

**BEFORE THE CITY COUNCIL FOR THE
CITY OF ADAIR VILLAGE, OREGON**

In the Matter of an Ordinance Amending)
Chapter 40 – Public Nuisances and Abatement)

ORDINANCE NO. 2023-05

WHEREAS, Adair Village’s current Chapter 40 Public Nuisances and Abatement ordinance has been found to be unenforceable and outdated; and

WHEREAS, the majority of blight and nuisances within a community are caused by inadequate property maintenance; and

WHEREAS, blight and nuisances cause property values to lower and impact the surrounding community’s livability.

NOW, THEREFORE, THE CITY OF ADAIR VILLAGE ORDAINS AS FOLLOWS:

Section 1. It is in the interests of the city and its’ residents to amend Chapter 40 Public Nuisances and Abatement to allow for an enforceable code.

Section 2. Removal. The Adair Village Resolutions are amended by repealing Resolution No. 08-04 (penalties associated with Chapter 40).

Section 3. Enactment. The Adair Village Code of Ordinances are amended by the enactment of this Ordinance which reads in full as follows:

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40.600 PENALTIES, ABATEMENT, AND APPEAL

- 40.605 Continuation
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- 40.640 Obligations

ADMINISTRATION

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

40.010 Purpose and Scope. 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.

40.015 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.

40.020 Conflicting provisions. Where there is a conflict between the requirements of this chapter and the State Building Code, the more restrictive shall apply.

40.025 Definitions. As used in this Chapter, the singular includes the plural and the masculine includes the feminine. Except where the context indicates otherwise, the following shall mean:

(1) City. The City of Adair Village.

(2) Council. The governing body of the city.

(3) 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.

(4) 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.

(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

(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) 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.

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

(9) Public transportation facility. Any property, structure or equipment used for or in connection with the transportation of persons for hire by rail, air, or bus, including any railroad cars, buses or airplanes used to carry out such transportation.

(10) 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 the city for use by the general public.

(11) Vehicle. Every device in, upon, or by which a person or property is or may be transported or drawn upon a public highway, except devices moved exclusively by human power or used exclusively upon stationary rails or tracks.

(12) 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.

(13) Waters of the State. Lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon.

PROPERTY MAINTENANCE

40.105 Adair Village Property Maintenance Code.

(1) The Adair Village Property Maintenance Code is based on the following:

(a) The 2021 Edition of the International Property Maintenance Code (IMPC), first printing;

(i) Chapters 1 through 8 except for Chapters 107 and 108;

(A) Section 101.1 shall read “[...] Property Maintenance Code of Adair Village [...]”;

(B) Section 302.4 shall read “[...] in excess of 10 inches.” This shall also include trees and shrubs, all of which shall be maintained as to not be unsightly, a fire hazard, a safety hazard, or maturing and going to seed. Blackberry bushes shall not cross property lines;

(b) Appendix A of the IPMC

(2) Appendix B of the IMPC is not adopted as part of the Adair Village Property Maintenance Code.

40.110 Order to vacate.

(1) If the building, structure, or premises is in such condition as to make it immediately dangerous to the life, limb, property, or safety of its occupants or the public, it shall be ordered to be vacated.

(2) If the city administrator or their designee has determined that the building, structure, or premises must be vacated, the notice and order shall require that it be vacated within a time certain from the date of the order, as determined by the city administrator or their designee to be reasonable.

(3) Every notice to vacate shall, in addition to being served as provided in IPMC Section 111.4.2, be posted at or upon each exit of the building and shall be in substantially the following form:

CONDEMNED BUILDING

DO NOT OCCUPY

It is a misdemeanor to occupy this building, or to remove or deface this notice.

City of Adair Village

40.115 Recording notice of substandard or nonconforming condition(s). In instances of continued noncompliance with any provisions of this title, and after notice has been given by the city administrator or their designee regarding deficient, substandard, noncomplying, or nonconforming condition(s) relating to the property, premises, or structures, the city administrator may, in addition to other remedies, record upon the title of the property a notice of substandard or nonconforming condition(s). Any such notice shall include a detailed description of the substandard or nonconforming condition(s) and may only be removed once the substandard or nonconforming condition(s) is/are abated. Enforcement costs shall be paid prior to any removal of liens or notices resulting from enforcement action.

40.120 Properties ordered vacated and posted. It is unlawful for any owner, authorized owner's agent, or any other individual to enter a vacated and posted structure, premises, or land without the consent of the city administrator. This consent shall be notated in the property's file and shared with agencies enforcing the matter.

