

CHAPTER 40
PUBLIC NUISANCES AND ABATEMENT

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TITLE, SCOPE, AND AUTHORITY

40.005 Title. This Chapter may be cited as the Public Nuisance and Abatement Ordinance of the Public Protection section of the City of Adair Village City Code.

40.010 Purpose and Scope.

(1) It is the purpose of this Chapter to define conditions which exist that may endanger the life, limb, health, safety, or welfare of the general public or negatively affect the livability or property values of the residents or property owners of Adair Village and to provide a just, equitable, and practicable method to prohibit and abate these conditions.

40.020 General Authority.

(1) The City Administrator, upon consent and direction of the City Council, is responsible for the administration, enforcement, and oversight of this Chapter of the City of Adair Village City Code, and to apply these provisions consistent with the general laws of the State of Oregon.

(2) The City Administrator may designate enforcement officers to assist in enforcing this Chapter.

DEFINITIONS

40.110 Definitions. As used in Sections 44.110 to 44.865, the singular includes the plural and the masculine includes the feminine. Except where the context indicates otherwise, the following shall mean:

(1) Person in charge of property. Any agent, occupant, lessee, tenant, contract purchaser, apartment manager or other person not an owner having the possession or control of property or supervision of a construction site.

(2) City. The City of Adair Village.

(3) Council. The governing body of the City.

(4) Enforcement Officer. Any authorized agent of the City, including law enforcement officers, code enforcement officers, or City Administrator or his designee, of the City of Adair Village.

(5) Person. Every natural person, firm, partnership, association or corporation.

(6) Person responsible. The person responsible for a nuisance is:

(a) The owner of the property on which the nuisance exists; and/or

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- (b) The person in charge of the property on which the nuisance exists; and/or
- (c) The person who created or caused the nuisance to come into or continue in existence.

(7) Public place. Any building, place or accommodation, whether publicly or privately owned, open and available to the public.

(8) Public transportation facility. As defined in ORS 164.365.

(9) Public way. Includes, but is not limited to the full width of the public right-of-way for roads, streets, alleys, lanes, bicycle and pedestrian paths, trails, sidewalks, beaches, parks, and all recreational facilities operated by the state, a county, or a the City for use by the general public.

(10) Waters of the State. As defined in ORS 468.700.

NUISANCES AFFECTING PUBLIC HEALTH OR LIVABILITY

40.210 Nuisances Affecting the Public Health. The following are hereby declared to be nuisances affecting the public health, and may be abated in the manner prescribed by Sections 44.710 to 44.760. No resident, tenant, property owner, or property manager shall knowingly cause or permit any such activity to occur on property owned or managed by such person.

(1) Privies. Any open vault or privy, except those privies used in connection with construction projects and constructed in accordance with the Oregon State Board of Health regulations.

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

(3) Stagnant water. Any pool of water which is without a proper inlet or outlet and which, if not controlled, will be a breeding place for mosquitoes and other similar insects.

(4) Water pollution. The pollution of any body of water, stream or river by sewage, industrial wastes or other substances placed in or near such water in a manner that will cause harmful material to pollute the water.

(5) Food. All decayed or unwholesome food offered for human consumption.

(6) Odor. Any premises which are in such state or condition as to cause noisome or offensive odor or which are in an unsanitary condition.

(7) Junk.

- (a) No person shall keep any junk outdoors on or in any street, vehicle, lot, porch, or premises or in a building or other structure that is not wholly or entirely enclosed, except doors used for ingress and egress.

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(b) The term “junk” as used in this section includes, but is not limited to, motor vehicle parts, abandoned automobiles, inoperable machinery or parts, operable or inoperable appliances or parts thereof, old iron or other metal, glass, paper, lumber, wood, brush piles or other accumulated yard wastes, broken tables, chairs, or other waste or discarded material.

(8) Unusable firewood Any firewood that does not meet the following definition of “Useable Firewood.” “Usable Firewood” has more wood than rot and is cut to lengths that will fit an approved fireplace or wood stove on the property. “Usable Firewood” must be neatly stacked. Any firewood not meeting this description is “Unusable Firewood.”

40.220 Accumulation of Solid Waste.

(1) Except as provided by county or state law, no person shall store, collect, maintain, or display on private property, waste or solid waste that is offensive or hazardous to the health and safety of the public, or which creates and offensive odor or a condition of unsightliness. Storage, collection, maintenance, or display of waste or solid waste in violation of this section shall be considered to be a public nuisance.

(2) It shall be unlawful for any person to cause dirt, rock, debris, building materials, landscaping materials, dumpsters, or any other objects to be placed upon a public way, public place, public park, or right-of-way.

