

CITY OF SHERWOOD, OREGON

ORDINANCE NO. 531

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

THE CITY OF SHERWOOD DOES ORDAIN AS FOLLOWS:

Section 1: Definitions.

(1) As used in this ordinance except where the context indicates otherwise, the following shall mean:

(a) Agent in charge of property: any lessee, contract purchaser, or person, other than the owner, having the possession or control of property.

(b) City: the city of Sherwood.

(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 accommodation, whether publicly or privately owned, open and available to the general public. If privately owned, only during the hours when the public place is open to the general public.

(2) As used in this ordinance the singular includes the plural and the masculine includes the feminine.

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.

(2) Any animal or bird afflicted with a communicable disease, which is dangerous to the public health may be summarily seized by the chief of police and, after determination by the city health officer that such animal is incurable and dangerous, such animal may be disposed of in a humane manner. Provided, however, that any animal afflicted with such disease but determined by the city health officer to be curable shall, upon request of the owner or person controlling such animal, be kept by the chief of police until such time as the animal is found to be free of such disease.

(3) Any expense incurred by the city in keeping such animals, including but not limited to, veterinarian's fees, food, medicines and housing, shall be charged to the owner or person controlling such animal and shall be collected by the city clerk prior to the release of such animal. All moneys so collected shall be deposited

with the city clerk.

Section 3: Dangerous Animals. No owner or person in charge of any dangerous animal, wild or domesticated, shall permit such animal to run at large in the city.

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, or exposed on private property, for a period of time longer than is reasonably necessary to remove such carcass.

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 19 to 23 of this ordinance.

(a) Privies. Any open vault or privy constructed or maintained contrary to present Oregon State Board of Health regulations.

(b) Debris on private property. All accumulations of debris, rubbish, manure and other refuse located on private property and which has not been removed within a reasonable time and which affects the health, safety or welfare of the city.

(c) Water pollution. The pollution of any body of water, 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.

(d) Food. All decayed or unwholesome food which is offered for human consumption.

(e) 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.

(f) Surface drainage. Any drainage of liquid wastes from private premises.

(g) Livestock. The keeping of any livestock or buildings for the purpose of housing such livestock, in such places or in such a manner that they will be offensive or annoying to residents within the immediate vicinity thereof, or maintaining the premises in such a manner as to be a breeding place or likely breeding place for rodents, flies or other pests.

Section 6: Abandoned Ice Boxes. No person shall leave in a 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 lock or other mechanism which may not be released for opening from the inside, without first removing such lock or door from such ice box, refrigerator or similar container.

Section 7: Attractive Nuisances.

(1) No person owning, controlling or in possession 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 placing or storing of any lumber, logs or piling in such 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 visited 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 19 to 23 of this ordinance.

Section 8: Snow and Ice Removal. No person owning or controlling any premises, improved or unimproved, abutting upon any public sidewalk within the city shall permit:

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

(2) Any such sidewalk to be covered with ice and it shall be the duty of any such person within the first eight hours of daylight after the ice has formed to remove any ice accumulating on such sidewalk or to properly cover it with sand, ashes or other suitable material to assure safe travel.

Section 9: Trees, Shrubs and Weeds and Stagnant Water.

(1) No owner, occupant or agent in charge of any lot or land shall permit upon such property or upon any sidewalk abutting such property, any grass, weeds or other noxious growth. It shall be the duty of every owner, occupant or agent in charge of lots or land in the city to cut down or otherwise to destroy any noxious weeds on such property or streets or sidewalks bordering thereon as often as necessary to prevent such weeds from maturing or going to seed.

(2) No owner, occupant, or agent in charge of any lot or land shall permit upon such property any stagnant water which affords a breeding place for mosquitoes or other insect pests. It shall be the duty of every owner, occupant or agent in charge of lots or land in the city to drain or remove any such stagnant water as soon as practicable after such water forms.

(3) 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 owner, occupant or agent 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 eight feet above the sidewalk and 13 feet above the roadway. Hedges and other shrubbery shall not overhang the sidewalk or roadway.