NUISANCES AFFECTING PUBLIC HEALTH OR LIVABILITY

40.205 Nuisances Affecting Public Health. The following are hereby declared to be nuisances affecting public health. 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) 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.

40.210 Debris, garbage, and junk.

(1) It is hereby determined and declared that the keeping of any debris, garbage or junk out of doors on any street, public sidewalk, lot, or premises within the city, is a nuisance and is unlawful.

(2) The following shall be removed, and shall be kept removed, unless specifically authorized by ordinance to do otherwise:

(a) Debris.

(i) Accumulations of litter, scrap materials (such as wood, metal, paper, glass and plastics), empty containers (such as glass, plastic, or metal), pieces of asphalt, concrete, lumber or other building supplies, junk, combustible materials, and stagnant water.

(ii) All dead bushes, dead trees, stumps, and yard clippings or cuttings of plant material; except for such material which:

(A) Is being maintained as part of a naturescaped property; and

(B) Does not result in a nuisance as otherwise defined in this code.

- (iii) The remains of something broken down or destroyed; or the accumulations of any other items not designed for outdoor storage.
- (b) Garbage.
 - (i) All household garbage, offal, dead animals, animal and/or human waste, food waste, refuse, rubbish, trash, and all other useless or discarded material.
- (c) Junk.
 - (i) Accumulations of wood pallets.
 - (ii) All firewood that is not stacked and useable. "Useable" firewood has more wood than rot and is cut to lengths that will fit an approved fireplace or wood stove on the property.
 - (iii) All inoperable motor vehicles, in which multiple major components are defective or removed for more than thirty (30) consecutive days; any motor vehicle which has been unlicensed for more than thirty (30) consecutive days; defective motor vehicle parts, abandoned automobiles, used tires, inoperable and defective machinery, or parts thereof, inoperable and defective appliances and parts thereof, metal portions of inoperable machinery.
 - (iv) All construction materials, except those that are stored in a manner to protect their utility and prevent deterioration, which are reasonably expected to be used at the site.
 - (v) All appliances or appliance parts except for storage of appliances that are reasonably expected to be used at the site and are stored in a manner to protect their utility and prevent deterioration.
 - (vi) All furniture, except that which is stored in a manner to protect its utility and prevent deterioration and is reasonably expected to be used at the property.
 - (vii) All empty glass, plastic, or metal containers.
 - (viii) All other non-trash items which:
 - (A) Are of a type or quantity inconsistent with normal and usual use; or
 - (B) Are likely to obstruct or impede the necessary passage of fire or other emergency personnel.

40.215 Accumulation of Solid Waste. 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.

(1) 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.

(2) The city shall refuse to issue an occupancy permit for a building to any person who has failed to pay charges incurred under subsection one (1) of this section incidental to the construction of the building for which the occupancy permit is sought.

40.220 Littering. As provided in Oregon Revised Statutes (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 Commission or the Public Utility Commission of Oregon, or to a person operating a school bus, described under ORS 801.460.

40.225 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.

40.230 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.

(3) Livestock animals or fowl kept or maintained contrary to the provision of this ordinance are hereby declared to be a public nuisance.

40.235 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.

40.240 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 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 one (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.

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

40.250 State fireworks regulations. 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.

40.255 Vehicle use for sleeping or housekeeping purposes. It is unlawful, within the city limits, for any person to use, allow to use, or permit to use on their private property vehicle or for sleeping or housekeeping purposes except as follows:

- (1) On the premises of a private residence and with the consent of the occupant of the residence; provided, that such use by any number of vehicles is limited to not more than seven (7) days in any ninety (90) day period;
- (2) Within a required front yard setback, as established by the Adair Village Development Code, parking of such vehicles is limited to not more than forty-eight (48) hours;
- (3) With the consent of the property owner and all adjacent property owners, the city administrator may approve a special temporary use permit for vehicle use of up to a ninety (90)

day duration in order to alleviate a temporary housing hardship which cannot otherwise be satisfied within a recreational vehicle park. Such approval may be subject to any conditions which the city administrator deems appropriate to maintain public safety and community aesthetics. In addition, any such permit may be revoked by action of the city administrator.

(a) It is unlawful for any person to discharge wastewater from a recreational vehicle to a storm sewer, sanitary sewer, street, or upon private property except at an approved holding facility or dump station.

(b) No utility connections shall be made across public right-of-way to a vehicle except by temporary permit issued by the city administrator.

40.260 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.

40.265 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;

(b) The piling of any lumber, logs or piling in such manner as to be attractive and dangerous;

(c) Any excavation to remain open without erecting proper safeguards or barriers to prevent such excavation from being accessible.

