

CITY OF SHERWOOD, OREGON

ORDINANCE NO. 641

AN ORDINANCE PROVIDING A POLICE CODE FOR THE CITY OF SHERWOOD; DEFINING TERMS; PROHIBITING CERTAIN ACTS OR OMISSIONS AND MAKING SAME UNLAWFUL; ADOPTING CERTAIN PROVISIONS OF OREGON REVISED STATUTES; PROVIDING FOR MAINTENANCE AND HANDLING OF PRISONERS; PROVIDING PENALTIES; REPEALING ORDINANCES 527, 535, 531, AND SECTIONS 2,4,5 and 17 OF ORDINANCE 529, AND DECLARING AN EMERGENCY

THE CITY OF SHERWOOD DOES ORDAIN AS FOLLOWS:

ARTICLE I - PRELIMINARY

Section 1: SHORT TITLE:

This Ordinance shall be known as the "POLICE CODE OF THE CITY OF SHERWOOD", and may be so cited and pleaded.

Section 2: PURPOSES, PRINCIPLES OF CONSTRUCTION:

(1) The general purposes of the provisions of this Ordinance are:

(a) To ensure the public safety by preventing the commission of offenses through the deterrent influence of the sentences authorized, the correction and rehabilitation of those convicted, and their confinement when required in the interests of public protection.

(b) To forbid and prevent conduct that unjustifiably and inexcusably inflicts or threatens substantial harm to individual or public interests.

(c) To give fair warning of the nature of the conduct declared to constitute an offense and of the sentences authorized upon conviction.

(d) To define the act or omission and the accompanying mental state that constitute each offense and limit the condemnation of conduct as criminal when it is without fault.

(e) To differentiate on reasonable grounds between serious and minor offenses.

(f) To prescribe penalties which are proportionate to the seriousness of offenses and which permit recognition of differences in rehabilitation possibilities among individual offenders.

(g) To safeguard offenders against excessive, disproportionate or arbitrary punishment.

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(2) The rule that a penal statute is to be strictly construed shall not apply to this Ordinance or any of its provisions. All provisions of this Ordinance shall be construed according to the fair import of their terms, to promote justice and to effect the purposes stated in subsection (1) of this section.

Section 3: APPLICATION OF PROVISIONS:

(1) The provisions of this Ordinance shall govern the construction of and punishment for any offense defined in this Ordinance and committed after the effective date hereof, as well as the construction and application of any defense to a prosecution for such an offense.

(2) Except as otherwise expressly provided, or unless the context so requires otherwise, the provisions of this Ordinance shall govern the construction of and punishment for any offense defined outside this Ordinance and committed after the effective date hereof, as well as the construction and application of any defense to a prosecution for such an offense.

(3) The provisions of this Ordinance shall not apply to or govern the construction of and punishment for any offense committed before the effective date of this Ordinance, or the construction and application of any defense to a prosecution for such an offense. Such an offense shall be construed and punished according to the law existing at the time of the commission of the offense in the same manner as if this Ordinance had not been enacted.

(4) When all or part of a criminal statute is amended or repealed, the criminal statute or part thereof so amended or repealed remains in force for the purpose of authorizing the accusation, prosecution, conviction and punishment of a person who violated the statute or part thereof before the effective date of the amending or repealing ordinance.

Section 4: SAVING CLAUSE; CONSTITUTIONALITY:

If any clause, sentence, paragraph, section, article or portion of this Code for any reason shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder of this Code but shall be confined in its operation to the clause, sentence, paragraph, section or portion of this Code directly involved in the controversy in which judgment is rendered.

ARTICLE II

ADOPTION OF GENERAL PROVISIONS OF OREGON CRIMINAL CODE

Section 1: By virtue of the authority contained in §221.330, Oregon Revised Statutes, all those sections of the Oregon Revised Statutes hereinafter listed in this Article, be, and each thereof are hereby, adopted by this reference, section by section, paragraph by paragraph, word by word, in the entirety in all respects to the same legal force and effect as if set forth herein in full.

Section 2: Whenever reference in the hereinafter cited sections of Oregon Revised Statutes is made to

- (a) "Oregon Criminal Code" - it shall mean the POLICE CODE OF THE CITY OF SHERWOOD.
- (b) "State" - It shall mean the CITY OF SHERWOOD
- (c) "Court" - It shall mean the MUNICIPAL COURT OF THE CITY OF SHERWOOD

Section 3: GENERAL PRINCIPLES OF CRIMINAL LIABILITY:

- (a) ORS 161.085 - Definitions with respect to culpability;
- (b) ORS 161.095 - Requirements of culpability;
- (c) ORS 161.105 - Culpability requirements inapplicable to certain violations and offenses;
- (d) ORS 161.115 - Construction of statutes with respect to culpability;
- (e) ORS 161.125 - Intoxication;

Section 4: PARTIES TO CRIME :

- (a) ORS 161.150 - Criminal liability described;
- (b) ORS 161.155 - Criminal liability for the conduct of another;
- (c) ORS 161.160 - Defense to criminal liability for conduct of another;
- (d) ORS 161.165 - Exemptions to criminal liability for conduct of another;
- (e) ORS 161.170 - Criminal liability of corporations;
- (f) ORS 161.175 - Criminal liability of an individual for corporate conduct;

Section 5. GENERAL PRINCIPLES OF JUSTIFICATION:

- (a) ORS 161.190 _ Justification as a defense;
- (b) ORS 161.195 _ "Justification" described;
- (c) ORS 161.200 _ Choice of evils;
- (d) ORS 161.205 _ Use of physical force generally
- (e) ORS 161.209 _ Use of physical force in defense of a person;
- (f) ORS 161.215 _ Limitation on use of physical force in defense of a person;
- (g) ORS 161.219 _ Limitations on use of deadly physical force in defense of a person;
- (h) ORS 161.225 _ Use of physical force in defense of premises;
- (i) ORS 161.229 _ Use of physical force in defense of property;
- (j) ORS 161.235 _ Use of physical force in making an arrest or in preventing an escape;
- (k) ORS 161.239_ Use of deadly physical force in making an arrest or in preventing an escape;
- (l) ORS 161.245- "Reasonable belief" described; status of unlawful arrest;
- (m) ORS 161.249- Use of physical force by private person assisting an arrest;
- (n) ORS 161.255- Use of physical force by a private person making citizen's arrest;
- (o) ORS 161.260- Use of physical force in resisting arrest prohibited;
- (p) ORS 161.265- Use of physical force to prevent escape;
- (q) ORS 161.270- Duress;
- (r) ORS 161.275- Entrapment;

Section 6. GENERAL DEFINITIONS; DEFENSES, BURDEN OF PROOF -

- (a) ORS 161.015- General definitions;
- (b) ORS 161.055- "Defense" and "Raised by Defendant" defined, burden of proof;

Section 7. DEFINITIONS AND DEFENSES RELATING TO PERJURY AND RELATED OFFENSES -

- (a) ORS 162.055- Definitions;
- (b) ORS 162.095 -Defenses to perjury and false swearing limited;

- (c) ORS 162.105 - Retraction as a defense;
- (d) ORS 162.115 - Corroboration of falsity required;

Section 8: DEFINITION RELATING TO OBSTRUCTING GOVERNMENTAL ADMINISTRATION:

- (a) ORS 162.255 - Definitions;

ARTICLE III. OFFENSES, CLASSES OF OFFENSES

Section 1. OFFENSES; DEFINITIONS

(1) An offense is conduct for which a sentence to a term of confinement in jail or to a fine is provided by any ordinance of this city. An offense is either a crime or a violation.