(a) Accumulations of such objects in such places which remain after 5:00 p.m. on the day of accumulation or any accumulation which creates a hazard by obstructing vehicular or pedestrian traffic may be immediately removed by the City and the cost of removal may be charged to the person causing the accumulation at a rate set by Resolution of the City Council.

(b) The City shall refuse to issue an occupancy permit for a building to any person who has failed to pay charges incurred under subsection (a) of this ordinance incidental to the construction of the building for which the occupancy permit is sought.

40.225 Littering. As provided in ORS 164.805, a person commits the violation of offensive littering if the person creates an objectionable stench or degrades from the natural cleanliness or safety of property by intentionally:

(1) Discarding or depositing any rubbish, trash, garbage, debris, or other refuse or solid waste upon the land of another without permission of the owner, or upon any public way or place, or in or upon any public transportation facility.

(2) Draining or causing or permitting to be drained, garbage, debris, or other refuse or solid waste upon any public way or place or in or upon any public transportation facility.

(3) Permitting any rubbish, trash, garbage, debris, or other refuse or solid waste to be thrown from a vehicle which the person is operating. However, this paragraph does not apply to a person operating a vehicle transporting passengers for hire subject to the regulation by the Interstate Commerce

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Commission or the Public Utility Commission of Oregon, or to a person operating a school bus, described under ORS 801.460.

40.230 Dumping. Except at landfills, transfer sites, or recycling depots approved by the City Council, no person shall allow the accumulation or temporary storage of the following materials on any property:

(1) Bulky, unsightly materials including, but not limited to: operable or inoperable appliances, inoperable or abandoned vehicles or parts, building demolition wastes, industrial wood wastes, land clearing debris, discarded furniture and bedding, or scrap metals for more than seven (7) days.

(2) Household rubbish, debris, or garbage for more than seven (7) days.

40.235 Dumping in Waters. As provided in ORS 164.775, it is unlawful for any person to discard any glass, cans, or other similar refuse in any waters of the state, or within 100 yards of any waters of the state, other than in receptacles provided for the purpose of holding trash, debris, or other refuse.

40.240 Livestock Animals and Fowl.

(1) No person shall keep or maintain any slaughterhouse or tannery in the City.

(2) No person shall keep or maintain any cattle, horses, hogs, goats, sheep, rabbits, poultry or other livestock or fowl in the City of Adair Village, except as permitted by Adair Village Land Use Development Code (AVLUDC) Section 6.401. This section shall not prohibit the keeping of domesticated animals, such as dogs, cats, birds and other animals that can be claimed as household pets where such pets can be kept safely in residential quarters. (Amended Adair Village Ordinance 2010-06)

(3) Livestock animals or fowl kept or maintained contrary to provision of this ordinance are hereby declared to be a public nuisance and may be abated as provided in the Adair Village Land Use Development Code Section 6.401 (8). (Amended Adair Village Ordinance 2010-06)

40.245 Animal Carcasses. No person shall permit any animal carcass owned by him or under his control to remain upon the public streets or places or exposed on private property, for a period of time longer than is reasonably necessary to dispose of such carcass.

40.250 Inadequate Sewage Disposal. No person shall allow:

(1) The discharge of raw or partially treated sewage onto the ground surface or into the waters of the state.

(2) Placing into use an existing on-site sewage disposal system.

(3) Installation, replacement, or repair of an on-site sewage disposal system.

40.260 Unauthorized Disposal of Offensive Substances. As provided in ORS 164.785:

(1) It is unlawful for any person, including a person in the possession or control of any land, to

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discard any dead animal carcass or part thereof, excrement, putrid, nauseous, noisome, decaying, deleterious, or offensive substance into, or in any other manner befoul, pollute, or impair the quality of any spring, river, brook, creek, branch, well, irrigation drainage ditch, irrigation ditch, cistern, or pond of water.

(2) It is unlawful for any person to place or cause to be placed any polluting substance listed in subsection (1) of section onto any road, street, alley, lane, railroad right of way, lot field, meadow, or common. It is unlawful for any owner thereof knowingly to permit any polluting substances to remain in any of the places described in this subsection to the injury of the health or to the annoyance of any citizen of this state.

(3) Nothing in this section applies to the storage or spreading of manure or like substance for agricultural or horticultural purposes, except that no sewage sludge, septic tank, or cesspool pumpings, or fish remains shall be used for these purposes, unless treated and applied in a manner approved by the Department of Environmental Quality, and upon application to and specific approval from the City.

40.270 Open Burning

(1) Prohibited Fires. No person shall conduct any outside open burning including kindling, maintaining or burning any bonfire, outdoor rubbish or waste fire or use any trash burners, incinerators or burn barrels nor authorize any such fires or use of such devices on private land, unless as authorized by the city as provided herein.

