

CITY OF SHERWOOD

ORDINANCE NO. 98-1044

AN ORDINANCE AMENDING AND UPDATING ORDINANCE 641, THE CITY POLICE CODE, AMENDING AND REPEALING CERTAIN SECTIONS THEREOF

THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:

Section 1. Article I of Ordinance 641 is amended to read 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 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.

(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.

(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.

(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.

Section 4. Saving Clause; Constitutionality. If any clause, sentence, paragraph, section, article or portion of this code for any reason shall be adjusted 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.

Section 2.

(A) Article II, Section 1 of Ordinance 641 is amended to read as follows:

Section 1. By virtue of the authority contained in ORS 221.330, 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. Notwithstanding that the provisions herein adopted by reference from Oregon general statutes apply to criminal proceedings, the character of all offenses punishable under this code is not criminal but civil in nature. Use of the terms "crime" or "criminal" in said statutes with reference to conduct, acts, liability, or any other term shall not be read so as to convert civil offenses under this code to be criminal acts or offenses requiring application of constitutional rights uniquely applicable to criminal offenses.

(B) Article II, Section 3 of Ordinance 641 is amended to read as follows:

Section 3. General Principles of 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.

(C) Article II, Section 4 of Ordinance 641 is amended to read as follows:

Section 4. Parties.

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

(D) Article II, Section 8 of Ordinance 641 is amended to read

as follows:

Section 8. Definition Relating to Obstructing Governmental Administration.

(a) ORS 162.225. Definitions.

Section 3. Article III of Ordinance 641 is hereby amended to read as follows:

ARTICLE III
Offenses; Classes of Offenses

Section 1. Offenses; Definitions.

(1) An offense is conduct for which a sentence to pay a fine is provided by any ordinance of this city. An offense is a violation.

(2) 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. 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 3. Violations; Classification.

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

- (a) Class A violations.
- (b) Class B violations.
- (c) Class C violations.
- (d) Unclassified violations.

(2) The particular classification of each violation defined in this code is expressly designated in the section defining the offense. An offense defined outside this code which provides a penalty for the offense in the ordinance defining said offense shall be considered an unclassified violation.

(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 a considered a Class A violation.

Section 4. Infractions; Classification.

(1) Any infraction 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 Article IV of this Code, shall be considered an infraction.

(2) Infractions are not classified.

Section 5. Inchoate Crimes, Attempt; Definition.

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

(2) An attempt is a:

(a) Class B violation, if the offense attempted is a Class A violation.

(b) Class C, if the offense attempted is a Class B violation.

(c) Infraction, if the offense attempted is a Class C violation, or an unclassified violation.

Section 4. Article IV of Ordinance 641 is amended to read as follows:

**ARTICLE IV
Authorized Disposition of Offenders**

Section 1. Fines for Violations and Infractions.

(1) A sentence to pay a fine for a ^{violation or infraction} ~~misdemeanor~~ shall be a sentence to pay an amount, fixed by the court, not exceeding:

(a) \$1,000.00 for a Class A violation.

(b) \$500.00 for a Class B violation.

(c) \$250.00 for a Class C violation.

(d) \$100.00 for an infraction unless otherwise stated in the ordinance provisions defining the infraction.

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

offense.

Section 2. 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 3. 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.

(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 of the burden that payment of costs will impose.

(4) A defendant who has been ordered 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 4 of this article.

Section 4. Time and Method of Payment of Fines and Costs.

(1) When a defendant has had judgment given against him 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 judgment, the fine shall be payable forthwith.

Section 5. Article V of Ordinance 641 is amended to read as follows:

ARTICLE V
Offenses Involving Danger to the Person

Section 1. Assault in the Fourth Degree.

(1) A person commits assault in the fourth 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 fourth degree is a Class A violation.

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 violation.

Section 3. Recklessly Endangering Another Person.

(1) A person commits 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 violation.

Section 4. Public Indecency.

(1) A person commits 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 violation.

Section 6. Section 4 of Article VI of Ordinance 641 is amended to read as follows:

Section 4. Theft in the Second Degree.

(1) A person commits 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 7. Section 11 of Article VI of Ordinance 641 is amended to read as follows:

Section 11. Theft of Services.

(1) A person commits 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 another 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 it not limited to, labor, professional services, toll facilities, transportation, telephone or other communications services, 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 violation.

Section 8. The caption to Section 12, Article VI, Ordinance 641 is amended to read: "Trespass; Definitions."

Section 9. Section 13, Article VI of Ordinance 641 is amended to read as follows:

Section 13. Trespass in the Second Degree.

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

(2) A person commits 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 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) Trespass in the second degree is a Class C violation.

Section 10. Section 14, Article VI of Ordinance 641 is amended to read as follows:

Section 14. Trespass in the First Degree.

