

ORDINANCE NO. 248-20

**AN ORDINANCE ADDING A NEW CHAPTER, IRRIGON CITY CODE CHAPTER 1-13
TO ESTABLISH ADMINISTRATION AND ENFORCEMENT PROCEDURES**

WHEREAS, The City of Irrigon (City) has the authority to enforce the Irrigon Municipal and Development Code; and

WHEREAS, the City desires to establish a more clear and consistent enforcement procedures for violations of the Irrigon City Code;

NOW THEREFORE, the City Council of Irrigon ordains as follows:

Section 1. Amendment to Irrigon City Code (ICC) Chapter 13, Sections 1-10. ICC Chapter 1-13 is hereby added with the following language:

- 1-13-1:** **PURPOSE AND POLICY:** This chapter shall be known as the City Code Enforcement Chapter and cited as Enforcement. It is hereby published by authority of the City Council and incorporated the most recent legislation of the city as provided in this chapter.
The purpose of this chapter and any other portion of the Irrigon Code is to provide for the welfare, safety and health of the citizens of Irrigon by establishing procedure of policies, ordinances, and resolutions which can be enforced. This is done to ensure timely and uniform enforcement and to maintain public confidence.
Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the section itself, when reference is made by title in any legal documents
- A. Application
1. City policies and ordinances to be enforced under this Ordinance are those contained herein in this full City Code, Titles I through X the City Comprehensive Plan, City Transportation Support Plan, Zoning Ordinance, and Subdivision Ordinance, to the extent it is not enforced under specific enforcement procedures contained therein, and city comprehensive or development or land use ordinances co-adopted by the County pursuant to a Joint Management Agreement. A violation in any title or chapter of the Irrigon City Code that does not have an enforcement procedure to dispose of a violation is subject to this Ordinance, except for a violation(s) which unmistakably exists and imminently endangers health or property. This Ordinance shall apply when and if permit language does not address violations relating to a particular complaint.

2. A violation of a Federal Law, Oregon State Statute (ORS) or Oregon Administrative Rule (OAR) that is not adopted by this Ordinance may be enforced in the manner provided in that statute or rule by a person having lawful authority to enforce such statute or rule.

1-13-2: PROVISIONS DECLARED MINIMUM REQUIREMENTS:

- A. Minimum Requirements Intended: In their interpretation and application, the provisions of this title shall be held to be minimum requirements, adopted for the protection of the public health, safety, and general welfare.
- B. Most Restrictive Requirements Apply: When the requirements of this title vary from other provisions of this title or with other applicable standards, the most restrictive or that imposing the highest standard shall govern.

1-13-3: DEFINITIONS:

For the purpose of this Enforcement Ordinance the following definitions apply:

Abandoned vehicle means a vehicle that is disabled, abandoned, parked or left standing more than 72 hours unattended upon the right-of-way of any county road, state highway, or upon any street, alley, or property over which City of Irrigon has jurisdiction, or upon any private property that is not permitted/approved for such storage or placement.

Abatement means any action on public or private property and any adjacent property as may be necessary to remove or alleviate a nuisance, including but not limited to, demolition, removal, repair, boarding and securing or replacement of property.

Attractive Nuisance is any negligent action or condition of property which would be both attractive and dangerous to curious children, or attract an infestation.

Chronic Dereliction means whenever a derelict building remains unoccupied for a period in excess of 6 months or a period less than 6 months when the building or portion thereof constitutes an attractive nuisance or hazard to the public.

Chronic Offender means a responsible party or property who has not complied with a City notice/order, a citation, an order of an Enforcement Officer or Law Officer for any number of violations within twelve consecutive months.

Citation, Complaint & Summons means the official form which charges a person(s) with a violation of a City Ordinance, The City Code and requires that person to appear to answer or pay to the charges specified.

Code Enforcement File means the public record which shall contain all documents, reports, evidence and other information concerning a particular complaint or enforcement action.

Code Enforcement Officer means the person(s) whose primary duties are to conduct code investigations, issue stop work or stop use orders, issue citations, and generally initiate and prosecute enforcement actions under this Ordinance. Enforcement officers

have all authority to carry out the purposes of this Ordinance and the provisions of the City Code under their authority. These persons may include any law enforcement officer, Irrigon Code Enforcement Officer, Public Health Director, Building Official, and the City Manager.

Complainant means a person(s) who initiates a complaint against another person(s) alleging a violation of a City ordinance which is authorized by a City Council to be enforced under this Ordinance.

Debris means the remains of something broken down or destroyed, including, but not limited to, scrap metal, paper, plastic or wood, pieces of asphalt, concrete, lumber or other building supplies or yard clippings or cuttings of plant material.