(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.

DUTY TO PREVENT NUISANCES

40.305 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 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.

40.310 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 (2.5) 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 (8) feet above grade.

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

40.320 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.

40.325 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.

40.330 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 maybe stored adjacent to the garage.

40.335 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 active loading or unloading of vehicles, or the parking of vehicles in permitted parking areas as incidental to the use of the vehicle for travel.

40.340 Prohibited Action. 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; allowing a vehicle to leak fluids such as oil or coolant onto a street or property; leaving the keys in the ignition; or any other unsafe condition likely create an attractive nuisance for children or the general public.

NUISANCES AFFECTING PUBLIC PEACE

40.405 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.

40.410 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 signaling 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 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, motorboat 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.

(n) The gathering of any number of persons upon premises, whether public or private, and the creation of noise from the collective voices of such persons between the hours of 9:00 p.m. and 7:00 a.m. that is plainly audible within any dwelling unit that is not the source of the sound.

40.415 Notices and Advertisements.

(1) No person shall affix or post or cause to be affixed or posted any placard, bill, advertisement or poster upon any real or personal property, public or private, without first securing permission from the owner or person in control of private property. This section shall not be construed as an amendment to or a repeal of any regulation now or hereafter adopted by the city regulating the use of and the location of signs and advertising, 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.

40.420 Curfew for Minor.

(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 two (2) of this section unless:

(a) The minor is accompanied by a parent, guardian or other person twenty-one (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 11:00 p.m. and 4:00 a.m. of the following morning except on Friday and Saturday night the curfew hours are between 11:59 p.m. and 4:00 a.m. of the following morning.

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

(1) The parent, guardian, or person 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.

40.430 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.

40.435 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.

(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, city administrator or designee may exclude from all city parks for a period of not more than thirty (30) days, any person who violates any sections of

40.430 or who violates any Oregon Revised Statutes 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 Statutes, 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.

CHRONIC NUISANCES

40.505 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.

40.510 Alternate 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 of this Code within a ninety (90) day period will be considered to have committed a chronic nuisance and may be cited as such.

PENALTIES, ABATEMENT, AND APPEAL

40.605 Continuation. Every day, or portion thereof, during which any violation of any provision of this chapter is committed, continued or permitted, shall be a separate offense.

40.610 Penalties. Any person or business entity which violates any term or provision of this chapter shall be subject to any or all of the following penalties:

(1) Penalty for First-Time Violation.

(a) In the case of a violation of this title or the Adair Village Development Code, a civil penalty of \$200.00 per violation shall be assessed, per day. If the violation has been corrected within ten (10) working days of the issuance of the citation, the civil penalty shall be reduced to \$100.00 per violation.

(2) Repeat Violations.

(a) In the case of subsequent violations of this title by the same person, business, or corporation within twenty-four (24) consecutive months, the civil penalty for each subsequent violation shall be doubled and shall not be reduced.

(3) Chronic Nuisance.

(a) In the case of Chronic Nuisance, the civil penalty shall be tripled and shall not be reduced.

40.615 Abatement. In addition to the penalties as provided for in other portions of this code, the city may initiate abatement of a nuisance. Abatements are classified into two categories: imminent nuisance abatement and regular abatement.

40.620 Imminent nuisance abatement.

(1) If a condition, substance, act, or nuisance exists that is detrimental to public health, safety, or welfare, it may summarily be abated if after inspection of the premises by the city administrator found to exist, and there is imminent danger to human life, safety, or to property. Determination of a condition, substance, act, or other occurrence constituting an imminent nuisance shall be made by the city administrator.

(2) No notice to the property owner or person in control of the property is required; however, an attempt shall be made to give or cause to be given notice to remove or abate such nuisance within twenty-four (24) hours.

(3) If notice cannot be made and/or the nuisance has not been removed or abated within twenty-four (24) hours, the city administrator is authorized to remove or abate the nuisance and the cost shall be charged against the property.

(4) Costs of abatement may be assessed as provided in this section.

40.625 Notice of violation and abatement. Where there is no imminent danger to human life, safety, or to property but a violation(s) is found to exist, the following noticing procedures will apply:

(1) Notice shall be posted on the premises where the condition, substance, act, or nuisance exists, directing that the owner, person in charge and/or person occupying the property abate the situation.

(2) At the time of posting, the city administrator or their designee shall hand deliver or send a copy of the notice by first class mail to:

- (a) Owner at the last known address as listed in the county tax assessor's office; and
- (b) The person in charge of the property or occupant if different from the owner.