(a) The doing of any act or thing prohibited, or the failure to do an act or thing commanded to be done, by this Code within the corporate limits of the City of Sherwood, is hereby declared to be an offense against the public peace, safety, health, morals, and general welfare of the people of the City of Sherwood.

Section 2. CRIMES, MISDEMEANORS; DEFINITION

A crime for the purposes of this Code is an offense for which a sentence of imprisonment in jail is authorized, and all crimes for purposes of this Code are misdemeanors.

Section 3. MISDEMEANORS; CLASSIFICATION

(1) Misdemeanors are classified for the purpose of sentence into the following categories:

- a) Class A misdemeanors
- b) Class B misdemeanors
- c) Class C misdemeanors; and
- d) Unclassified misdemeanors

(2) The particular classification of each misdemeanor defined in this Code is expressly designated in the section defining the crime. An offense defined outside this code, which because of the express sentence provided in the ordinance defining said crime, shall be considered an unclassified misdemeanor.

(3) An offense defined by ordinance of this City, but without specification as to its classification or as to the penalty authorized upon conviction, shall be considered a Class A misdemeanor.

Section 4. VIOLATIONS; DEFINITIONS

An offense is a violation if it is so designated in the ordinance defining the offense or if the offense is punishable only by a fine, forfeiture, fine and forfeiture, or other civil penalty. Conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime.

Section 5. VIOLATIONS; CLASSIFICATION

(1) Any violation defined in this Code is expressly designated in the section defining the offense. Any offense defined outside this Code which is punishable as provided in Section 4 of this Article shall be considered a violation.

(2) Violations are not classified.

Section 6. INCHOATE CRIMES, ATTEMPT; DEFINITION

(1) A person is guilty of an attempt to commit a crime when he intentionally engages in conduct which constitutes a substantial step toward the commission of the crime.

(2) An attempt is a :

- a) Class B misdemeanor, if the offense attempted is a Class A misdemeanor;
- b) Class C misdemeanor, if the offense attempted is a Class B misdemeanor;
- c) Violation, if the offense attempted is a Class C misdemeanor, or an unclassified misdemeanor.

ARTICLE IV - AUTHORIZED DISPOSITION OF OFFENDERS

Section 1. SENTENCE OF IMPRISONMENT FOR MISDEMEANORS

Sentences for misdemeanors shall be for a definite term. The court shall fix the term of imprisonment within the following maximum limitations:

- (1) For a Class A misdemeanor - 6 months
- (2) For a Class B misdemeanor - 90 days
- (3) For a Class C misdemeanor - 30 days
- (4) For an unclassified misdemeanor, as provided in the ordinance defining the crime.

Section 2. FINES FOR MISDEMEANORS AND VIOLATIONS

(1) A sentence to pay a fine for a misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding:

- a) \$1,000 for a Class A misdemeanor
- b) \$500 for a Class B misdemeanor
- c) \$250 for a Class C misdemeanor

(2) A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the court, as provided in the ordinance defining the crime.

(3) A sentence to pay a fine for a violation shall be a sentence to pay an amount, fixed by the court, not exceeding \$250.

(4) This section shall not apply to corporations.

Section 3. CRITERIA FOR IMPOSITION OF FINES

In determining whether to impose a fine and its amount, the court shall consider:

(1) The financial resources of the defendant and the burden that payment of a fine will impose, with due regard to the other obligations of the defendant; and

(2) The ability of the defendant to pay a fine on an installment basis or on other conditions to be fixed by the court.

Section 4. FINES FOR CORPORATIONS

(1) A sentence to pay a fine when imposed on a corporation for an offense defined in this Code, or for an offense defined outside this Code for which no special corporate fine is specified, shall be a sentence to pay an amount, fixed by the Court, not exceeding:

- a) \$5,000 when the conviction is of a Class A misdemeanor or of an unclassified misdemeanor for which a term of imprisonment of 6 months is authorized.
- b) \$2,500 when the conviction is of a Class B misdemeanor or of an unclassified misdemeanor for which the authorized term of imprisonment is not more than 90 days.

- c) \$1,000 when the conviction is of a Class C misdemeanor or an unclassified misdemeanor for which the authorized term of imprisonment is not more than 30 days.
- d) \$500 when the conviction is of a violation

(2) A sentence to pay a fine, when imposed on a corporation for an offense defined outside this Code, if a special fine for a corporation is provided in the ordinance defining the offense, shall be a sentence to pay an amount, fixed by the court, as provided in the ordinance defining the offense.

Section 5. COSTS

(1) The court may require a convicted defendant to pay costs.

(2) Costs shall be limited to expenses specially incurred by the City in prosecuting the defendant. They cannot include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law.

(3) The court shall not sentence a defendant to pay costs unless the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the defendant and the nature or the burden that payment of costs will impose.

(4) A defendant who has been sentenced to pay costs and who is not in contumacious default in the payment thereof, may at any time petition the court which sentenced him for remission of the payment of costs or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or his immediate family, the court may remit all or part of the amount due in costs, or modify the method of payment under Section 6 of this Article.

Section 6. TIME AND METHOD OF PAYMENT OF FINES AND COSTS

(1) When a defendant is sentenced to pay a fine or costs, the court may grant permission for payment to be made within a specified period of time or in specified installments. If no such permission is included in the sentence, the fine shall be payable forthwith.

(2) When a defendant sentenced to pay a fine or costs is also placed on probation or imposition or execution of sentence is suspended, the court may make payment of the fine or costs a condition of probation or suspension of sentence.

Section 7. CONSEQUENCES OF NONPAYMENT OF FINES OR COSTS

(1) When a defendant sentenced to pay a fine defaults in the payment thereof or of any installment, the court on motion of the City attorney or upon its own motion may require him to show cause why his default should not be treated as contempt of court, and may issue a show cause citation or a warrant of arrest for his appearance.

(2) Unless the defendant shows that his default was not attributable to an intentional refusal to obey the order of the court or to a failure on his part to make a good faith effort to make the payment, the court may find that his default constitutes contempt and may order him committed until the fine, or a specified part thereof is paid.

(3) When a fine is imposed on a corporation or unincorporated association, it is the duty of the person authorized to make disbursement from the assets of the corporation or association to pay the fine from these assets, and his failure to do so may be held to be contempt unless he makes the showing required in subsection (2) of this section.

(4) The term of imprisonment for contempt for nonpayment of fines shall be set forth in the commitment order, and shall not exceed one (1) day for each \$25 of the fine or fifteen (15) days if the fine was imposed upon conviction of a violation or misdemeanor, whichever is the shorter period. A person committed for nonpayment of a fine shall be given credit toward payment for each day of imprisonment at the rate specified in the commitment order.

(5) If it appears to the satisfaction of the court that the default in the payment of a fine is not contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount thereof or of each installment or revoking the fine or the unpaid portion thereof in whole or in part.

(6) A default in the payment of a fine or costs or any installment thereof may be collected by any means authorized by law for the enforcement of a judgment. The levy of execution for the collection of a fine shall not discharge a defendant committed to imprisonment for contempt until the amount of the fine has actually been collected.

Section 8. WORKING MALE PRISONERS

Any male person sentenced to imprisonment for a violation of this Code or any ordinance of the City of Sherwood, or imprisoned for the nonpayment of any fine imposed for the violation of such Code or ordinance, shall be subject and liable to work upon the public squares, parks, streets, or other property of the City, or of which the City has charge or control, and the Chief of Police is authorized and empowered to work such prisoners in, about, and in connection with any of the aforesaid places. All prisoners while so laboring and while detained at such place of labor, and at all times, shall be in the custody and under the supervision and control of the Chief of Police.