Derelict building means any building, structure, or portion thereof which is unoccupied and meets any of the following criteria or any residential structure which is at least 50% unoccupied and meets any of the following criteria that: 1) Has been ordered to abate as a nuisance; 2) Has been issued a correction notice; 3) Is unsecured; 4) Is boarded; 5) Has been posted for violation of any portion of this Ordinance more than once in any two year period; or 6) Has, while vacant, had a nuisance abated by the City.

Garbage, Trash or Waste means all useless or discarded putrescible and non-putrescible materials, including but not limited to rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumping or other sludge, or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid materials, dead animals and infectious waste.

Hazardous Vehicle means a vehicle left in a location or condition such as to constitute an immediate threat to the safety of vehicular or pedestrian traffic and as defined in Oregon State Highway Division Administrative Rule OAR 734-020-0147.

Infestation means to be overrun to an unwanted degree or in a troublesome manner, especially as predatory animals, insects, or vermin do.

Invasive Species means an organism that causes ecological or economic harm in a new environment where it is not native.

Junk means broken, discarded or accumulated objects including but not limited to appliances, building supplies, furniture, vehicles, or parts of vehicles. This definition is not meant to include "bone yard".

Livestock means domestic animals of types customarily raised or kept on a farm for profit or other purposes.

Motor Vehicle means a vehicle that is self-propelled or designed for self-propulsion.

Noise Nuisance means any sound which a) injures or endangers the safety or health of humans; or b) annoys or disturbs a reasonable person of normal sensitivities.

Noxious Weed means any plant which is determined by the County Court to be injurious to public health, crops, livestock, land or other property.

Penalty means a fine assessed accordingly by this Code or any enacted Ordinance against a person or property upon a finding by a citation of a violation.

Person means any public or private corporation, local governmental unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity, contractor, subcontractor or combination thereof.

Person in Charge of Property means an owner, agent, contract purchaser, lessee, occupant, or other person having possession or control of property.

Place or Property means any premises, room, house, building or structure or any separate part or portion thereof, whether permanent or not, or the ground itself.

Public Safety Officer means a peace officer, Irrigon Code Enforcement Officer, fire prevention inspector, firefighter, or any person who, during an emergency formally declared by the City Council, has been deputized by and is acting pursuant to the orders of the Morrow County Sheriff or any other law enforcement.

Responsible Party/Violator means an owner, title holder, contract seller, contract buyer, possessor or user of the land upon which a violation is occurring, or the person(s) responsible for the action, conduct, or omission which constitutes a violation of a City ordinance, who may be held responsible for a violation of a City ordinance.

Stop Work or Stop Use Order means a formal written order issued by the City or Building Official directing that any work, action or use is in violation of a City ordinance, must stop immediately. Such an order must be issued according to the requirements of this Ordinance or City Code.

Street or Roadway means that portion of the road right-of-way developed for vehicular traffic.

Unsafe Building means any building or structure where defects exist to the extent that life, health, property, or safety of the public or its occupants are endangered, which may include the absence of public utilities.

Vehicle means any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means.

Violation means an offense created by an ordinance of the City of Irrigon which is punishable by a fine or punishment in addition to a fine in accordance with City Code provisions.

Voluntary Compliance Agreement means a written agreement signed by the responsible party(s) and the City stating the specific steps or conditions which the responsible party(s) must take or meet to cure a violation of the City Code or ordinance.

1-13-4: JURISDICTION: This Ordinance shall apply to all those areas located inside within the City of Irrigon an incorporated city.

1-13-5: VIOLATIONS PROHIBITED:

- A. No person shall erect, construct, alter, maintain or use any building or structure or shall use, divide or transfer any land in violation of this Code or specifics under Title X or any amendment thereto. (Ord. 175-07, 6-19-2007)
- B. No person(s) or property(s) shall allow any unsafe or unhealthy situation, nuisance, building violation, or obstruction which is in violation of the Irrigon City Code and any other Ordinance the City Council may enact.

1-13-6: COMPLAINTS REGARDING VIOLATIONS:

- A. Filing Written Complaint: Whenever a violation of the City Code occurs, or is alleged to have occurred, any person may file a signed, written complaint.
- B. A complaint is not required to be filed by a member of the public to be in violation of any provision of the Irrigon City Code, to include violations of Title X. City staff, law enforcement or designee may document such violation and submit for action and compliance.
- C. Such Title X complaints, stating fully the causes and basis thereof, shall be filed with the City. The city planning official, city staff, law enforcement or designee shall properly record such complaints, investigate and take action thereon as provided by this Code and Title X.

1-13-7: STOP WORK OR STOP USE ORDER:

A City Staff, Building Official, or Law Enforcement, having reasonable grounds to believe that a person(s) has committed a violation, in lieu of or in addition to issuing a citation, may issue a stop work or stop use order according to the provisions of this Code.

