warning from a code enforcement officer or police officer shall constitute a prior offense.
- F. For purposes of establishing that a cat is five months of age or older, any competent non-expert witness may give opinion evidence to establish acceptable and satisfactory proof.

NUISANCES AFFECTING PUBLIC HEALTH

SECTION 9. Nuisances Affecting Public Health. The following are nuisances affecting public health:

- A. Privies. A privy vault, privy or cesspool constructed or maintained within the City.

- B. Debris on private property. Accumulations of debris, garbage, rubbish, manure and other solid waste on private property that are not removed within five days and that affect health, safety or welfare.
- C. Stagnant water. Stagnant water, which provides a breeding place for mosquitoes or other insects.
- D. Water pollution. Discharges into a body of water, a stream or a drainage ditch of sewage, industrial wastes or other harmful substances placed in or near the water causing harmful material to pollute the water, except where suitable treatment is provided as required by ordinance.
- E. Surface drainage. Drainage of liquid wastes from private property.
- F. Food. Decayed or unwholesome food, which is offered for human consumption.
- G. Burning rubbish. Burning of rubbish, rags, leaves or any type of refuse on public or private property, so as to disturb other person(s) by offensive odors or smoke.

SECTION 10. Odors and Perceptible Effects of Presence of Marijuana.

- A. No person may permit or cause unreasonable quantities of soot, cinders, noxious acids, fumes or gases to escape, causing harm to another person or to the public, or endangering the health, comfort and safety of any person or the public, or permit or cause such materials to injure or damage property or business.
- B. For purposes of this Section, the following definitions apply:
 - (a) Marijuana. All parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, whether kept for medicinal use or otherwise.
 - (b) Odor of marijuana. The characteristic of marijuana that may be perceived by the sense of smell.
- C. For purposes of this Section, every law enforcement officer that is certified by the Oregon Board of Police Standards and Training, is sufficiently trained to identify the sight and odor of marijuana and whose opinion as to the presence of the odor of marijuana shall be presumed affirmative proof thereof.
- D. Unlawful Release of Marijuana Odor. No owner of real property or person in charge thereof shall allow, permit or cause the odor of marijuana to emanate from that premises to any other property.
- E. Screening requirements. No owner of real property or person in charge thereof shall permit the possession, cultivation or production of marijuana in a place that may be seen by normal unaided vision from a public place or neighboring property.
- F. Violation of Subsections D. and E. herein are declared to be a public nuisance, punishable pursuant to Section 29. Violations of this section may be abated in the manner provided in this ordinance.

SECTION 11. Dust Control.

- A. No owner or person in charge of any premises may allow or permit any use or activity which results in the emission or discharge of airborne particulate matter or dust which causes annoyance or interference with another person's use or enjoyment of private or public premises.
 - B. The following precautions may allow reasonable exceptions to the restriction of emissions in Section 9A:
 - (1) Use of water or chemicals for control of dust in the demolition of existing structures, construction operations for new structures, the grading of roads or the clearing of land;
 - (2) Application of asphalt, oil, water or other suitable chemicals on unpaved roads, materials stockpiled, and any other surface which can create airborne particulates;
 - (3) Full or partial enclosure of materials stockpiled in cases where application of oil, water, or chemicals are not sufficient to prevent particulate matter from becoming airborne;
 - (4) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne;
 - (5) The prompt removal from paved streets of earth or other material which does or may become airborne;
 - (6) Maintain or replace suitable ground cover to reduce erosion and airborne particulate matter in cases where alternative procedures are not effective in preventing a dust control nuisance.
 - C. Building permits issued by the City shall be specifically conditioned upon adequate dust control, as outlined above, and stop work orders may be issued at the City's option until the owner, builder or person in charge of construction property takes reasonable precautions for dust control as outlined in this section.
 - D. The requirements of this section shall be included in the coverage of a Contractor's or Builder-Developer's performance bond, which in turn shall be subject to damage claims for failure to abide by this Ordinance.
- (Section 10 as amended by Ordinance No. 3868, passed May 5, 2015.)

NUISANCES AFFECTING PUBLIC SAFETY

SECTION 12. Abandoned Refrigerators. No person may leave in a place accessible to another person an abandoned, unattended, unused, or discarded icebox, refrigerator or similar container, without first removing the door.

SECTION 13. Excavations; Openings.

