

ORDINANCE NO. 256-22

**AMENDING TITLE 1 – ADMINISTRATION AND TITLE 4 - HEALTH AND SANITATION OF
THE IRRIGON MUNICIPAL CODE FOR CITING AND ABATEMENT ACTIONS IN THE CITY OF
IRRIGON, OREGON**

WHEREAS, the City Charter authorizes the City of Irrigon to exercise authority within the city over matters of City concern; and

WHEREAS, the City of Irrigon Municipal Code (IMC) needs to be maintained and updated accordingly; and

WHEREAS, the City of Irrigon has seen fit to clarify certain sections of the Irrigon Municipal Code allowing authority and action pertaining to citation and abatement processes; and

WHEREAS, the City published proper public notice as required by City Charter;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IRRIGON ORDAINS AS FOLLOWS:

Section 1. Title of Ordinance

This Ordinance shall be known, and may be cited, by the title.

Section 2. Affected Titles and Chapters

The following is hereby amending, adopted and codified as follows:

1. **Chapter 1-7-1 Jurisdiction of Municipal Court:** The Municipal Court shall have jurisdiction over all violations made punishable under all ordinances of the City and all state violations, as defined by ORS 801.557. Any such violation may be tried in the Irrigon Municipal Court. The Municipal Court shall also have jurisdiction over any nuisance and abatement actions pursuant to the Irrigon Municipal Code. The Municipal Court shall not have jurisdiction over misdemeanors or felonies.
2. **Chapter 1-7-2 D. Powers of the Municipal Judge:**
 1. The Municipal Judge shall have all the inherent and statutory powers and duties of a Justice of the Peace within the jurisdictional limits of the City. The Municipal Judge shall also have such additional powers as may be conferred by ORS Chapter 221, the Irrigon City Charter, and the Irrigon City Code.
 2. The Municipal Judge shall have the power to issue warrants for the entry and inspection of property for the purposes of nuisance abatement and may hear citations and abatement actions brought pursuant to the Irrigon City Code.

~~2.~~ **3.** The Municipal Judge may, by any lawful means, serve orders of the court necessary for the proper conduct thereof and, within the limits set by state law and the Irrigon City Code, may prescribe the fine or forfeiture for violation of any provision of the Irrigon City Code.

~~3.~~ **4.** The Municipal Judge may adopt rules necessary for the prompt and orderly conduct of the business of the Municipal Court. Such rules must be consistent with the provisions of ORS Chapters 153 and any rules adopted by the Oregon Supreme Court pursuant to ORS 153.033.

3. Title 4 Health and Sanitation:

The following exhibit, attached hereto and incorporated herein by reference, is hereby adopted as follows:

1. Exhibit [1] updating and codifying Title 4 – Health and Sanitation, Chapters 1-3 of the Irrigon Municipal Code of the City of Irrigon.

Section 3. Method of Codification

The method of codification is loose-leaf type (binder or notebook) for binding together with the continuous, whereby each newly adopted ordinance of a general and permanent nature amending, altering, adding or deleting provisions of the official city code is identified by the proper catchline and is inserted in the proper place in each of the official copies, certified as to correctness and available for the inspection at any and all times that said office is regularly open.

Section 4. Changes, Use, Amendments

It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of such code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the city to be misrepresented as a result of such tampering. All ordinances of a general nature included in this Title shall be considered as a continuation of said provision(s) and the fact that some provisions have been eliminated or amended by the governing body shall not serve to cause any interruption in the continuous effectiveness of ordinances included in the official city code. All ordinances, titles, orders, or actions shall continue in full force and effect unless specifically repealed or amended by a provision or enactment of the city or city code. Such ordinances are not generally intended to be included in the official city code.

Section 5. Conflicts

All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

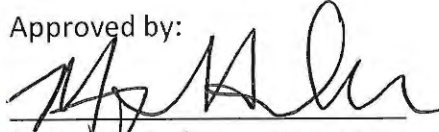
Section 6. Effective Date

This Ordinance shall take effect 30 days after adoption

This ordinance contains changes made and amended to said ordinances and titles, shall be accepted in all courts without question as the official code and law of the city as enacted by the Mayor and City Council.

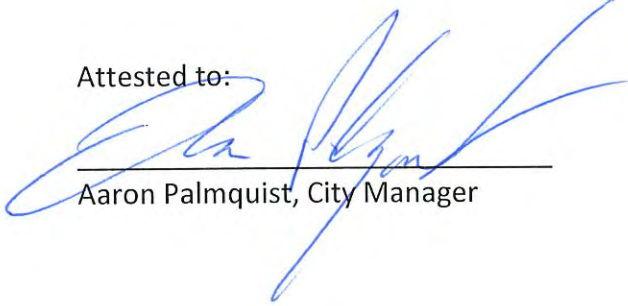
Passed by the Council this 15th day of November, 2022

Approved by:



Margaret Anderson, Mayor

Attested to:



Aaron Palmquist, City Manager

TITLE 4
HEALTH AND SANITATION

Subject	Chapter
Nuisances	1
Graffiti	2
Abandoned Vehicles	3
Reserved	4

CHAPTER 1

NUISANCES

SECTION:

- 4-1-1: Definition
- 4-1-2: Enforcement Authority
- 4-1-3: Specific Nuisances
- 4-1-4: Recreational Park and Vehicles
- 4-1-5: Chronic Criminal Person or Property
- 4-1-6: Unoccupied Buildings
- 4-1-7: Foreclosed and Vacant Property
- 4-1-8: Causing or Maintaining Nuisance
- 4-1-9: Abatement of Nuisances
- 4-1-10: Failure to Abate Continuous Nuisance
- 4-1-11: Summary Closure
- 4-1-12: Enforcement
- 4-1-13: Violation; Penalty

4-1-1: **DEFINITIONS:** For the purpose of this chapter, the following terms shall have the meanings ascribed to them in this section, unless the context clearly indicates or requires a different meaning. Definitions in in other code provisions also shall apply. (Ord 256-22, 11/15/2022)

ABATEMENT: The act of cleaning, clearing removing, repairing, securing, vacating or taking other necessary steps as may be necessary in order to remove a nuisance.

AGRICULTURAL USES AND ANIMALS: Agricultural uses are activities that utilize properties to raise, produce or keep plants or non-domestic (farm) animals. Providing for exemptions, limitations, and restrictions to include kennels, number of dogs, cats, large and small animals, and space and pastures. (Ord 239-15, 11/17/2015)

CAMPING: Camping is that which takes place for sleeping or staying at any time that is not permitted on any property (except for visiting family relatives on private property for the designated time), open space, parks, ROW, etc. that is governmental owned or managed.

CHRONIC NUISANCE: The occurrence of three (3) or more violations of state law or county or city ordinance within a ninety (90) day period. The violations must be of the same or similar nature.

CHRONIC NUISANCE A person who commits a chronic nuisance

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PERSON:

CHRONIC NUISANCE PROPERTY: Property, real or personal, on or in which a chronic nuisance is committed.

CODE ENFORCEMENT OFFICIAL: The person appointed by the City Manager or any designee to enforce the provisions of this Code or city ordinances or, by order, specifically designated peace officers.

EMERGENCY: Any occurrence or set of circumstances involving actual or imminent physical trauma, or property damage; demanding immediate attention.

EMERGENCY WORK: Any work performed to prevent or alleviate physical trauma or property damage, whether actually caused or threatened by an emergency, or work by private or public utilities when restoring utility service.

EXTERIOR or OUTDOOR AREA: The portions of a property outside the exterior walls and roof of a structure or building.

HIGHWAY: Every public way, road, street, thoroughfare, and place, including bridges, viaducts, and other structures in the city, open, used, or intended for use of the general public for vehicles or vehicular traffic as a matter of right.

IMMEDIATE DANGER: Any condition posing a direct threat to human life, health, property, or safety.

INOPERABLE VEHICLE: Any piece of mechanized equipment unable to perform its designed function, any motor vehicle that is not currently registered with the Oregon department of motor vehicles, or any motor vehicle missing components critical for the intended or legal function of the vehicle.

KENNEL: Any property where seven (7) or more dogs are kept, whether such animals are kept as personal property of the property owner or as a business venture. It is not deemed a kennel when one of the dogs is a female with a litter under the age of six months. (Ord. 239-15, 11-17-2015)

MAINTAINED COMPOST AREA: A small portion of a property set aside for the purpose of encouraging the rapid decomposition of yard debris and other vegetable matter into a suitable fertilizer for the soil on the property. A maintained compost area shows clear indicators that

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the yard debris placed there is being actively managed to encourage its rapid decomposition. Signs of such active management would include evidence of regular turning, a mixture of yard debris types, any woody material present having been chopped into small sizes, the presence of internal heat in the composting mixture, or any other evidence rapid of decomposition. A location where yard debris is placed primarily to store it or dump it without reasonable expectation of rapid decomposition shall not be construed a maintained compost area.

NATURESCAPE:

Landscaping and gardening approaches that use predominately native plants for the purpose of creating improved outdoor habitat for native insects, birds, and mammals and reducing the need for pesticides, chemical fertilizers, and summer watering.

NOISE-SENSITIVE AREA:

Includes, but is not limited to, any sleeping facility or real property normally used as a school, church, hospital, or public library within the service area of the City. Property used for industrial or agricultural activity is not a noise-sensitive area, unless it also meets the above criteria in more than an incidental manner.

NUISANCE:

Acts or failures to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

A. Annoys, injures or endangers the comfort, repose, health or safety of others; or

B. Offends decency; or

C. Is offensive to the senses; or

D. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for use any irrigation ditch, public park, parkway, square, street, highway, or sidewalk in the city; or

E. In any way renders other persons insecure in life or the use of property; or

F. Obstructs the free use of property so as to essentially interfere with the comfortable enjoyment of life and property; or

G. Violates state law or city or county ordinance.

OWNER, OCCUPANT OR TENANT:	These terms may be used interchangeably and shall mean every person in possession, charge or in control of any dwelling, flat, rooming house, or an eating place, shop, place of business, manufacturing or business establishment, or other place where solid waste is created or accumulated.
PERSON:	A natural person, firm, general partnership, limited partnership, association, foundation, trust, limited liability company, corporation or similar entity.
PERSON IN CHARGE OF PROPERTY:	An agent, occupant, lessee, tenant, contract buyer or other person having possession or control of property or supervision of a construction project.
PLAINLY AUDIBLE:	Any sound that can be heard by a reasonable individual of ordinary sensitivities using their unaided hearing faculties, including, but not limited to, understandable spoken words, comprehensible musical rhythms, vocal sounds other than words, mechanical, or electronic noise.
PREMISES OPEN TO THE PUBLIC:	Includes any premises open to the general public for the use of motor vehicles, whether the premises are publicly or privately owned and whether or not a fee is charged for the use of the premises.
PUBLIC NUISANCE:	<p>A "nuisance" consists of doing an unlawful act, or failing to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:</p> <ul style="list-style-type: none"> A. Annoys, injures or endangers the comfort, repose, health or safety of others; or B. Offends decency; or C. Is offensive to the senses; or D. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for use any irrigation ditch, public park, parkway, square, street, highway, or sidewalk in the city; or E. In any way renders other persons insecure in life or the use of property; or

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F. Obstructs the free use of property so as to essentially interfere with the comfortable enjoyment of life and property.