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

(2) Trespass in the first degree is a Class A violation.

Section 11. Section 15, Article VI of Ordinance 641 is amended to read as follows:

Section 15. Reckless Burning.

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

(2) Reckless burning is a Class A violation.

Section 12. Section 16, Article VI of Ordinance 641 is amended to read as follows:

Section 16. Unlawful Mischief in the Third Degree.

(1) A person commits unlawful 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) Unlawful mischief in the third degree is a Class C violation.

Section 13. Section 17, Article VI of Ordinance 641 is amended to read as follows:

Section 17. Unlawful Mischief in the Second Degree.

(1) A person commits unlawful 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) Unlawful mischief in the second degree is a Class A violation.

Section 14. Section 18 of Article VI Ordinance 641 is repealed.

Section 15. Section 19(2) of Article VI, Ordinance 641 is amended to read as follows:

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

Section 16. Section 20 of Article VI, Ordinance 641 is amended to read as follows:

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 Class B violation.

Section 17. Article VII of Ordinance 641 is amended to read as follows:

ARTICLE VII

False Swearing; Obstructing Governmental Administration

Section 1. False Swearing.

(1) A person commits false swearing if he makes a false sworn statement, knowing it to be false.

(2) False swearing is a Class A violation.

Section 2. Unsworn Falsification.

(1) A person commits 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 violation.

Section 3. Obstructing Governmental Administration.

(1) A person commits 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 violation.

Section 4. 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 or violation.

(2) Refusing to assist a peace officer is a Class B violation.

Section 5. 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 Class B violation.

Section 6. Tampering with Physical Evidence.

(1) A person commits the offense 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 action of force, intimidation or deception against any person.

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

Section 7. Tampering with Public Records.

(1) A person commits 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 violation.

Section 8. Resisting Arrest.

(1) A person commits 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 violation.

Section 9. Initiating a False Report.

(1) A person commits 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 violation.

Section 10. Unlawful Impersonation.

(1) A person commits unlawful 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) Unlawful impersonation is a Class A violation.

Section 18. Section 1, Article VIII of Ordinance 641 is amended to read as follows:

Section 1. Disorderly Conduct.

(1) A person commits 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) Disturbs any lawful assembly of persons without lawful authority; or

(d) Obstructs vehicular or pedestrian traffic on a public way; or

(e) Congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or

(f) Initiates or circulates a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency; or

(g) 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 violation.

Section 19. Sections 2, 3, 9 and 15 of Article VIII, Ordinance 641, are repealed.

Section 20. Section 4, Article VIII, Ordinance 641, is amended to read as follows:

Section 4. Harassment.

(1) A person commits harassment if the person intentionally:

(a) Harasses or annoys another person by:

(A) Subjecting such other person to offensive physical contact; or

(B) Publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response;

(b) Subjects another to alarm by conveying a false report, known by the conveyor to be false, concerning death or serious physical injury to a person, which report reasonably would be expected to cause alarm; or

(c) Subjects another to alarm by conveying a telephonic or written threat to inflict serious physical injury on that person or to commit a felony involving the person or property of that person or any member of that person's family, which threat reasonably would be expected to cause alarm.

(2) A person is liable for harassment if the person knowingly permits any telephone under the person's control to be used in violation of subsection (1) of this section.

(3) Harassment is a Class B violation.

(4) Notwithstanding subsection (3) of this section, harassment is a Class A violation if a person violates subsection (1) of this section by subjecting another person to offensive physical contact and the offensive physical contact consists of touching the sexual or other intimate parts of the other person.

Section 21. Sections 5, 6, 7 and 8, Article VIII, Ordinance 641, are amended to read as follows:

Section 5. Abuse of Venerated Objects.

(1) A person commits abuse of venerated objects if he intentionally abuses a public monument or structure or a place of worship or burial.

(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 violation.

Section 6. Offensive Littering.

(1) A person commits 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 Department of Transportation, or a person operating a school bus described under ORS 801.460.

(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 violation.

Section 7. Creating a Hazard.

(1) A person commits the offense 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 violation.

Section 8. Misrepresentations of Age by a Minor.

(1) A person commits 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 violation.

Section 22 (a). Section 10.(3) of Article VIII Ordinance 641 is amended to read as follows:

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

(b) Section 11.(3) of Article VIII, Ordinance 641 is amended to read as follows:

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

Section 23. Subsection 11 of Section 12 of Article VIII, Ordinance 641 as amended by Ordinance 1002 is amended to read as follows:

(11) Penalty. Violation of this curfew ordinance is a Class C violation.

Section 24. Section 13.(2) of Article VIII of Ordinance 641 is amended to read as follows:

(2) Improper garbage transportation is a Class C violation.