(2) Fires Allowed with Permits. Notwithstanding the prohibition in sub-section 1, the Council may authorize otherwise prohibited fires for special events or occasions subject to the payment of the cost of the permit for inspection by the fire chief or city administrator or their designee.

(3) Exempt Fires. The following fires are exempt from the prohibition of this ordinance:

- (a) Fires for religious purposes;
- (b) Fires initiated by the Fire District for training purposes;
- (c) Fires associated with the operation of a business with a valid permit;
- (d) Barbecue pits;
- (e) Gas or charcoal barbecues;
- (f) Outdoor fireplaces;
- (g) Backyard burning of vegetative debris from gardening or pruning.

(4) Requirements for Allowed and Exempt Fires. All outdoor fires allowed under this chapter shall comply with the following requirements:

- (a) All fires shall conform with Section 307 of the Oregon Fire Code.
- (b) All fires shall comply with the regulations established by the Fire District.
- (c) All fires shall occur only after checking with appropriate authority-Adair Fire District or Corvallis Fire Department-to determine that fires are permitted on that specific day.
- (d) All fires shall occur only in the presence of an adult who shall be present at all times the fire is burning and shall constantly monitor the fire.

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(e) Approved on-site fire extinguishing equipment shall be located at the fire (see Oregon Fire Code, Sec. 307.5).

40.280 State fireworks regulations adopted. The following sections of the Oregon Fireworks Law, together with all acts and amendments applicable to cities which are now or hereafter enacted, are adopted by reference and made a part of this section: ORS 480.110, 480.120, 480.130, 480.140(1) and 480.150. (Section 40.285 Amended Adair Village Ordinance 2008-11 and 2009-03)

40.290 Penalties. Penalties for violation of Section 40.200 Nuisances Affecting Public Health will be established by Resolution by the Adair Village City Council.

ATTRACTIVE NUISANCES

40.310 Attractive Nuisances.

(1) No owner or person in charge of any premises shall permit:

- (a) Any machinery, equipment or other devices on such premises which are attractive and dangerous; (**Removed**-“to children and which are accessible to children”)
- (b) The piling of any lumber, logs or piling in such manner as to be attractive and dangerous; (**Removed**-“to children and which is accessible to children”)
- (c) Any excavation to remain open* without erecting proper safeguards or barriers to prevent such excavation from being accessible. (**Removed**-*“for an unreasonable length of time” after open. **Removed**-“to prevent such excavation from being used by children”)

(2) The provisions of this section shall not apply to authorized construction projects provided that during the course of construction reasonable safeguards are maintained to prevent injury or death. (**Removed**- “to playing children”).

40.320 Abandoned Containers. No person shall leave in any place accessible to children any abandoned, unattended or discarded ice box, refrigerator or similar container which has an air-tight door with a snap lock or lock or other mechanism which may not be released for opening from the inside without first removing such lock or door from such ice box, refrigerator or similar container.

40.390 Penalties. Penalties for violation of Section 40.300 Attractive Nuisances will be established by Resolution by the Adair Village City Council.

DUTY TO PREVENT NUISANCES

40.410 Clean Sidewalks. Each owner or person in charge of any premises, improved or unimproved, abutting upon any public sidewalk shall make a reasonable effort to remove:

(1) Leaves, rubbish, dirt and other litter or obstructions on such sidewalk. The provisions of this subsection shall not apply to authorized construction projects provided that during the course of

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construction reasonable safeguards are maintained to prevent injury or death to persons.

(2) Snow within a period no longer than twelve (12) hours after the snow has fallen.

(3) Ice from sidewalk covered with ice within twelve (12) hours after the ice has formed. Any ice accumulating on such sidewalk shall be removed or properly covered with sand, ashes, or other suitable material to assure safe travel.

40.420 Weeds, Grass and Other Vegetation.

(1) No owner or person, in charge of any residentially property, shall permit upon such property, improved or unimproved, or upon any parkway or sidewalk area abutting such property, any excessive growth of weeds, grass or other vegetation. Such excessive growth shall be deemed noxious vegetation, and it shall be the duty of every owner or person in charge of such property to cut down or otherwise destroy any noxious growth on such property or parkway or sidewalk area abutting thereon as often as necessary, to prevent such growth from being unsightly or a fire hazard, or maturing and going to seed.

(2) This section shall not apply to real property zoned and used exclusively for agricultural purposes.

(3) The term "noxious vegetation" applies to and describes the conditions listed below:

- (a) grass and weeds more than ten inches high between April 1 and November 1;
- (b) poison oak;
- (c) poison ivy;
- (d) blackberry bushes that extend into a public thoroughfare or across a property line;
- (e) vegetation that is:
 - (i) a health hazard;
 - (ii) a fire hazard that is near other combustibles;
 - (iii) a traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous.
- (f) noxious vegetation shall include trees and shrubs as well as other types of vegetation.

