

## Manzanita Ordinances

### AN ORDINANCE DEFINING NUISANCES; PROVIDING FOR THEIR ABATEMENT; PROVIDING PENALTIES AND REPEALING CONFLICTING ORDINANCES

#### ORDINANCE NO. 79-6

##### Section 1. Definitions.

1. Person - A natural person, firm, partnership, association or corporation.
2. Person in charge of property - An owner, agent, occupant, lessee, contract purchaser or other person having possession or control of property or the supervision of any construction project.
3. Person responsible -The person responsible for abating a nuisance shall include:
  - a. The owner or the person in charge of property;
  - b. The person who caused to come into or continue in existence a nuisance as defined in this ordinance or another ordinance of this city.
4. Public place -A building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.

#### ANIMALS

Section 2. Dangerous Animals. It shall be unlawful for any owner or person in charge of an animal to permit an animal which is dangerous to the public health or safety to be exposed to the public.

Section 3. Removal of Carcasses. It shall be unlawful for any person to permit an animal carcass owned or controlled by him to remain upon public property, or to be exposed on private property for a period of time longer than is reasonably necessary to remove or dispose of the carcass. Any carcass on private property shall be conclusively presumed to be in the control of the owner of such property.

Section 4. Keeping of Animals. It shall be unlawful for any person to keep or maintain any wild animal or any livestock or poultry within the City, except for household pets.

Section 5. Barking and Roaming Dogs. It shall be unlawful for any person to allow any dog in his ownership or control to bark or howl to an extent which annoys or disturbs other persons, or to fail to exercise control over the dog to prevent it from going on the property of other persons or roaming at large in any public place.

Reserved for expansion.

#### NUISANCES AFFECTING PUBLIC HEALTH

Section 11. Nuisances Affecting Public Health. It shall be unlawful for any person to cause or permit on property owned or controlled by him a nuisance affecting public health. The following are nuisances affecting public health, and may be abated as provided in this ordinance:

1. Open vaults or privies constructed and maintained within the City.
2. Accumulations of debris, rubbish, manure, garbage or other refuse that are not removed within a reasonable time and that may affect the health of persons.
3. Stagnant water which affords a breeding place for mosquitoes and other insect pests.
4. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.
5. Decayed or unwholesome food which is offered for human consumption.
6. Premises which are in such a state or condition as to cause an offensive odor, or which are in an unsanitary condition.

7. Drainage of liquid wastes from private premises.
8. Maintenance of any cesspool or septic tank.

Section 12. Sanitary Facilities.

1. It shall be unlawful for any person to live in or rent any building for human habitation which does not have running water and an inside toilet, and is not connected to a public sewer.
2. Every commercial business shall have permanent inside toilet facilities and shall be identified by a street address.

Exception: Approval may be given by the City Council for booths or temporary structures used in conjunction with special events or activities when it is deemed by the Council to be in the best interest to the citizens of Manzanita.

Reserved for expansion.

Section 15. Creating a Hazard. It shall be unlawful for any person to create a hazard by:

1. Maintaining or leaving in a place accessible to children, a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside, or
2. Being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, excavation, or other hole of a depth of four feet or more and a top width of 12 inches or more, and failing or refusing to cover or fence it with a suitable protective construction.

Section 16. Attractive Nuisance. It shall be unlawful for any owner or person in charge of property to permit thereon:

1. Unguarded machinery, equipment or other devices which are attractive, dangerous and accessible to children.
2. Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.
3. An open pit, quarry, cistern or other excavation without safeguards or barriers to prevent such places from being used by children.
4. A dilapidated or unsafe building or structure as defined in Section 203 of the Uniform Building Code as adopted by the State of Oregon. This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

Section 17. Snow and Ice. It shall be unlawful for any owner or person in charge of property, improved or unimproved, abutting on a public sidewalk to permit:

1. Snow to remain on the sidewalk for a period longer than the first two hours of daylight after the snow has fallen.
2. Ice to remain on the sidewalk for more than two hours of daylight after the ice has formed, unless the ice is covered with sand, ashes or other suitable material to assure safe travel.

Section 18. Scattering Rubbish. It shall be unlawful for any person to deposit upon public or private property any kind of rubbish, trash, debris, refuse or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property or would be likely to injure a person, animal or vehicle traveling upon a public way.

Section 19. Trees.

1. It shall be unlawful for any owner or person in charge of property that abuts upon a street or public sidewalk to permit trees or bushes on his property to interfere with street or sidewalk traffic. It shall be the duty of the owner or person in charge of property that abuts upon a street or public sidewalk to keep all trees and bushes on his premises, including the adjoining parking strip, trimmed to a height of not

less than eight feet above the sidewalk and not less than 10 feet above the roadway.