- A. No owner or person in charge of property, which abuts or fronts a street and is below street grade, may refuse to erect, at his own expense, a suitable fence or other barrier on the inner line of the sidewalk in front of such property within five days after written notice from the City Manager requiring such a barrier.
- B. This section does not apply to authorized construction projects if adequate safeguards and barriers are required by ordinance are maintained to prevent injury or death.
- C. No person may construct or maintain ventilators, trap doors, gratings or similar openings in a public sidewalk.

SECTION 14. Construction Debris on Streets. No unauthorized person may deposit earth or other debris on a public street or sidewalk. Within three days after completing construction of a building or improvement adjacent to or within the street right of way, a person shall remove from public property any temporary structure, debris, waste, unused materials or substances placed thereon during the construction work.

SECTION 15. Attractive Nuisances.

- A. No owner or person in charge of property may permit:
 - (1) Machinery, equipment or other devices on his property, which are, dangerous and accessible to unauthorized persons.
 - (2) Lumber, logs or piling to be placed or stored on his property in such a manner as to be, dangerous and accessible to unauthorized persons.
 - (3) Vacant or abandoned buildings on his property, which are open and accessible, including but not limited to; buildings, which have open doors, windows or other entrances.
 - (4) Signage that violates the city Sign Code, or is applied to property of another for the purpose of advertising activities, including, but not limited to garage, estate, rummage sales, car washes, other special events, without express written consent from the property owner.
 - (5) Vehicles, which are inoperable, unsecured or unused that are stored outside of garages, driveways or like areas designed and/or zoned for parking.
- B. This section does not apply to construction projects if adequate safeguards and barriers, as required by ordinance, are maintained to prevent hazardous conditions.

SECTION 16. Structures And Excavations After Fire, Flood, Earthquake, Or Other Damage.

- A. No owner or person in charge of property may permit any structure, damaged in whole or in part by fire, flood, earthquake or other causes to the extent that the structure may not be safely used for commercial or residential purposes. Any such structure shall be made safe within 24 hours, so that it does not pose a danger to persons or other structures.
- B. The owner of a structure described in subsection A of this section shall, within 120 days from the date of the damage, begin, and thereafter diligently pursue to completion, to build replacement structures in compliance with current building code standards or to level any remaining debris and structures to the surrounding ground level and landscape the property. If an excavation exists on the property, the excavation shall be filled, leveled and landscaped within the time specified in this subsection.
- C. The City Manager may grant an extension from the time specified in subsection B of this section for a period not to exceed 120 days if the property owner shows that a qualified architect or engineer is preparing plans and specifications for replacement structures.
- D. Replacement of structures in compliance with current building code standards must be completed within one year of the date of the damage.
- E. Structures and excavations not complying with this section are subject to the remedies for nuisances provided for in this Ordinance.
- F. Buildings destroyed by fire, earthquake, flood or other causes prior to the effective date of this section have one year from the effective date of this ordinance to comply with this section.

SECTION 17. Surface Waters; Drainage.

- A. No owner or person in charge of a building or structure may suffer or permit rain, water, ice or snow to fall from the building or structure onto a public street or public sidewalk, nor to flow across public property.
- B. The owner or person in charge of property shall install and maintain adequate drainpipes or a drainage system so that overflow water accumulating on the roof or about such building is not carried across or upon public property.
- C. Running water shall not be permitted to flow across premises traversed by the public, including sidewalks and streets, during freezing weather.
- D. No materials shall be flushed into the streets, which may clog sewers.
- E. No hazardous substance, as defined in ORS 465.200, and including oil, may be drained or washed into the City streets.

SECTION 18. Signs. No owner or person in charge of property may erect, install or maintain a sign in violation of the sign code of the City. A sign erected, installed or maintained in violation of the sign code is considered a nuisance.

SECTION 19. Trees, Shrubs and Weeds.

- A. No owner or person in charge of property may permit unreasonable growth of weeds, grass, trees or noxious vegetation upon his property or upon the parking strip or sidewalk area abutting his property so as to affect adjoining public or private properties. An owner or person in charge of such property shall cut or otherwise destroy weeds, grass or other noxious vegetation as often as needed to prevent it from being unsightly or a fire hazard, or maturing or going to seed.
- B. This section does not prohibit lawns, trees, bushes, other shrubbery or vegetation grown for food or ornamental purposes provided they are appropriately maintained and do not obstruct sidewalks or adjacent premises.

SECTION 20. Fences, Overhead Wires.