(4) Nothing in this section shall be construed to prohibit lawns, bushes, trees and other shrubbery grown or maintained for purposes of landscaping, nor shall it prohibit the growth or maintenance of any vegetation designed for food or fuel purposes, except that the owner or person in charge of any real property shall not permit the limbs of any shrub or tree projecting into or extending over the street to interfere with the use of the sidewalk or roadway, or to obstruct a driver's view of an intersection or traffic upon streets approaching an intersection or otherwise to constitute a hazard to the public. Trees shall be trimmed so that the minimum clearance of any overhanging portion thereof is eight (8) feet above the sidewalk and ten (10) feet above the roadway. Hedges and other shrubbery shall be trimmed so that they do not overhang the sidewalk or roadway. Trees, hedges and other shrubbery on corner lots shall be trimmed and maintained so as to permit the minimum clearance prescribed by the Zoning Ordinance.

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40.430 Trees, Bushes, and Vision Clearance. No person in charge of property shall allow:

(1) Upon property that abuts a street or public sidewalk, any trees or bushes on their property to interfere with street or sidewalk traffic. It shall be the duty of the person in charge of such property to keep all trees and bushes on the premises, including the adjoining parking strip, trimmed to a height of not less than eight feet above the sidewalk and not less than ten (10) feet above the roadway.

(2) A standing or dead tree that is a hazard to the public or to persons or property on or near their property.

(3) On their property at the intersection of two streets, any corner that does not provide a clear vision area at the corner of the intersection of two streets, a street and a railroad, a street and an alley, and driveways of parking lots open to the public.

(a) A clear vision area is a triangular area, two sides of which are:

i) Twenty (20) feet along the lot lines, measured from the intersection of two streets or a street and a railroad and the third side of which is a line across the corner of the lot, joining the two lines. Where a lot has a rounded corner, the lot lines shall be extended in a straight line to a point of intersection and measured from that point;

ii) Ten (10) feet along the lot lines measured from the intersection of a street and an alley, and the third side of which is a line across the corner of the lot, joining the two lines. Where a lot has a rounded corner, the lot lines shall be extended in a straight line to a point of intersection and measured from that point.

(b) A clear vision area shall contain no planting, fences, walls, structures, or temporary or permanent obstruction exceeding two and one-half feet in height, measured from the top of the curb, or where no curb exists, from the established street centerline grade.

Trees exceeding this height may be located in this area, provided all branches or foliage are removed to a height of eight feet above grade.

40.440 Fences.

(1) No owner or person in charge of property shall construct or maintain any barbed-wire fence or allow barbed wire to remain a part of any fence which borders on any sidewalk or public pathway.

(2) No person shall install, maintain or operate an electric fence in any residential or commercial area within the City or adjacent to any sidewalk or public pathways.

(3) All fences must meet the standards set in the Adiar Village Land Use Development Code Section 5.134 (3) Fencing.

40.450 Surface Waters, Drainage. No owner or person in charge of any building or structure shall permit rain water, ice, or snow to fall from any such building or structure onto a sidewalk or to flow across a sidewalk, and every such owner or person in charge of property shall at all times keep and maintain a proper state of repair adequate drain pipes or a drainage system so that any overflow water

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accumulating on the roof or about such building will not be carried across or upon any sidewalk.

40.460 Zoning and Non-permitted Land Uses. The following acts are classified as public nuisances:

- (1) Creating a use which is prohibited;
- (2) Creating or changing a use which requires a permit;
- (3) Expanding a use which is non-conforming;
- (4) Changing a use which is not permitted;
- (5) Failing to comply with conditions of a permit.

40.465 Certain Buildings. The following are classified as public nuisances:

- (1) All buildings or structures, or portions thereof, which are determined by the county building official to be dangerous;
- (2) Constructing a building without a permit as required by the Building Code;
- (3) Placing a manufactured home without a permit;
- (4) Occupying or changing the use of a building or structure without an occupancy permit;
- (5) Selling or renting a dwelling which has been used as a clandestine drug lab without providing a written notice to the new owner or renter;
- (6) Making an electrical installation, water installation, sewer installation, or storm drain installation without a permit.

40.470 Garbage and Recycling Containers

(1) Street Placement. Containers (garbage, recycling, yard debris, etc.) may not be placed on or along the street prior to 5:00 PM, on the day prior to the scheduled pickup day and must be removed by 8:00 AM the day after the scheduled pickup day.

(2) Placement of Property. Except as provided in subsection 1 above, containers (garbage, recycling, yard debris, etc) must be placed/stored upon the property of the customer/user in such a manner as to not be visible from the street adjacent to the subject property, except that containers may be stored adjacent to the garage.