PUBLIC PLACE: A building, way, place or accommodation, publicly or privately owned, open and available to the general public.

PUBLIC RIGHT-OF-WAY: Any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public owned or managed by a government entity.

PUBLIC SPACE: Any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.

RESIDENTIAL AREA: Any area of the city that is designated as residential land use in accordance with the terms and maps of the city’s zoning ordinance.

RESPONSIBLE PERSON(S): The following persons are responsible for compliance with this chapter:

- (1) The owner(s) of the property;
- (2) The person(s) in charge of property;
- (3) The person(s) who caused a nuisance to come into or continue in existence.

The owner and person in charge of the property on which a nuisance is located or emanates and responsible person(s) are jointly and severally responsible and may each be held responsible for abatement regardless of whether a third party created the nuisance on the property.

SLEEPING FACILITY: Includes, but is not limited to, a residential dwelling, hotel, motel, residential care facility or other place used regularly for the purpose of sleeping.

SOLID WASTE: All putrescible and non-putrescible wastes, including, but not limited to, garbage, rubbish, refuse, ashes, wastepaper and cardboard; sewage sludge, septic tank and cesspool pumping or other sludge; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; refrigerators, stoves, air conditioners, and other home appliances in various stages of disrepair; manure, vegetable or animal solid and semisolid wastes, dead animals, and other wastes; but does not include: hazardous wastes as defined in Oregon Revised Statutes 466.005, or materials

used for fertilizer or for other productive purposes or which are salvageable as such materials and used on land in agricultural operations and the growing or harvesting of crops and the raising of fowl or animals. (Ord. 125, 4-10-1990; amd. Ord. 125-1, 1-14-1992; Ord. 208-11, 10-18-2011)

UTILITY SERVICE: The normal operation of utilities within the city, whether provided by the city or by another entity, including but not limited to water, wastewater, electricity, natural gas, telecommunications and garbage hauling.

4-1-2: **ENFORCEMENT AUTHORITY:** It is the duty of the City Manager or designee to enforce the provisions of this chapter, and it is the duty to make proper citations for the prosecution of any person or property violating this chapter. The City Manager is further authorized and directed to bill the property owner or occupant for the cost to the city for removal of any material as provided in this chapter. (Ord 256-22, 11/15/2022)

4-1-3: **SPECIFIC NUISANCES:** The following specific acts, omissions, places, conditions, and things are declared to be in violation of this chapter: the erecting, maintaining, using, placing, depositing, leaving or permitting to be or remain in or upon any private lot, building, structure or premises, or in or upon any sidewalk, street, avenue, alley, park, parkway, or other public or private place in the city, of any one or more of the following disordered, disturbing, unsanitary, fly and/or mosquito producing, rat/mice harboring, disease causing places, conditions or things: (Ord 256-22, 11/15/2022)

A. Noisy Dogs or Cats: The keeping or harboring of any dog or cat which by frequent or habitual howling, yelping or barking annoys or disturbs the comfort or repose of any person or persons in the vicinity.

B. Agricultural Uses and Animals:

1. Definitions:

a. Enclosure: A small, fenced-in location such as a pen, corral, run, or other non-permanent holding area for an agricultural animal.

b. Pasture: A fenced-in location that is planted in pasture grass or other accepted forage and is irrigated and its purpose is to graze agricultural animals.

c. Sacrifice Area: Small fenced-in areas near a pasture usually used to temporarily keep animals off a pasture while it regrows.

d. Agronomic Rate: The application of fertilizer that provides the amount of plant nutrients such as nitrogen needed by the crop grown on the land while minimizing the amount that passes below the root zone.

2. Regulations for agricultural animal uses:

a. Processing of animal or plant products, including milk, and feed lots are not allowed.

b. Sale of animal or plant products may be allowed only under a Home Based Business or Conditional Use Permit, as applicable.

c. 4-H or FFA animal raising and/or keeping is allowed when permitted as a Temporary Use.

d. Plant nurseries that are oriented to retail sales are not allowed in residential zones.

e. The following rules apply to large and medium sized agricultural animals in residential and rural residential single-family zones.

a) Enclosure space and pastures will not include driveways or other right of way easements, residential yards, or open space that is not fenced and dedicated as animal enclosure or pasture space.

b) Enclosures, animal runs, barns, and pens shall be located at least seventy feet (70') from the front property line and at least fifty feet (50') from any adjacent residence.

c) Number of Animals Allowed: The total number of all large and medium-sized animals allowed in a pasture or enclosure (not including young less than 6 months old) will be allowed as follows:

- I. Horses or cows on pasture deemed to be “excellent” - Total animals = 2 per acre;
- II. Horses or cows on pasture deemed to be “good” or “poor” - Total animals = 1 per acre;
- III. Sheep, lama, and goats on pasture deemed to be “excellent” - Total animals per acre = 4;
- IV. Sheep, lama, and goats on pasture deemed to be “good” or “poor” - Total animals = 2 per acre;
- V. Other domestic farm animals: One miniature horse = one horse; one low-line cow = 1 cow; 1 llama = 1 goat; 1 swine = 1 goat. Other domestic animals not specifically mentioned will be determined by the planning official and/or city official.

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- d) Sacrifice Areas. The following rules apply to bare-ground sacrifice areas:
 - I. Confining animals for more than 45 days in the sacrifice area can define the area as an animal feeding operation, which is not allowed within the city limits;
 - II. No rain or irrigation water is allowed to run off from a sacrifice area;
 - III. Manure must be managed so that animals are not standing in or on their own waste. Failure to manage manure in sacrifice areas constitutes a nuisance and a health hazard for the animal and for humans.

3. Forage Condition and Pasture Management.

- a) Pastures with excellent forage condition has the following characteristics:
 - I. Forage is at least 6 to 8 inches in height with healthy root systems at least as deep as the forage height;
 - II. Irrigation has been managed to keep plants thriving without allowing for wasteful runoff of irrigation water from the enclosure space area;
 - III. Fertilizers, if utilized, have been applied at appropriate agronomic rates.
 - b) Pastures with good or poor forage condition have the following characteristics:
 - I. Good forage is between 3 and 6 inches in height with shorter, less healthy root systems not deeper than the plants' height, there may be evidence of overgrazing.
 - II. Poor forage is less than 3 inches or lacking and root system is also less than 3 inches in depth or lacking.
 - III. Irrigation may be well managed or patchy;
 - IV. No evidence of fertilizer use.
4. Number of Small Animals Allowed: The total number of chickens, fowl and/or rabbits over the age of six (6) months will not exceed one per five hundred (500) square feet of enclosure space.
5. All animals shall be properly penned, caged or housed and kept within the boundary of the owner's property. Proper sanitation shall be maintained at all times. All animal or poultry food shall be stored in rodent proof containers.
6. The total number of bee colonies allowed on a lot shall not exceed one colony per one thousand (1,000) square feet of lot area. Bee colonies will be located at least seventy feet (70') from the front property line and at least fifty feet (50') from any adjacent residence. (Ord. 239-15, 11-17-2015) (Ord 256-22, 11/15/2022)
7. No more than three (3) dogs allowed. Any property where seven (7) or more dogs are kept, whether such animals are kept as personal property of the property owner

or as a business venture. It is not deemed a kennel when one of the dogs is a female with a litter under the age of six months. (Ord. 239-15, 11-17-2015) (Ord 256-22, 11/15/2022)

- C. Siding and Roofing: All structures shall have exterior siding and roofing in colors of earth tones or light pastels, material and appearance are similar or superior to the exterior siding and roof material used on nearby properties and noted in 10-3-2. (Ord 240-17, 9/17/2017) (Ord 256-22, 11/15/2022)
- D. Trucks and Truck Routes: Any motor vehicle used for commercial/business/agriculture purposes, or a truck used to or with advertisement and business affiliation, whether permanent or temporary, having a Gross Vehicle Weight Rating (GVWR) of 17,500 pounds or greater, also including but not limited to any vehicle carrying hazardous materials or solid waste. Commercial trucks are also those primarily designated or used for carrying loads other than passengers. Such trucks are restricted only to the designated truck routes. Such routes designations, restrictions, such as Jake Brakes disallowed, and exemptions noted by City Ordinance or Resolution. (amd. Ord. 222-14, 10/20/2015) (Ord 256-22, 11/15/2022)
- E. Privies, Cesspools; Dumps: Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies, mice or rats, or which are foul or malodorous.
- F. Deposits Of Litter or Garbage on Premises: Filthy, littered or trash covered cellars, house yards, barnyards, stable yards, factory yards, vacant areas in rear of or adjacent to stores, vacant lots, houses, buildings, alleyways, or premises; or placing, dropping, disposing, throwing away, or otherwise discarding litter, garbage, refuse, cans, bottles, paper or paper material, metal, organic or inorganic material, upon property other than in receptacles designed for that purpose.
- G. Animal Manure: Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinance of the city.
- H. Poison Plants; Household Wastes: Poison oak, poison ivy, or poison sumac (whether growing or otherwise), liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; provided, that nothing herein contained shall prevent the temporary retention of waste in receptacles in the manner approved by the health officer of the city nor the dumping of non-petrifying waste in a place and manner approved by the city council.
- I. Trash Or Inoperable Vehicles, Other Materials: Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, automobile bodies and/or parts, and all such trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles approved by the city. A person wishing to keep an inoperable vehicle on their property outside of a garage, carport or driveway must obtain a permit from the city of Irrigon. The

application for such a permit must be accompanied by signatures from the owners of property within two hundred fifty feet (250') of the subject property. Upon receipt of the application, the city may review the signatures for accuracy and submit the application to the court for approval or denial. If the court denies the permit, the applicant may ask for a hearing before the planning commission. Upon the completion of the appeal process, the decision of the planning commission shall be final. (Ord. 210-11, 10-18-2011) (Ord 256-22, 11/15/2022)

- J. Litter, Trash Causing Fire Danger: Trash, litter, rags, accumulations of empty barrels, boxes, crates, packing cases, mattresses, bedding, excelsior, packing hay, straw, or other packing material, lumber not neatly piled, scrap iron, tin and other metal not neatly piled or anything which may be a fire danger.
- K. Unsightly Building, Fence, Excavation: Any unsightly building, billboard, fence, excavation, or other structure, or any abandoned or partially destroyed building, fence, excavation or structure, or any building, fence, excavation or structure commenced and left unfinished.
- L. Junkyards, Dumping Grounds: All places used or maintained as junkyards, or dumping grounds, or for the wrecking or disassembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others.
- M. Slaughtering Or Butchering Animals: The act of slaughtering or butchering of any animal or fowl unless such act is performed within a building or enclosure which prohibits view or sound of such act from other private or public property.
- N. Equipment Repair Businesses: All places used as collection or holding areas for various types of appliances, machinery, or other items brought to a business for the purpose of repair or exchange of parts, unless such area is completely enclosed with a sight obscuring fence or planting. (Ord. 125-1, 1-14-1992) (Ord 256-22, 11/15/2022)
- O. Improper Use of Emergency Communications System:
 - 1. A person commits the crime of improper use of the emergency communications system if the person knowingly:
 - (a) Makes an emergency call or calls the tip line for a purpose other than to report a situation that the person reasonably believes requires prompt service in order to preserve human life or property; or

(b) Allows another person to use communications equipment owned, rented or leased by or under the control of the person to make an emergency call or call the tip line for a purpose other than to report a situation that the other person reasonably believes requires prompt service in order to preserve human life or property.

