

AFFIDAVIT OF POSTING  
ORDINANCE CB-0-15-84

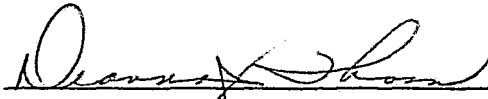
STATE OF OREGON            )  
                                  )  
COUNTIES OF CLACKAMAS    )  
          AND WASHINGTON     )  
                                  )  
CITY OF WILSONVILLE     )

I, the undersigned, City REcorder of the City of Wilsonville, State of Oregon, being first duly sworn on oath depose and say:


On the 2nd day of May, 1984, I caused to be posted copies of the attached Ordinance CB-0-15-84, an ordinance amending nuisances, Section 6.200, Et. Seq., of the Wilsonville Code and declaring an emergency, in the following four public and conspicuous places of the city, to wit:

- WILSONVILLE CITY HALL
- WILSONVILLE POST OFFICE
- LOWRIE'S FOOD MARKET
- KOPPER KITCHEN

The ordinance remained posted for more than five (5) days prior to the time for said public hearing on the 7th day of May, 1984.

  
\_\_\_\_\_  
DEANNA J. THOM, City Recorder

Subscribed and sworn to before me  
this 9<sup>th</sup> day of May, 1984.

  
\_\_\_\_\_  
NOTARY PUBLIC, STATE OF OREGON

My commission expires: August 29, 1985

AN ORDINANCE AMENDING NUISANCES, SECTION 6.200 ET. SEQ., OF THE WILSONVILLE CODE AND DECLARING AN EMERGENCY.

WHEREAS, the Wilsonville City Council finds that it is in the best interests of the City of Wilsonville to amend the Nuisances Section of the Code, Section 6.200, et. seq., in order to aid in the enforcement of abatement of nuisances,

NOW, THEREFORE, the City of Wilsonville ordains as follows:

Section 1. Section 6.200 of the Code is amended to read as follows:

"6.200 Definitions. As used in Sections 6.202 to 6.260, unless the context requires otherwise, the following terms shall mean:

- (1) "Person in charge of property." An agent, occupant, lessee, contract purchaser, tenant, or person other than an owner, having possession or control of the property.
- (2) "Person responsible." The person responsible for abating a nuisance shall include:
  - (a) The owner.
  - (b) The person in charge of property, as defined in this section.
  - (c) The person who causes to come into or continue in existence a nuisance, as defined in Sections 6.202 to 6.226 or in any other applicable Section.
- (3) "Public place." A building, place, or accommodation, whether publicly or privately owned, open and available to the general public."

Section 2. Section 6.202 shall be amended to read as follows:  
"6.202 Public Health.

- (1) No owner or person in charge of property may permit or cause a nuisance affecting public health and safety. The following are nuisances affecting public health and safety:
  - (a) Privies. 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) Odor. Premises, substances, or conditions which are in such a state as to cause an offensive odor.
  - (c) Debris on private property. Accumulations of debris, rubbish, manure and other refuse located on private property that are not removed within a reasonable time and that

affect the health, safety or welfare of the City.

(d) Stagnant water. Stagnant water which affords a breeding place for mosquitos and other insect pests.

(e) Water pollution. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial waste, or other substances placed in or near such water in a manner which will cause harmful material to pollute the water.

(f) Food. Decayed or unwholesome food which is offered for human consumption.

(g) Surface drainage or release. Drainage of liquid waste from private premises, or drainage or release of rainwater, ice or snow from private premises onto or across a street or sidewalk. Snow and ice shall be removed or covered pursuant to Section 6.212.

(h) Garbage containers. Garbage and non-combustible refuse that it not stored in metal, flytight, watertight, and rodent-proof containers that are kept clean and in good repair.

(i) Building material. Lumber, wood, sawdust, bricks, sand, gravel, and other building materials, and other building material that is not stored off the ground, or is stored in a manner so as to invite rats or other rodents to nest therein.

(j) Livestock and pets. The keeping of livestock and pets or buildings for the purpose of housing such livestock or pets in such a manner as to be a breeding place or likely breeding place for rodents or pests.