- A. No person may use barbed wire to construct a fence along a sidewalk or public way unless the barbed wire is six feet high or higher. Arms of metal or wood may be attached to such a fence in such a way as to slant in toward the property and away from the sidewalk or public way, as long as the arms are above six feet. Barbed wire may be stretched along and across such arms so that the barbed wire is inside the property line.
- B. Except for wire fences, guide wires on authorized utility facilities and other similar uses, no person may place or maintain a wire on public property less than 15 feet above the surface of the ground.

SECTION 21. Solid Waste. No person may throw, dump or deposit, nor shall an owner or person in charge of property, permit upon public or private property injurious or offensive substances or any type of solid waste, which mars the appearance, creates a stench or detracts from the cleanliness or safety of such property or upon the parking strip or sidewalk area abutting the property, or is likely to impede or injure an animal, vehicle or person traveling upon a public way.

NUISANCES AFFECTING PUBLIC PEACE

SECTION 22. Radio and Television Interference.

- A. No person may use or operate an electrical, mechanical or other device, apparatus, instrument or machine, which causes preventable interference with radio or television reception.
- B. This section does not apply to electrical and radio devices licensed, approved and operated in conformity with the rules and regulations of the Federal Communications Commission.

SECTION 23. Unnecessary Noise.

- A. No person may make, continue, or cause to be made or continued any loud, unnecessary or unusual noise nor any noise, which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within or over the limits of the City. Sounds caused by emergency or public vehicles or equipment are exempted from this prohibition. Upon application to the City Manager, a permit may be granted to responsible persons or organizations for use of public address systems or amplification of sound for programs of music, news, speeches, or general entertainment.
- B. The following acts or conditions are examples of loud, disturbing and unnecessary noises in violation of this Ordinance. This enumeration below is not exclusive:
 - (1) Horns, signaling devices. The sounding of a horn or signaling device on an automobile, motorcycle, or other vehicle on a street or public place of the City except as a danger warning; the creation by means of a signaling device of an unreasonably loud, harsh or for unnecessary or unreasonable period of time.
 - (2) Radios, phonographs, etc. The use, operation, or the permission to play, use or operate a radio, media device, musical instrument, phonograph, or other device for the production or reproduction of sound in such manner as to cause inconvenience or disturb the peace, quiet and comfort of nearby person(s). The operation of such a sound producing device between the hours of 11 p.m. and 7 a.m., so that it is plainly audible at a distance of 50 feet from the building, structure, vehicle, or place in which it is located is prima facie evidence of a violation of this section.
 - (3) Loud-speakers, amplifiers for advertising. The use of any device for the production or reproduction of sound, which is cast upon the public streets or over the City for the purpose of commercial advertising or attracting the attention of the public to any building or structure, without consent of the City Manager.
 - (4) Yelling, shouting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between 11 p.m. and 7 a.m., so as to annoy or disturb the quiet, comfort, or repose of persons in an office, dwelling, hotel or other persons in the vicinity.
 - (5) Animals, birds, etc. The keeping of an animal or bird, which causes frequent or long-continued noise and disturbs the comfort or repose of persons in the vicinity.
 - (6) Whistles and horns. The blowing of a whistle or horn, except to give notice of a warning of fire or danger, or upon

request of proper City authorities. The blowing of a locomotive steam whistle or electric horn within the City at any private or public roadway crossing with installed and operating flashing light signals and gate arms or equivalent warning devices, which are automatically activated by the approach of railroad trains or equipment on the tracks, except to prevent accident.

- (7) Exhausts. The discharge into the open air of the exhaust from a steam engine, stationary internal combustion engine, motor boat or other vehicle except through a muffler or other device which will effectively prevent loud or explosive noises.
 - (8) Defect in vehicle or load. The use of an automobile, motorcycle or vehicle so out of repair or loaded in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
 - (9) Loading, unloading, opening boxes. The creation of loud and excessive noise in connection with loading or unloading a vehicle or the opening and destruction of bales, boxes, crates and containers.
 - (10) Construction or repairing of buildings. The erection, excavation, demolition, alteration or repair of a building, property or operation of a pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance the use of which is attended by loud or unusual noise, other than between 7 a.m. and 6 p.m. Excepted are, cases of urgent necessity in the interest of public health and safety, and then only with a permit from the City. The permit may be granted for a period of three days or less while the emergency continues. The permit may be renewed for periods of three days or less while the emergency continues. If the City determines that public health and safety are not impaired by the erection, demolition, alteration, or repair of any building or the operation of an appliance described in this subsection between 6 p.m. and 7 a.m., and that loss or inconvenience would result to any party in interest, work between 6 p.m. and 7 a.m., upon application said permit may be granted.
 - (11) Schools, courts, churches, hospitals. The creation of excessive noise on a street adjacent to a school, institution of learning, church, court while in use or adjacent to a hospital, which unreasonably interferes with the operation of such institutions or disturbs patients in the hospital.
 - (12) Hawkers, peddlers. The shouting or sounds of peddlers, hawkers, buskers and vendors that disturbs the peace and quiet of the neighborhood.
 - (13) Drums. The use of a drum, other instrument or device to attract attention to a performance, show or sale.
 - (14) Metal rails, pillars and columns, transportation thereof. The transportation of rails, pillars, or columns of iron, steel or other material, over and along streets and public places upon a vehicle so loaded as to cause loud noises and to disturb peace and quiet.
 - (15) Blowers. The operation of a noise-creating blower, fan or an engine, the operation of which causes noise, unless muffled.
- C. A sound level in excess of limitations defined in Oregon Administrative Rules, Chapter 340, Division 35, shall be prima facie evidence of a violation of the prohibitions of this section.