40.474 Personal property not specifically designed for outdoor use. No person shall keep any personal property outdoors on or in any street, vehicle, lot, porch, or premises or in a building or other structure that is not wholly or entirely enclosed, except doors used for ingress and egress, unless that personal property was originally designed and manufactured for outdoor use.

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40.476 Tools, equipment, and construction materials. All tools, equipment, and construction materials must be stored behind the plane of the front of the house. Tools and equipment as used here includes but is not limited to ladders, saws, wheelbarrows, tarps, hand tools, power tools, sprayers, and other equipment traditionally used in building construction and maintenance.

40.480 Storing property on public ways

(1) No person shall use any portion of the traveled roadway, adjacent planting strip, sidewalk or other portion of the public way or road right-of-way to store or keep recreational vehicles, utility trailers, recreational sports equipment, or personal property of any kind. Such personal property must be kept fully within the owner's private property boundary in compliance with all relevant Adair Village Land Use Codes and City Ordinances.

(2) Nothing in this section is intended to prohibit the loading or unloading of vehicles for a reasonable time, or the parking of vehicles in permitted parking areas as incidental to the use of the vehicle for travel.

40.490 Penalties. Penalties for violation of Section 40.400 Duty to Prevent Nuisances will be established by Resolution by the Adair Village City Council.

NUISANCES AFFECTING PUBLIC PEACE

40.510 Radio and Television Interference. No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes interference with radio or television reception. This section shall not apply to electrical and radio devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission.

40.520 Unnecessary Noise. No person shall make or assist in making any loud, disturbing or unnecessary noise which either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of others.

(1) The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section but the enumeration shall not be construed to be exclusive:

- (a) The keeping of any bird or animal which by causing frequent or long continued noise may disturb the comfort and repose of any person in the vicinity;
- (b) The attaching of any bell to any animal or allowing a bell to remain on any animal which is disturbing to any person in the immediate vicinity;
- (c) The use of any vehicle or engine, either stationary or moving, so out of repair, loaded or operated as to create any loud or unnecessary grating, grinding, rattling or other noise;
- (d) The sounding of any horn or signalling device on any vehicle on any street or public or private place, except as a necessary warning of danger;
- (e) The use of any mechanical device operated by compressed air, steam or otherwise, unless the noise thereby created is effectively muffled;
- (f) The erection, including excavation, demolition, alteration or repair of any building in

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residential districts, other than between the hours of 7:00 a.m. and 10:00 p.m. daily, except Saturdays, Sundays and holidays when the hours shall be 10:00 a.m. to 8:00 p.m. In case of urgent necessity in the interest of the public welfare and safety, a permit may be granted by the City Administrator for a period not to exceed ten days. Such permit may be renewed for periods of five days while such emergency continues to exist. If the Administrator shall determine that loss or inconvenience would result to any person unless such work were permitted within those hours, the Administrator may grant permission for such work to be done between the hours of 10:00 p.m. to 7:00 a.m. upon application being made at the time the permit for the work is awarded or during the progress of the work;

(g) The use of any gong or siren other than by public officers for authorized purposes or on a police, fire or other emergency vehicle;

(h) The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court of justice while the same are in use, or adjacent to any hospital or institution for the care of the sick or infirm, which unreasonably interferes with the operation of such institution, or which disturbs or unduly annoys patients;

(i) The discharge in the open air of the exhaust of any steam engine, internal combustion engine, motor boat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises and the emission of annoying smoke;

(j) The use or operation of any automatic or electric piano, phonograph, gramophone, victrola, radio, television, loudspeaker or any instrument for sound producing or any sound amplifying device so loudly as to disturb persons in the vicinity thereof or in such a manner as renders the use thereof a nuisance; provided, however, that upon application to the City Council permits may be granted for the broadcast or amplification of commercial or entertainment programs, or to any organization for the broadcast of programs of music, speeches, or general entertainment as a part of a national, state or City event, public festivals or outstanding events of a noncommercial nature, provided that such broadcast or amplification shall not exceed a decibel limit of 75 dB at the boundary of the property, whether from the instrument, speaker or amplifier. **A permit may be granted for a parade as a part of a national, state or City event, public festivals or outstanding events of a noncommercial nature, even if it may cause short-term obstruction to the free and uninterrupted traffic, both vehicular and pedestrian;**

(k) The making of any noise by crying, calling or shouting, or by means of any whistle, rattle, bell, gong, clapper, horn, hammer, drum, musical instrument or other device for the purpose of advertising goods, wares or merchandise or of attracting attention or of inviting patronage of any person to any business whatsoever. **Exemption from this paragraph may be requested upon application to the City for a solicitors license (Ordinance 84/85 #1);**

(l) The conducting, operating or maintaining of any garage or the repairing of motor vehicles at any residence within 100 feet of any other private residence, apartment, rooming house or hotel in such manner as to cause loud or offensive noises to be emitted therefrom between the hours of 10:00 p.m. and 7:00 a.m.