Section 9. WORKING FEMALE PRISONERS

Any female prisoner sentenced to imprisonment for a violation of this Code or any ordinance of the City of Sherwood, or committed to prison for nonpayment of any fine imposed for the violation of such Code or ordinance, shall be subject and liable to work and labor at sewing, or any other suitable employment, and the women's protection division is authorized and empowered to work such prisoners at sewing, or any other suitable employment for said prisoners.

Section 10. CREDITS FOR GOOD BEHAVIOR

All persons in custody of the Chief of Police for the purpose of serving jail sentences imposed by the Municipal Court or who are

in his custody for nonpayment of fines imposed by such court for violation of this Code or any City ordinance and also all persons in custody of the Chief of Police by virtue of a judgment of the Circuit Court of the State of Oregon for Washington County in cases appealed from the Municipal Court to said Circuit Court, shall be entitled to credits for good behavior and for special work performed under the direction of the Chief of Police and for the City as follows:

(1) Prisoners confined in jail and who are assigned no special duties or who refuse to do special work upon request, shall be entitled to credits for good behavior as follows:

a) Where the judgment imposes a jail sentence:
One (1) day for each 10 days of such sentence shall be credited to the prisoner.

b) Where the judgment imposes a fine: \$5.00 for each \$50.00 of such sentence shall be credited to the prisoner.

The aforesaid credits shall be allowed as a matter of course except in cases where in the judgment of the Chief of Police the prisoner's conduct has been such as not to entitle him to said credits, and in such case a notation shall be made on the defendant's record to that effect.

(2) Prisoners who perform special work for the City shall be entitled to credits as follows:

a) Where the judgment imposes a jail sentence:
The prisoner shall be allowed a credit of one (1) day for each day's work so performed.

b) Where the judgment imposes a fine: The prisoner shall be allowed a credit of \$5.00 for each day's work performed, in addition to the \$5.00 allowed by law.

c) Where a prisoner performs work in cleaning and washing the person and clothing of dirty and unsanitary prisoners, he shall be allowed one-half (1/2) day's credit for each prisoner cleaned up, in addition to other credits allowed by law.

d) Where it becomes necessary to request a prisoner to work additional hours after he has already performed a day's work, he shall be allowed a credit of one-half (1/2) day in addition to other credit allowed by law.

e) Where it becomes necessary to have prisoners perform their work in the night time, there shall be allowed a credit of one-half (1/2) day in addition to other credit allowed by law.

f) The American Red Cross from time to time has requested donations of blood from prisoners. There shall be allowed five (5) days' credit for each donation of blood, in addition to other credit allowed by law.

In the event a prisoner escapes or attempts to escape from custody or violates any law while in custody, no credits whatsoever shall be allowed such prisoner.

All prisoners assigned to special work shall be confined in the City Jail designated by City Ordinance, except during the time actually engaged in such work.

No credits other than those set forth herein shall be allowed prisoners.

Notwithstanding the foregoing, prisoners serving sentences in the County Jail of Washington County, Oregon, shall be entitled to the credits for good behavior provided by the general statutes of Oregon applicable to state or county prisoners.

Any person violating any of the rules or regulations of the City Jail shall not be entitled to any credits. The Chief of Police shall, however, have power to restore credits for such reasons as may to him seem proper. It shall be the duty of the Chief of Police to report to the Mayor of the City of Sherwood at the end of each month the number of prisoners confined in the City Jail, together with a statement of the allowance of credits as provided for in this Code. The Chief of Police shall have authority to release any person confined to the City Jail upon the expiration of his term of sentence as provided herein.

ARTICLE V - OFFENSES INVOLVING DANGER TO THE PERSON

Section 1. ASSAULT IN THE THIRD DEGREE.

(1) A person commits the crime of assault in the third degree if he:

a) Intentionally, knowingly or recklessly causes physical injury to another; or

b) With criminal negligence causes physical injury to another by means of a deadly weapon.

(2) Assault in the third degree is a Class A misdemeanor.

Section 2. MENACING.

(1) A person commits the crime of menacing if by word or conduct he intentionally attempts to place another person in fear of imminent serious physical injury.

(2) Menacing is a Class A misdemeanor.

Section 3. RECKLESSLY ENDANGERING ANOTHER PERSON.

(1) A person commits the crime of recklessly endangering another person if he recklessly engages in conduct which creates a substantial risk of serious physical injury to another person.

(2) Recklessly endangering another person is a Class A misdemeanor.

Section 4. PUBLIC INDECENCY.

(1) A person commits the crime of public indecency if while in, or in view of, a public place he performs:

a) An act of sexual intercourse; or

b) An act of deviate sexual intercourse; or

c) An act of exposing his genitals with the intent of arousing the sexual desire of himself or another person.

(2) Public indecency is a Class A misdemeanor.

ARTICLE VI - THEFT AND RELATED OFFENSES;
OFFENSES AGAINST PROPERTY

Section 1. DEFINITIONS

As used in this Code, unless the context requires otherwise:

(1) "Appropriate property of another to oneself or a third person" or "appropriate" means to:

a) Exercise control over property of another, or to aid a third person to exercise control over property of another, permanently or for so extended a period or under such circumstances as to acquire the major portion of the economic value or benefit of such property; or

b) Dispose of the property of another for the benefit of oneself or a third person.

(2) "Deprive another of property" or "deprive" means to:

a) Withhold property of another or cause property of another to be withheld from him permanently or for so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to him; or

b) Dispose of the property in such manner or under such circumstances as to render it unlikely that an owner will recover such property.

(3) "Obtain" includes, but is not limited to, the bringing about of a transfer or purported transfer of property or of a legal interest therein, whether to the obtainer or another.

(4) "Owner of the property taken, obtained or withheld" or "owner" means any person who has a right to possession thereof superior to that of the taker, obtainer, or withholder.

(5) "Property" means any article, substance or thing of value, including, but not limited to, money, tangible, and intangible personal property, real property, choses-in-action, evidence of debt or of contract.

Section 2. CONSOLIDATION OF THEFT OFFENSES; PLEADING AND PROOF.

(1) Conduct denominated theft under Section 4 of this Article constitutes a single offense.

(2) An accusation of theft is sufficient if it alleges that the defendant committed theft of property of the nature or value required for the commission of the crime charged, without designating the particular way or manner in which the theft was committed.

(3) Proof that the defendant engaged in conduct constituting theft as defined in Section 4 of this Article is sufficient to support any information or complaint for theft.

Section 3. THEFT; DEFINITION.

A person commits theft when, with intent to deprive another of property or to appropriate property to himself or to a third person, he:

- (1) Takes, appropriates, obtains or withholds such property from an owner thereof; or
- (2) Commits theft of property lost, mislaid or delivered by mistake as provided in Section 5 of this Article; or
- (3) Commits theft by deception as provided in Section 6 of this Article; or
- (4) Commits theft by receiving as provided in Section 7 of this Article.

Section 4. THEFT IN THE SECOND DEGREE.

(1) A person commits the crime of theft in the second degree if, by other than extortion, he:

- a) Commits theft as defined in Section 3 of this Article; and
- b) The total value of the property in a single or aggregate transaction is under \$200.00;

Section 5. THEFT OF LOST, MISLAID PROPERTY.

A person who comes into control of property of another that he knows or has good reason to know to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient, commits theft if, with intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to the owner.