2. As used in this section:

(a) “Emergency call” has the meaning given that term in ORS 403.105.

(b) “Emergency communications system” has the meaning given that term in ORS 403.105.

(c) “Tip line” means the statewide tip line established under ORS 339.329 (Statewide tip line to report information concerning threats or potential threats to student safety).

3. Improper use of the emergency communications system is a Class A misdemeanor

P. Disruptive Noise: Loud music, parties, jake-brakes, etc. or other loud sound that interferes with the reasonable comfortable and ordinary use of the adjoining property within the corporate limits of the city between the hours of 10:00pm and 7:00am.

Q. Affecting Exterior Area Nuisances and Public Health Nuisances.
It is the responsibility of the owner or person in charge of any property, improved or unimproved, to maintain the outdoor areas of the property and adjacent rights-of-way in a manner that complies with the applicable provisions of this Code, including the following requirements. Failure to comply also constitutes a nuisance affecting public health. In particular, no person responsible shall permit the execution of any of the following:

(1) Open vaults, septic tanks, cesspools, cisterns or privies constructed and maintained within the city. Holes, excavations, open foundations, tanks and similar hazards with a depth of 14 or more inches and a top width of 12 inches or more shall be removed, securely covered or filled where filling will abate the nuisance.

(2) Accumulations of debris, rubbish, manure and other refuse that creates objectionable odors, any condition that provides a place or harborage where vectors or rodents gain shelter, feed or breed, or constitutes significant visual blight impacting neighboring properties.

(3) Stagnant water that affords a breeding place for mosquitoes and other insect pests.

- (4) Sewer violations, including but not limited to unpermitted disposing, discharging, or releasing any sewage or other regulated substance or failing to abide by a permit or approval issued by the City requiring the disposal or release of sewage.
- (5) Decayed, rotten, putrid or otherwise or unwholesome food offered for human consumption.
- (6) Drainage of liquid wastes from private premises except as authorized by this Code or appropriate approval or permit.
- (7) Thickets that conceal hazards, trash or debris, create vector or rodent harborage, or harborage for people involved in criminal activity or for products used in criminal activity.
- (8) Weeds and grass with a prevailing height of more than 12 inches located in areas where lawn grasses are used as ground cover or any area where ground covering vegetation is used as passage to other areas on the property.
- (9) Garbage, offal (internal organs), dead animals, animal or human waste, and waste materials. All household garbage shall be stored as specified in the Code.
- (10) Accumulations of litter, glass, scrap materials (such as wood, metal, paper, and plastics), junk, combustible materials, stagnant water, or trash.
- (11) Accumulations of clothing and any other items not designed for outdoor storage.
- (12) Permitting any irrigation water or water used for domestic or other purposes to run across or upon any city street.
- (13) Accumulation of wood pallets. Accumulation of firewood that is not stacked and usable. Usable firewood has more wood than log and is cut to lengths that will fit in a fireplace or wood stove on the property.
- (14) Accumulation of construction materials, except those that are stored in a manner to protect their utility and prevent deterioration and are reasonably expected to be used at the site.

(15) All appliances or appliance parts except for storage of appliances that are reasonably expected to be used at the site and that are stored in a manner to protect their utility and prevent deterioration and are secured from entry.

(16) All indoor furniture except that which is stored in a manner to protect its utility and prevent deterioration and is reasonably expected to be used at the property.

(17) All recycling materials except for reasonable accumulations (amounts consistent with a policy of regular removal) that are stored in a well-maintained manner and removed in a timely manner.

(18) All other items that:

- (a) Are a type or quantity inconsistent with normal and usual use; or
- (b) Are likely to obstruct or impede the necessary passage of fire or other emergency personnel or to create a health or safety hazard, or harborage for vectors or rodents, or harborage for people involved in criminal activity or for products used in criminal activity.

(19) Junk, including disabled vehicles and/or parts. No person shall keep junk outdoors on a street, yard, lot, or premises or in a building that is not wholly or entirely enclosed except for doors used for ingress and egress. This includes a motor vehicle or vehicles unless currently registered and operable. It also includes accumulation of any of the following: old motor vehicle parts, tires, abandoned automobiles, old machinery, old machinery parts, old appliances or appliance parts, old iron or other metals, glass, paper, lumber, wood or other waste or discarded material. This section does not apply to junk kept, salvaged, used or resold as part of a business being conducted on property in compliance with all city zoning laws and permits. Whenever a disabled vehicle, which has been tagged by the city, is removed from real property and placed on the public right-of-way, the owner, person in charge or lawful occupant of the property from which the vehicle was moved to the right of way shall be responsible for that vehicle and for compliance with this Code.

(20) Any obstruction to an adjacent right-of-way. All adjacent rights-of-way shall be kept clear.

- (a) No owner, tenant, or person in charge of property shall permit vegetation to become a health hazard or becomes a traffic hazard that

impairs the view of a public thoroughfare or otherwise impedes travel, makes travel hazardous, including impeding the use of a sidewalk. In addition to vegetation, this responsibility also includes, but is not limited to earth, rock or other obstructions such as debris or other obstruction is prohibited.

(b) No parking or stowing of non-working vehicles, recreational vehicles, trailers, boats, etc. or overnight camping shall take place in the public rights-of-way or public owned or leased property. All such items and equipment, licensed or not shall be placed in an authorized business storage facility or on private property in an approved parking location. No yard is considered an approved location.

(21) Any substance, material or condition which is determined by the city to endanger neighboring property, the health or safety of the public, or the occupants of the property.

(22) Camping which takes place at any time that is not permitted on any property, specifically during the hours of 6pm through 7am, (except for visiting family relatives on private property during specific and designated times), open space, parks, ROW, etc. that is governmental owned, leased, or managed.

R. Vegetation, Noxious Vegetation, Trees and Brush.

- (1) No owner, Tennant, or person in charge of property shall permit grass, weeds or brush to grow on property, including a landscape or parking strip or similar public right-of-way adjacent to property, over 12 inches high. No person shall permit grass, weeds, brush, dead, dying or decomposing trees to create a fire hazard.
- (2) No owner, tenant, or person in charge of property shall plant, grow or allow to remain any noxious vegetation, defined as any weeds commonly known as puncture vines, sand-burs, bull thistles, Canadian thistles, and star thistles or other vegetation designated as noxious by the City Council, regardless of their height or distance from public access, public rights-of-way, roadway, adjacent or abutting streets, alleys, other adjacent or abutting properties. This includes blackberry bushes that extend into a public right-of-way or a pathway frequented by children or across a property line.
- (3) No owner or person in charge of property that abuts on a street or other public right-of-way or public sidewalk shall permit trees or bushes on the

property to interfere with vehicular, bicycle or pedestrian street or sidewalk traffic, including creating a visual obstruction. An owner or person in charge of property that abuts on a street or public sidewalk shall keep all trees and bushes on the premises, including the adjoining landscape or parking strip, trimmed so that they do not project over a sidewalk at an elevation of less than eight feet above the level of the sidewalk or over a public right-of-way at an elevation of less than 13 feet above the level of the right-of-way.

- (4) No owner or 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.
- (5) All dead or diseased bushes, dead or diseased trees, and stumps except for such material which:
 - (a) Is being maintained as part of a naturescaped property;
 - (b) Does not result in a nuisance as otherwise defined in this chapter; and
 - (c) Is located on a property which is otherwise substantially in compliance with this chapter.
 - (d) An authorized and controlled or shaped burn pile.
- (6) Accumulations of dead organic matter and yard debris, except for small accumulations of such material in a maintained compost area on the property and only if such material does not result in a nuisance, such as creating rodent harborage, as otherwise defined in this chapter.
- (7) Brush, vines, overgrowth and other vegetation located within ten feet of a structure or a property line that are likely to obstruct or impede the necessary passage of fire or other emergency personnel or otherwise may obstruct emergency access.

S. Odoriferous Nuisances (Odors).

- (1) Cesspools or septic tanks that are in an unsanitary or unsafe condition or that cause an offensive odor.
- (2) Putrid Dead Animals, Fish or Fowl: Any putrid, unsound, or unwholesome bones, meat, hides, skins or the whole or any part of any dead animal, fish, or fowl.