40.530 Notices and Advertisements.

(1) No person shall affix or post or cause to be affixed or posted any placard, bill, advertisement

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or poster upon any real or personal property, public or private, without first securing permission from the owner or person in control of private property. This section shall not be construed as an amendment to or a repeal of any regulation now or hereafter adopted by the City regulating the use of and the location of signs and advertising, or the posting of public notices.

(2) Except as otherwise provided by law, no person shall either as principal or agent scatter, deposit or distribute on the streets, sidewalks or other public places or upon any private property any placards or advertisements whatsoever.

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

40.540 Curfew for Minors

(1) Prohibition of Minors in Public. No minor shall be in or upon any street, highway, park, alley, or other public place or way between the hours specified in subsection (2) of this section unless:

(a) The minor is accompanied by a parent, guardian or other person 21 years of age or over and authorized by the parent or by law to have custody of the minor.

(b) The minor is engaged in a lawful pursuit or activity which requires the minor's presence upon the street, highway, park, alley or other public place, and the minor has written authorization from a parent or guardian to be in a public place at that time.

(c) The minor is emancipated under ORS 419B.550 to 419B.558.

(2) Applicable Hours. For the purposes of this section, the applicable hours of curfew are between 11 p.m. and 4 a.m. of the following morning except on Friday and Saturday night the curfew hours are between 11:59 p.m. and 4 a.m. of the following morning.

40.545 Parental Duties. No parent, guardian, or other person having legal custody of a minor under the age of 18 years shall permit the minor to be in violation of this Ordinance.

(1) The parent(s), guardian(s), or person(s) having the care and custody of a minor under the age of 18 years shall be deemed to have allowed the minor to violate this ordinance despite not having prior actual knowledge, if in the exercise of reasonable diligence, the parent, guardian, or person should have known that a violation would occur.

40.550 Open Container. No person, regardless of age, shall possess an open container of any beverage that contains any amount of intoxicating liquor upon any city owned or controlled property or on any public street or sidewalk. (Amended Adair Village Ordinance 2008-11)

40.560 Park Regulations. No person shall cause destruction to city park property, act in or with prohibited behavior within a city park, be within a city park after park hours, and can be excluded from a city park for their behaviors, criminal activity or violations of city ordinances.

(1) Destruction of Park Property.

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(a) No person shall remove, destroy, break, injure, mutilate or deface in any way or other property, including but not limited to any structure, monument, statue, vase, fountain, wall, fence, railing, vehicle, bench, tree, shrub, fern, plant, or flower, in any city park.

(b) No person shall use towels in any improper manner or waste soap or toilet paper, or deface, mar, destroy, break, write on, or scratch a wall, floor, ceiling, partition, fixture, or furniture or the facilities provided in a public convenience station located in any city park.

(2) Prohibited Behavior.

(a) No person shall sleep on the seats or benches, or use loud, boisterous, threatening, abusive, indecent language, or behave in a disorderly manner, while in any city park.

(b) No person shall blow, spread or place any nasal or other bodily discharge, or spit, urinate or defecate in any city park, except directly into the particular fixture provided for that purpose.

(c) No person shall place a bottle, can, cloth, rag, or metal, wood or stone substance in the plumbing fixtures in such station.

(d) No person shall enter or remain in any city park while in a visibly intoxicated condition.

(e) No person shall use tobacco products while in the skateboard park.

(3) Park Hours. No person shall be or remain inside of any city park during hours that the park is closed, said hours to be set forth at each entrance to a park, unless passing through the park to an adjoining street.

(4) Violations.

(a) In addition to any other penalty which may be provide by this City Code, a peace officer may exclude from all city parks for a period of not more than 30 days, any person who violates any sections of 40.550 or who violates any Oregon Revised Statues dealing with public peace, destruction or vandalism to property, injury of any degree to a person, controlled substances, weapons, or any inappropriate prohibited conduct sanction under City Code or the Oregon Revised Statues, while in a city park.

(b) Written notice shall be given to a person excluded from the parks. The notice shall specify the dates of exclusion and shall be signed by the issuing officer. Warning of consequences for failure to comply shall be prominently displaced on the notice.

(c) A person receiving a notice may, within ten days, appeal in writing to the City Administrator to have the written notice rescinded or the period shortened.