(k) Dead animals or birds. Any dead animals or birds, whether on private property or on public streets or places, exposed for any period of time longer than reasonably necessary to accomplish the removal or disposal of the carcus. The owner or person in control of the animal or bird shall be responsible for the removal or disposal.

(l) Sanitation. A business or residence that is kept or maintained in such a condition as to permit rats, rodents, vermin, or other pests to burrow or live therein."

Section 3. Section 6.204 of the Code shall be amended to read as follows:

"6.204 Noise. (1) No person shall conduct or maintain any condition, activity, operation or vocation which causes noise unreasonably offensive to the public, except for the following:

(a) Emergency equipment not operating on a regular or scheduled basis;

(b) Sounds originating on construction, demolition and/or logging sites and reasonably necessary to the accomplishment of work and progress during the hours of 7:00 a.m. to 8:00 p.m. Pacific Standard Time, Mondays - Fridays; 7:00 a.m. to 9:00 p.m. Pacific Daylight Time, Mondays - Fridays; 9:00 a.m. to 6:00 p.m., Pacific Standard Time, on

Saturdays; and 9:00 a.m. to 7:00 p.m., Pacific Daylight Time, on Saturdays. Any sounds originating on construction, demolition and/or logging sites outside the aforementioned days and times shall be prima facie evidence of noise unreasonably offensive to the public, save and except, if the City Administrator has specifically permitted same beyond the aforementioned times and dates. A denial of such an exception permit may be appealed to the City Council at the next regularly scheduled meeting of the City Council following the applicant's denial;

(c) Emergency repair equipment not operated on a regular or scheduled basis;

(d) Lawn, garden, or household equipment associated with the normal repair, upkeep, or maintenance of property;

(e) Normal farm operation;

(f) Sounds originating from the loading or unloading of any freight, material or property into or from a railroad car, or the opening, closing or destruction of bales, boxes, crates, or containers in connection therewith during the hours of 8:00 a.m. to 7:00 p.m. on any day of the week, unless said railroad car is being loaded or unloaded directly into a building immediately adjacent to said railroad car, in which case loading and unloading will be permitted at all hours on any day of the week. Any sounds originating from the above-described activities outside of the aforementioned times and conditions shall be prima facie evidence of noise unreasonably offensive to the public, save and except, if the City Administrator has specifically permitted same beyond the aforementioned times. A denial of such an exception permit may be appealed to the City Council at the next regularly scheduled meeting of the City Council following the applicant's denial."

Section 4. 6.206 of the Code shall be amended to read as follows:

"6.206 Garbage removal. The person in charge of each business establishment or dwelling unit within the city shall be responsible for removing refuse, garbage, trash and combustible material from the premises before it becomes a hazard, nuisance, or causes an unsanitary or offensive condition."

Section 5. Section 6.208 shall amended to read as follows:

"6.208 Creating a hazard. (1) No person shall create a hazard by:

(a) Maintaining or leaving in a place accessible to children a container with a compartment of more than one and one-half (1-1/2) cubic feet capacity and a door or lid which blocks or fastens automatically when closed and which cannot be easily opened from the inside; or

(b) Being the person responsible for property upon which there is a well, cistern, cesspool, excavation, or other hole of a depth of four (4') feet or more and a top width of twelve (12") inches or more, and failing or refusing to cover or fence it with suitable protective construction;

(c) Maintaining filth, rubbish, waste material, and any other substance which may endanger or injure neighboring property, passersby, or the health, safety or welfare of the public. All such persons shall keep the sidewalk and half of the street or streets abutting their property free from earth, rock and other debris and from projecting and/or overhanging bushes, brush, and dead and decaying trees and limbs that might obstruct or render unsafe the passage of persons or vehicles except as addressed under Section 6.218."

Section 6. Section 6.210 shall be amended to read as follows:

"6.210 Attractive Nuisances. (1) No owner or person in charge of property may permit:

(a) Unguarded machinery, equipment or other devices on the property which are attractive, dangerous and accessible to children.

(b) Lumber, logs or pilings placed or stored on the property in a manner that is attractive, dangerous and accessible to children.