- (3) Keeping Livestock, Other Animals Causing Odor Nuisances: The keeping of rabbits, chickens, cattle, goats, sheep, pigs, bees, mules, horses, mink, dogs, cats, muskrats, or any other animals within the city limits that are of such nature as to create offensive smells, noises, and conditions in the vicinity in which they are kept and authorized.
- (4) No person shall deposit, on public or private property, rubbish, garbage, trash, debris, refuse or any substance or material that would mar its appearance, create a stench, harbor vectors of rodents, or fire hazard which detract from the cleanliness or safety of the property or would be likely to injure a person, animal or vehicle traveling on a public right-of-way.
- (5) Premises that are or condition which cause offensive odors that are in an unsanitary condition
- (6) *Odoriferous nuisances.* No owner or person in charge of property on which obnoxious, offensive or objectionable odors are created or generated shall cause or permit odors to escape from that property so as to endanger the health of, cause significant discomfort to, or otherwise deleteriously affect the convenience, safety or welfare of any person within the city limits. All obnoxious, offensive and/or objectionable odors within the city limits are odoriferous nuisances affecting public health and safety, may be penalized as and may be abated as provided, notwithstanding any governmental authorizations or permits issued to the odor-causing activity and irrespective of the location of the activity or the economic or social utility thereof.
- (7) *Evidence of odoriferous nuisances.* All or any of the following shall be evidence of the existence of obnoxious, offensive or objectionable odors within the city limits:
 - (a) The oral or written complaint of three or more persons, within any 12-hour period, to the effect that odors emanating from any activity within or in the vicinity of the city are causing adverse health effects, significant discomfort, or serious inconvenience to the persons (or to minors within the custody or care of the persons) at a residence or place of business within the city limits; or
 - (b) The detection and measurement, by a qualified person employing appropriate technology, of one or more of the following odor constituents, at or above the following concentrations, within the city limits:

- (1) Hydrogen sulfide at or in excess of six parts per billion (ppb);
 - (2) Ammonia at or in excess of 50 ppb; or
- (8) The finding, by an odor panel, that odors emanating from a source inside or outside the city limits exceed two odor units at the property boundary or at the city limits (whichever is closest to the source.) The odor panel shall be comprised of six residents of the city appointed by the Mayor and confirmed by the City Council. The determination by the odor panel shall be based on substantial adherence to the following procedure: A sample is collected in a glass sampling bulb (25 to 10,000 ml in size) and delivered immediately to the odor panel for a series of dilutions and sniffing's using the triangle olfactometer method, in which three samples are presented to each panelist from a series of glass sniffing ports. Two are test room air (blanks), and the third is odorous air diluted with test room air. The olfactometer supplies six dilution levels. An odor unit is defined as the volumetric amount of the odorous gas which is detectable by only half the odor panel in 0.03m³ (1 cu. ft.) of odor-free air. The strength of an odor is determined by the number of dilutions with odor-free air needed to reduce an odor to a barely detectable level.
- (9) *Abatement of odoriferous nuisances.* Notwithstanding any other provision of this Code, the creation or generation of any odoriferous nuisance may be ordered abated only upon the motion, petition or complaint of the city or any resident of the city:
- (a) By an order of the municipal court of the city enjoining an odor-causing activity within the city limits until such time as the person in charge of the property has given verifiable and enforceable assurances that the activity will no longer create an odoriferous nuisance;
 - (b) By an order of the circuit court of the State of Oregon for Morrow County enjoining an odor-causing activity either within or outside the city limits until such time as the responsible person of the property has given verifiable and enforceable assurances that the activity will no longer create an odoriferous nuisance within the limits of the city; or
 - (c) By any other appropriate legal or equitable judicial remedy available to the city or its residents for the abatement of nuisances.

T. Fences. No owner or person in charge of property shall construct or maintain a barbed wire or razor wire fence, or permit barbed wire or razor wire fence to remain as part of a fence along a sidewalk; except on commercial or industrial property; barbed or razor wire may be placed above the top of other fencing not less than six feet, six inches high, so long as it does not extend over the sidewalk. No person shall construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person. Any electric fence not prohibited must be clearly labeled as such.

U. Attractive Nuisances.

(1) For purposes of this Code, an ATTRACTIVE NUISANCE is any item or condition that is likely to attract persons under the age of 18 years old onto property and into a situation involving risk of harm. All persons responsible are charged with knowledge that such persons may not appreciate the risks that an item or condition may present. Attractive nuisances are presumed to constitute an immediate danger.

(2) No person shall suffer or permit to remain unsecured or unguarded any attractive nuisance, including but not limited to:

(a) Machinery, equipment or any other device having the characteristics of an attractive nuisance.

(b) Any pit, quarry, cistern, well or other excavation or any unsecured abandoned or dangerous structure.

V. Radio And Television Interference.

(1) No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.

(2) This section does not apply to devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission or the local regulation of which is otherwise preempted by law.

W. Blowing Dust

- (1) For purposes of this section, dust includes but is not limited to dust, sand, dirt or similar material. No person responsible, who owns or disturbs land, including, but not limited to, clearing, grading, grubbing, excavating, filling, landscaping, or erecting buildings, or allows, contracts for, or directs the disturbance of the land, shall cause or permit dust to blow from a vacant parcel or the disturbed land site to other real property, including streets and dry wells in sufficient quantities and of such characteristics and duration as to be inconvenient, annoying, or injurious to human health, plant or animal life, or property.
- (2) No person shall disturb land without first obtaining approval. The city shall require such a plan as a condition of any development agreement, permit or public contract involving disturbance of land. The city will approve the Blowing Dust Control Plan only if the city determines that the Blowing Dust Control Plan contains reasonably acceptable control measures that, if followed, will prevent or substantially reduce blowing dust during high winds. A cash deposit, performance bond, letter of credit, or other security to secure performance of the Blowing Dust Control Plan, in an amount as established by the City, must be submitted with the Blowing Dust Control Plan.
- (3) The Blowing Dust Control Plan shall identify the reasonably acceptable control measures that will be utilized to prevent blowing dust, including persons who will check the site during weekends and holidays and have the ability and means to take corrective action. Corrective action must be available 24 hours per day, seven days per week. The names and phone numbers of such persons shall be included in the plan, and the city shall be advised immediately, in writing, if there are any changes in the names or phone numbers of the person or persons to contact. The Blowing Dust Control Plan and security deposit shall remain in effect for the full period of the activity which disturbs the land. The city may require the Blowing Dust Control Plan and the security deposit to continue beyond the final completion of the land disturbance activity for up to, but not to exceed, two years if the extension is necessary to ensure that the disturbed soil has stabilized.
- (4) Actions by a public utility, the city, or other governmental agency to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic are exempt from controlling dust.

(5) In addition to issuance of a citation or complaint, the city may order that immediate steps be taken as are necessary to stop or mitigate blowing dust. This may be done notwithstanding compliance with an approved plan if the city determines that approved plan is ineffective, or the dust exceeds the amount of blowing dust anticipated by the plan. The order may include, but is not limited to, suspension of all dust generating activity until sufficient control measures are in place. If the person responsible is unavailable, or is unwilling or unable to comply with such order within the time set forth in the order, the city may initiate such efforts as it deems reasonable to suppress the blowing dust; provided, that the city may not enter the property without the consent of the owner or person in charge, a warrant or lawful exception to obtaining a warrant. The costs incurred by the city for dust suppression efforts shall be borne by the person responsible in an amount set by resolution of the Council reasonably calculated to reimburse the city for all costs. The city may recover the costs from the security filed with a Blowing Dust Control Plan or as otherwise provided by law. These costs are in addition to any penalty assessed against a violator.

(6) Violation of this section involving a property of less than one acre is a Class B violation. Violation of this section involving a property of one acre or more, including failure to obtain or comply with the terms of an approved Blowing Dust Control Plan is a Class A violation. Failure to comply with an order to suspend operations or take other steps ordered by the city to abate blowing dust is a Class A violation. Except for failure to obtain a Blowing Dust Plan approval, it is an affirmative defense to a fine or civil penalty for a blowing dust violation if the responsible person establishes that the person made a good faith effort, to the maximum extent practicable, to control dust from blowing from the disturbed site, to comply with any approved Blowing Dust Control Plan or comply with an order to cease the activity or suppress the dust.

(7) In addition, failure to pay the fine and the costs incurred by the city for dust suppression shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or licenses.

X. Excessive (Loud) Noise.

This section is enacted to protect, preserve, and promote the health, safety, welfare, comfort, peace, and quiet of the residents and visitors of Irrigon

through the reduction, control, and prevention of loud or raucous noise, or any noise which unreasonably disturbs, injures or endangers comfort, repose, health, peace or safety; or causes public inconvenience, annoyance or alarm to reasonable individuals of ordinary sensitivity. This section applies to all sound originating within the jurisdictional limits of the city, at any hour.

(1) Loud or raucous noise degrades the environment of the city to a degree that is harmful to the health, welfare and safety of its residents and visitors; interferes with the comfortable enjoyment of life and property; interferes with the well-being, tranquility and privacy of the home; and may cause or aggravate health problems.

(2) The effective control of loud or raucous noise is essential to the health and welfare of the city's residents and visitors, and to the conduct of the normal pursuit of life, including recreation, work and communication.

(3) The use of sound-amplification devices may create loud or raucous noise that may, in a particular manner and at a particular time and place, substantially and unreasonably invade the privacy, comfort, peace and well-being of residents and visitors of the city.

(4) Certain short-term easing of noise reductions is essential to allow the construction and maintenance of structures, infrastructure, and other elements necessary for the physical and commercial vitality of the city.

(5) The obligation to draft regulations that affect speech in a content-neutral fashion is of paramount importance to protect the freedom of expression under the Oregon and Federal Constitutions. This chapter shall be construed and applied to establish narrowly drawn, content-neutral regulations that are to be interpreted as such so as not to infringe upon constitutionally protected rights.

(6) It is unlawful and a public nuisance for any person to make, continue, suffer, or cause to be made or continued:

- (a) Any unreasonably loud or raucous noise within the jurisdictional limits of the city; or
- (b) Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable individuals of ordinary sensitivity, within the jurisdictional limits of the city; or
- (c) Within the jurisdictional limits of the city, any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any individuals within the residential area from which said noises are heard, especially between

10:00pm and 7:00am; or as to unreasonably interfere with, or detrimentally or adversely affect, the peace and comfort of residents or their guests, or operators or customers in places of business.

Y. **Unreasonable Noises Prohibited.** Various factors determine whether a sound is unreasonably loud or raucous noise, but not limited to: proximity to a noise-sensitive area; land use, nature, and zoning of area from which sound emanates and where it is heard; time sound occurs; duration of sound; is recurrent, intermittent, or constant; or created by an amplification device.

(1) *Unreasonable noises.* The unreasonable making of, or unreasonably permitting to be made, any unreasonably loud, boisterous, or unusual noise, disturbance, commotion, or vibration in any residential dwelling, place of business or upon any highway, park or other place or building, especially between the hours of 10:00pm through 7:00am. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent noise-sensitive areas or which will not detrimentally affect the operators of adjacent places of business are exempted from this provision.

(2) *Sound-amplification devices.* Except as allowed by applicable city, state, or federal laws, a city special permit, or as a city hosted event, the unreasonably loud and raucous use or operation of a sound-amplifying device in the following areas:

(a) Within or adjacent to a residential or noise-sensitive area.

(b) Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates and is unreasonably loud or raucous.

(3) *Yelling, shouting, and similar activities.* Yelling, shouting, hooting, whistling, or singing at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable individuals of ordinary sensitivities. This subsection is to be applied only to those situations where the disturbance is not a result of the content of the communication but due to the volume, duration, location, timing, or other factors not based on content.