Section 6. THEFT BY DECEPTION.

(1) A person, who obtains property of another thereby, commits theft by deception when, with intent to defraud, he:

- a) Creates or confirms another's false impression of law, value, intention or other state of mind which the actor does not believe to be true; or
- b) Fails to correct a false impression which he previously created or confirmed; or
- c) Prevents another from acquiring information pertinent to the disposition of the property involved; or
- d) Sells or otherwise transfers or encumbers property, failing to disclose a lien, adverse claim or other legal impediment to the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record; or

e) Promises performance which he does not intend to perform or knows will not be performed.

(2) "Deception" does not include falsity as to matters having no pecuniary significance, or representations unlikely to deceive ordinary persons in the group addressed.

(3) In a prosecution for theft by deception, the defendant's intention or belief that a promise would not be performed shall not be established by or inferred from the fact alone that such promise was not performed.

(4) In a prosecution for theft by deception committed by means of a bad check, it is prima facie evidence of knowledge that the check or order would not be honored if:

a) The drawer has no account with the drawee at the time the check or order is drawn or uttered; or

b) Payment is refused by the drawee for lack of funds, upon presentation within 30 days after the date of utterance, and the drawer fails to make good within 10 days after receiving notice of refusal.

Section 7. THEFT BY RECEIVING.

(1) A person commits theft by receiving if he receives, retains, conceals or disposes of property of another knowing or having good reason to know that the property was the subject of theft.

(2) "Receiving" means acquiring possession, control or title, or lending on the security of the property.

Section 8. RIGHT OF POSSESSION.

Right of possession of property is as follows:

(1) A person who has obtained possession of property by theft or other illegal means shall be deemed to have a right of possession superior to that of a person who takes, obtains or withholds the property from him by means of theft.

(2) A joint or common owner of property shall not be deemed to have a right of possession of the property superior to that of any other joint or common owner of the property.

(3) In the absence of a specific agreement to the contrary, a person in lawful possession of property shall be deemed to have a right of possession superior to that of a person having only a security interest in the property, even if legal title to the property lies with the holder of the security interest pursuant to a conditional sale contract or other security agreement.

Section 9. VALUE OF STOLEN PROPERTY.

For the purposes of this Code, the value of property shall be ascertained as follows:

(1) Except as otherwise specified in this section, value means the market value of the property at the time and place of the

crime or if such cannot reasonably be ascertained, the cost of replacement of the property within a reasonable time after the crime.

(2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value, shall be evaluated as follows:

a) The value of an instrument constituting an evidence of debt, including, but not limited to, a check, draft or promissory note, shall be considered the amount due or collectible thereon or thereby.

b) The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be considered the greatest amount of economic loss which the owner might reasonably suffer because of the loss of the instrument.

(3) When the value of property cannot reasonably be ascertained, it shall be presumed to be an amount less than \$200.00.

Section 10. THEFT; DEFENSES.

(1) In a prosecution for theft it is a defense that the defendant acted under an honest claim of right, in that:

a) He was unaware that the property was that of another, or

b) He reasonably believed that he was entitled to the property involved or had a right to acquire or dispose of it as he did.

(2) In a prosecution for theft by receiving, it is a defense that the defendant received, retained, concealed or disposed of the property with the intent of restoring it to the owner.

(3) It is a defense that the property involved was that of the defendant's spouse, unless the parties were not living together as man and wife and were living in separate abodes at the time of the alleged theft.

Section 11. THEFT OF SERVICES.

(1) A person commits the crime of theft of services, if:

a) With intent to avoid payment therefor, he obtains services that are available only for compensation, by force, threat, deception or other means to avoid payment for the services; or

b) Having control over the disposition of labor or of business, commercial or industrial equipment or facilities of another, he uses or diverts to the use of himself or a third person such labor, equipment, or facilities with intent to derive a commercial benefit for himself or a third person not entitled thereto.

(2) As used in this section, "services" includes, but is not limited to, labor, professional services, toll facilities, transportation, telephone or other communications service, entertainments, the supplying of food, lodging or other accommodations in hotels, restaurants or elsewhere, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water.

(3) Absconding without payment or offer to pay for hotel, restaurant or other services for which compensation is customarily paid immediately upon the receiving of them is prima facie evidence that the services were obtained by deception.

(4) Theft of services is a Class A misdemeanor.

Section 12. CRIMINAL TRESPASS; DEFINITIONS

As used in Sections 12 to 18 of this Article, except as the context otherwise requires:

(1) "Building", in addition to its ordinary meaning, includes any booth, vehicle, boat, aircraft or other structure adapted for overnight accommodations of persons or for carrying on business therein. Where a building consists of separate units, including, but not limited to, separate apartments, offices or rented rooms, each unit is, in addition to being a part of such building, a separate building.

(2) "Dwelling" means a building which regularly or intermittently is occupied by a person lodging therein at night, whether or not a person is actually present.

(3) "Enter or remain unlawfully" means:

a) To enter or remain in or upon premises when the premises, at the time of such entry or remaining, are not open to the public or when the entrant is not otherwise licensed or privileged to do so; or

b) To fail to leave premises that are open to the public after being lawfully directed to do so by the person in charge;

(4) "Open to the public" means premises which by their physical nature, function, custom, usage, notice or lack thereof or other circumstances at the time would cause a reasonable person to believe that no permission to enter or remain is required.

(5) "Person in charge" means a person, his representative or his employee who has lawful control of premises by ownership, tenancy, official position or other legal relationship. It includes, but is not limited to the person, or holder of a position, designated as the person or position-holder in charge by the Governor, board, commission or governing body of any political subdivision of this state.

(6) "Premises" includes any building and any real property, whether privately or publicly owned.

(7) "Property of another" means property in which anyone other than the actor has a possessory or proprietary interest.

Section 13. CRIMINAL TRESPASS IN THE SECOND DEGREE.

(1) A person commits the criminal trespass in the second degree if he enters or remains unlawfully in or upon premises.

(2) A person commits the crime of criminal trespass in the second degree if he permits, brings or allows any horse, mule, donkey or other such animal, whether or not attended, at any time on any site or lands of School District #88J within the City of Sherwood, unless directed or permitted to do so by the administrative officers of the District.

(3) A person commits the crime of criminal trespass in the second degree if he uses, operates or rides upon any motorized vehicle on or within any lands of School District #88J, within the City of Sherwood, improved for school site purposes, other than on or within driveways, parking areas and other areas specially designated for vehicular use, unless directed to do so by the administrative officers of the District.

(4) Criminal trespass in the second degree is a Class C misdemeanor.

Section 14. CRIMINAL TRESPASS IN THE FIRST DEGREE.

(1) A person commits the crime of criminal trespass in the first degree if he enters or remains unlawfully in a dwelling.

(2) Criminal trespass in the first degree is a Class A misdemeanor.

Section 15. RECKLESS BURNING.

(1) A person commits the crime of reckless burning if he recklessly damages property of another by fire or explosion.

(2) Reckless burning is a Class A misdemeanor.

Section 16. CRIMINAL MISCHIEF IN THE THIRD DEGREE.

(1) A person commits the crime of criminal mischief in the third degree if, with intent to cause substantial inconvenience to the owner or to another person, and having no right to do so nor reasonable ground to believe that he has such right, he tampers or interferes with property of another.

(2) Criminal mischief in the third degree is a Class C misdemeanor.

Section 17. CRIMINAL MISCHIEF IN THE SECOND DEGREE.

