

ORDINANCE NO. 246

AN ORDINANCE DEFINING NUISANCES; PROVIDING FOR THEIR ABATEMENT; PROVIDING PENALTIES AND REPEALING ORDINANCE NO. 83, 204 AND 240 - PERTAINING TO NUISANCES, ORDINANCES #10 - KEEPING HOGS, ORDINANCE #27 - SIDEWALK GRADES, ORDINANCE #45 - AMENDING ORDINANCE #27, ORDINANCE #244 - AMENDING ORDINANCE #240, ORDINANCE #142 - BUILDING CODE, ORDINANCE #213 - REMOVAL OF WEEDS, ORDINANCE #217 - JACOB BRAKES and ORDINANCE # 152-198

THE CITY OF MORO ORDAINS AS FOLLOWS:

Section 1. Definitions

In this Ordinance unless the context otherwise requires:

- A. "Person" means a natural person, firm, partnership, association or corporation.
- B. "Person in charge of property" means an owner, agent, occupant, lessee, contract purchaser or other person having possession or control of property or supervision of a construction project.
- C. "Person responsible" means the owner or the person in charge of the property.

Nuisances Affecting Public Health

Section 2. Prohibited Health Hazards

No person shall allow, cause, create, permit or suffer, a nuisance affecting public health on private or public property. The following are not exclusive but illustrative of nuisances affecting public health and may be abated as provided in this Ordinance.

- A. Open vaults or privies constructed and maintained within the City, except those constructed or maintained in connection with construction projects in accordance with State Health Division regulations.
- B. Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time.
- C. Putrescible wastes not removed at least every seven (7) days.
- D. Stagnant water that affords a breeding place for mosquitoes and other insect pests.
- E. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substance placed in or near the water in a manner that will cause harmful material to pollute the water.
- F. Decayed or unwholesome food offered for human consumption.
- G. An outside toilet, cesspool, septic tank, barn, stable, corral, pen, chicken coop, rabbit hutch or other premises that are in such a state of condition as to cause an offensive odor or that are in an unsanitary condition.
- H. Liquid wastes drained from private premises.
- I. Mastics, oil, grease or petroleum products allowed to be introduced into the sewer system by a user.
- J. Animal carcasses on streets or private or public property.
- K. Animals or birds afflicted with communicable diseases.
- L. Animals or birds maintained, kept or housed in such a number to create offensive odors or noise.
- M. Pigs or swine maintained, kept or housed in the City, except the City Council may approve, on a case by case basis, the maintaining of pigs or swine for a period not to exceed four (4) months for 4-H/FFA projects.

Nuisances Affecting Public Safety

Section 3. Prohibited Hazards

No person shall allow, cause, create, permit or suffer a nuisance affecting public safety on private or public property. The following are not exclusive but illustrative of nuisances affecting public safety and may be abated as provided in this Ordinance.

A. Woodpiles, wood, lumber, rocks, bricks, blocks or metal within the streets or alleys or upon the sidewalks or planting strips for a period of time longer than 24 hours after placement of such material without first obtaining a permit from the City Council.

B. A container with a compartment of more than one cubic foot capacity with a door or lid that locks or fastens automatically when closed that cannot be easily opened from the inside, maintained or left, in a place accessible to children.

C. All, cistern, cesspool, excavation, or other hole of a depth of four (4) feet or more and a top width of 12 inches or more uncovered, not fenced or without a suitable protective construction.

D. Unguarded machinery, equipment or other devices appealing, dangerous and accessible to children.

E. Lumber, logs or piling placed or stored in a manner to be appealing, dangerous and accessible to children.

F. Excavations remaining open without erecting proper safeguards or barriers.

Section 4. Noxious Vegetation

No persons shall allow, cause, permit or suffer noxious vegetation on property or in the right of way of a street, alley or sidewalk abutting the property. Noxious vegetation must be cut down or destroyed as often as needed to prevent the creation of a health, fire or traffic hazard, or in the case of weeds or other noxious vegetation, from maturing or from going to seed. Noxious vegetation includes but is not limited to:

A. Vegetation that is or is likely to become:

1. A health hazard;

2. A fire hazard;

3. A traffic hazard, because it impairs the view of a public rights of way or otherwise

makes the use of the thoroughfare hazardous.

B. Any weed on the Sherman County's noxious weed list.

Section 5. Unauthorized Dumping

A. No person shall deposit, on public or private property, 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 on a public way.

B. No person shall deposit trash, rubbish, debris, or refuse which was generated from a residence or business into public trash receptacles located in City Parks or on City Streets.

Section 6. Trees, Bushes and Shrubs

A. No person in charge of property shall allow or permit trees, bushes or shrubs on property abutting a street, alley or sidewalk to interfere with vehicular or pedestrian traffic. A person in charge of property shall keep all trees, bushes or shrubs on the premises, including the adjoining parking strip, trimmed so that any overhanging portions are at least eight (8) feet above the sidewalk and at least 12 feet above the roadway.

