

CHAPTER 40
PUBLIC NUISANCES AND ABATEMENT

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Table of Contents

40.000	Title, Scope, and Authority
40.005	Title
40.010	Purpose and Scope
40.020	General Authority
40.100	Definitions
40.110	Definitions
40.200	Nuisances Affecting Public Health
40.210	Nuisances Affecting Public Health
40.220	Accumulation of Solid Waste
40.225	Littering
40.230	Dumping
40.235	Dumping in Waters
40.240	Livestock Animals and Fowl
40.245	Animal Carcasses
40.250	Inadequate Sewage Disposal
40.260	Zoning and Non-permitted Land Uses
40.270	Certain Buildings
40.291	Penalties
40.300	Attractive Nuisances
40.310	Attractive Nuisances
40.320	Abandoned Ice Boxes
40.391	Penalties
40.400	Duty to Prevent Nuisances
40.410	Clean Sidewalks
40.420	Weeds, Grass, and Other Vegetation
40.430	Trees, Bushes, and Vision Clearance
40.440	Fences
40.450	Surface Waters, Drainage
40.460	Unauthorized Disposal of Offensive Substances
40.470	Garbage and Recycling Containers
40.491	Penalties

CHAPTER 40
PUBLIC NUISANCES AND ABATEMENT

- 40.500 Nuisances Affecting Public Peace
 - 40.510 Radio and Television Interference
 - 40.520 Unnecessary Noise
 - 40.530 Notices and Advertisements
 - 40.540 Curfew for Minors
 - 40.591 Penalties

- 40.600 Junked and Abandoned Autos
 - 40.610 Definitions
 - 40.615 Declaration of Public Nuisance
 - 40.620 Prohibited Action
 - 40.630 Entry on Private Property
 - 40.640 Towing Vehicles
 - 40.650 Notice of Impoundment and Sale
 - 40.652 Low Value Vehicle
 - 40.654 Public Sale Notice
 - 40.656 Redemption Before Sale
 - 40.658 Sale and Proceeds
 - 40.660 Assessment of Costs on Property
 - 40.680 Charges
 - 40.685 Separate Violations
 - 40.691 Penalties

- 40.700 Chronic Nuisance Properties
 - 40.710 Chronic Nuisances
 - 40.790 Penalties

- 40.800 Abatement and Appeal
 - 40.810 General Nuisances
 - 40.820 Declaration of Nuisance and Abatement Notice
 - 40.830 Appeal
 - 40.840 Abatement by City
 - 40.850 Assessment of Costs
 - 40.860 Summary Abatement
 - 40.870 Right of Lien

CHAPTER 40
PUBLIC NUISANCES AND ABATEMENT

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 pupose of this Chapter to define conditions which exist that may endanger the life, limb, health, safety, or welfare of the general public 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 the provisions consistent with the general laws of the State of Oregon.

(2) The City Council may, by order, designate enforcement officers to assist the City Administrator 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) Person. Every natural person, firm, partnership, association or corporation.

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

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

(b) The person in charge of the property on which the nuisance exists; and

(c) The person who created or caused the nuisance to come into or continue in existence.

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

CHAPTER 40
PUBLIC NUISANCES AND ABATEMENT

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

(8) Public way. Includes, but is not limited to roads, streets, alleys, lanes, trails, beaches, parks, and all recreational facilities operated by the state, a county, or a the City for use by the general public.

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

NUISANCES AFFECTING PUBLIC HEALTH

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.

(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. All accumulations of debris, rubbish, manure and other refuse located on privately owned real property 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 any street, lot, porch, or premises or in a building that is not wholly or entirely enclosed, except doors used for ingress and egress.

(b) The term "junk" as used in this section includes motor vehicle parts, abandoned automobiles, inoperable machinery or parts, appliances or parts thereof, old iron or other metal, glass, paper, lumber, wood, vegetation, broken tables, chairs, or other waste or discarded material. (Amended Adair Village Ordinance 2008-06)

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,

CHAPTER 40 PUBLIC NUISANCES AND ABATEMENT

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, unlicensed and/or inoperable motor vehicles, 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 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: 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.

CHAPTER 40
PUBLIC NUISANCES AND ABATEMENT

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. 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 provisions of this ordinance are hereby declared to be a public nuisance and may be abated as provided in Adair Village Code Sections 40.710 through 40.790.

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 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.

40.270 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;

CHAPTER 40
PUBLIC NUISANCES AND ABATEMENT

(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.

40.290 Penalties. (Repealed Adair Village Ordinance 2008-06)

40.291 Penalties. Penalties for violation of Section 40.300 Attractive Nuisances will be established by Resolution by the Adair Village City Council. (Amended Adair Village Ordinance 2008-06)

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 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 to children and which is accessible to children.

(c) Any excavation to remain open for an unreasonable length of time without erecting proper safeguards or barriers 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 to playing children.