(c) An open pit, quarry, cistern or other excavation without erecting appropriate safeguards or barriers to prevent the places from being used by children.

(2) This section shall not apply to authorized construction projects, if, during the course of construction, reasonable safeguards are maintained to prevent injury or death to playing children and Section 6.218 is complied with."

Section 7. Section 6.212 shall be added to the Code as follows:

"6.212 Snow and Ice Removal. (1) No owner or person in charge of property, improved or unimproved, abutting a public sidewalk, shall permit:

(a) Snow to remain on the sidewalk for a period longer than the first two (2) hours of daylight after the snow has fallen.

(b) Ice to cover or remain on a sidewalk, after the first two (2) hours of daylight after the ice has formed. The person shall remove ice accumulating on the sidewalk or cover the ice with sand, ashes, or other suitable material to assure safe travel."

Section 8. Section 2.206 of the Code shall be amended to read Section 6.214; and a new subparagraph (c) shall be added as follows: "(c) This section shall not apply to junk kept in a duly licensed junkyard or automobile wrecking business, or to a business offering new or used vehicles for sale or offering

vehicle repair service, or to those materials reasonably necessary during a reasonable time period on construction sites except as limited by section 6.218."

Section 9. Section 6.216 shall be added to the Code as follows:

"6.216 Rubbish. No person shall throw, dump or deposit upon public or private property an injurious or offensive substance or any kind of rubbish, trash, debris, refuse or any substance that would mar the appearance, create a stench, detract from the cleanliness or safety of the property, or would be likely to injure an animal, vehicle or person travelling on a public way."

Section 10. Section 6.208 of the Code shall be amended to read Section 6.218.

Section 11. Section 6.202 of the Code shall be amended to read Section 6.220.

Section 12. Section 6.222 of the Code shall be amended to read as follows:

"6.222 Radio and television Interference. (1) No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonable preventable interference with radio or television receptions; provided that the radio or television receiver interfered with is of good engineering design.

(2) This Section does not apply to electrical and radio devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission."

Section 13. Section 6.224 shall be amended to read as follows:

"6.224 Notice and Advertisements. (1) No person shall attach or cause to be attached a placard, bill, advertisement or poster upon real or personal property, whether public or private, without first securing permission from the owner or person in control of the property. This Section shall not be construed as an amendment to or a repeal of any City regulation of the use and location of signs.

(2) This Section does not prohibit the distribution of non-commercial material."

Section 14. Section 6.226 shall be amended to read as follows:

"6.226 General Nuisance. (1) The acts, conditions, or objects specifically enumerated and defined in Sections 6.202 to 6.224 are declared to be public nuisances and may be abated by the procedures set forth in Sections 6.230 to 6.244.

(2) In addition to those nuisances specifically enumerated in Sections 6.202 to 6.244, every other thing, substance or act which is determined by the Council to be injurious or detrimental to the public health, safety or

welfare, is declared to be a nuisance and may be abated as provided in Sections 6.230 to 6.244.

(3) A person commits the crime of maintaining a nuisance if he maintains or fails to remove or abate any of the nuisances set forth in Sections 6.202 to 6.226.

(4) Any person who creates or maintains a nuisance as defined by Sections 6.202 to 6.226 or other Ordinance or resolution of the City Council and who fails or neglects to abate such nuisance upon notice thereof and within the time prescribed in such notice shall be guilty upon a first conviction of a violation pursuant to Section 1.012, and upon such subsequent conviction of a Class C Misdemeanor pursuant to Section 1.011. Each day's violation of this section shall constitute a separate violation.

(5) Each day's violation of this Section shall constitute a separate crime.

(6) Nothing contained in any Section of Sections 6.202 to 6.226 shall be construed as permitting any activity otherwise prescribed or regulated by this Code."

Section 15. Section 6.228 shall be deleted from the Code.