SECTION 24. Notices and Advertisements.

- A. No person may affix or cause to be distributed a placard, notice, bill, advertisement or poster upon any real, personal, public or private property, without first securing permission from the owner or person in charge of the property.
- B. No person may scatter, distribute, or cause to be scattered or distributed on public or private property, any placard, advertisement, or other similar notice.
- C. This section does not prohibit the hand to hand distribution of advertising material during a parade or public gathering. This section is not an amendment to or a repeal of regulations now or hereafter adopted by the City regulating the use of and the location of signs and advertising.

Section 25. Garage Sale and Yard Sale.

- A. "Garage sale," "yard sale," or "estate sale" means the offering for sale to the public of used personal items from a place of residence or accessory structure or any portion of property, the primary use of which is residential. Offering for sale includes display, storage or sale of goods. Permitted Neighborhood Commercial Uses and Home Occupations with current business licenses are exempt.
- B. No person may conduct a garage sale, yard sale or estate sale on more than six days in any one calendar year.

SECTION 26. General Nuisance. In addition to those nuisances specifically enumerated within this Ordinance, every other thing, substance or act, which is determined by the 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 this Ordinance.

SECTION 27. Abatement Of Nuisances.

- A. All nuisances described in this Ordinance may be abated as provided hereafter.
- B. Upon determination by the City Manager, or his designee, that a nuisance as defined in this or any other ordinance of the City exists, the City Manager may forthwith cause a notice to be posted at or upon the premises where the nuisance

- exists, directing the owner or person in charge of the property to abate the nuisance.
- C. At the time of posting, the City Manager shall cause a copy of such notice to be sent by mail, with return receipt requested, postage prepaid to the owner or person in charge of the property at the last known address of the owner or other person.
 - D. The notice to abate shall contain:
 - (1) A description of the real property, by street address or otherwise, on which or adjacent to which such nuisance exists.
 - (2) A direction to abate the nuisance within five days from the date of the notice, unless otherwise provided in this Ordinance.
 - (3) A description of the nuisance.
 - (4) A statement that unless such nuisance is removed the City will abate the nuisance and the cost of abatement may become a lien against the property.
 - (5) A statement that the owner or person in charge of the property may protest the abatement by giving written notice to the City Manager within three days from the date of the notice.
 - E. Upon completion of the posting and mailing, the person posting and mailing the notice shall execute and file with the City Manager a copy of the notice and certificate of posting and mailing.
 - F. An error in the name or address of the owner or person in charge of the property or the use of a name other than that of the owner or other person shall not make the notice void and in such a case the posted notice shall be sufficient.

SECTION 27 A. Abatement by the Owner.

- A. Within the time allowed by the notice as provided in Section 24.D.2, the owner or person in charge of the property shall remove the nuisance or show that no nuisance exists.
- B. The owner or person in charge of property protesting that no nuisance in fact exists shall file, within three days, with the City Manager a written statement, which shall specify the basis for so protesting.
- C. The statement shall be referred to the Council as a part of the Council's regular agenda at the next succeeding meeting. At the time set for the consideration of the abatement, the owner or other person shall appear and may be heard by the Council, and the Council shall thereupon determine whether or not 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 and the protesting party appears before the Council at the time set for consideration.
- D. If the Council determines that a nuisance does in fact exist, the owner or other person shall within five days after the Council determination to abate the nuisance.

SECTION 27.B. Abatement by the City.