40.320 Abandoned Ice Boxes. 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. (Repealed Adair Village Ordinance 2008-06)

40.391 Penalties. Penalties for violation of Section 40.300 Nuisances Affecting Public Health will be established by Resolution by the Adair Village City Council. (Amended Adair Village Ordinance 2008-06)

CHAPTER 40
PUBLIC NUISANCES AND ABATEMENT

DUTY TO PREVENT NUISANCES

40.410 Clean Sidewalks. No owner or person in charge of any premises, improved or unimproved, abutting upon any public sidewalk shall permit:

(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 to remain on such sidewalk for a period longer than twelve (12) hours after the snow has fallen.

(3) Such sidewalk to be covered with ice. It shall be the duty of any such person, within twelve (12) hours after the ice has formed, to remove any ice accumulating on such sidewalk or to properly cover it 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 real 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 (10) inches high;
- (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

CHAPTER 40 PUBLIC NUISANCES AND ABATEMENT

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.

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.

CHAPTER 40

PUBLIC NUISANCES AND ABATEMENT

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

40.460 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 (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.

40.470 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.

(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.

40.490 Penalties. (Repealed Adair Village Ordinance 2008-06)

40.491 Penalties. Penalties for violation of Section 40.400 Duty to Prevent Nuisances will be established by Resolution by the Adair Village City Council. (Amended Adair Village Ordinance 2008-06)

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

CHAPTER 40 PUBLIC NUISANCES AND ABATEMENT

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 shall 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 blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, or as a warning of danger, or upon request of proper City authorities.
- (f) The use of any mechanical device operated by compressed air, steam or otherwise, unless the noise thereby created is effectively muffled.
- (g) 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 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.
- (h) The use of any gong or siren other than by public officers for authorized purposes or on a police, fire or other emergency vehicle.
- (i) 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.
- (j) 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.
- (k) 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

CHAPTER 40 PUBLIC NUISANCES AND ABATEMENT

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 be audible for a distance of more than 1,000 feet from the instrument, speaker or amplifier, and in no event shall a permit be granted where any obstruction to the free and uninterrupted traffic, both vehicular and pedestrian, will result.

(l) 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; provided that newsboys may sell newspapers and magazines by public outcry.

(m) 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 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 of 11:00 PM and 5:00 AM of the following morning unless:

- (a) Such minor is accompanied by a parent, guardian, or other person 18 years of age or over and authorized by the parent or by law to have care and custody of the minor;
- (b) Such minor is then engaged in a lawful pursuit or activity which requires the presence of the minor in such public places during the hours specified in this section;
- (c) The minor is emancipated pursuant to ORS 419B.550 to 49B.558.

(2) Parental Duties.

(a) No parent, guardian, or person having the care and custody of a minor under the age of 18 years shall allow such minor to be in or upon any street, highway, park, alley, or

CHAPTER 40
PUBLIC NUISANCES AND ABATEMENT

other public place between the hours specified in subsection 1 of this Section, except as otherwise provided in that subsection;

(b) 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.

40.590 Penalties. (Repealed Adair Village Ordinance 2008-06)

40.591 Penalties. Penalties for violation of Section 40.500 Nuisances Affecting Public Peace will be established by Resolution by the Adair Village City Council. (Amended Adair Village Ordinance 2008-06)

JUNKED AND ABANDONED AUTOS

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

(1) Costs. The expense of removing, storing or selling a junked vehicle.

(2) 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.

(3) Discarded Vehicle. A vehicle that has been extensively damaged or dismantled, including, but not limited to, a broken window or windshield, missing wheels, tires, motor or transmission. For the purposes of this section, a showing that a vehicle, if operated on a public highway of this state, would be in violation of three or more of the provisions of the Oregon Vehicle Code regarding required equipment for motor vehicles, creates a rebuttable presumption that the vehicle is a discarded vehicle. Discarded vehicles include major parts of vehicles, including but not limited to, bodies, engines, transmission or rear ends.

(4) 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.

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

(6) Abandoned vehicles.

(a) No person shall store or permit to be stored on a public right-of-way without permission of the city 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 and is on the public right-of-way, it will automatically be considered abandoned. (Amended Adair Village Ordinance 2008-06)

CHAPTER 40 PUBLIC NUISANCES AND ABATEMENT

40.615 Declaration of Public Nuisance. The open accumulation and storage of a 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 a 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.

40.620 Prohibited Action. It shall be unlawful to store or permit the storing of a discarded vehicle 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.

40.630 Entry on Private Property.

(1) The enforcement officer is authorized at all reasonable times to enter on private property and examine a vehicle to determine whether it is in a discarded condition. Except when an emergency exists, before entering on private property, the officer shall obtain the consent of an occupant or a warrant of the municipal court authorizing entry for inspection.

(2) No search warrant shall be issued under the terms of this ordinance until an affidavit has been filed with the municipal court showing probable cause for the inspection by stating the purpose and extent of the proposed inspection, citing this ordinance as a basis for the inspection, whether it is an inspection instituted by complaint or giving other specific or general information concerning the vehicle in question or the property on which it is situated.