B. No person in charge of property shall allow a dead or decaying tree to stand if it is a hazard to the public or to persons or property on or near the property.

Section 7. Surface Water

A. No person shall permit rainwater, ice or snow to fall from a building or structure onto a street or public sidewalk or to flow across the sidewalk.

B. The person in charge of property shall install and maintain in a proper state of repair, adequate drainpipes or drainage system, so that overflow water accumulating on the roof or about the building is not carried across or on the sidewalk or other property.

Section 8. Snow or Ice Removal

No Owner or person in charge of property, improved or unimproved, abutting on a public sidewalk shall permit:

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

Section 9. Sifting or Leaking Loads

A. No person shall drive or move a vehicle on any street unless it is constructed or loaded so as to prevent it's contents from dropping, sifting, leaking or otherwise escaping.

B. Any person driving a vehicle from which any contents have dropped, sifted, leaked or escaped must remove the substance or material from the street within three (3) hours.

Nuisances Affecting Public Welfare

Section 10. Unreasonable Noise

No person shall allow, cause, create or permit the continuance of unreasonable noise. The following enumerated noises are not exclusive but illustrative of unreasonable noises:

A. The keeping of an animal, which by loud and frequent or continued noise disturbs the comfort and repose of a person in the vicinity.

B. The use of an engine, machine or device which is so loaded, out of repair or operated in such a manner as to create a loud or unreasonable grating, grinding, rattling or other noise.

C. The use of a mechanical device operated by compressed air, steam, or otherwise unless the noise created is muffled.

D. The construction, including excavation, demolition, alteration or repair of a building, vehicle or equipment other than between the hours of 7:00 a.m. and 9:00 p.m. except with a permit issued by the City Council.

E. The use or operation of an automatic or electric piano, phonograph, loudspeaker, stereo or sound amplifying device so loudly as to disturb persons at least five (5) feet beyond the property on which the sound originates. Sound produced in conjunction with officially organized sporting events, parades, festivals, fairs and other events issued a permit by the City Council are exempt from the noise limitations.

F. Use of Jacob brakes within City limits.

Section 11. Accumulation of Debris and Materials

No person shall allow, cause, permit or suffer any old or scrap copper, brass, pipe, rope, wire, rags, batteries, paper, plastic, trash, rubber, debris, waste, or junked, dismantled, wrecked, scrapped or ruined appliances, motor vehicles or other vehicles, or appliance, motor vehicle or other vehicle parts, iron, steel, or other old or scrap ferrous or nonferrous material, metal or nonmetal materials to accumulate on private or public property within the sight of the public.

Section 12. Notices and Advertisements

A. No person shall affix or cause to be distributed 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 charge of the property.

B. Any placard, bill, advertisement or poster found posted or otherwise affixed, upon any public property contrary to the provisions of this section may be removed by any employee of the City. The person responsible for such illegal posting shall be liable for the cost incurred in the removal.

C. 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 location of signs and advertising.

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

Section 13. Unenumerated Nuisances

A. The acts, conditions or objects specifically enumerated and defined in Sections 1 through 12, inclusive, are declared public nuisances and may be abated by the procedures set forth in this ordinance.

Section 14. Dangerous Buildings Nuisances

A. By reason of inadequate maintenance; dilapidation; decay; damage from fire, earthquake, or other cause; faulty electric wiring to the extent of providing a risk of fire hazard; or other faulty construction which would cause the building, structure, or any portion thereof to be manifestly unsafe for the purposes for which it is being used;

B. Where such building has come so dilapidated that it can be openly and easily accessible as an attractive nuisance to children, a harbor to vagrants, criminals, or immoral persons or as to enable persons to resort thereto for the purpose of committing unlawful or immoral acts;

C. Has become a collection site of garbage, debris, junk, or similar material, which would attract rodents or other animals.

D. Which has portions thereof remaining on a site after razing, demolition, or destruction, which has been abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

E. The condition of such a building or structure has been recognized and a written report attests to any of the aforementioned conditions, as listed in Section 14 (A), (B), (C), or (D), is filed with the City Council. Said report shall be prepared by any one or more of the following:

1. A Registered Professional Engineer or Architect of the State of Oregon;
2. A Public Building Official, duly appointed Fire Marshal or Health Officer of the City

of Moro or Sherman County or the State of Oregon;

Abatement Procedures

Section 15. Notice to Abate

A. On determination by the council that a nuisance exists, the council shall cause a notice to be posted on the premises or at the site of the nuisance, directing the person responsible to abate the nuisance.

B. At the time of posting, the city recorder shall cause a copy of the notice to be forwarded by registered or certified mail to the person responsible at the person's last known address.

C. The notice to abate shall contain:

1. A description of the real property, by street address or otherwise, on which the nuisance exists.
2. A direction to abate the nuisance within a specified time frame.
3. A description of the nuisance.
4. 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.
5. A statement that failure to abate a nuisance may warrant imposition of a fine.
6. A statement that the person responsible may protest the notice to abate by giving written notice to the city recorder within 10 days from the date of the notice.