2. It shall be unlawful for any owner or person in charge of property to allow to stand a dead or decaying tree that is a hazard to the public or to persons or property on or near the property.

#### Section 21. Fences.

1. It shall be unlawful for any owner or person in charge of property to construct or maintain a barbed wire fence thereon, or permit barbed wire to remain as part of a fence along a sidewalk or public way; except such wire may be placed above the top of other fencing not less than six feet, six inches in height.
2. It shall be unlawful for any owner or person in charge of property to construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person.

#### Section 22. Surface Waters, Drainage.

1. It shall be unlawful for any owner or person in charge of a building or structure to suffer or permit rainwater, ice or snow to fall from the building or structure onto a street or public sidewalk or to flow across the sidewalk.
2. The owner or person in charge of property shall install and maintain in proper state of repair adequate drainpipes or drainage system, so that any overflow water accumulating on the roof or about the building is not carried across or upon the sidewalk.

Section 23. Noxious Vegetation. No owner or person in charge of property shall allow noxious vegetation to be on said property or in the right-of-way of a public street abutting the property. It shall be the duty of the owner or person in charge of property to cut down and remove or destroy noxious vegetation as often as needed, to prevent it from becoming unsightly, or from becoming a health, safety, or traffic hazard. For purposes of this section, "noxious vegetation" is defined as either:

1. An invasive vegetation competitive with, and destructive to, native vegetation and desired landscape and garden plants; or
2. A regionally abundant weed of economic importance and which is listed as a noxious weed by Oregon State Department of Agriculture Weed Control Board "B" list and other designated weeds. Such weeds include, but are not limited to: Japanese Knotweed, Scotch Broom, Poison Hemlock and Tansy Ragwort. (Section 23 added by Ordinance 06-06 adopted 11/08/06)

Reserved for expansion.

Section 31. Radios, Speakers, Amplifiers and Similar Devices. It shall be unlawful for any person within any residential zone of the City to use or operate any radio receiving set, musical instrument, phonograph, recorder, television set, amplifiers, or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of neighboring residents or any reasonable person of normal sensitiveness residing in the area.

#### Section 32. Junk.

1. It shall be unlawful for any owner or person in charge of property to keep any junk outdoors on any street, lot or premises, or in a building that is not wholly or entirely enclosed, except for doors used for ingress and egress.
2. The term "junk" as used in this section includes all old motor vehicles, old motor vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances or parts thereof, old iron or other metal, glass, paper, lumber, wood or other waste or discarded material.

Section 33. Discharging Firearms. It shall be unlawful for any person, other than an authorized peace officer in the discharge of his duty, to fire or discharge any pistol, revolver, automatic weapon, rifle, shotgun, B-B gun, or other firearm, within the City.

Reserved for expansion.

Section 41. Maintenance of Property. It shall be unlawful for any person owning, leasing, occupying or having charge of any premises to:

1. So maintain such premises as to permit the same to become so defective, unsightly or in such condition or deterioration or disrepair that the same causes appreciable harm or is materially detrimental to proximal properties or improvements.
2. Keep or maintain such premises so out of harmony or conformity with landscaping and maintenance standards of adjacent properties, as to cause substantial diminution in the enjoyment, use or property value of such adjacent properties; or
3. Keep or maintain such premises with any of the following conditions:
  - a. Inoperable vehicles stored within the view of persons on public streets and other properties
  - b. Buildings which are abandoned or boarded up or partially destroyed
  - c. Bed clothes hanging from windows
  - d. Broken down or discarded furniture or conglomeration of toys in front yards
  - e. Overgrown green vegetation visible to the public
  - f. Garbage cans strewn over the yards and visible from the street
  - g. Unfinished buildings
  - h. Dead trees, weeds and debris
  - i. Packing boxes stored in yards and visible to the public
  - j. Deliberate neglect of premises to spite neighbors or influence zone changes
4. Keep or maintain dilapidated or unsafe buildings or structures as defined in Section 203 of the Uniform Building Code as adopted by the State of Oregon.

Reserved for expansion.

#### UNENUMERATED NUISANCES

Section 45. Unenumerated Nuisances.

1. The acts, conditions or objects specifically enumerated and defined in sections 2 and 4 are declared public nuisances: and such acts, conditions or objects may be abated by any of the procedures set forth in Sections 46 to 51 of this Ordinance.
2. In addition to the nuisances specifically enumerated in this Ordinance, the City Council may, after notice and hearing, find an unenumerated act or condition to be hazardous, injurious or detrimental to the public health, safety and welfare, and declare it to be a nuisance which may be abated as provided in this Ordinance.

