

Posted 5/19/64

ORDINANCE NO. 465

AN ORDINANCE DEFINING NUISANCES; PROVIDING FOR THEIR ABATEMENT; PRESCRIBING PENALTIES AND REPEALING ORDINANCES NO. 53, 116 AND 445.

The city of Canby 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:

- (1) City. The city of Canby.
- (2) Council. The governing body of the city.
- (3) Person. A natural person, firm, partnership, association or corporation.
- (4) Person in charge of property. An agent, occupant, lessee, contract purchaser or person, other than the owner, having possession or control of the property.
- (5) Public place. A building, place or accommodation, whether publicly or privately owned, open and available to the general public.
- (6) Superintendent of public works. The superintendent of public works or person authorized by the superintendent of public works.

Animals and Fowls

Section 2. Communicable Disease. No person may permit an animal or bird owned or controlled by him to be at large within the city if the animal or bird is afflicted with a communicable disease.

Section 3. Dangerous Animals. No person may permit a wild or domesticated dangerous animal to run at large.

Section 4. Removal of Carcasses. No person may permit any fowl or animal carcass owned by him or under his control to remain upon the public streets or places, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of such carcass.

Nuisances Affecting Public Health

Section 5. Nuisances Affecting the Public Health. No person may permit or cause a nuisance affecting public health. The following are nuisances affecting the public health and may be abated as provided in

this ordinance.

(1) Privies. An open vault or privy constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the Oregon State Board of Health regulations.

(2) Debris on private property. Accumulations of debris, rubbish, manure and other refuse located on private property that are not removed within a reasonable time and that affect the health, safety or welfare of the city.

(3) Stagnant water. Stagnant water which affords a breeding place for mosquitoes and other insect pests.

(4) Water pollution. Pollution of a body of water, well, spring, stream or drainage ditch 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.

(5) Food. Decayed or unwholesome food which is offered for human consumption.

(6) Odor. Premises which are in such a state or condition as to cause an offensive odor or which are in an unsanitary condition.

(7) Surface drainage. Drainage of liquid wastes from private premises.

Nuisances Affecting Public Safety

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

Section 7. Attractive Nuisances.

(1) No owner or person in charge of property may permit:

(a) Unguarded machinery, equipment or other devices on such property which are attractive, dangerous and accessible to children.

(b) Lumber, logs or piling placed or stored on such property in a manner so as to be attractive, dangerous and accessible to children.

(c) An open pit, quarry, cistern or other excavation without erecting adequate safeguards or barriers to prevent such places from being used by children.

(2) This section shall not apply to authorized construction projects, if during the course of construction reasonable safeguards are maintained to prevent injury or death to playing children.

Section 8. Snow and Ice Removal. No owner or person in charge of property, improved or unimproved, abutting on a public sidewalk may permit:

(1) Snow to remain on the sidewalk for a period longer than the first two hours of daylight after the snow has fallen.

(2) Ice to cover or remain on a sidewalk, after the first two hours of daylight after the ice has formed. Such person shall remove ice accumulating on the sidewalk or cover the ice with sand, ashes or other suitable material to assure safe travel.

Section 9. Weeds and Noxious Growth. No owner or person in charge of property may permit weeds or other noxious vegetation to grow upon his property. It shall be the duty of an owner or person in charge of property to cut down or to destroy weeds or other noxious vegetation as often as needed in order to prevent the weeds or noxious vegetation from becoming unsightly or from becoming a fire hazard or from maturing or going to seed.

Section 10. Scattering Rubbish. No person may throw, dump or deposit upon public or private property an injurious or offensive substance or any kind 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 property, or would be likely to injure an animal, vehicle or person traveling upon a public way.

Section 11. Fences.

(1) No person may construct or maintain a barbed-wire fence or allow barbed wire to remain as a part of a fence along a sidewalk or public way, 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 may install, maintain or operate an electric fence along a street or sidewalk, or along the adjoining property line of another person.

Section 12. Surface Waters, Drainage.