Section 16. Section 6.230 shall be amended to read as follows:

"6.230 Abatement - Notice. (1) Upon a determination by the Building Official that a nuisance defined by Sections 6.202 to 6.224 exists, or upon a determination by the Council pursuant to Section 6.226(2) that a nuisance exists, the Building Official or Council shall cause a notice to be posted on the premises where the nuisance exists, directing the person responsible to abate the nuisance. Said notice shall be substantially in the following form:

NOTICE TO REMOVE NUISANCE

"To the owner, person responsible, and person in charge of the following described real property \_\_\_\_\_

\_\_\_\_\_ in the City of Wilsonville, Oregon:

You are hereby notified to remove and abate the nuisance existing on the above-described property within ten (10) days from date of this notice, which nuisance consists of: \_\_\_\_\_

\_\_\_\_\_ or to show to the Wilsonville City Council that no nuisance exists under Sections 6.202 to 6.226 of the Wilsonville Code. In case of failure to remove said nuisance within said time, you will be subject to fine

or imprisonment and the City of Wilsonville will cause the same to be abated and charge the cost thereof against the property herein described.

DATED: \_\_\_\_\_

Building Official  
(Or applicable City Employee)

(2) The Building Official shall also, at approximately the time of posting such notice, notify the City Recorder thereof, and the Recorder shall thereupon cause to be mailed a copy of the notice so posted, postage prepaid, to the person responsible, directed to the last known post office address of such person responsible, or if the post address is unknown, then a copy of the notice shall be published one time in a newspaper published in the County where the real property described in the notice is located.

(3) The Building Official may delegate any City employee to post or mail or publish said notice. The person posting said notice and the person mailing or publishing the same shall forthwith file in the City Recorder's Office a certificate stating the date and place of such mailing, publishing and posting.

(4) 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 be assessed to and become a lien on the property.

(5) An error in the name or address of the owner or person responsible or the use of a name other than that of the true owner or person responsible shall not render void such notice, but in such case, the posted notice shall be deemed sufficient." A variance in the form of the notice set out in subparagraph (1) above shall not render the posted notice void, and said notice shall be deemed sufficient so long as the substance of said notice is as set forth in subparagraph (1) above.

Section 17. Section 6.240 shall be amended to read as follows:

"6.240 Abatement by Person Responsible. (1) Within ten (10) days after the latter of the posting and mailing or publishing of the notice as provided in Section 6.230, the person responsible shall remove the nuisance or show that no nuisance exists.

(2) An owner or a person responsible, protesting that no nuisance exists, shall file in duplicate a written statement which shall specify the basis for protesting, and one copy thereof shall be filed with the Building Official and the other with the City Recorder.

(3) The City Recorder shall refer the statement to the Council as a part of the Council's regular agenda at the next regular meeting, or as soon thereafter as possible.



Notice of the time and place of the hearing shall be given to the person filing the statement not less than five (5) days prior to the time set for the hearing. 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. 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.

(4) If the Council determines that a nuisance does in fact exist, the person responsible shall, within ten (10) days after Council determination, abate the nuisance."

Section 18. Section 6.242 shall be added to the Code as follows:

"6.242 Abatement by City. (1) If, within the time allowed, the nuisance has not been abated by the owner or person responsible for abating a nuisance, or cause has not been shown, pursuant to Section 6.240 why such nuisance should not be removed and abated, the Building Official 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 Building Official shall keep an accurate record of the expenses incurred by the City in abating the nuisance, including any costs and materials, and an additional charge of 20% for administrative overhead. The Building Official shall, after completion of removal and abatement, file a statement of the costs thereof with the City Recorder."

Section 19. 6.244 shall be added to the Code as follows:

"6.244 Abatement - Assessment of Costs. (1) Upon receipt of such statement, the City Recorder, by registered or certified mail, postage prepaid, shall send to the owner and the person responsible a notice stating:

(a) The total cost of abatement, including the administrative overhead and other costs and materials.

(b) That the total cost as indicated will be assessed to and become a lien against the property unless paid within thirty (30) days from the date of the notice.

(c) That if the owner or 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 ten (10) days from the date of the notice.

(2) Upon the expiration of ten (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 to be assessed. Any objections filed pursuant to paragraph (1)(c) shall be heard and determined at such time.

(3) If the costs of the abatement are not paid within thirty (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 ordinance and shall be entered in the docket of city liens. When the entry is made, the assessment shall constitute a lien upon the property from which the nuisance was removed or abated.