(1) A person commits the crime of criminal mischief in the second degree if:

a) He violates Section 16 of this Article and as a result thereof, damages property in an amount exceeding \$100.00; or

b) Having no right to do so nor reasonable ground to believe that he has such right, he intentionally damages property of another, or he recklessly damages property of another in an amount exceeding \$100.00.

(2) Criminal mischief in the second degree is a Class A misdemeanor.

Section 18. POSSESSION OF BURGLAR'S TOOLS.

(1) A person commits the crime of possession of burglar's tools if he possesses any burglar tool with the intent to use the tool or knowing that some person intends to use the tool to commit or facilitate a forcible entry into premises or theft by a physical taking.

(2) "Burglar tool" means an acetylene torch, electric arc, burning bar, thermal lance, oxygen lance or other similar device capable of turning through steel, concrete or other solid material, or nitroglycerine, dynamite, gunpowder or any other explosive, tool, instrument or other article adapted, designed or commonly used for committing or facilitating a forcible entry into premises or theft by a physical taking.

(3) Possession of burglar's tools is a Class A misdemeanor.

Section 19. POISONING DOGS.

(1) A person commits the offense of poisoning a dog or dogs if with intent to kill or injure any dog or dogs, he puts out or places, where it is likely to be eaten by any dog or dogs, any meat, food or substance containing poison, ground glass or other substance likely to kill or seriously injure any dog.

(2) The offense of poisoning dogs is a Class B misdemeanor.

Section 20. DESTRUCTION OF OFFICIAL NOTICES AND SIGNS.

(1) A person commits the offense of destruction of official notices and signs if he defaces or tears down any official notice or bulletin, or any official sign or signal posted or placed in conformity with law.

(2) Destruction of official notices and signs is a violation.

ARTICLE VII - FALSE SWEARING, OBSTRUCTING
GOVERNMENTAL ADMINISTRATION

Section 1: FALSE SWEARING.

- (1) A person commits the crime of false swearing if he makes a false sworn statement, knowing it to be false.
- (2) False swearing is a Class A misdemeanor.

Section 2: UNSWORN FALSIFICATION.

- (1) A person commits the crime of unsworn falsification if he knowingly makes any false written statement to a public servant in connection with an application for any benefit.
- (2) Unsworn falsification is a Class B misdemeanor.

Section 3: BAIL JUMPING IN THE SECOND DEGREE.

- (1) A person commits the crime of bail jumping in the second degree if, having by court order been released from custody or a correctional facility upon bail or his own recognizance upon the condition that he will subsequently appear personally in connection with a charge against him of having committed a misdemeanor or violation, he intentionally fails to appear as required.
- (2) Bail jumping in the second degree is a Class A misdemeanor.

Section 4: OBSTRUCTING GOVERNMENTAL ADMINISTRATION.

- (1) A person commits the crime of obstructing governmental administration if he intentionally obstructs, impairs or hinders the administration of law or other governmental function by means of intimidation, force, physical interference or obstacle.
- (2) This section shall not apply to obstruction of unlawful governmental action or interference with the making of an arrest.
- (3) Obstructing governmental administration is a Class A misdemeanor.

Section 5: REFUSING TO ASSIST A PEACE OFFICER.

- (1) A person commits the offense of refusing to assist a peace officer if upon command by a person known by him to be a peace officer he unreasonably refuses or fails to assist in effecting an authorized arrest or preventing another from committing a crime.
- (2) Refusing to assist a peace officer is a violation.

Section 6: REFUSING TO ASSIST IN FIRE-FIGHTING OPERATIONS.

- (1) A person commits the offense of refusing to assist in fire-fighting operations if:
 - (a) Upon command by a person known by him to be a fireman he unreasonably refuses or fails to assist in extinguishing a fire or protecting property threatened thereby; or

(b) Upon command by a person known by him to be a fireman or peace officer he intentionally and unreasonably disobeys a lawful order relating to his conduct in the vicinity of a fire.

(2) Refusing to assist in fire-fighting operations is a violation.

Section 7. TAMPERING WITH A WITNESS.

(1) A person commits the crime of tampering with a witness if:

a) He knowingly induces or attempts to induce a witness or a person he believes may be called as a witness in any official proceeding to offer false testimony or unlawfully withhold any testimony; or

b) He knowingly induces or attempts to induce a witness to absent himself from any official proceeding to which he has been legally summoned.

(2) Tampering with a witness is a Class A misdemeanor.

Section 8. TAMPERING WITH PHYSICAL EVIDENCE.

(1) A person commits the crime of tampering with physical evidence if, with intent that it be used, introduced, rejected or unavailable in an official proceeding which is then pending or to the knowledge of such person is about to be instituted, he:

a) Destroys, mutilates, alters, conceals, or removes physical evidence impairing its verity or availability; or

b) Knowingly makes, produces or offers any false physical evidence; or

c) Prevents the production of physical evidence by an act of force, intimidation or deception against any person.

(2) Tampering with physical evidence is a Class A misdemeanor.

Section 9: TAMPERING WITH PUBLIC RECORDS.

(1) A person commits the crime of tampering with public records if, without lawful authority, he knowingly destroys, mutilates, conceals, removes, makes a false entry in or falsely alters any public record.

(2) Tampering with public records is a Class A misdemeanor.

Section 10: RESISTING ARREST.

(1) A person commits the crime of resisting arrest if he intentionally resists a person known by him to be a peace officer in making an arrest.

(2) "Resists", as used in this section, means the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person.

(3) It is no defense to a prosecution under this section that the peace officer lacked legal authority to make the arrest, provided he was acting under color of his official authority.

(4) Resisting arrest is a Class A misdemeanor.

Section 11: INITIATING A FALSE REPORT.

(1) A person commits the crime of initiating a false report if he knowingly initiates a false alarm or report which is transmitted to a fire department, law enforcement agency or other organization that deals with emergencies involving danger to life or property.

(2) Initiating a false report is a Class C. misdemeanor.

Section 12. CRIMINAL IMPERSONATION.

(1) A person commits the crime of criminal impersonation if with intent to obtain a benefit or to injure or defraud another he falsely impersonates a public servant and does an act in such assumed character.

(2) Criminal impersonation is a Class A misdemeanor.

ARTICLE VIII - OFFENSES AGAINST PUBLIC ORDER

Section 1: DISORDERLY CONDUCT.

(1) A person commits the crime of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

- a) Engages in fighting or in violent, tumultuous or threatening behavior; or
- b) Makes unreasonable noise; or
- c) Uses abusive or obscene language, or makes an obscene gesture, in a public place; or
- d) Disturbs any lawful assembly of persons without lawful authority; or
- e) Obstructs vehicular or pedestrian traffic on a public way; or
- f) Congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or
- g) Initiates or circulates a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency; or
- h) Creates a hazardous or physically offensive condition by any act which he is not licensed or privileged to do.

(2) Disorderly conduct is a Class B misdemeanor.

Section 2: PUBLIC INTOXICATION.

(1) A person commits the crime of public intoxication if he creates, while in a state of intoxication, any disturbance of the public in any public or private business or place.

(2) Public intoxication is a Class C misdemeanor.

Section 3. LOITERING IN OR NEAR SCHOOL BUILDINGS.

(1) A person commits the crime of loitering if he loiters in or near a school building or grounds, not having any reason or relationship involving custody of or responsibility for a student, or, upon inquiry by a peace officer or school official, not having a specific, legitimate reason for being there.

(2) Loitering is a Class C misdemeanor.