(4) Any weeds, grass and other noxious growth and any obstructing or hazardous trees and shrubs, and any stagnant water as set forth in this section are hereby declared to be a nuisance and may be abated as hereinafter provided in this section.

(5) The chief of police upon the discovery of any such nuisances as described in this section is empowered and directed to post a written or printed notice upon such property, which notice shall be in legible characters and which shall direct the owner, his agent, or the occupant of such property or any or all of them to remove the nuisance, specifying the same briefly, within five days from and after the date of such notice. In case said premises shall, at the time, have no occupant, said chief of police shall forthwith also send by mail, postage prepaid, a like notice to the owner or his agent, if the owner's address is unknown, and if the address of neither owner or any agent is known, then said notice may be addressed to the owner at Sherwood, Oregon. An error in the name of the owner or agent or the use of any other name than that of the true owner or agent of such property shall not render such notice void, but in such case the posted notice shall be deemed sufficient; provided, also, that actual notice to any owner, his agent, or the occupant of any property for five days shall also be deemed sufficient for the purpose of this ordinance.

(6) Within said five days after the date of posting and mailing such notice, it is hereby made the duty of the owner of any lot, tract, or parcel of land or his agent or the person in possession to remove and abate said and any nuisance or make a showing that no such nuisance, in fact, exists. Such showing shall be made by filing with the recorder of said city, within the time specified in said notice for the removal of such nuisance, a written statement that no such nuisance exists on such property, and thereupon the recorder shall present said written statement to the city council of said city, and said city council shall hear said matter at either a regular meeting or at any special meeting, as it may determine, and the person filing said written statement shall be promptly notified of the time and place of such hearing. Such person may appear at such hearing and be heard in his own behalf and the city council, after such hearing, shall declare whether such nuisance does or does not exist, which declaration may be made by motion or resolution duly adopted by the council.

(7) If, upon such hearing, it be determined by the city council that such nuisance exists or if no showing be made by the owner, his agent, or by any of the persons mentioned in subsection (6) of this section calling for any hearing thereon, the chief of police of the city shall forthwith proceed to abate such nuisance, and he shall thereafter certify to the city council

an account of the labor, services, material, and all expenses incurred, verified by the said chief of police or by any police officer, together with a description of each lot or premises upon or in respect to which such expenses were incurred, together with the name of the owner, or person, if known, chargeable therewith, stating the expense incurred for and on account of each lot, tract, or parcel of land separately, and such costs and expenses shall thereupon be assessed to said lots, tracts or parcels of land under and in accordance with the charter or ordinances of the City of Sherwood.

Section 10: Awnings. No owner, occupant, or agent in charge of any property in this city shall maintain an awning less than seven feet above a sidewalk.

Section 11: 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 12: Fences. No person shall construct or maintain any barbed-wire fence or allow barbed wire to remain as part of any 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.

Section 13: Surface Waters, Drainage. It shall be unlawful for the owner or occupant of any building or structure to suffer or permit accumulated rain water, ice or snow to fall from any such building or structure upon any street or sidewalk, or to permit rain water or other surface drainage water from such building or structure or from any parking lot or open area to flow across any sidewalk, and every such owner or occupant shall at all times keep and maintain in a proper state of repair adequate drainpipes or a drainage system sufficient to carry to the street gutter or storm sewer any overflow or drainage water accumulating upon such building, structure, parking area or open area.

Section 14: Radio and Television Interference. Operation or use by any person within the corporate limits of this city, of any electrical, mechanical or other device, apparatus, instrument or machine that causes interference with radio or television reception is prohibited; provided that the radio or television receiver interfered with is of good engineering design, and that the interfering electrical or other device is capable of interference elimination by reasonable repairs, adjustments or alterations. This section shall not apply to electrical and radio devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission; nor shall this section be construed to prohibit the use or operation of any such device when necessary for the protection of life or property, for the care or treatment of sick or injured persons, or for the operation of a public utility.

Section 15: 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 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.

(c) 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.

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

(e) 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.

(f) The use of any 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 any building in residential districts, other than between the hours of 6:00 a.m. and 10:00 p.m. on Mondays through Saturdays, 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 engineer for a period not to exceed 10 days. Such permit may be renewed for periods of five days while such emergency continues to exist. Provided further, that if the city engineer shall determine 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 10:00 p.m. and 6:00 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 10:00 p.m. to 6:00 am. upon application therefor being made at the time the permit for the work is awarded or during the progress of the work.