(4) The lien shall be enforced and collected in the same manner as liens for street improvements, and shall bear interest at the rate of one (1%) percent per month. The interest shall begin to run from the date of the entry of the lien in the lien docket.

(5) An error in the name of the owner or person responsible 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.

Section 20. Section 6.250 shall be added to the Code as follows:

"6.250 Abatement - Summary.

(1) The procedures provided by Section 6.230 to 6.244 are not exclusive, and in addition to procedures provided by this and other ordinances, the City's Building Official, Fire Chief or any police officers of this City may proceed summarily to abate a health or other nuisance which unmistakably exists and from which there is imminent danger to human life or property, after determining that the summary abatement is the only adequate method of eliminating the danger.

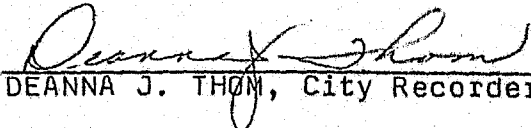
(2) When summary abatement is authorized, notice to the owner or person responsible prior to abatement is not required. Following summary abatement, the Building Official shall post upon the property liable for the abatement of the nuisance a notice describing the action taken to abate the nuisance.

(3) "Summary abatement" as used in this chapter means abatement of the nuisance by the City, or a contractor employed by the City, by removal, repair, or other acts necessary to abate the nuisance and without notice to the owner, agent, or occupant of the property, except for the notice required by this section.

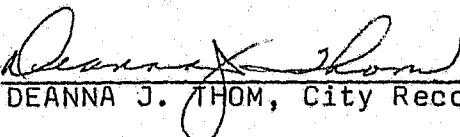
(4) When a pre-abatement hearing is not possible, an owner or person responsible may file a request for a post-abatement hearing, pursuant to Section 6.240."

Section 21. Section 6.242 shall be amended to read Section 6.260, and the reference in line to eight to "6.200 to 6.210" shall be amended to read "6.202 to 6.226".

Submitted to the Council and read the first time at a regular meeting thereof on the 16th day of April, 1984, and scheduled for second reading at a regular meeting of the Council on the 7th day of May, 1984, commencing at the hour of 7:30 p.m., at the Wilsonville City Hall.

  
DEANNA J. THOM, City Recorder

ENACTED by the Council on the 7th day of May, 1984, by the following vote: YEAS 5 NAYS 0.

  
DEANNA J. THOM, City Recorder

DATED AND SIGNED by the Mayor this 8<sup>th</sup> day of May, 1984.

  
WILLIAM G. LOWRIE, Mayor

CITY OF WILSONVILLE

# MEMO

April 16, 1984

DATE

TO: Mayor and City Council  
FROM: Daniel O. Potter, City Administrator  
SUBJECT: Nuisance Code - Revision

Section 6.200 and the following sections of the City Code specify what constitutes a nuisance, and the processes that must be followed for a nuisance to be abated.

The existing code requires that the staff bring any nuisance violation to the City Council, and that the Council authorize the abatement procedure to be followed. At best, this system was time consuming, and did not allow for an immediate abatement of health or other nuisances which unmistakably exist, and which could pose imminent danger to human life or property.

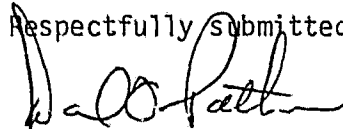
Based on prior discussions with the City Council, the City Attorney has drawn the attached Ordinance which will allow for an initiation of a normal abatement process by the staff with the posting of notices, and letter notification to the property owner. (Ordinance Section 16)

This does not abrogate the right of the responsible person to protest the alleged nuisance by filing a protest with the City Council within a 10-day period. (Ordinance Section 17)

The Ordinance also provides for summary abatement where a nuisance unmistakably exists and from which there is imminent danger to human life or property, after determining that summary abatement is the only adequate method of eliminating the danger.

It is my belief that this will simplify the process markedly, but at the same time will ensure that a property owner (responsible person) can be heard before the City Council if there is a disagreement as to the existence of a nuisance.

Respectfully submitted,



Daniel O. Potter

DOP/fr