Section 4: HARASSMENT

(1) A person commits the crime of harassment if, with intent to harass, annoy or alarm another person, he:

- a) Subjects another to offensive physical contact; or
- b) Publicly insults another by abusive or obscene words or gestures in a manner likely to provoke a violent or disorderly response; or
- c) Communicates with a person, anonymously or otherwise, by telephone, mail or other form of written communication, in a manner likely to cause annoyance or alarm; or

d) Engages in a course of conduct that alarms or seriously annoys another person and which serves no legitimate purpose.

(2) Harassment is a Class B misdemeanor.

Section 5. ABUSE OF VENERATED OBJECTS:

(1) A person commits the crime of abuse of venerated objects if he intentionally abuses a public monument or structure, a place of worship or burial, or the national or state flag.

(2) As used in this section, "abuse" means to deface, damage, defile or otherwise physically mistreat in a manner likely to outrage public sensibilities.

(3) Abuse of venerated objects is a Class C misdemeanor.

Section 6. OFFENSIVE LITTERING

(1) A person commits the crime of offensive littering if he creates an objectionable stench or degrades the beauty or appearance of property or detracts from the natural cleanliness or safety of property by intentionally:

a) Discarding or depositing any rubbish, trash, garbage, debris, or other refuse upon the land of another without permission of the owner, or upon any public way; or

b) Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank, recreational or camping vehicle waste holding tank or other contaminated source, upon the land of another without permission of the owner, or upon any public way; or

c) Permitting any rubbish, trash, garbage, debris or other refuse to be thrown from a vehicle which he is operating; except that this subsection will not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Interstate Commerce Commission or the Public Utility Commissioner of Oregon or a person operating a school bus subject to ORS 485.010 to 485.060.

(2) As used in this section, "public way" includes, but is not limited to, roads, streets, alleys, lanes, trails, beaches, parks and all recreational facilities operated by the state, a county or a local municipality for use by the general public.

(3) Offensive littering is a Class C misdemeanor.

Section 7. CREATING A HAZARD.

(1) A person commits the crime of creating a hazard if:

a) He intentionally maintains or leaves in a place accessible to children a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot easily be opened from the inside; or

b) Being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, excavation or other hole of a depth of four feet, or more and a top width of 12 inches or more, he intentionally fails or refuses to cover or fence it with a suitable protective construction.

(2) Creating a hazard is a Class B misdemeanor.

Section 8. MISREPRESENTATION OF AGE BY A MINOR.

(1) A person commits the crime of misrepresentation of age by a minor if:

a) Being less than a certain, specified age, he knowingly represents himself to be of any age other than his true age with the intent of securing a right, benefit or privilege which by law is denied to persons under that certain, specified age; or

b) Being unmarried, he knowingly represents that he is married with the intent of securing a right, benefit, or privilege which by law is denied to unmarried persons.

(2) Misrepresentation of age by a minor is a Class C misdemeanor.

Section 9: CRIMINAL DEFAMATION.

(1) A person commits the crime of criminal defamation if with intent to defame another person he knowingly:

a) Publishes or causes to be published false and scandalous durable matter concerning such other person; or

b) Publishes or causes to be published false and scandalous matter concerning such other person by means of a radio or television broadcast.

(2) It shall be a defense to any prosecution under this section that:

a) The matter published was true and was published with good motives and for justifiable ends; or

b) The publication is protected by an absolute or qualified privilege.

(3) Criminal defamation is a Class A misdemeanor.

Section 10: SALE OR GIFT OF LIQUOR TO MINOR, INTOXICATED OR INTERDICTED PERSON:

(1) No person shall sell alcoholic liquor to any person under the age of 21 years, to a person who is visibly intoxicated, or to a person who has been interdicted.

(2) No person other than his parent or guardian shall give or otherwise make available any alcoholic liquor to any person under the age of 21 years.

(3) Sale or gift of liquor to a minor, intoxicated or interdicted person is a Class C misdemeanor.

Section 11: PURCHASE OR POSSESSION OF ALCOHOLIC LIQUOR BY MINOR:

(1) No person under the age of 21 years shall attempt to purchase, purchase or acquire alcoholic liquor. Except when such minor is in a private residence accompanied by his parent or guardian and with such parent's or guardian's consent, no person under the age of 21 years shall have in his possession alcoholic liquor.

(2) For the purpose of subsection (1) of this section, possession of alcoholic liquor includes the acceptance or consumption of a bottle of such liquor, or any portion thereof, or a drink of such liquor. However, the provisions of subsection (1) of this section do not prohibit the consumption by any person of sacramental wine as part of a religious rite or service.

(3) Purchase or possession of alcoholic liquor by a minor is a violation.

Section 12: CURFEW:

(1) It shall be unlawful for any child under the age of 18 years to be in, or remain in, or upon any street, alley, park or other public place between the hours specified herein, unless such child is accompanied by a parent, guardian, or other proper companion of the age of 18 years, or over, specially chosen and authorized by the parent, or guardian to escort the child on the occasion in question, or, by a person 18 years of age or over, having the care and custody of such child. For the purpose of this section, the applicable hours shall be: as to children under 14 years of age who have not begun high school, between 10:15 p.m. and 6:00 a.m. of the following morning, except that during the months of June, July and August, the hours shall be between 12:00 p.m. and 6:00 a.m. of the following morning; as to children 14 years of age or over, the hours shall be between 12 midnight and 5:00 a.m. of the following morning.

(2) A person commits the offense of causing curfew violation if as parent or guardian, or the person having the care or custody of any child under the age of 18 years, he permits or by inefficient control allows such child to be in or remain in or upon any street, alley, park or other public place between the hours herein set forth in Section 1 above contrary to the provisions of said section. Proof that such child was on any street, alley, park or other public place at a time prohibited shall, prima facie, be sufficient evidence to sustain a conviction of a violation of this section.

(3) All peace officers, juvenile department counselors or any other person authorized by the juvenile court of the county in which the child resides or is found, may take into temporary custody any child violating any of the provisions of this section, and for the first violation shall immediately, or as soon as practicable thereafter, notify the child's parent, guardian or other person in control or charge of such child, of the violation, and shall take or send such child home and release the child to the custody of the parent or other responsible person in this state, except when a juvenile court shall otherwise order. In case any child under the age of 18 years shall again violate any of the provisions of this section, such child may be apprehended and taken into temporary custody as a juvenile delinquent and offender, and may be brought before the juvenile court, either of the county in which such child resides, or the county in which the child is found.

(4) Violation of subsection (2) of this section is a violation.

Section 13. IMPROPER GARBAGE TRANSPORTATION:

(1) It shall be unlawful for any person to carry any garbage, filth, or refuse along any sidewalk or transport any garbage, swill, or refuse through any street, except in a covered wagon or in a tightly covered box or apparatus, such wagon, box or apparatus to be fastened down over the entire contents of the load as to prevent such contents from leaking, spilling, dropping or in any manner being deposited in the street, or from being exposed to the open air, during such transportation.

(2) Improper garbage transportation is a violation.

Section 14. BLASTING WITHOUT PERMIT:

(1) No person shall, without having first received a permit from the City Engineer, explode or cause to be exploded any gunpowder, dynamite, or other explosive for any purpose.

(2) The City Engineer, before issuing a permit for blasting, shall require the person to whom the permit is to be issued, to specify the location where the blasting is to be done, and shall further require insurance for such amounts as he may deem necessary to protect the City, and any person or property in said city, from all damage or loss that might result from such blasting, and to protect the City, its officers, agents and employees from all claims for such damage or loss.