D. If the person responsible is not the owner, an additional notice shall be sent to the owner, stating that the cost of abatement not paid by the person responsible may become a lien on the property.

E. 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.

F. 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 16. Time Frame for Abatement

A. If abatement is required within 24 hours of receipt of the notice, the notice must be personally delivered to the person responsible or posted on the premises or at the site of the nuisance in two (2) conspicuous locations.

B. If the notice of abatement allows more than 24 hours to abate the nuisance, the notice may be personally delivered, posted on the premises or at the site of the nuisance or mailed by registered or certified mail.

C. The concerns for the public's health, safety and welfare and the extent of the nuisance shall be considered by the City in determining the time frame for abatement.

Section 17. Abatement by the Person Responsible

A. Within the time frame specified in the notice to abate the person responsible shall remove the nuisance or file a protest within 24 hours of receipt of posting.

B. The person responsible or property owner may request an extension of time from the City Recorder. The City Recorder may grant reasonable extensions or accommodations to the specified time frames.

C. The person responsible or the property owner, protesting that no nuisance exists, shall file a written statement that specifies the basis for the protest with the City Recorder.

D. The statement shall be referred to the City Council as a part of its regular agenda at its next meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the Council. The Council shall determine whether a nuisance in fact exists and set a time frame for the abatement of the nuisance. The determination shall be entered in the official minutes of the Council. Council determination shall be required only in cases where a written statement has been filed as provided.

E. If the Council determines that a nuisance in fact exists, the person responsible shall abate the nuisance within the time frame specified.

Section 18. Joint Responsibility

If more than one person is a person responsible for the nuisance, they shall be jointly or separately liable for abating the nuisance or for the costs incurred by the City in abating the nuisance.

Section 19. Abatement by the City

A. If the nuisance has not been abated by the person responsible within the time allowed, the Council may cause the nuisance to be abated.

B. The officer charged with abatement of the nuisance shall have the right to enter into or upon property at reasonable times to investigate or cause removal of a nuisance.

C. The City Recorder shall keep an accurate record of the expense incurred by the City in physically abating the nuisance and shall include an additional charge of 15 percent of those expenses for administrative costs.

Section 20.

A. The City Recorder shall forward to the owner and the person responsible, by registered or certified mail, a notice of assessment stating:

1. The total cost of the abatement, including administrative costs.

2. That the costs as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice.

3. That if the owner or the person responsible objects to the cost of the abatement as indicated, a notice of objection may be filed with the City Recorder not more than five (5) days from the date of the notice of assessment.

B. No later than 30 days after the date of objection, the Council, in regular course of business, shall hear and make a decision on the objections to the costs assessed.

C. If the costs of the abatement are not paid within 30 days from the date of the notice of assessment, an assessment of the costs, as stated or as decided by the Council, shall be made by resolution and shall be entered in the docket of city liens. When the entry is made, it shall constitute a lien on the property from which the nuisance was removed or abated.

D. The lien shall be enforced in the same manner as liens for street improvements, utility bills and other City liens and shall bear interest at the current statutory interest rate. The interest rate shall begin to run from the date of entry of the lien in the lien docket.

E. An error in the name of the owner or person responsible or a failure to receive the notice of assessment will not void the assessment, and it shall remain a valid lien against the property.

Section 21. Summary Abatement

City Officials may proceed to summarily abate a health or other nuisance, which imminently endangers human life or property. The person responsible for such a nuisance shall reimburse the City for costs incurred in abating the nuisance.

General

Section 22. Penalties

A violation of any provision of this Ordinance is punishable by a fine upon conviction of not less than \$50.00 for each offense.

Section 23.

A. Each day's violation of a provision of this Ordinance constitutes a separate offense.

B. The abatement of a nuisance is not a penalty for violation of this Ordinance, but is an additional remedy. The imposition of a fine does not relieve a person of the duty to abate the nuisance.

Section 24. Severability

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

Section 25. Repeal

Ordinance No. 83 passed May 9, 1978 and Ordinance No. 204 passed May 3, 1983 are hereby repealed and other Ordinances pertaining to these ordinances; Ordinance #10, Ordinance #27, Ordinance 45, Ordinance 142, #152-198, Ordinance #213 and Ordinance #214.

Section 26. Savings Clause

Notwithstanding section 24, ordinances repealed thereby shall remain in force for the purpose of authorizing the prosecution, conviction and punishment of a person who violated those ordinances prior to the effective date of this Ordinance.

Submitted to the Council and read in full the first time on the _____ day of _____, 2001.

Read in full the second time and passed by the following vote on this _____ day of _____, 2001.

Submitted to the Mayor for approval this _____ day of _____, 2001.

Ayes: _____ Nays: _____ Absent: _____

MAYOR

ATTEST