(d) At any time within the 30 days, a person receiving a notice may apply in writing to the City Administrator for a temporary waiver from the effects of the notice for good reason. (Section 40.560 Amended Adair Village Ordinance 2010-01)

40.590 Penalties. Penalties for violation of Section 40.500 Nuisances Affecting Public Peace will be established by Resolution by the Adair Village City Council.

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JUNKED, ABANDONED, AND INOPERABLE MOTOR VEHICLES

40.610 Definitions. As used in this ordinance, unless the context requires otherwise:

(1) Discarded or Inoperable Vehicle. Any and all of the following:

(a) Any vehicle or motor vehicle which cannot be started or legally or physically operated on city streets or public highways by virtue of lacking the equipment required by the laws of the state of Oregon.

(b) Any vehicle or motor vehicle which is dismantled, in whole or in part, or which is not mechanically operable as a result of a defect, malfunction, or state of disrepair.

(c) Discarded or inoperable vehicles include major parts of vehicles, including but not limited to, bodies, engines, transmission or rear ends.

(d) For the purposes of this section, a showing that a vehicle, if operated on a public highway of this state, would be in a regarding required equipment for motor vehicles, creates a rebuttable presumption that the vehicle is a discarded or inoperable vehicle.

(2) Vehicle Owner. Any individual, firm, corporation, or unincorporated association with a claim, either individually or jointly, of ownership or any interest, legal or equitable, in a vehicle.

(3) Motor Vehicle. Any self-propelled vehicle which as originally built contained an engine, regardless of whether it contains an engine at any other time, including, without limitation, automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies and other off-the-road vehicles.

(4) Property. The owner's lot or tract of land, whether improved or vacant, all easements of record, and the sidewalk, curb, gutter and parking area of any street abutting such lot or tract of land.

(5) Abandoned vehicles.

(a) No person shall store or permit to be stored on a public right-of-way without permission of the City, an operable motor vehicle, for a period of excess of 15 days. Failure to move the vehicle at least one mile in the 15 days allowed will result in a violation.

(b) If a vehicle has out-of-date registration or is otherwise an inoperable vehicle and is on the public right-of-way, it will automatically be considered abandoned. (Amended Adair Village Ordinance 2008-06)

40.615 Declaration of Public Nuisance. The open accumulation and storage of an inoperable or discarded vehicle is hereby found to create a condition tending to reduce the value of private property, to promote blight, deterioration, and unsightliness, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for disease vectors such as, rodents and insects and to be injurious to the health, safety and general welfare. Therefore, the presence of an inoperable vehicle or discarded vehicle on private or public property is hereby declared to constitute a public nuisance which may be abated in accordance with the provisions of this ordinance.

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40.620 Prohibited Action.

(1) It shall be unlawful to store or permit the storing of an inoperable or discarded motor vehicle for fifteen (15) days or more upon any private property within the City unless the vehicle is completely enclosed within a building or unless it is in connection with a business enterprise dealing in junk vehicles lawfully conducted within the city.

(2) At no time shall a person leave a vehicle unattended in any unsafe condition. An unsafe condition includes but is not limited to anytime the vehicle is left unattended with the engine running and the doors unlocked for more than 10 minutes; anytime any wheel or wheels have been removed from the vehicle, regardless of whether or not the vehicle is supported by a jack, jack stand, wood or concrete blocks; anytime the vehicle is elevated by any means other than having all wheels on the ground; leaving the keys in the ignition; or any other unsafe condition likely create an attractive nuisance for children or the general public.

40.630 Towing of Vehicles.

(1) The City may contract the services of one or more competent towing service firms for the removal and storage of a vehicle deemed to be a nuisance. Said contract shall provide a schedule of charges for towing and storage of such vehicles. The owner of any vehicle towed as a result of abandonment or other enforcement action under this ordinance shall be solely responsible for any towing and storage fees incurred.

(2) Any vehicle towed will be towed pursuant to Oregon Revised Statutes (ORS) Chapter 98.

40.640 Separate Violations

(1) The owner and the occupant of the private property on which a violation any provision of this section is occurring and the owner of the inoperable motor vehicle in question are jointly and severally responsible to abate the nuisance. Every person who fails, neglects, or refuses to abate the nuisance commits a civil infraction.

(2) The abatement of a nuisance as herein provided shall not constitute a penalty for a violation of this ordinance, but shall be in addition to any penalty imposed for a violation of the ordinance.

(3) A separate offense may be deemed committed on each day during or on which a violation occurs or continues. The payment of any penalty does not exempt the offender from compliance with the requirements of this section. (4) No person, after abatement notification has been given, shall move the inoperable motor vehicle in question to any other private property upon which storage of such vehicle is not permitted or onto any public property or right-of-way.

40.690 Penalties. Penalties for violation of Section 40.600 Junked and Abandoned Cars will be established by Resolution by the Adair Village City Council.