(1) No owner or person in charge of any building or structure may suffer or permit rain water, ice or snow to fall from such building or structure on to a street or public sidewalk or to flow across such sidewalk.

(2) The owner or person in charge of property shall install 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 is not carried across or upon the sidewalk.

Nuisances Affecting the Public Peace

Section 13. Radio and Television Interference.

(1) No person may operate or use an electrical, mechanical or other device apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception; provided that the radio or television receiver interfered with is of good engineering design.

(2) This section does not apply to electrical and radio devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission.

Section 14. Unnecessary Noise.

(1) No person may make, assist in making, continue or cause to be made any loud, disturbing or unnecessary noise which either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of others.

(2) Loud, disturbing and unnecessary noises in violation of this section include but are not limited to the following:

(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 attaching of a bell to an animal or allowing a bell to remain on an animal.

(c) The use of a vehicle or engine, either stationary or moving, so out of repair, loaded or operated as to create any loud or unnecessary grating, grinding, rattling or other noise.

(d) The sounding of a horn or signaling device on a vehicle on a street, or public or private place, except as a necessary warning of danger.

(e) The blowing of a steam whistle attached to a 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.

(f) The use of a mechanical device operated by compressed air, steam or otherwise, unless the noise thereby created is effectively muffled.

(g) The erection, including excavation, demolition, alteration or repair of a 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 city recorder for a period not to exceed 10 days. Such permit may be renewed for periods of five days while such emergency continues to exist. If the superintendent of public works determines that the public health, safety

and welfare will not be impaired by the erection, demolition, alteration or repair of any building between the hours of 6:00 p. m. and 7:00 a. m. and if he shall further determine that loss or inconvenience would result to any person unless such work were permitted within those hours, he may grant permission for such work to be done within the hours of 6:00 p. m. and 7:00 a. m. upon application therefor being made at the time the permit for the work is awarded or during the progress of the work.

The actual owner of property may do work on property actually occupied by him between the hours of 6:00 p. m. and 10:00 p. m. without obtaining a permit as herein required.

(h) The use of a gong or siren upon a vehicle, other than police, fire or other emergency.

(i) The creation of an excessive noise on a street adjacent to a school, institution of learning, church or court of justice while the same are in use, or adjacent to a 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.

(j) The discharge in the open air of the exhaust of a 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.

(k) The use or operation of an automatic or electric piano, phonograph, gramophone, victrola, 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. However, upon application to the council permits may be granted to responsible persons or organizations for the broadcast or amplification of programs of music, news, speeches or general entertainment as a part of a national, state or city event, public festivals or outstanding events of a noncommercial nature. The 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.

(l) The making of a noise by crying, calling or shouting or by means of a 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 a person to a business. However, newsboys may sell newspapers and

magazines by public outcry.

(m) The conducting, operating or maintaining of a garage within 100 feet of a private residence, apartment, rooming house or hotel in such manner as to cause loud or disturbing noises to be emitted therefrom between the hours of 11:00 p.m. and 7:00 a.m.

Section 15. Notices and Advertisements.

(1) No person may affix or cause to be distributed any placard, bill, advertisement or poster upon real or personal property, public or private, without first securing permission from the owner or person in control of the 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.

(2) No person, either as principal or agent, may scatter, distribute or cause to be scattered or distributed on public or private property any placards or advertisements or other similar material.

(3) This section does not prohibit the distribution of advertising material during a parade or approved public gathering.

Section 16. Declaration of Nuisance, General Nuisance.

(1) The acts, conditions or objects specifically enumerated and defined in Section 2 through 15 are hereby declared to be public nuisances; and any person who commits any act or permits, creates or maintains any condition which is defined by this ordinance as a public nuisance shall be guilty of a mis-demeanor and upon conviction thereof shall be punished as provided in the following Section 22. Also, all acts, conditions, or objects defined and declared by this ordinance to be a public nuisance may be abated by any of the procedures set forth in Section 17 through 21 of this ordinance.

(2) 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.