- A. Grounds for Issuance. A stop work or stop use order may be issued at any point in the enforcement process, if the violation observed is on which requires immediate remedial action:
 - 1. To protect the public health, safety or welfare; or

2. Because the responsible party(s) refuses to cooperate with the designated official;
or
3. Because the violation continues despite notice to the responsible party(s) of the violation or notice to obtain a necessary permit.

B. Contents. A stop work or stop use order shall be in writing and may contain the following:

1. An order that all work or action in violation of City ordinance(s) stop immediately;
2. The name of the person(s), entity(s) or property(s) to whom it is issued (if known);
3. The effective date of the order;
4. The date the order is issued;
5. The location or address of the violation;
6. The tax account identification number;
7. The specific sections of the City Ordinance(s) violated;
8. A factual description of the nature of the violation;
9. The specific steps which the responsible party(s) must take to correct the violation;
10. The name and signature of the designated official; and
11. An address and phone number where the official can be contacted.

C. Service

A copy of a stop work or stop use order shall be posted on the property where the Violation(s) is occurring (hereinafter "subject property") and sent certified mail with return receipt, or any means of mailing by which a return receipt can be obtained, to the following:

1. All owners and contract purchasers of the subject property;
2. Any known lessees;

3. The City Building Official;
4. Any known contractors doing construction work on the subject property which would be in violation of City Ordinance(s); and
5. Any other person(s) identifiable as a responsible party(s).

D. Priority

Any person upon whom a stop work order has been served may appeal the order by submitting a request for a hearing to the City within 10 business days of the service of the stop work order. Such order request may be presented personally to the City Manager or mailed. If a hearing is requested, the hearing shall be an expedited hearing in municipal court. The hearing and written findings as to the violation shall be followed in accordance with established Code and Ordinance provisions.

E. Violation of Order

If the responsible party(s) fails to obey the order, there shall promptly be issued a citation for violation of a stop work or stop use order. Each day of a violation of a stop work order constitutes a separate violation, of which area(s) of the code are in violation.

F. Impact on other Permits

No building permit, sanitation permit or other permit or license may be issued, or any work continued under such permits while a stop work or stop use order is in effect when there is a violation of Title X.

1-13-8: ENFORCEMENT PROCEDURES:

A. Enforcement Actions

Resolution of a violation of City ordinances may be sought in any one or a combination of the following methods. Which method to be used is solely at the discretion of the City.

1. Warning process seeking voluntary compliance;
2. Voluntary compliance agreement;
3. Citation;
4. Municipal Court Order;

5. Summary Abatement.

B. Investigation Authority; Entry on Premises.

Where authorized as a condition of permit approval, voluntary compliance agreement, or agreed condition of a prior enforcement order, the City designee shall have the power to lawfully enter upon and inspect, at any reasonable time, any public or private property, to investigate any alleged violation of City ordinance, order or permit approval, a violation of a statute which the City has the authority to enforce, or to ascertain compliance or noncompliance with the citation noted in this Chapter and IMC Chapter 7, a stop work or stop use order under this Ordinance, or a voluntary compliance agreement. Inspection of private property, including a private residence, will be accomplished in accordance with established ordinance(s) and lawful procedures.

C. Enforcement Process by Citation

1. If the violation has not been satisfactorily abated by the date and time specified in the warning notice, the enforcement officer may issue a citation.
2. The City shall follow the procedures detailed in Section 4 of IMC Chapter 7 to prepare, serve, and enforce citations.

D. Enforcement by Voluntary Compliance Agreement

1. Prior to entry of a judgment for a violation, the City and the responsible party may enter into an agreement designed to abate the violation.
2. Use of voluntary compliance agreements shall be governed by the standards set forth in IMC 1-7-4(D).

E. Enforcement by Municipal Court Judgment

If a Responsible Party fails to correct a violation as specified in a citation prepared under IMC 1-7-4, the Municipal Judge may issue a judgment ordering compliance and payment of penalties in accordance with IMC 1-7-4(G)(3-6).

F. Summary Abatement.

The health officer, the chief of a Fire Department, the Sheriff, the City Manager, or the Director of Public Works may, through coordination with the City, proceed summarily to abate a health or other violation which unmistakably exists and which imminently endangers health or property. However, such summary abatement shall be limited to only those actions necessary to reduce the threat to a level that eliminates the imminent danger to health or property. No notice to the property owner or person in control of the property is required. Costs of the abatement may be assessed as provided in Subsections D.3 and D.4 of this ordinance.

1-13-9:

PENALTIES AND COSTS:

A. Civil Penalties

Except for any separate fine issued for an amount otherwise established by law for any specific fine violation such as a nuisance dog, any person who violates the provisions of the City Code are punishable by imposition of a civil infraction/violation (fine) that has been identified by the applicable section of the code and as identified in the Master Fee Schedule.