#### ABATEMENT PROCEDURE

Section 46. Notice.

1. Upon determination by the Council that a nuisance exists, the Council shall cause a notice to be posted on the premises or the site of the nuisance, directing the person responsible to abate the nuisance.
2. At the time of posting, the City Manager shall cause a copy of the notice to be forwarded by registered or certified mail, postage prepaid, to the person responsible at his last known address.
3. The notice to abate shall contain:
  - a. A description of the real property, by street address or otherwise, on which the nuisance exists.
  - b. A direction to abate the nuisance within 10 days from the date of the notice.
  - c. A description of the nuisance.
  - d. A statement that, unless the nuisance is removed, the City may abate the nuisance; and the cost of abatement will be charged to the person responsible.
  - e. A statement that failure to abate a nuisance may warrant imposition of a fine or jail sentence.
  - f. A statement that the person responsible may protest the order to abate by giving notice to the City Manager within 10 days from the date of the notice.
4. Upon completion of the posting and mailing, the persons posting and mailing shall execute and file

certificates stating the date and place of the mailing and posting, respectively.

5. An error in the name or address of the person responsible shall not make the notice void, and in such case the posted notice shall be sufficient.

Section 47. Abatement by the Person Responsible.

1. Within 10 days after the posting and mailing of such notice, as provided in Section 46, the person responsible shall remove the nuisance or show that no nuisance exists.
2. A person responsible, protesting that no nuisance exists, shall file with the City Manager a written statement which shall specify the basis for so protesting.
3. The statement shall be referred to the City Council as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the Council; and the Council shall determine whether or not a nuisance in fact exists; and the determination shall be entered in the official minutes of the Council. Council determination shall be required only in those cases where a written statement has been filed as provided.
4. If the Council determines that a nuisance does in fact exist, the person responsible shall, within 10 days after the Council determination, abate the nuisance.

Section 48. Joint Responsibility. If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the city in abating the nuisance.

Section 49. Abatement by the City.

1. If, within the time allowed, the nuisance has not been abated by the person responsible, the Council may cause the nuisance to be abated.
2. The officer charged with abatement of the nuisance shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance.
3. The City Manager shall keep an accurate record of the expense incurred by the City in physically abating the nuisance and shall include therein a charge of \$25.00 or 10 per cent of those expenses (whichever is the greater) for administrative overhead.

Section 50. Assessment of Costs.

1. The City Manager by registered or certified mail, postage prepaid, shall forward to the person responsible 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 30 days from the date of the notice.
  - c. If the person responsible objects to the cost of the abatement as indicated, he may file a notice of objection with the City Manager not more than 10 days from the date of the notice.
2. Upon the expiration of 10 days after the date of the notice, the Council, in the regular course of business, shall hear and determine the objections to the costs assessed.
3. If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs, as stated or as determined by the 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 removed or abated.
4. The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of 7 per cent per annum. The interest shall commence to run from the date of the entry of the lien in the lien docket.
5. An error in the name of a person responsible shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void; but it shall remain a valid lien against the property.

## GENERAL

Section 51. Summary Abatement. The procedure provided by this Ordinance is not exclusive but is in addition to procedure provided by other Ordinances; and the chief of the fire department, the City Manager, or any other city official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.

Section 52. Penalties. Any person or persons who shall be convicted of being the author or keeper of a nuisance, or otherwise guilty of a violation of any of the provisions of this Ordinance, shall be fined not less than \$50.00 nor more than \$100.00 for the first offense, and for the second and all subsequent offenses, not less than \$75.00 nor more than \$150.00.

Section 53. Separate Violations.

1. Each day's violation of a provision of this Ordinance constitutes a separate offense.
2. The abatement of a nuisance is not a penalty for violating this Ordinance, but is an additional remedy. The imposition of a fine does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within 10 days of the date of notice to abate, or of a written protest has been filed, then abatement within 10 days of Council determination that nuisance exists, will relieve the person responsible from the imposition of any fine or imprisonment under Section 52 of this Ordinance.

Section 54. Severability. The sections and subsections of this Ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections and subsections.

Section 55. Repeal. Any Ordinance, or any section of any Ordinance previously enacted, which is in conflict with the provisions of this Ordinance, is hereby expressly repealed.

Section 56. Saving Clause. Notwithstanding Section 55, Ordinances repealed thereby shall remain in force for the purpose of authorizing the arrest, prosecution, conviction and punishment of a person who violated those Ordinances prior to the effective date of this Ordinance.