(4) *Construction and similar activities.*

(a) The construction, excavation, demolition, alteration, or repair of any building, street, highway or the like, other than between the hours of 7:00 a.m. and 7:00 p.m.; except in cases of urgent necessity in the

interest of the public welfare and safety, emergency construction or repair noises are exempt from this provision.

(b) In nonemergency situations, the City Manager or designee may issue a permit, upon application, if the City Manager or designee determines that the public welfare and safety, as affected by loud and raucous noise caused by construction, excavation, demolition, alteration or repair of buildings, streets and highways between the hours of 7:00 p.m. and 7:00 a.m. will not be impaired. If the City Manager or designee further determines that loss or inconvenience would otherwise result. The permit shall grant permission in nonemergency cases for a period of not more than 30 days. The permit may be renewed once, for a period of 30 days or less.

(5) *Noise-sensitive areas.* The creation of any unreasonably loud and raucous noise adjacent to any noise-sensitive area while it is in use, and which unreasonably interferes with the workings of the noise-sensitive area or which disturbs the individuals within the noise-sensitive area.

(6) *Blowers and similar devices.* In a residential area or noise-sensitive area, between the hours of 9:00 p.m. and 7:00 a.m., the operation of any noise-creating blower, power fan, generators, or any internal combustion engine; provided, that the noise from the blower, power fan or internal combustion engine can be heard across the property line from which it emanates.

(7) *Commercial establishments adjacent to residential property.* Unreasonably loud or raucous noise from the premises of any commercial establishment, including any outdoor area which is a part of or under the control of the establishment, between the hours of 10:00 p.m. and 7:00 a.m., which is plainly audible at the nearest property line of a noise-sensitive area within the service area of the City of Irrigon.

(8) *Signaling devices and similar devices.* The sounding of any horn, signaling device, or other similar device, to include jake-brakes, on any motor vehicle on a highway or premises open to the public otherwise than as a reasonable warning or making any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device. The sounding of any horn, signaling device, or other similar device, as a danger warning, is exempt from this prohibition.

(9) *Vehicle Horns, Loud Radios or Televisions:* Unnecessary sounding of automobile horns; unnecessarily loud playing of radios, record players, tape players, phonographs, televisions or other sound equipment in other places so as to obstruct the reasonable and comfortable use of the adjoining property within the corporate limits of the city.

(10) *Loading or unloading.* The creation of unreasonably loud, raucous and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence.

(11) *Nonemergency signaling devices.* Sounding or permitting the sounding of any amplified signal from any bell, chime, siren, whistle, or similar device, intended primarily for nonemergency purposes, from any place. The reasonable sounding of such devices by houses of religious worship, seasonal contribution solicitors, or by the city for traffic control purposes are exempt from the operation of this subsection.

(12) *Emergency signaling devices.* The intentional sounding or permitting the sounding of any emergency signaling device, including fire alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in this chapter.

(a) The testing of an emergency signaling device occurring between 7:00 a.m. and 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five minutes. Testing of the emergency signaling system shall not occur more than once in any calendar month.

(b) Sounding or permitting the sounding of any alarm system shall terminate within 15 minutes of activation unless an emergency exists. If a false alarm occurs more than twice in a calendar month, then the owner or person responsible for the alarm system shall be in violation of this chapter.

(13) *Radios, televisions, boomboxes and similar devices.* The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any individual other than the player or operator of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of residents in a residential area or noise-sensitive area, especially between the hours of 10:00pm through 7:00am.

(14) *Animals and birds.* Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls, or otherwise cares for the animal or bird.

(15) Exception. Sounds caused by the following are exempt from the prohibitions are in addition to any exemptions specifically set forth in that section:

- (1) Motor vehicles on highways or premises open to the public; provided, that the prohibition continues to apply.
- (2) Repairs of utility structures which pose a clear and immediate danger to life, health or significant loss of property.
- (3) Sirens, whistles, or bells lawfully used by emergency vehicles, or alarm systems used to signal an emergency, provided the prohibition within the code, not specified here, continues to apply.
- (4) The emission of sound for the purpose of alerting individuals to the existence of an emergency or the emission of sound in the performance of emergency work.
- (5) Repairs or excavations of bridges, streets or highways by or on the behalf of the city, state, or federal government, between the hours of 7:00 p.m. and 7:00 a.m., when public welfare and convenience render it impractical to perform the work between 7:00 a.m. and 7:00 p.m.
- (6) Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to school athletic and school entertainment events.
- (7) Outdoor gatherings, public dances, shows, and sporting events, and other similar outdoor events; provided, that a special permit has been obtained beforehand from the city's proper permitting authority; or the event is being sponsored by the city; or the event has been sanctioned by the city on city owned property.
- (8) Noise emanating from the combustion, detonation, or concussion caused by using lawful fireworks or other similar devices, from July 1 until July 5 of each year.

Z. Unreasonable Noises Prohibited.

- (1) The acts, conditions or objects specifically enumerated and defined in this chapter are declared public nuisances.

(2) In addition to the nuisances specifically enumerated in this chapter, or designated as a nuisance by any other chapter or ordinance, every other thing, condition, substance or act that is determined by the Council to be injurious or detrimental to the public health, safety or welfare of the city is declared a nuisance and may be abated as provided in this chapter.

4-1-4: RECREATIONAL PARK AND VEHICLE: A recreational vehicle (RV) shall have the definition and meaning currently given ORS 446.003(33) or any such state law as may replace it. “Manufactured Dwelling Park” and “Recreational Vehicle Park” shall have the definitions and meanings currently given in ORS 197.492 or any such state law as may replace it. (Ord 256-22, 11/15/2022)

1.. Time Period.

a. Any recreational vehicle occupying a space in a Recreational Vehicle Park that is not being occupied as a residential dwelling and lawfully connected to electric, water, and sewer systems, as per ORS 197.493, shall be limited to two (2) weeks stay in that Recreational Vehicle Park.

b. Except as provided by code or ordinance, recreational vehicles shall not be used or occupied outside of Recreational Vehicle Parks in the City of Irrigon. Recreational vehicles may be used or occupied for up to 15 days on private property with the property owner's consent. City Council may review and approve, upon written application, exceptions to this ordinance. Such exceptions may be granted for *temporary* occupancy during construction of a new dwelling, or during emergencies resulting in loss of an existing structure. Medical and financial hardships are not allowable exceptions for temporary occupancy. The use of a recreational vehicle during such a period shall not allow the recreational vehicle to be hooked up to utilities such as electricity, water, or sewer. All sewage and wastewater must be disposed of at an approved recreational vehicle sewage and wastewater disposal site.

c. No recreational vehicle shall be parked upon any public right-of-way within the City of Irrigon for more than 48 hours, except when adjacent to the property of the recreational vehicle's owner and without any occupants. Moving to a different site within the city shall not constitute the start of a new 48-hour period. Recreational vehicles parked on public right-of-way must be at least thirty (30) feet from any roadway intersection or from any parking lot entrance or exit.

2. *Recreational Vehicle Park Construction.* Recreational Vehicle Park design and construction shall conform to the following standards and requirements:
 - a. The minimum area for a Recreational Vehicle Park shall be five (5) acres and in accordance with all City, County, and State Development and Building Ordinances, see Title X, Chapter 4 of the Development Code for provisions and exemptions.
 - b. Any domestic water, wastewater and sewage disposal facilities, electrical and pedestrian and transportation facilities shall be approved in accordance with the Development Code and by the appropriate agency.
3. *Recreational Vehicle Park Occupancy Rules.* Park occupants and residents shall comply with the following rules.
 - a. All pets shall be kept in compliance with State and local laws.
 - b. Any skirting, siding, steps, porches, exterior structures or other adjuncts to the recreational vehicle itself must be constructed in compliance with all state and local code requirements.
 - c. Vehicle repair or maintenance, other than light maintenance such as changing headlamps, replacing wipers, repairing window chips, or changing flat tires, is not permitted in Recreational Vehicle Parks.
 - d. Propane or natural gas tanks shall only be used in accordance with the recreational vehicle manufacturer's specification, and only factory installed tanks shall be permitted. All tanks must meet current regulations regarding regulated and pressure devices. No "extra" tanks shall be stored near or on a recreational vehicle. All recreational vehicles are to maintain a minimum of 20 feet between units (recreational vehicles) to ensure that there is proper spacing between propane tanks on those vehicles.
 - e. No more than two (2) working and licensed vehicles, excluding the recreational vehicle, shall be permitted on a recreational vehicle space. A boat/trailer combination shall count as a single licensed vehicle. No unlicensed or inoperative vehicles are permitted to be stored at or on the recreational vehicle space.
 - f. No indoor furniture or appliances may be kept outside of the recreational vehicle.

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g. Any extensions or adjuncts must be integral to the manufacturer’s design of the recreational vehicle. No “add-ons” to the recreational vehicle shall be allowed (e.g. tarps, clotheslines, etc.). Any extension must meet all City, County, and State regulations, including but not limited, to City Land Use and Site Design Permit criteria.

h. The number of individuals occupying a recreational vehicle shall not exceed the manufacturer’s specifications.

i. Tent usage is permitted on recreational vehicle site, but such usage is subject to the same maximum time as for recreational vehicle, two (2) weeks.

j. No recreational vehicle shall be parked in a space designated as “tent only.”