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

(i) 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.

(j) 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.

(k) The use or operation of any automatic or electric piano, phonograph, gramophone, victrola, radio, television, loud-speaker 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 council permits may be granted for the broadcast or amplification of commercial or 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 1000 feet from the instrument, speaker or amplifier, and in no event shall such permit be granted where any obstruction to the free and uninterrupted traffic, both vehicular and pedestrian, will result.

(l) The making of any loud or unreasonable 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.

Section 16: Fireworks - Adoption of State Fireworks Law. The Oregon fireworks law, together with all acts and amendments applicable to cities which are now or hereafter enacted, is hereby adopted by reference and made a part of this ordinance.

Section 17: Notices and Advertisements.

(1) No person shall affix or cause to be distributed 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.

(2) No person shall either as principal or agent scatter, distribute or cause to be distributed on the streets, sidewalks or other public places or upon any private property any placards or advertisements whatsoever.

(3) This section shall not be construed to prohibit the distribution of advertising material during any parade or approved public gathering.

Section 18: General Nuisance.

(1) A nuisance is a thing, substance or act which shall:

(a) Annoy, injure or endanger the peace, health, safety, comfort or repose of the public, or,

(b) Offend against public decency, or,

(c) Unlawfully interfere with, obstruct or tend to obstruct or render dangerous for passage any public park, square, alley or highway, or,

(d) In any way render the public insecure in life or in the use of property.

(2) Any thing, substance or act defined as a nuisance in this section may be abated as provided in Sections 19 to 23 of this ordinance.

Section 19: Abatement Notice.

(1) Upon determination by the council that a nuisance as defined in this or any other ordinance of the city exists, the 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 mail, postage prepaid, to the owner or agent 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 abate and 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 owner or agent 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 or address of the owner or agent in charge of the property or the use of a name other than that of the owner or agent shall not make the notice void and in such a case the posted notice shall be deemed sufficient.

Section 20: Abatement by the Owner.

(1) Within 30 days after the posting and mailing of the notice as provided in Section 19, the owner or agent in charge of the property shall remove and abate the nuisance or show that no nuisance exists.

(2) The owner or agent 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 succeeding meeting. At the time set for the consideration of the abatement, the owner or agent 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 owner or agent shall within 30 days after such council determination remove or abate such nuisance.

Section 21: Abatement by the City.

(1) If within the time fixed, as provided in this ordinance, the nuisance has not been abated by the owner or agent in charge of the property, the council shall 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 any property to investigate or cause the removal of such nuisance.

(3) 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 10 per cent of the total cost for administration.

Section 22: Assessment of Costs.

(1) A notice of the billing shall be forwarded by registered mail, postage prepaid, to the owner or agent 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 due and payable within 60 days.

(c) A statement that if the owner or agent 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 charge shall be heard and determined by the council in its regular course of business.

(3) If the council determines that the costs as indicated are a valid expense to be paid by the owner or agent in charge of the property, then such charges shall become due and payable 60 days from the date of the notice.

(4) The city recorder shall, upon the nonpayment of such costs within the time specified, bring suit for the same in any court of competent jurisdiction in the name of the city of Sherwood against the owner or agent in charge of the property, and upon collection of the same by such suit he shall pay the same to the city treasurer.

Section 23: Summary Abatement. The procedure provided by this ordinance is not exclusive, but in addition to procedure provided by other ordinance; and furthermore, the health officer, the chief of the fire department and the police officers of this city 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 24: Penalties. Any 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 \$200.00, or both.

Section 25: 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 this ordinance.

Section 26: 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 27: Effective Date. This ordinance shall be in full force and effect on and after the 31st day after its passage by the city council and approval by the mayor.

PASSED: By Unanimous vote of all Council members present, after being read by title twice, and read in sections and in full upon its third reading, this 7th day of February, 1967.

ATTEST:

Ray L. Linn
Mayor - City of Sherwood

A. G. Albert
City Recorder