(3) No person shall interfere with or attempt to prevent the enforcement officer from entering on private premises and inspecting a vehicle when an emergency exists or when the officer exhibits a warrant authorizing entry.

40.640 Towing of Vehicles. 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.

40.650 Notice of Impoundment and Sale. If the owner is identified, he shall be notified immediately by registered or certified mail that such vehicle is held by the City. The notice shall also state:

- (1) The reason for impounding the vehicle.
- (2) The existing costs charged against the vehicle.
- (3) An estimate of future costs, including the costs of advertising the vehicle for sale.

40.652 Low Value Vehicle.

(1) If the vehicle is appraised at \$750 or less, the enforcement officer shall file an affidavit with the Motor Vehicles Division describing the vehicle, including the license plates, if any, stating the

CHAPTER 40
PUBLIC NUISANCES AND ABATEMENT

location and appraised value of the vehicle and stating that the vehicle will be junked or dismantled. The enforcement officer may dispose of the vehicle and execute a certificate of sale without notice in public auction.

- (2) The certificate of sale shall be on a form provided by the City Administrator.

40.654 Public Sale Notice.

(1) If a vehicle is appraised over \$750, the enforcement officer shall hold a sale at the time and place appointed, within view of the vehicle to be sold.

(2) The vehicle shall be sold to the highest and best bidder. However, if no bids are entered, or those bids that are entered are less than the costs incurred by the City, the enforcement officer may enter a bid in an amount equal to the costs on behalf of the City.

(3) At the time of payment of purchase price, the enforcement officer shall execute a certificate of sale in duplicate; the original shall be delivered to the purchaser and a copy filed with the City Administrator.

- (4) The certificate of sale shall be on a form provided by the City Administrator.

40.656 Redemption Before Sale.

(1) A vehicle impounded under the provisions of this ordinance may be redeemed by its owner, or by the person in charge of the property from which the vehicle was removed by applying to the enforcement officer before the sale or disposition has taken place. The person shall:

- (a) submit satisfactory evidence of ownership or interest in the vehicle to the enforcement officer that the claim is rightful; and
- (b) pay the costs owing at the time the application to redeem is made; and
- (c) give evidence that the nuisance character of the vehicle will not be resumed.

40.658 Sale and Proceeds.

(1) Upon the sale being consummated, the enforcement officer shall deliver the vehicle and the certificate of sale to the purchaser. The sale and conveyance shall be without redemption.

- (2) The proceeds of the sale shall be applied:
- (a) to the payment of costs incurred by the City;
 - (b) for such services as may be rendered by a towing service in accordance with Section 40.640 of this ordinance; and
 - (c) the balance, if any, shall be transferred to the City Administrator to be credited to the General Fund.

CHAPTER 40
PUBLIC NUISANCES AND ABATEMENT

40.660 Assessment of Costs on Property.

(1) After disposing of the discarded vehicle and deducting any money received from the sale of the vehicle from the costs, the City Administrator shall give notice of assessment of costs on property to the person in charge of the property from which the vehicle was removed.

(2) An error in the name of the person in charge of the property shall not void the assessments, nor will a failure to receive notice of the proposed assessment render the assessment void. The assessment shall remain a valid lien against the property.

40.680 Charges.

(1) Where Section 40.640 of this ordinance is utilized, the following conditions shall apply:

(a) The City shall not be liable for services rendered by a contracted towing service firm from any source other than such amounts as may be collected from the owner on redemption, or from a purchaser upon sale, after City shall have deducted its expenses, unless City shall be the purchaser of the vehicle.

(2) No lien shall be created by this ordinance in favor of the contracted towing service firm upon the vehicle for such services.

(3) The vehicle shall not be released from the private towing service except on a receipt signed by the enforcement officer, proffered by the purchaser.

(4) Where Section 40.640 of this ordinance is not utilized, the enforcement officer shall charge and collect the costs established by the City Council by resolution for towing and storage.

40.685 Separate Violations.

(1) Any person violating any provision of this ordinance shall be considered to have committed a separate offense for each day during which such violation continues.

(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.

40.690 Penalties. (Repealed Adair Village Ordinance 2008-06)

40.691 Penalties. Penalties for violation of Section 40.600 Junked and Abandoned Cars will be established by Resolution by the Adair Village City Council. (Amended Adair Village Ordinance 2008-06)

CHAPTER 40
PUBLIC NUISANCES AND ABATEMENT

]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 40.291, 40.391, and 40.691. (Amended Adair Village Ordinance 2008-06)

40.790 Penalties. Penalties for violation of Section 40.700 Chronic Nuisances will be established by Resolution by the Adair Village City Council. (Amended Adair Village Ordinance 2008-06)

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.

(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.

CHAPTER 40
PUBLIC NUISANCES AND ABATEMENT

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 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

CHAPTER 40
PUBLIC NUISANCES AND ABATEMENT

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.