4. *Penalty.* Any person in violation of this section shall be fined as a Class D Violation. Each day of violation shall constitute a separate offense. (Ord 221-13, 11/19/2013)

4-1-5: **CHRONIC CRIMINAL PERSON OR PROPERTY:**

- A. DEFINITIONS:** For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning. (Ord 256-22, 11/15/2022)

City: the City Manager, Law Enforcement, or other city designated employee. (Ord 256-22, 11/15/2022)

Control: the ability to regulate, restrain, dominate, counteract or govern property, or conduct that occurs on a property. (Ord 256-22, 11/15/2022)

Law Enforcement: police, police agencies, or other police designees. (Ord 256-22, 11/15/2022)

Person associated with: any person who, during a nuisance activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a nuisance property in order to commit or assist in committing the nuisance; or person present on a nuisance property, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a criminal nuisance property, person in charge, or owner of a criminal nuisance property, or anyone not a criminal nuisance property owner who commits or assists in committing the nuisance. (Ord 256-22, 11/15/2022)

Person in charge: means any person, in actual or constructive ownership, possession or control of a property, including but not limited to an owner or occupant of property. (Ord 256-22, 11/15/2022)

Property: includes any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent. For property consisting of more than one unit, property may be limited to the unit or the portion of the property on which any nuisance activity has occurred or is occurring, but includes areas of the property used in common by all units of property including without limitation other structures erected on the property and areas used for parking, loading and landscaping. (Ord 256-22, 11/15/2022)

B. CHRONIC NUISANCE PERSON

A person is a chronic nuisance person and is subject to the remedies in this chapter if the person:

1. Is involved in or associated with property when three or more chronic nuisances or calls regarding chronic nuisances exist or have occurred during any ninety-day period; or
2. Is associated with a chronic nuisance property or activity who engaged in three or more nuisance activities during any ninety-day period; or
3. Has been the subject of a determination by a court that probable cause does exist and has occurred within the previous ninety (90) days, and law enforcement has determined that the search warrant, citation or court summons was based on evidence of continuous or repeated nuisance activities; or
4. Engages in repeated unfounded complaints to the city or law enforcement in regard to alleged violations of state law or county or city ordinance. (Ord 256-22, 11/15/2022)

C. CHRONIC NUISANCE PROPERTY

A property is a chronic nuisance property and is subject to the remedies in this chapter if it is:

1. Property on or in which three or more nuisance activities exist or have occurred during any ninety-day period; or
2. Property on or in which, or within four hundred (400) feet of which, any person associated with the property has engaged in three or more nuisance activities during any ninety-day period; or
3. Property which, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause does exist that possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203, 475.005 through 475.285 or ORS 475.940 through 475.995 has occurred within the previous ninety (90) days, and the court or law enforcement has determined that the search warrant was based on evidence of continuous or repeated nuisance activities at the property; or

4. Property on which continuous or repeated chronic nuisances exist or have occurred. Each day a nuisance continues constitutes a separate nuisance under this section. (Ord 256-22, 11/15/2022)

D. CHRONIC NUISANCE PROPERTY PROCEDURES

A. Notice: When the City receives two or more reports documenting the occurrence of possible chronic nuisance activities on or within four hundred (400) feet of a property, the reports shall be reviewed. If upon review, the City verifies that at least two (2) nuisance activities have occurred or are occurring, and shall send notice in writing to the person in charge that the property or person may be designated as a chronic nuisance property or person. The notice shall contain the following information:

1. A name and street address, or a legal description sufficient for identification of the property or person.
2. A statement that the property or person may be a chronic nuisance property or person, with a concise description of the nuisance activities that exist, or that have occurred. The notice shall include a hearing date and location for the person in charge to propose a course of action that will abate the nuisance activities.
3. The hearing shall be set no earlier than thirteen (13) days after the mailing of the notice.
4. A person in charge who fails, neglects or refuses to appear at the hearing shall be deemed to have waived the right to a hearing on the matter.

B. If, after notice and opportunity for hearing as described in Section A, another report documenting the occurrence of further chronic nuisance activities on or within four hundred (400) feet of the property the person in charge shall be notified that the property is designated by the City as a chronic nuisance property. The notice shall contain the following information:

1. A name and street address, or a legal description sufficient for identification of the property or person.
 2. A statement that the property or person has been designated as a chronic nuisance property or person, with a concise description of the nuisance activities that exist, or that have occurred, leading to that designation.
 3. Require that the person in charge respond within ten (10) days and propose a course of action to the City that will abate the nuisance activities giving rise to the violation.
4. Service on the person in charge may be made either personally, or by first class mail and certified mail, postage prepaid, addressed to the person in charge at the address of the property determined to be a chronic nuisance property or person, and at such other place or places likely to give the person in charge notice of the determination by the City. The notice shall also be posted at the property.

5. A copy of the notice shall also be served on the property owner of the address shown on the tax rolls of the county in which the property is located, and on any occupant at the address of the property, if these persons are different than the person in charge, and may be made either personally or by first class and certified mail, postage prepaid. Notice posted at the property may be considered service upon any occupant of the property.

C. If the person in charge fails to respond as required, the City may proceed further as described in this chapter.

D. If the person in charge responds as required by subsection (B)(3) and agrees to abate the nuisance activities giving rise to the violation, the City may postpone further action. If an agreed course of action does not result in the abatement of the nuisance activities within sixty (60) days or, if no agreement concerning abatement is reached between the City and the person in charge, the City may proceed further as described in this chapter.

E. When a person in charge makes a response to the City as required by subsections (A)(3) or (B)(3) any conduct or statement made in connection with the furnishing of that response shall not constitute an admission that any nuisance activities have occurred or are occurring. This section does not require the exclusion of any evidence, which is otherwise admissible or offered for any other purpose.

F. The failure of any person to receive notice as provided by subsections (A)(4) or (B)(4) shall not invalidate or otherwise affect the proceedings under this chapter.

G Commencement Of Action; Remedies; Burden Of Proof

1 In the event that no abatement agreement is reached between the City and the person in charge, or if the abatement agreement fails to abate the nuisance activity, the City commence legal proceedings to abate a chronic nuisance property and to seek closure of the property, the imposition of civil penalties against any or all of the persons in charge thereof, and any other relief deemed appropriate. The petition to abate nuisance shall contain the information described in Section B and shall be served on all parties as described in Section B. The notice sent under Section B may be attached as an exhibit to the petition and shall fulfill the information requirements of the petition. (Ord 256-22, 11/15/2022)

2. The court shall set hearing on the matter within thirty (30) days of the filing of the petition. The hearing date may be reset at the agreement of the parties or for good cause shown. (Ord 256-22, 11/15/2022)

3. At hearing the court shall take evidence and hear argument. If the court determines the property to be chronic nuisance property, the court may order that the property be closed and secured against all unauthorized access, use and occupancy for a period of not less than thirty (30) days, nor more than one year. The order shall be entered as part of the final judgment. The court shall retain jurisdiction during any period of closure. The person in charge may move the court for an order allowing entry onto the property for purposes of demolition or other procedures. (Ord 256-22, 11/15/2022)

4. If the court determines a property to be chronic nuisance property, the court may impose a civil penalty per day for each day nuisance activities occurred on the property,

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following notice pursuant to this chapter; or may award the cost to the city to abate the nuisance activities

at the property or both. The amount of the civil penalty shall be assessed against the person in charge and/or the property and may be included in the city's money judgment. (Ord 256-22, 11/15/2022)

5. The court shall not award civil penalties if the court finds that the person in charge at all material times could not, in the exercise of reasonable care or diligence, determine that the property had become chronic nuisance property. The court may still impose penalties for the city's abatement costs. (Ord 256-22, 11/15/2022)

6. In establishing the amount of any civil penalty, the court may consider any of the following factors and shall cite those found applicable: (Ord 256-22, 11/15/2022)

- a. The actions taken by the person in charge to mitigate or correct the nuisance activities at the property;
- b. The financial condition of the person in charge;
- c. Repeated or continuous nature of the problem;
- d. The magnitude or gravity of the problem;
- e. The cooperation of the person in charge with the city;
- f. The cost to the city of investigating and correcting or attempting to correct or abate the nuisance activities;
- g. Any other factor deemed relevant by a court.

7. The city shall have the initial burden of proof to show by a preponderance of the evidence that the property is chronic nuisance property. (Ord 256-22, 11/15/2022)

8. Evidence of a property's general reputation and/or the reputation of persons residing in or frequenting it shall be admissible. (Ord 256-22, 11/15/2022)

4-1-6: **UNOCCUPIED BUILDINGS:**

- A. **Secure Closing:** Every agent or owner of any unoccupied building in the city shall keep the same securely closed at all times against persons who may enter and commit a nuisance therein. (Ord 256-22, 11/15/2022)
- B. **Entering:** It is unlawful for any person to enter any unoccupied building and commit a nuisance therein. (Ord. 125, 4-10-1990) (Ord 256-22, 11/15/2022)

4-1-7: **FORECLOSED AND VACANT PROPERTIES:**

- A. Real property in which the owner has left vacant and derelict for more than 90 days or in which is being foreclosed as a result of: (Ord 256-22, 11/15/2022)

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1. Foreclosing a trust deed on the property,
 2. Receiving a judgment that forecloses a lien on the property,
 3. Trustee Sale,
 4. Owner or tenant has not properly notified the city of any due absence.
- B. Neglect' means results to the property:
1. Fail or a failure to maintain the buildings, grounds or appurtenances of foreclosed residential real property in such a way as to allow: (Ord 256-22, 11/15/2022)
 - (a) Excessive growth of foliage that diminishes the value of adjacent property;
 - (b) Trespassers or squatters to remain on the foreclosed real property or in a structure located on the foreclosed real property;
 - (c) Mosquito larvae or pupae to grow in standing water on the foreclosed real property; or
 - (d) Other conditions on the foreclosed residential real property that cause or contribute to causing a public nuisance.
 2. To fail or a failure to monitor the condition of foreclosed real property by inspecting the foreclosed real property at least once every 30 days with sufficient attention so as to prevent, or to identify and remedy, a condition described in subparagraph (A) of this paragraph. (Ord 256-22, 11/15/2022)
- C. Owner means a person, other than a local government, that forecloses a trust deed by advertisement and sale in accordance with established state law and city ordinance procedures. (Ord 256-22, 11/15/2022)
- D. Violations may be imposed by the City or Court in accordance with established violation charges and procedures upon properly noticing. Each day may be considered a separate violation and of which at any time such real property may be considered for abatement under established State, City, or Court proceedings. (Ord 256-22, 11/15/2022)

4-1-8: **CAUSING OR MAINTAINING NUISANCE:** It is unlawful for any person to erect, contrive, cause, continue, or maintain a nuisance as herein defined or prohibited. (Ord. 125, 4-10-1990) (Ord 256-22, 11/15/2022)

4-1-9: ABATEMENT OF NUISANCES:

- A. Citation Or Complaint in Irrigon Municipal Court; Other Remedies: Whenever a nuisance exists as defined by this chapter, the city may elect to enforce the provisions of this chapter by uniform citation and/or complaint filed in the Irrigon Municipal Court or it may elect to abate the nuisance by following the provisions set forth below. (Ord 256-22, 11/15/2022)
- B. Notice to Property Owner to Abate; Abatement By City; Assess Costs: (Ord 256-22, 11/15/2022)

1. It is the duty of the City Manager or designee to notify, in writing, the owner or occupant of any lot, parcel, or tract of land within the city upon which weeds, grass, vegetation, rubbish, debris or decomposing animal or vegetable matter has accumulated so as to become a fire hazard or injurious or detrimental to the public health or welfare and to create an unsightly or unsanitary condition, requesting the owner or occupant to remove the weeds, noxious weeds, grass, vegetation, rubbish, debris or decomposing animal or vegetable matter within the period of time specified in the notice.