Evidence of such insurance, in form satisfactory to the City Attorney, shall be filed with the City Engineer, and shall not be less than \$50,000.00 for injury to one person, \$100,000.00 for injuries arising from one accident, and \$50,000.00 for damage to property.

The City Engineer shall also have power and authority to limit the force of explosions to be made. If he deems it in the interest of the City or a proper protection of life and property, he may refuse to issue such permit.

(3) The offense of blasting without a permit is a Class A misdemeanor.

Section 15. PEDDLING ("GREEN RIVER ORDINANCE")

(1) The practice of going in and upon private property or calling at residences in the City of Sherwood, Oregon, by solicitors, peddlers, hawkers, itinerant merchants, transient vendors of merchandise and transient photograph solicitors, not having been requested or invited to do so by the owner or owners, occupant or occupants of said private residence, for the purpose of soliciting orders for the sale of goods, wares and merchandise and/or for the purpose of disposing of and/or peddling or hawking the same, or soliciting orders for photographs is hereby prohibited. (See Phillips v. City of Bend 192 Or 143).

(2) The doing of any act prohibited by the terms of subsection (1) of this section is a violation.

Section 16 FAILING TO REMOVE SNOW OR ICE.

(1) A person commits the crime of failing to remove snow or ice if he, being the tenant, occupant or person having the care of

a building or of land bordering on a street where there is a sidewalk, or if there be no tenant, occupant or caretaker, then the owner thereof:

a) Fails or neglects, within the first six hours of daylight after snow ceases to fall, to remove the snow from the entire length of said premises for a space not less than three feet in width. This section shall apply also to snow which has fallen from any roof or building.

b) Fails, in the event any portion of said sidewalk is covered with ice, to cause such sidewalk to be made safe for travel by covering same with sand, ashes, or some other suitable substance within the first six hours of daylight after the formation of said ice.

(2) Failing to remove snow or ice is a violation.

Section 17: UNLAWFUL USE OF SIDEWALKS.

(1) A person commits the offense of unlawful use of any sidewalk or public pedestrian pathway if he:

a) Gathers with others or so stands upon such sidewalk or pathway as to prevent, impede or obstruct the free passage of pedestrian traffic, or

b) Leads, rides, ties or fastens any goat, horse, cow, sheep, swine or other similar animal in such a manner as to permit it to go along or remain upon any sidewalk, sidewalk area or public pedestrian pathway, or

c) Rides or operates any redicycle, including bicycle on any sidewalk in the City of Sherwood, provided, however, that bicycles used for delivery of papers or merchandise may be operated on the sidewalks while being so used within the residential sections of the City of Sherwood only, provided, further that any person riding or operating a bicycle on any sidewalk in the residential sections of the City shall at all times yield the right-of-way to pedestrians using such sidewalk.

Residential sections are hereby defined for the purposes of this section to include all parts of the City contiguous to a street or highway not within a business district, or

d) Rides or operates any motorized vehicle upon any sidewalk except when necessary to do so to enter or exit abutting property or to cross between a street and alleyway;

(2) Unlawful use of sidewalks is a Class C misdemeanor.

Section 18. UNLAWFUL SALE AND USE OF FIREWORKS.

(a) For purposes of this section and unless otherwise required by context fireworks means:

Any combustible or explosive composition or substance, or any combination of such compositions or substances, or any other article which was prepared for the purpose of providing a visible or audible effect by combustion, explosion, deflagration or detonation, and includes blank cartridges or toy cannons in which explosives are used, balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents or any other article of like construction or any article containing any explosive or inflammable compound, or any tablets or other device containing any explosive substances or inflammable compound; but does not include:

1. Sparklers, toy pistol paper caps, toy pistols, toy canes, toy guns or other devices in which paper caps containing .25 grains or less of explosive compound are used, and when, the rate of burning and the explosive force of the materials in such devices are not greater than an equivalent weight of F.F.F.G. black powder, and when such devices are so constructed that the hand cannot come in contact with the cap when in place for explosion, and the major explosive force is contained or dispelled within the housing or shell of the device, there is no visible flame during discharge, there is no flaming or smoldering of any of the components or parts of the device after discharge, and the device does not produce sufficient heat to readily ignite combustible materials upon which the device may be placed. The sale and use of such devices shall be permitted at all times.
2. Snakes or similar smoke-producing material containing not more than 100 grains of combustible substances when there is no visible flame during discharge, there is no aftersmoldering, and the devices do not produce sufficient heat to readily ignite combustible materials upon which the devices may be placed. The sale and use of such devices shall be permitted at all times.

(b) For purposes of this section "sparklers" means:

Materials of a character that will, when ignited, sparkle without throwing or dropping hot residue capable of igniting combustible materials, attached to a wire or other noncombustible central support, with such materials arranged in a cylindrical shape not more than 10 inches in length nor more than one-quarter inch in diameter and which shall not burn more rapidly than one inch in 10 seconds, but not including materials incased within a container of any character.

"Explosive substance" or "explosive mixture" as used in this section shall mean any substance so arranged as to burn in less than one second. "Combustible substance" shall mean any substance so arranged as to burn in more than one second.

(c) A person commits the offense of unlawful use of fireworks if he sells, keeps or offers for sale, exposes for sale, uses, possesses, or explodes any fireworks within the City of Sherwood, except as follows:

Sales by manufacturers and wholesalers for direct out-of-state shipment;

Sales of shells, cartridges, gunpowder or explosives for use in legally permitted firearms.

(d) Unlawful use of fireworks is a violation.

Section 19. UNLAWFUL USE OF AIR GUNS AND BEAN SHOOTERS.

(a) A person commits the offense of unlawful use of an airgun or beanshooter if he uses, causes to be used, or encourages the use of any airgun, beanshooter, slingshot, blow gun, or other similar contrivance, in or upon any sidewalk, street, park, lane or alley, or other public place or causes the projectile from such device to be projected onto, over, or across any sidewalk, street, park, alley or lane, or other public place.

(b) Unlawful use of an airgun, beanshooter, blow gun, or slingshot, or similar device is a violation.

Section 20. EXPECTORATION:

(1) A person commits the offense of expectoration if he expectorates upon any sidewalk or street or on or in any public building or public place except in receptacles provided for that purpose.

(2) Expectoration is a violation.

ARTICLE IX - NUISANCE OFFENSES

Section 1. Definition of Nuisances

The following are hereby declared to be nuisances affecting the public health and safety and may be abated in the manner prescribed in Section 6 of this Article:

- e) →
- (a) Maintenance on any private property of any open vault or privy.
 - (b) Maintenance of keeping on private property of any animal, substance or condition causing an odor unreasonably offensive to the public.
 - (c) Maintenance or 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.
 - (d) Maintenance of any dead animal or bird exposed on private property for any period of time longer than reasonably necessary to accomplish the removal or disposal of the carcass.
 - (e) Maintenance of any condition, activity, operation or vocation on private property which causes noise unreasonably offensive to the public.
 - (f) Maintenance on private property of grass, weeds and noxious vegetation contrary to the provisions of Section 2.
 - (g) Maintenance on private property of any hazardous condition contrary to the provisions of Section 3.

Section 2. Noxious Vegetation.

The owner, person in possession or agent of the owner of any lot, tract, or parcel of land, improved or unimproved, shall, during the months of May, June, July, August and September, of each year, cut and remove, and keep cut and removed therefrom and from the half of the street or streets abutting the property, all weeds, thistles, burdock, ferns and other noxious vegetation, and all grass more than ten (10) inches in height, and all dead bushes, dead trees, stumps and any other thing likely to cause fire.