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CHRONIC NUISANCES

40.710 Chronic Nuisances. If the person in charge fails to correct a violation after a thirty (30) day period, that violation will be considered a chronic nuisance and cited as such. This section is applicable to Sections 40.200, 40.300, 40.400, 40.500, and 40.600.

Alternate 40.710 Chronic Nuisances. **Any person in charge of property who fails to correct a violation after a thirty (30) day period, or who is cited for three or more violations of the same specific violation ~~that violation~~ of this Code within a 90 day period will be considered to have committed a chronic nuisance and may be cited as such.** This section is applicable to Sections 40.200, 40.300, 40.400, 40.500, and 40.600.

40.790 Penalties. Penalties for violation of Section 40.700 Chronic Nuisances will be established by Resolution by the Adair Village City Council.

ABATEMENT AND APPEAL

40.810 General Nuisances. In addition to those nuisances specifically enumerated within this ordinance, every other thing, substance, or act, which is determined by the City Council or City Administrator to be injurious or detrimental to the public health, safety, welfare, or peace of the City is hereby declared to be a nuisance and may be abated as provided in Sections 40.810 to 40.860.

40.820 Declarion of Nuisance and Abatement Notice. Upon determination by the City Council or the City Administrator that a nuisance as defined herein exists, the City Administrator shall cause a notice to abate to be mailed to the person(s) responsible at their last known address. The notice to abate shall contain:

- (1) The name of the person(s) responsible for abating the nuisance and a description of the nuisance.
- (2) A description of the property, by street address or otherwise, where the nuisance exists.
- (3) A direction to abate the nuisance within ten (10) days from the date the notice was mailed.
- (4) A statement that unless the nuisance is abated or an appeal is filed within the ten (10) day period the City will abate the nuisance and the cost of the abatement will be charge to the perso(s) responsible and will become a lien against the property.
- (5) A statement that the person(s) responsible may appeal the notice to abate to the City Council by filing a notice of appeal, which sets forth the basis for the appeal with the City Administrator within ten (10) days of the date the notice to abate was mailed.

40.830 Appeal.

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(1) If a notice of appeal is filed the Council shall hear the appeal at its first meeting after the filing of the notice of appeal. The City Administrator shall notify the person(s) responsible of the hearing date.

(2) If, after conducting the hearing, the City Council determines that a nuisance does exist it shall order the person(s) responsible to abate the nuisance and shall specify the time in which the abatement must occur.

40.840 Abatement by the City. If, within the time fixed as provided by this ordinance, the nuisance has not been abated by the owner or person in charge of the property, the City Administrator may cause the nuisance to be abated and assess the cost thereof against the property, whether said assessment is for work done on said property, abutting thereon or adjacent thereto.

40.850 Assessment of Costs.

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

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

(b) That the cost as indicated will be assessed to and become a lien against the property unless paid within 60 days from the date of the notice.

(c) That if the owner or person in charge of the property objects to the cost of the abatement as indicated, he may file a notice of objection with the City Administrator not more than 30 days from the date of the notice.

(2) After the expiration of 30 days from the date of the notice, the City Council, in the regular course of business, shall hear and determine the objections to the costs to be assessed.

(3) If the costs of the abatement are not paid within 60 days from the date of the notice, an assessment of the costs as stated or as determined by the City Council shall be made by resolution and shall thereupon be entered in the Docket of City Liens; and upon such entry being made, shall constitute a lien upon the property from which the nuisance was abated.

(4) The lien shall be collected in the manner provided by the general laws of the State of Oregon for foreclosing liens and collecting assessments, and such lien shall bear interest at the highest rate of interest allowed by the laws of the State of Oregon per annum. Such interest shall commence to run 30 days after the entry of the lien in the docket.

(5) An error in the name of the owner or person in charge of the property shall not void the assessment nor will a failure to receive the notice of the assessment render the assessment void, but it shall remain a valid lien against the property.

40.860 Summary Abatement. Upon determination by the Mayor, the City Administrator or the City Administrator's designee that a nuisance as defined by this ordinance exists and that unless the nuisance

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be summarily abated the public health, safety or welfare will be endangered, such officer may act as follows:

(1) He shall give or cause to be given notice to remove or abate such nuisance within 24 hours.

(2) If the nuisance is not removed or abated within 24 hours he is authorized to remove or abate the nuisance and the cost shall be charged against the property and collected as provided in Sections 44.840 and 44.850.

40.870 Right of Lien. Upon a final determination of violation of any section of this ordinance, the City shall have the right, upon notice to the consumer, to record a lien against real property of the consumer which is located within the City limits of Adair Village, provided that the consumer has not timely satisfied any financial sanction imposed.

PENDING