(3) The notice shall contain:

- (a) A description of the real property, by street address or otherwise, on which the condition, substance, act, or nuisance exists;
- (b) A description of the condition, substance, act, or nuisance which must be abated;
- (c) A direction to abate the condition, substance, act, or nuisance within a time specified on the notice;

(d) A statement that unless the condition, substance, act, or nuisance is removed, the city may abate the situation, and the cost of abatement shall be a fee sufficient to cover the direct cost of removal, plus 30 percent for administrative overhead; and this total cost shall be charged to the owner;

(e) A statement that the owner or person in charge of the property may appeal the abatement by giving written notice to the city administrator or their designee within 10 days from the date of the notice;

(f) A statement that if the cost of abatement is not paid by the owner or person in charge of the property, the cost of abatement may be assessed to and become a lien on the property.

(4) After completion of the posting and delivering/ mailing, the person posting and delivering/ mailing the notice shall file this certificate with the city administrator or their designee stating the date and place of delivering/ mailing and posting.

(5) An error in the name or address of the owner or person in charge of the property or use of the name other than that of the owner or person in charge of the property shall not make the notice void, and in such case the posted notice shall be sufficient.

(6) The owner or person in charge of the property shall abate the condition, substance, act, or violation(s) specified in the notice within 10 days or as otherwise notated.

(7) Any person who shall receive a notice described in subsection three (3) of this section may appeal the city administrator or their designee's decision by filing a notice of appeal, in writing, with the city administrator or their designee within ten (10) days after the posting and mailing of the notice. The appeal must specify the basis therefor.

(8) The appeal shall be referred to the city council for a hearing.

(9) If the city council determines that the nuisance does exist, the owner or person in charge of the property shall abate the nuisance within such time as the city council may grant or, if no specific period of time is granted, within ten (10) days of the city council's decision.

(10) If the nuisance has not been abated within the time allowed the city administrator or their designee may cause the nuisance to be abated.

(a) Within sixty (60) days of the date that abatement is taken, the city shall provide the owner or person in charge of the property with an accounting for costs of abatement.

(11) The person charged with the abatement of the nuisance shall have the right at reasonable times to enter upon the property to investigate or cause the removal of the situation.

(12) Remedies Nonexclusive. The procedures provided by this chapter are not exclusive, but are in addition to abatement procedures, fines/fees, and other remedies provided by other laws and ordinances.

(13) The failure of any person or owner to receive actual notice from the city administrator or their designee shall not invalidate or otherwise affect the proceedings under this chapter.

40.630 Costs to become a lien.

(1) If costs of abatement are not paid within thirty (30) days from:

(a) The date of the notice of costs; or

(b) If an appeal was timely filed, from the date of the city council's determination of the costs, an assessment of the costs shall be made and shall be entered in the docket of city liens and may be recorded with Benton County as appropriate. When the entry is recorded in the city lien docket, the assessment shall constitute a lien upon the property subject to the abatement.

(2) The lien shall be enforced in the same manner as liens for assessment for local improvement districts and shall bear interest at judgment rate as determined by the Oregon Revised Statutes. The interest shall commence running on the date of entry of the lien in the city lien docket.

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

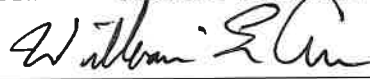
40.635 Interference with abatement personnel prohibited. No person shall interfere with or deny access to any person authorized to enter premises and/or structure for the purposes of abatement.

40.640 Obligations. Under no circumstances shall this chapter obligate the city to undertake abatement. All provisions in this chapter which empower or authorize city action shall be permissive and not mandatory. The city, its officers, and employees shall be entitled to exercise discretion in determining the extent to which a hazard warrants a city response. Such

considerations may include the apparent danger to public health, life, and property, financial resources available to the city for initiation of clean-up, other demands on city staff or financial resources, the likelihood that the costs of cleanup can be recovered from the owner of the premises or the responsible party, and the nature of the hazard. This enumeration is not exclusive and is intended only to illustrate the types of discretionary criteria the city may employ in determining whether or not a particular hazard warrants a city response.

Section 5. Effective Date. Passed by the city council and approved by the Mayor of the City of Adair Village on the 1st day of August, 2023, this amendment shall become effective upon signature by the Mayor.

CITY OF ADAIR VILLAGE



MAYOR



CITY ADMINISTRATOR

Approved as to Form:



City Attorney

First Reading: Aug. 1, 2023

Second Reading: Aug. 1, 2023

City Recorder: 