Nothing herein contained shall be considered to apply to bushes, trees, shrubbery and/or other vegetation grown for food, fuel or ornament or for the production of food, fuel or ornament, providing that the health and safety of the public be not thereby endangered by the maintenance of such growth or vegetation.

Section 3. Hazards

During all months of the year, such person shall remove and keep removed therefrom all stagnant water, filth, rubbish, waste material and any other substance which may endanger or injure

neighboring property, passersby, or the health, safety or welfare of the public. During all months of the year, he shall keep the sidewalk and streets abutting such property free from earth, rock and other debris and from projecting and/or overhanging bushes, brush and limbs that may obstruct or render unsafe the passage of persons or vehicles.

Section 4. Maintenance of Nuisances.

(1) Any person who is an owner, tenant, person in possession or person having the care of any real property, commits the crime of maintaining a nuisance if he maintains or fails to remove or abate any of the nuisances set forth in Section 1 of this Article.

(2) Maintaining a nuisance is a Class C misdemeanor.

(3) Each day's violation of this section shall constitute a separate crime.

Section 5. Open Storage of Junk.

(1) A person commits the crime of open storage of junk when as the owner, tenant, person in possession, or person in charge of or having the care of any real property, he deposits, stores, maintains or keeps on any real property within the City of Sherwood, outside a fully enclosed storage facility, building or garbage receptacle, any of the following:

a) Inoperable, unusable, partially dismantled automobiles, cars, trucks, trailers or other vehicular equipment or parts thereof in a state of disrepair for more than ten (10) days as to any one automobile, car, truck, trailer or piece of vehicular equipment.

b) Used or dismantled household appliances, furniture, or parts thereof, or discards, garbage, debris, rubbish, junk, trash, or refuse, for more than 5 days.

(2) Nothing contained in any section of this ordinance shall be construed as permitting any activity otherwise proscribed or regulated by other ordinances or statutes applicable within the City of Sherwood.

(3) Open storage of junk is a Class C misdemeanor.

(4) Each day's violation of this section shall constitute a separate crime.

Section 6. Abatement of Nuisances.

(1) Any of the nuisances described in Sections 1,2,3 or 5 of this Article may be abated as prescribed in this section.

(2) Notice:

a) Whenever it is declared by ordinance that anything is a nuisance and the Police Chief has knowledge that such nuisance exists, unless the ordinance authorizes summary abatement, he shall cause to be posted upon the property liable for the abatement of such nuisance, a notice in legible characters directing the removal of such nuisance, which notice shall be substantially in the following form:

NOTICE TO REMOVE NUISANCE

To the owner, agent of owner and occupant of the following described real property _____

_____ in the City of Sherwood, Oregon:

You are hereby notified to remove and abate the nuisance existing on above described property within ten (10) days from date of this notice, which nuisance consists of _____

_____ or show to the Sherwood City Council that no nuisance exists under Article IX of Ordinance No. _____. In case of failure to remove said nuisance within said time, you will be subject to fine or imprisonment and the City of Sherwood will cause the same to be abated and charge the cost thereof against the property herein described.

Dated _____

Chief of Police

b) The Police Chief shall also at approximately the time of posting such notice notify the City Recorder thereof and the Recorder shall thereupon cause to be mailed a copy of the notice so posted, postage prepaid, to the owner or agent of the owner of said real property, directed to the last known post office address of such owner or agent, or, if the post office address of both is unknown, to such owner or agent at Sherwood, Oregon.

The Chief of Police may delegate any city employee to post or mail such notice. The person posting such notice and the person mailing the same shall forthwith file in the City Recorder's office a certificate stating the date and place of such mailing and posting;

An error in the name of the owner or agent or the use of a name other than that of the true owner or agent of such property shall not render void such notice, but in such case the posted notice shall be deemed sufficient.

(3) Nuisance to be Abated Within 10 days - Hearing:

a) Within 10 days after posting and mailing of such notice, the owner, agent of the owner, or occupant of any such property shall remove and abate such nuisance or show that no nuisance in fact exists. Such showing may be made by filing a written statement that no nuisance exists, which statement shall be in duplicate and one copy thereof filed with the Chief of Police and the other filed with the City Recorder. Thereupon, the Recorder shall place said matter upon the calendar of the City Council to be heard by the Council in regular course of business. At the time set for hearing such person may appear and be heard by the Council, and the Council shall thereupon determine whether or not such nuisance exists.

b) If it be determined by the Council that such nuisance

exists, the proceedings hereinafter specified shall be followed. The City Recorder shall forthwith notify the Police Chief of the action by the Council thereon.

(4) Abatement by City:

If within the time fixed in the Code the nuisance described in the notice has not been removed and abated, or cause shown, as specified in sub-section (3) hereof, why such nuisance should not be removed and abated, the Police Department shall cause said nuisance to be removed and abated.

Where summary abatement is authorized and no notice to abate is given, the Police Department shall cause said nuisance to be removed and abated. The Department shall keep an accurate account of all expenses incurred, including an overhead charge of 10% for administration. The Police Chief shall, after completion of removal and abatement, file a statement of the cost thereof with the City Recorder.

(5) Notice of Assessment:

a) Upon receipt of such statement, the City Recorder shall forthwith mail to the owner of such property therein mentioned, a notice setting forth the expense incurred and stating that the Council proposes to assess against his property the amounts mentioned in sub-section (4) hereof and that objections to the proposed assessment may be made in writing and filed with the City Recorder on or before twenty (20) days from date of mailing such notice.

b) Upon expiration of said period of 20 days, objections to the proposed assessment shall be heard and determined by the Council in regular course of business.

c) Any assessment for such cost and overhead expenses shall be made by ordinance and shall be entered in the Lien Docket of the City, and upon such entry the same shall constitute a lien upon the property from which said nuisance was removed and abated which lien shall be collected in all respects as provided for street improvement liens, and shall bear interest at the rate of 6% per annum from 10 days after date of entry in the Lien Docket.

An error in the name of the owner or in the use of a name other than that of the true owner of such property or the failure of the owner to receive notice of such assessment shall not render said assessment void but the same shall be a valid and existing lien against said property.

(6) Summary Abatement:

The procedure provided by this ordinance is not exclusive but in addition to procedure provided by other ordinances; 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.

(7) Abatement Not Exclusive Remedy:

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.

ARTICLE X - REPEALER

Section 1: Ordinance No. 527 enacted by the City Council of Sherwood on December 23, 1963, and all sections and the whole thereof be, and the same is hereby, repealed.

Ordinance No. 531, enacted by the City Council of Sherwood on February 7, 1964, and all sections and the whole thereof be, and the same is hereby, repealed.

Ordinance No. 535, enacted by the City Council of Sherwood on February 2, 1964, and all sections and the whole thereof, be, and the same is hereby, repealed.

Sections 2, 4, 5 and 17 of Ordinance No. 529, enacted by the City Council of Sherwood on December 23, 1963, be, and the same are hereby, repealed.

ARTICLE XI - EMERGENCY CLAUSE

Inasmuch as it is necessary for the peace, health and safety of the people of the City of Sherwood that the provisions of this Ordinance become effective with the least possible delay, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage by the Council and approval by the Mayor.

PASSED by the Council by Unanimous vote of all Council members present after being read by caption three times and in body once this 23rd day of January, 1974.

Marjorie Stewart
Recorder

APPROVED by the Mayor this 23rd day of January, 1973.

Jack D. Harper
Mayor