2. In case the owner of the premises, or the occupant thereof, or any other person or persons creating, causing or committing, or maintaining the same, should fail to remove the weeds, noxious weeds, grass, vegetation, rubbish, debris or decomposing animal or vegetable matter or any other substance causing any fire hazard or creating an unsightly or unsanitary condition or a condition injurious to the public health or welfare, within the specified period of time, then the city may proceed as described in this section

upon the premises and clean and level the premises and remove the weeds, noxious weeds, grass, vegetation, rubbish, debris or decomposing animal or vegetable matter, and the cost to the city for such cleaning, leveling, removal or destruction shall be at the expense of the owner or occupant of the property or against any other person or persons creating, causing or committing or maintaining the same, and such amount, together with the reasonable legal and administrative cost incurred by the city in relation thereto and for collection, shall be paid within thirty (30) days of the billing date; and if not paid within

such time period, to levy a special assessment on the land or premises where the nuisance is situated to defray the cost or to reimburse the city for the cost of abating the same. Notice of the lien shall be filed with the Morrow County assessor.

- C. Judgment; Order of Abatement: Whenever, in any abatement action brought in the Irrigon Municipal Court, it is established that a nuisance exists, as defined in this chapter, the court shall, together with the fine imposed, if any, issue an order of abatement as part of the judgment in the case, which order shall direct either: (Ord 256-22, 11/15/2022)
1. That such nuisance be abated or removed by the defendant with a time limited by the court, and not exceeding thirty (30) days; or

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- 2. That the nuisance may be abated by the city at the cost of the defendant

4-1-10: **FAILURE TO ABATE CONTINUING NUISANCE:** Every successive owner of property who neglects to abate a continuing nuisance upon or in the use of such property caused by a former owner is liable therefor in the same manner as the owner who created it. (Ord. 125, 4-10-1990) (Ord 256-22, 11/15/2022)

4-1-11: **SUMMARY CLOSURE.** Any summary closure proceeding shall be based on evidence showing that nuisance activities exist or have occurred on the property and that emergency action is necessary to avoid an immediate threat to public welfare and safety. (Ord 256-22, 11/15/2022)

Summary closure may be initiated by the City Manager, Law Enforcement or designee in court. Proceedings to obtain an order of summary closure shall be governed by state law for obtaining temporary restraining orders. In the event of summary closure, the city is not required to comply with the notification procedures set forth in subsections of this chapter. (Ord 256-22, 11/15/2022)

4-1-12: **ENFORCEMENT.**

- A. The court may authorize the city to physically secure the property against all unauthorized access, use or occupancy in the event that the person in charge fails to do so within the time specified by the court. In the event that the city is authorized to secure the property, the city shall recover all costs reasonably incurred by the city to physically secure the property as provided by this section. The city department(s) physically securing the property shall prepare a statement of costs, and the city shall thereafter submit that statement to the court for its review as provided by the court, City Manager or designee. (Ord 256-22, 11/15/2022)
- B. The person in charge shall pay reasonable relocation costs of a tenant as defined by ORS 90.100(28), if, without actual notice, the tenant moved into the property after a person in charge received notice of the determination that the property was a criminal nuisance property or if the person in charge knew or should have known that the property was in the process of such determination pursuant to this chapter. (Ord 256-22, 11/15/2022)
- C. A lien shall be created against the property for the amount of the city's judgment. In addition, any person who is assessed penalties or costs in accordance with established code and shall be personally liable for payment thereof to the city. Judgments imposed by this chapter shall bear interest at the statutory rate. (Ord 256-22, 11/15/2022)

4-1-13: **VIOLATION; PENALTY:**

- A. Penalty Imposed:

1. The penalty for violation of the provisions of this chapter shall be as a Class A violation under state law, without the requirement for the state law statutory minimum fine. (Ord 256-22, 11/15/2022)

2. Each day's *continuing violation* shall be a separate and distinct *offense*.- (Ord 256-22, 11/15/2022)

- B. Weeds And Rubbish Causing Fire Hazard: Any person who violates the provisions of this chapter and permits weeds, noxious weeds, rubbish, debris, solid waste, or decomposing animal or vegetable matter to accumulate or remain upon any real property owned or occupied by him/her in the city so that it shall become a fire hazard or cause or create an unsanitary or unsightly condition or become injurious or detrimental to the public health or welfare, or who permits weeds, noxious weeds, grass or other vegetation to reach a height in excess of one foot (1') within an area of twenty feet (20') of any existing building or a height of two feet (2') in any other location, shall, in addition to the other penalties provided for in this section, after being notified by the code enforcement officer or his designee to remove the material within a period of time specified in the notice as herein provided, shall have committed an infraction and shall be punished as a Class A violation under state law, without the requirement for the state law statutory minimum fine and each day that such fire hazard or unsanitary or unsightly condition is maintained upon the premises shall constitute a separate infraction under this chapter. (Ord 256-22, 11/15/2022)
- C. Failure To Pay Penalty: Any owner or occupant of such property who refuses or fails for any reason to pay the amount billed to him for the city's cleaning, leveling, removal, or destruction of the nuisance within thirty (30) days from the billing date, shall have committed an infraction and shall be punished by payment of a civil penalty as a Class A violation under state law, without the requirement for the state law statutory minimum fine. Any person not being the owner or occupant of such property, who places or causes to be placed rubbish or debris upon any real property in the city in violation of the provisions of this chapter, shall be guilty of an infraction and shall be punished as a Class A violation under state law, without the requirement for the state law statutory minimum fine and the placing or causing to be placed of each article of rubbish or debris shall constitute a separate infraction of this chapter. (Ord 256-22, 11/15/2022)
- D. In addition to abatement or any other remedy provided by law, unless otherwise provided in this Code Chapter. (Ord 256-22, 11/15/2022)

(1) Anyone who violates any provision of this Title commits a Class A violation.

- (2) Any person who shall attempt to commit a violation of this chapter but who for any reason is prevented from consummating the act, commits a Class B violation.
- (3) Each day's violation of a provision of this chapter constitutes a separate offense.

CHAPTER 2

GRAFFITI

SECTION:

- 4-2-1: Purpose and Intent
- 4-2-2: Definitions
- 4-2-3: Prohibited Acts
- 4-2-4: Graffiti as Nuisance
- 4-2-5: Notice to Remove Graffiti
- 4-2-6: Abatement by City
- 4-2-7: Parental Responsibility
- 4-2-8: Penalties and Remedial Action

4-2-1: **PURPOSE AND INTENT:** The purpose and intent of this chapter is to help prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property. "Graffiti" is a public nuisance and destructive to the rights and values of property owners as well as the entire community. (Ord 256-22, 11/15/2022)

Any graffiti, which under this chapter is defined as any inscription, word, figure, or design that is marked, etched, scratched, drawn or painted on any surface that is not authorized by the owner or person in charge of the property, where the markings are visible from premises open to the public, such as public rights-of-way or other publicly owned property. Anyone authorizing such inscription, words, figures, or descriptions shall retain a name, address, plus phone number(s) for the artist.

4-2-2: **DEFINITIONS:** The following terms shall mean: (Ord 256-22, 11/15/2022)

ABATE: To remove the graffiti by such means, in such a manner, and to such an extent, as the city manager reasonably determines is necessary to remove the graffiti from public view.

AEROSOL PAINT

CONTAINER: Any aerosol container that is adapted for spraying paint.

FELT TIP MARKER: Any indelible marker or similar implements with a tip which, at its broadest width, is greater than one-fourth inch ($\frac{1}{4}$ ”).

GRAFFITI: Any inscription, word, figure, or design that is marked, etched, scratched, drawn, or painted on any surface that is not authorized by the owner or person in charge of the property.

GRAFFITI IMPLEMENT: An aerosol paint container, a felt tip marker, or a graffiti stick.

GRAFFITI STICK: A device containing a solid form of paint, chalk, wax, epoxy, or other similar substances capable of being applied to a surface by pressure, and upon applications, leaving a mark at least one-fourth inch ($\frac{1}{4}$ " in width. (Ord. 160-06, 7-11-2006)

4-2-3: PROHIBITED ACTS:

- A. **Defacement:** It shall be unlawful for any person to apply graffiti to any natural or manmade surface on any city owned property or, without the permission of the owner or occupant, or on any noncity owned property. (Ord 256-22, 11/15/2022)
- B. **Possession Of Graffiti Implements:** It shall be unlawful for any person to possess any graffiti implement commonly used in the application of graffiti under circumstances showing an intent to use, or employed in the act of applying graffiti, or know that the same is intended to be used. In addition to any citation issued, a graffiti implement used or possessed in violation of this section may be immediately seized and impounded by the issuing officer. (Ord. 160-06, 7-11-2006), (Ord 256-22, 11/15/2022)

4-2-4: GRAFFITI AS NUISANCE:

- A. **Nuisance Declared:** Existence of graffiti on public or private property in violation of this chapter is expressly declared to be a public nuisance and, therefore, subject to the removal and abatement provisions specified in this chapter. (Ord 256-22, 11/15/2022)
- B. **Responsibility For Cleaning:** It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti. (Ord. 160-06, 7-11-2006) (Ord 256-22, 11/15/2022)

4-2-5: NOTICE TO REMOVE GRAFFITI:

- A. **Issuance Of Notice:** When the city manager has reason to believe that a property within the city may be a potential graffiti nuisance property, the governing authority shall identify a responsible party and send that party notice which describes the nature and location of the graffiti and requesting that the problems caused by the continued presence of graffiti and the need for its prompt removal; and give notice that failure to remove graffiti is a violation of city law that may lead to legal action to remove the graffiti at the expense of the responsible party to civil penalties. (Ord 256-22, 11/15/2022)
- B. **Information In Notice:** The notice shall also contain the following information: (Ord 256-22, 11/15/2022)

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1. The street address or description of the property reasonably sufficient for identification of the property.
2. A concise description of the conditions leading the city to believe that the property may be graffiti nuisance property.
3. A description of what must be done to abate graffiti.
4. A statement that an arrangement must be made within seventy-two (72) hours after receipt of the notice for the abatement of the graffiti, and the statement that if the graffiti is not abated within the arranged time, that time the property will be a graffiti nuisance subject to abatement by the city.
5. The graffiti nuisance notice shall be delivered or mailed to the responsible party at that party's last known address. If an address for mailed service cannot be located, notice shall be served by posting a copy of the notice conspicuously at the graffiti nuisance property.
6. Or, notice may be served by law enforcement officer making contact to resident. (Ord. 160-06, 7-11-2006)