Section 25. Section 14.(3) of Article VIII, Ordinance 641 is amended to read as follows:

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

Section 26. Section 16 of Article VIII Ordinance 641 is amended to read as follows:

Section 16. Failing to Remove Snow or Ice.

(1) A person commits the offense 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 information of said ice.

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

Section 27. Section 17.(2) of Article VIII, Ordinance 641 is amended to read as follows:

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

Section 28. Section 18.(d) of Article VIII, Ordinance 641 is amended to read as follows:

(d) Unlawful use of fireworks is a Class C violation.

Section 29. Section 19 of Article VIII, Ordinance 641, as amended by Ordinance 97-1030, is amended by adding thereto the following subsection (d).

(d) Unlawful discharge of weapons is a Class B violation.

Section 30. Section 20.(2) of Article VIII, Ordinance 641 is amended to read as follows:

(2) Expectoration is a Class C violation.

Section 31. Section 4 of Article IX, Ordinance 641 is amended to read as follows:

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 violation 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 violation.

(3) Each day's violation of this Section shall constitute a separate offense.

Section 32. Section 5 of Article IX, Ordinance 641 is amended to read as follows:

Section 5. Open Storage of Junk.

(1) A person commits the violation 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 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 five days.

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

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

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

Section 33. Section 6 of Article IX is amended to read as follows:

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 or other code enforcement officer 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 AND ABATE NUISANCE

Date of Notice: _____

TO: _____, the owner
or occupant of the following described real property:

(address)

(tax lot and assessor's map #)

in the city of Sherwood, Oregon.

There exists on said premises the following nuisance or condition:

which is in violation of City Code Section _____.

You are hereby notified to remove and abate this nuisance or condition from said property within ten days of the date of this notice. If you deny that this condition is a nuisance in violation of City Code you must file with the City Manager at Sherwood City Hall, 20 N.W. Washington, Sherwood, Oregon 97140, within 10 days of the date of this notice, a written request for a hearing at which you will be provided an opportunity to show cause why you should not be required to abate this condition.

If you fail to remove or abate the nuisance or condition complained of or fail to request a hearing within 10 days of the date of this notice, the City of Sherwood may cause the nuisance to be abated and charge the cost of said abatement against the property described in this notice.

Dated: _____.

Police Chief/Code Enforcement Officer

(b) The police chief or code enforcement officer shall also, at approximately the time of posting such notice, notify the city manager thereof; and 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 or code enforcement officer 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 manager'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 request a hearing to show that no nuisance in fact exists. Upon receipt of a request for a hearing, the city manager shall set a date for the matter to be heard in regular course of business. At the time set for hearing, such person may appear and be heard by the manager, and the manager shall thereupon determine whether or not such nuisance exists.

(b) The manager may appoint a special hearings officer to hear the matter in lieu of the manager personally conducting the hearing.

(c) If it be determined by the manager or hearings officer that such nuisance exists, the proceedings hereinafter specified shall be followed. The city manager shall forthwith notify the police chief or code enforcement officer of the action by the city manager.

(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 at hearing cause has not been shown, as specified in Subsection (3) hereof, why such nuisance should not be removed and abated, the police department or code enforcement officer shall cause said nuisance to be removed and abated.

Where summary abatement is authorized and no notice to abate is given, the police department or code enforcement officer shall cause said nuisance to be removed and abated. An accurate account of all expenses incurred shall be kept, including an overhead charge of 10 percent for administration. After completion of removal and abatement, a statement of the cost thereof shall be filed with the city manager.

(5) Notice of assessment.

(a) Upon receipt of such statement, the city manager 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 Subsection (4) hereof, and that objections to the proposed assessment may be made in writing and filed with the city manager on or before 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 9 percent 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.

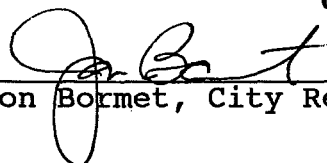
(6) Summary abatement. The procedure provided by this ordinance is not exclusive but in addition to procedure provided by other ordinances; and furthermore, the health officer, the chief of the fire department and the police officers of this city may proceed summarily to abate a health or other nuisance 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.


Section 34. Effective Date. This ordinance shall become effective thirty days after its passage and approval.

Duly passed by the City Council
this 28 day of April, 1998



Jon Bokmet, City Recorder

Approved by the Mayor this 28 day
of April, 1998



~~Ron Tobias~~, Mayor
Bill Boyle,

	<u>Aye</u>	<u>Nay</u>
Boyle	<u>✓</u>	—
Cottle	<u>✓</u>	—
Krause	<u>✓</u>	—
Tobias	<u>✓</u>	—
Turner	<u>✓</u>	—