Each day upon which a continuing offense occurs or continues shall constitute a separate violation if cited as such. In addition to the civil penalty amounts assessable herein, the City may recover reasonable attorney's fees, court costs and other expenses associated with enforcement activities and the costs of any actual damages incurred by the City attributable to the responsible party.

Payment of any fine shall not excuse or discharge a responsible party from the duty to immediately abate and correct a violation of the code, nor from any other responsibility or legal consequences for a continuation or a repeated occurrence(s) of a violation of the code.

For the purposes of this City Code, a continuing offense occurs when a responsible party or person allows the circumstances constituting the offense to continue over consecutive 24-hour periods after:

1. having received notice of the violation; or
2. having refused notice of the violation; or
3. it is reasonable to expect that the person has actual knowledge of the circumstances constituting the offense.

B. Costs Recoverable

1. Upon a finding that a violation has occurred, the City has the discretion to order the violator, in addition to any penalties assessed, to reimburse the City for actual costs or expenditures incurred by the City in prosecuting, cleaning up or abating an ordinance violation for any of the following:
 - a. Any fees charged the City for service on responsible party(s);
 - b. Mileage for investigation service or other activities directly related to the enforcement action at the current county rate;
 - c. Postage;
 - d. Photocopying;

e. Publication charges;

f. Sampling and monitoring expenses;

g. Film and development costs; and

h. Any expense incurred by the City in abating or correcting a violation which the responsible party(s) has refused to correct.

2. All costs and expenses to be reimbursed must be documented by receipts, vouchers, or records verified by affidavit of the public official keeping such records.

C. Recovery on a money judgment

1. Every money judgment shall name the City of Irrigon as the judgment creditor.

2. A money judgment, including but not limited to funds described in this ordinance.

D. Liens

Penalties and costs assessed against a violator(s) by order of the City shall, if not paid within 60 days of the date of the order or as otherwise specified in the order, be City liens as provided by law and City Ordinances.

Recording and releasing liens:

1. If the City intends to pursue recovery of penalties and costs against a violator the City shall cause to be filed with the County Clerk an itemized statement of the penalties and costs, as ordered by the municipal court, to be recovered. When the Statement of penalties and costs is filed the Clerk shall cause it to be entered upon a lien docket prepared for that purpose. The amount of the penalties and costs when so docketed shall constitute a first lien upon such property, except as to taxes. It shall be the responsibility of the City Finance to create and maintain a record of payments made by the responsible party, on a form identifying the case, the responsible party, the amount and date payment was made.

2. The City may record a money judgment as a lien in accordance with this Section, and may pursue recovery of any money judgment.

3. For purposes of a lien that has been filed, an error in the name of the owner or 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.

4. The City is responsible to ensure that a satisfaction of judgment and release of lien is executed and filed as appropriate, once any money judgment is paid in full.

1-13-10: GENERAL PROVISIONS:

A. Appeal

A decision of the City on an enforcement action may be appealed filing a writ of review with a circuit court under ORS Chapter 34 or through other procedures authorized by the Irrigon City Code. .

B. Remedies

The remedies provided herein shall be in addition to any other remedies provided by law.

C. Records

All records of enforcement proceedings shall be permanent City records. All Council orders, consent agreements and other actions entered into after the issuance of a citation, and stop work or stop use orders shall be maintained with the City Clerk in accordance with City Records Retention.

D. Severability Clause

If any section, subsection, provision, clause or paragraph of this ordinance is adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance. It is hereby expressly declared that every other section subdivision, paragraph, provision or clause of this ordinance would have been enacted irrespective of the enactment or the validity of the portion declared or adjudged unconstitutional or invalid.

E. Amendment Procedure

The City of Irrigon shall have the authority to order this Ordinance to be amended.

Section 2. Severability. Any provision of this Ordinance which is declared invalid, void, or illegal by a court of competent jurisdiction shall in no way affect, impair, or invalidate any other provision of this Ordinance, and the remaining provisions of this Ordinance shall remain in full force and effect.

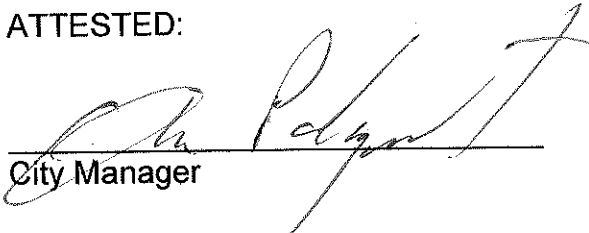
Section 3. Effective Date. This Ordinance shall take effect on the 30th day after its adoption.

ADOPTED this 19 day of May, 2020, by action of the City Council.

CITY OF IRRIGON

By: 
Mayor

ATTESTED:


City Manager

ADOPTED this 19 day of May, 2020, by action of the City Council.