Abatement Procedure

Section 17. Abatement Notice.

(1) Upon determination by the superintendent of public works that a nuisance as defined in this or any other ordinance of the city exists, the superintendent of public works shall forthwith cause a notice to be posted on the premises where the nuisance exists, directing the owner or person in charge of the property to abate 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 owner or person in charge of the property at the last-known

address of such owner or other person.

(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 abate the nuisance within 10 days from the date of the notice.

(c) A description of the nuisance.

(d) A statement that unless such nuisance is removed the city may abate the nuisance and the cost of abatement shall be a lien against the property.

(e) A statement that the owner or other person in charge of the property may protest the abatement by giving notice to the city recorder within 10 days from the date of the notice.

(4) Upon completion of the posting and mailing the person posting and mailing the notice shall execute and file a certificate stating the date and place of such mailing and posting.

(5) 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 18. Abatement by the Owner.

(1) Within 10 days after the posting and mailing of the notice as provided in Section 17, the owner or person in charge of the property shall remove the nuisance or show that no nuisance exists.

(2) The owner or person in charge protesting that no nuisance exists shall file with the city recorder a written statement which shall specify the basis for so protesting.

(3) 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 consideration of the abatement, the owner or other person may appear and 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 as provided.

(4) If the council determines that a nuisance does in fact exist, the owner or other person shall within 10 days after such council determination abate such nuisance.

Section 19. Abatement by the City.

(1) If within the time allowed the nuisance has not been abated by the owner or person in charge of the property, the superintendent of public works may cause the nuisance to be abated.

(2) The officer charged with abatement of such nuisance shall have

the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance.

(3) The city recorder shall keep an accurate record of the expense incurred by the city in abating the nuisance and shall include therein a charge of 20 percent of the expense for administrative overhead.

Section 20. Assessment of Costs.

(1) The city recorder, by registered or certified mail, postage prepaid, shall forward to the owner or person in charge of the property a notice stating:

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

(b) 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.

(c) That if the owner or 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 not more than 10 days from the date of the notice.

(2) Upon the expiration of 10 days after the date of the notice, the council in the regular course of business shall hear and determine the objections to the costs to be assessed.

(3) 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 thereupon be entered in the docket of city liens, and upon such entry being made shall constitute a lien upon the property from which the nuisance was removed or abated.

(4) 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 per annum. Such interest shall commence to run from date of the entry of the lien in the lien docket.

(5) 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.

General

Section 21. Summary Abatement. The procedure provided by this ordinance is not exclusive but is in addition to procedure provided by other ordinances and the health officer, the chief of the fire department and chief of police may proceed summarily to abate a health or other nuisance which unmistakably exists and from which there is imminent danger to human life or property.

Section 22. Penalties. A person violating any of the provisions of this ordinance shall, upon conviction thereof, be punished by imprisonment in jail for a period not to exceed 30 days or by a fine not to exceed \$ 100.00, or by both.

Section 23. Separate Violations.

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

(2) The abatement of a nuisance is not a penalty for violating this ordinance, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate a nuisance.

Section 24. Severability. The sections and subsections of this ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections or subsections.

Section 25 Repealer. Ordinance No. 53, approved November 7, 1898; Ordinance No. 116, approved July 23, 1914; and Ordinance No. 445, approved October 5, 1962, are repealed.

Passed on first reading at a regular meeting of the Canby city council held on the 18th day of May, 1964; ordered posted as provided by the Canby city charter and to come up for final reading and action before the Canby city council at a regular meeting thereof to be held on the 15th day of June, 1964, at the hour of 8:00 p. m. at the Canby city hall.

Fred Stefani
Mayor

ATTEST:

Annis B. Gillmore
Acting City Recorder

Passed on final reading this 15 day of JUNE, 1964, by the following vote: Yeas 6. Nays 0.

Submitted to the mayor this 16 day of JUNE, 1964, and approved by the mayor this 16 day of JUNE, 1964.

Fred Stefani
Mayor

ATTEST:

Richardson
City Recorder