- A. If, within the time permitted by this Ordinance, the nuisance has not been abated by the owner or person in charge of the property, the City Manager may cause the nuisance to be abated.
- B. The City official(s) charged with abatement of such nuisance shall have the right at reasonable times to enter into or upon any property or investigate or cause the removal of such nuisance.
- C. The City Recorder may keep an accurate record of the expense incurred by the City in abating the nuisance, and may include a charge of 10 percent of the expense as an administrative fee.
- D. The total amount of the cost of abatement and administrative fee may then be assessed as a lien against the property, real and/or personal.

SECTION 27.C. Assessment of Costs Following Abatement By City.

- A. The City Recorder, by return receipt requested mail, postage prepaid, shall forward to the owner or person in charge of the property, a notice stating:
 - (1) The total amount of the cost of abatement incurred by the City, including the administrative fee.
 - (2) That the amount as indicated will be assessed to, and become a lien against the property unless paid within 30 days from the date of the notice.
- B. The Council, in the regular course of business shall hear and determine any objections to the costs to be assessed.
- C. If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs as stated or as determined by the Council shall be made by resolution and shall be entered in the docket of City liens. Upon such entry, the total cost of abatement shall be a lien upon the property from which, or adjacent to 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 6 percent a year. Interest shall begin upon the entry of the lien in the lien docket.
- E. An error in the name of the owner or person in charge of the property 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.

APPLICATION OF ORDINANCE

SECTION 28. Summary Abatement. The procedure provided by this Ordinance is not exclusive, but is an additional procedure to those provided by other ordinances. The City Manager, Fire Chief Police Chief and/or their designee(s) may proceed summarily to abate a nuisance which unmistakably exists and from which there is imminent danger to human life or property.

SECTION 29. Violation and Penalties.

- A. A violation of a provision of this Ordinance shall be punishable by a fine not to exceed Five Hundred and No/100 (\$500.00) Dollars.
- B. Every full day during which an activity continues to be conducted in violation of this Ordinance shall be considered a separate offense.
- C. Offenses under this Section shall be tried in the Municipal Court as a violation and not as a crime. As a violation there is no right to jury trial or court appointed counsel. The Municipal Court may not continue or postpone a proceeding and determination of the allegation of violation of this ordinance for the purpose of allowing compliance with an abatement order or to allow the accused to remediate the alleged violation. The Municipal Court must adjudicate any allegation of violation of this Ordinance within 90 days of the date of the alleged violation.

SECTION 30. Separate Violations.

A separate offense is committed each day that a violation of this Ordinance is permitted or permitted to continue. The abatement of a nuisance is not a penalty for violating this Ordinance, but it is an additional remedy to a penalty imposed for a violation of the Ordinance. The imposition of a penalty does not relieve a person of the duty to abate a nuisance.

SECTION 31. Individual and Corporate Enforcement. An individual person or other legal entity may act in violation of this ordinance. In the event that the party acting in violation of this ordinance is a corporation, the corporation shall be subject to fine or abatement or other penalties allowed by Oregon law. In such case where a corporation is the offending party, a citation may be served upon the corporation by serving an officer of the corporation, or a person in charge of the premises at the time the citation is issued with a citation requiring a representative of the corporation to appear in court at the time indicated on the citation. The corporation shall be named as the defendant on the citation. In the event that a representative fails to appear as required by the citation the city attorney may seek appropriate remedies for the failure to appear against the officers of the corporation as allowed by law. For the application of this section, the term "corporation" shall also include partnerships, limited liability companies or partnerships, associations, sole proprietorships and other similar forms of business entities.

SECTION 32. Severability. The sections and subsections of this Ordinance are severable. The invalidity of one section or subsection does not affect the validity of the remaining sections or subsections.

SECTION 33. Repealer. Ordinance No. 2422 and Ordinance No. 3755 are hereby repealed. This repeal shall not repeal Section 31, the repealer clause, of said Ordinance No. 2422.

SECTION 34. Saving Clause. Ordinance No. 2422 and Ordinance No. 3755 shall remain in force for enforcement of violations thereof made prior to the effective date of this Ordinance.

SECTION 35. Emergency Clause. Inasmuch as it is necessary for the immediate preservation of the public health, peace and safety of the City of Pendleton that this ordinance have immediate effect, an emergency is hereby declared to exist and this Ordinance shall be effective immediately upon its passage by a unanimous vote of the members of the City Council.

PASSED by the City Council on June 3, 2014.