4-2-6: **ABATEMENT BY CITY:**

- A. **Municipal Court:** The city may abate a graffiti nuisance property at any time after the responsible party has received notice and failed to abate the nuisance within the time allotted. (Ord 256-22, 11/15/2022)
- B. **Assistance in Abating:** The city may call upon other pertinent agencies for resources and assistance in abating a graffiti nuisance property. (Ord 256-22, 11/15/2022)
- C. **Right Of Entry On Private Property:** Prior to entering upon private property or property owned by a public entity other than city for the purpose of graffiti removal, the city shall attempt to secure the consent of the property owner or responsible party and a release of the city for liability for property damage or personal injury. If the property owner or responsible party fails to remove the offending graffiti within the time specified within this chapter, the city shall commence abatement and cause proceedings for the graffiti removal according to the provision below. (Ord 256-22, 11/15/2022)
- D. **Assessment Of Costs:** The costs of correcting the violation may or may not be billed to the responsible party and may be due and payable to the city in accordance with abatement procedures. Cost includes both the value of the use of city staff, equipment, materials and payments made to third parties. (Ord 256-22, 11/15/2022)

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4-2-7: PARENTAL RESPONSIBILITY:

- A. No parent, guardian, or other person having legal custody of an unemancipated minor person under the age of eighteen (18) years may permit or allow the minor to be in violation of this chapter. (Ord 256-22, 11/15/2022)
- B. Upon violation of this chapter, an unemancipated minor person, the parent, guardian, or person having legal custody shall appear in court with the minor. (Ord. 160-06, 7-11-2006) (Ord 256-22, 11/15/2022)

4-2-8: PENALTIES AND REMEDIAL ACTION:

- A. Fines: Any person violating this chapter shall be guilty of a civil infraction and be punished by a Class B Violation for the first offense and a Class A Violation for each subsequent offense. (Ord 256-22, 11/15/2022)
- B. Restitution: In addition to any punishment specified in this section, the court may order any violator to make restitution for damage or loss caused directly or indirectly by the violator's offense in the amount and the manner as determined by the court. (Ord 256-22, 11/15/2022)
- C. Community Service: In lieu of, or as part of, the penalties specified in this section, a minor or adult may be required to perform community service as described by the court based on the following minimum requirements: (Ord 256-22, 11/15/2022)
 1. The offender shall perform at least forty (40) hours of community service for applying graffiti and at least twenty (20) hours of community service for possessing graffiti implement. (Ord 256-22, 11/15/2022)
 2. The entire period of community service shall be performed under the supervision of a community service officer approved by the court. (Ord 256-22, 11/15/2022)
 3. Reasonable efforts shall be made to assign the offender to type of community service that is reasonably expected to have the most rehabilitative effect on the offender. (Ord. 160-06, 7-11-2006) (Ord 256-22, 11/15/2022)

CHAPTER 3

ABANDONED VEHICLES

SECTION

- 4-3-1: Definitions
- 4-3-2: Application of Provisions
- 4-3-3: Investigation by Police; Notify Owners
- 4-3-4: Nuisance Declared; Removal by Police
- 4-3-5: Determine Vehicle Owner; Notify State
- 4-3-6: Contents of Notice to Owner
- 4-3-7: Unknown Owner; Posting Notice of Sale
- 4-3-8: Redemption by Owner
- 4-3-9: Sale of Vehicle
- 4-3-10: Towing and Storage charges

4-3-1: **DEFINITIONS:** For the purpose of this chapter, the following terms shall have the meanings ascribed to them in this section: (Ord 256-22, 11/15/2022)

ABANDONED: Left unoccupied and unclaimed or in a damaged or dismantled condition upon the streets or alleys of the city.

CHIEF OF POLICE: Includes any authorized law enforcement officer of the city.

CITY: The city of Irrigon.

COSTS: The expense of removing, storing or selling an impounded 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.

VEHICLE: Every device in, upon, or by which any 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. (Ord. 49 revised, 1989)

4-3-2: **APPLICATION OF PROVISIONS:** This chapter shall apply to all abandoned vehicles as are now in or may be in the possession of the city as well as such vehicles as may hereafter be impounded. (Ord. 49 revised, 1989) (Ord 256-22, 11/15/2022)

4-3-3: **INVESTIGATION BY POLICE; NOTIFY OWNER:**

- A. **Duty Of Police:** It shall be the duty of the police department, whenever a vehicle is found abandoned upon the streets or alleys in the same position for a period of twenty-four (24) hours, to: (Ord 256-22, 11/15/2022)

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1. Make a routine investigation to discover the owner and request removal of the vehicle; and

2. If the owner is not found, to place a notice upon the windshield, or some other part of the vehicle easily seen by the passing public.

B. Contents Of Notice: Such notice shall state that the police department will remove and impound the vehicle under the provisions of this chapter, within twenty-four (24) hours of the day of posting, unless: (Ord 256-22, 11/15/2022)

1. The owner removes the vehicle; or

2. Good cause is shown, satisfactory to the chief of police, why such vehicle should not be removed by the owner or removed and impounded by the city. (Ord. 49 revised, 1989)

4-3-4: **NUISANCE DECLARED; REMOVAL BY POLICE:**

A. Declaration Of Nuisance: An abandoned vehicle which remains in the same position for a period of twenty-four (24) hours after a notice has been posted upon such vehicle, and no person has appeared to show good cause why such vehicle should not be removed, shall constitute a nuisance. (Ord 256-22, 11/15/2022)

B. By Police: It shall be the duty of the police to remove any vehicle which shall constitute a nuisance, under the provisions of this chapter, and store such vehicle upon city property, pending investigation into the ownership of such vehicle. (Ord. 49 revised, 1989) (Ord 256-22, 11/15/2022)

4-3-5: **DETERMINE VEHICLE OWNER; NOTIFY STATE:** The police department, after impounding any vehicle in accordance with the provisions of this chapter, shall: (Ord 256-22, 11/15/2022)

A. Make a diligent inquiry as to the name and address of the owner of the vehicle;

B. Examine such vehicle for the license number, motor number, serial number, make, style, and any other information which will aid in the identification of the ownership of the vehicle; and

C. Thereafter, immediately transmit all available information pertaining to such vehicle to the secretary of state of Oregon, with an inquiry for the name and address of the owner, whenever such vehicle is required by law to be registered with the office of secretary of the state of Oregon. (Ord. 49 revised, 1989) (Ord 256-22, 11/15/2022)

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4-3-6: CONTENTS OF NOTICE TO OWNER:

If the owner is identified, he shall be notified immediately by registered mail that such vehicle is held by the police department of the city. The notice to the owner shall also state: (Ord 256-22, 11/15/2022)

- A. The reason for impounding the vehicle.
- B. The existing costs against the vehicle.
- C. An estimate of future costs, including the cost of advertising the vehicle for sale.
- D. That unless the owner redeems the vehicle within ten (10) days from the day of mailing the notice if the address of the owner is without the state of Oregon, and pays all costs, the vehicle:
 - 1. Will be advertised for sale, in accordance with section 4-3-7 of this chapter; and
 - 2. Will be sold at public auction, at a definite time and place within the city, to the highest bidder and best bidder for cash. (Ord. 49 revised, 1989) (Ord 256-22, 11/15/2022)

4-3-7: UNKNOWN OWNER; POSTING NOTICE OF SALE:

- A. Posting Notice; Contents: If the owner cannot be identified after compliance with section 4-3-5 of this chapter, or no claim is made by a notified owner within the time specified by section 4-3-6 of this chapter, the chief of police shall cause to be posted a notice of sale. The notice of sale shall state:
 - 1. The sale is of abandoned property in possession of the city;
 - 2. A description of the vehicle, including the type, motor number, serial number or any other which will aid in accurately identifying the vehicle;
 - 3. The terms of the sale; and
 - 4. The date, time and place of the sale.
- B. Time Of Posting Notice: The notice of sale shall be posted two (2) times, the first posting shall be made not less than ten (10) days prior to the date of the proposed sale, and the second shall be made not less than three (3) days prior to the date of the proposed sale. (Ord. 49 revised, 1989) (Ord 256-22, 11/15/2022)

4-3-8

4-3-9

4-3-8: REDEMPTION BY OWNER:

- A. Application To Police Department: An owner may redeem a vehicle which has been impounded under the provisions of this chapter, before a sale has taken place, by applying to the police department, whereupon he shall: (Ord 256-22, 11/15/2022)
1. Submit evidence of his ownership or interest in the vehicle, satisfactory to the chief of police, that such claim is rightful; and
 2. Pay the costs of same that are owing at the time the application to redeem is made.
- B. Issuance Of Receipt: Upon compliance with subsection A of this section, the chief of police shall execute a receipt for the owner and cause the vehicle to be returned to him. (Ord. 49 revised, 1989) (Ord 256-22, 11/15/2022)

4-3-9: SALE OF VEHICLE:

- A. Sale Authorized: If no claim shall have been made to redeem an impounded vehicle before the time set for the sale of such vehicle, the chief of police shall hold a sale at the time and place appointed within the view of the vehicle to be sold. (Ord 256-22, 11/15/2022)
- B. Bidding Process: The vehicle shall be sold to the highest and best bidder; provided, that if no bids are entered, or those bids which are entered are less than the costs incurred by the city, the chief of police shall enter a bid on behalf of the city in an amount equal to such costs. (Ord 256-22, 11/15/2022)
1. The payment of cost incurred by the city, and
 2. The balance, if any, shall be transferred to the city treasurer to be credited to the general fund.
- C. Certificate Of Sale: At the time of the payment of the purchase price, the chief of police shall execute a certificate of sale, in duplicate, the original of which shall be delivered to the purchaser, and the copy filed with the city. The certificate of sale shall be substantially as follows: (Ord 256-22, 11/15/2022)

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance 49 revised, entitled, "An Ordinance for the Impounding and Disposition of Abandoned Vehicles" and pursuant to due notice of the time and place of sale, I did on the day of, for the sum of \$_cash, he being the highest and best bidder, and that being the highest and best sum bid therefor, sell the following described personal property:

and, in consideration of the payment of the said sum of \$, receipt whereof is hereby acknowledged, I have this day delivered to said purchaser the foregoing property.

Dated this day of _____, 20_____.

(Name and title)

Note: The City of Irrigon assumes no responsibility as to the condition of the above described property. In case this sale shall for any reason be invalid, the liability of the City is limited to the return of the purchase price.

- D. Vehicle And Certificate Delivered To Purchaser: Upon such sale being consummated, the chief of police shall deliver the vehicle and the certificate of sale to the purchaser. Such sale and conveyance shall be without redemption. (Ord. 49 revised, 1989)

4-3-10: **TOWING AND STORAGE CHARGES:** In the enforcement and execution of the provisions of this chapter, the chief of police shall charge and collect the following charges:

- A. Towing: Cost of towing charges as billed by towing company.
- B. Storage: At least Twenty-Five dollars (\$25.00) per day for storage, or as amended by resolution of the city council. (Ord. 49 revised, 1989) (Ord 256-22, 11/15/2022)

CHAPTER 4
RESERVED