



595 Main Street, Aumsville, OR 97325
Office: (503) 749-2030 ~ FAX: (503) 749-1852
Email: rharding@aumsville.us

PUBLIC HEARING NOTICE

AUMSVILLE CITY COUNCIL MEETING

Via Zoom Video Conference

MONDAY, November 23, 2020

A G E N D A

1) CALL TO ORDER: 7:00PM

- a) Approve Agenda

2) PRESENTATIONS, PROCLAMATIONS, & VISITORS

- a) **Public Comment:** Due to the COVID-19 Virus Council will conduct the meeting via Zoom conference call. Public Comment will be accepted from online attendees at this time. Comments are limited to 5 minutes for comments on items other than Public Hearings listed below. There is a public comment period within each hearing. You may also submit comments by emailing City Administrator Ron Harding at rharding@aumsville.us by noon on November 23, 2020.
- b) **Visitors:** For information about how to attend the meeting online, please call City Hall at 503.749.2030 or email crogers@aumsville.us to request log in instructions. Information will also be posted on our website <https://www.aumsville.us/citycouncil/page/city-council-regular-meeting-77>

3) CONSENT AGENDA: (Action) Council Meeting November 9, 2020 Minutes

4) PUBLIC HEARING: Chapters 4, 5, and 6 Code Updates

a) Open Hearing

- a) Staff Report - Proposed Chapter 4, 5, and 6 Ordinance Updates: City Administrator Ron Harding
- b) Questions from Council
- c) Receive Public Comments

B. Close Public Hearing

C. Council Deliberations

D. Council Decision: (Action)

- a) First Reading by Title Only of Ordinance No. 682 AN ORDINANCE UPDATING THE AUMSVILLE MUNICIPAL CODE TO INCLUDE PROVISIONS RELATING TO SOCIAL GAMES
- b) First Reading by Title Only of Ordinance No. 683 AN ORDINANCE LIMITING THE POSTING, PLACING, DISPLAYING, AND ATTACHING OF SIGNS OR ANY OTHER MATTER ON PUBLIC PROPERTY TO ANY TREE, POLE, OR POST SITUATED ON ANY PUBLIC PROPERTY WITHIN THE CITY, AND REPEALING ORDINANCE NO. 316
- c) First Reading by Title Only of Ordinance No. 684 AN ORDINANCE REPEALING ORDINANCE NO. 344, AN ORDINANCE CONCERNING THE OREGON CRIMINAL CODE
- d) First Reading by Title Only of Ordinance No. 685 AN ORDINANCE REPEALING ORDINANCE NO. 366, CONCERNING THE OREGON REVISED STATUTES CHAPTER 480 RELATING TO EXPLOSIVES
- e) First Reading by Title Only of Ordinance No. 686 AN ORDINANCE DEFINING NUISANCES, PROVIDING FOR THEIR ABATEMENT, PRESCRIBING PENALTIES, AND REPEALING ORDINANCE NO. 369
- f) First Reading by Title Only of Ordinance No. 687 AN ORDINANCE LIMITING THE CONSUMPTION OF ALCOHOLIC LIQUOR UPON PUBLIC STREETS AND OTHER PLACES; PRESCRIBING A PENALTY THEREFORE AND REPEALING ORDINANCE NO. 405

- g) First Reading by Title Only of Ordinance No. 688 AN ORDINANCE CREATING A JUVENILE CURFEW WITHIN AUMSVILLE'S CITY LIMITS; ESTABLISHING PARENTAL /GUARDIAN RESPONSIBILITY AND REPEALING ORDINANCE NO. 410
- h) First Reading by Title Only of Ordinance No. 689 AN ORDINANCE MAKING IT UNLAWFUL TO POSSESS GRAFFITI IMPLEMENTS, PROVIDING FOR THEIR SEIZURE AND PROVIDING PENALTIES, AND REPEALING ORDINANCE NO. 433
- i) First Reading by Title Only of Ordinance No. 690 AN ORDINANCE ESTABLISHING PROCEDURES REGULATING ALARM SYSTEMS WITHIN AUMSVILLE, TO BE KNOWN AS THE "AUMSVILLE ALARM ORDINANCE" AND REPEALING ORDINANCE NO. 490
- j) First Reading by Title Only of Ordinance No. 691 AN ORDINANCE REGULATING THE USE OF PARKS, PARKWAYS, PUBLIC SQUARES, PUBLIC GROUNDS, STREETS, BOULEVARDS, PATHS, SIDEWALKS, GREENWAYS, REST AREAS, PLAYGROUNDS AND OTHER AREAS AND REPEALING ORDINANCE NO. 505
- K) First Reading by Title Only of Ordinance No. 693 An Ordinance REPEALING ORDINANCE 555 CONCERNING GIVING FALSE INFORMATION TO POLICE
- l) First Reading by Title Only of Ordinance No. 694 AN ORDINANCE REPEALING ORDINANCE NO. 564, AN ORDINANCE CONCERNING REGISTRATION OF RESIDENTS CONVICTED OF A SEX CRIME
- m) First Reading by Title Only of Ordinance No. 695 AN ORDINANCE ESTABLISHING DRIVING AND CRIMINAL HISTORY RECORD CHECK POLICIES CONCERNING PUBLIC EMPLOYMENT AND PUBLIC SERVICE PROVIDERS AND VOLUNTEERS, AND REPEALING ORDINANCE NO. 597
- n) First Reading by Title Only of Ordinance No. 697 AN ORDINANCE RELATING TO THE PARKING OF VEHICLES AND TRAILERS ON CITY STREETS, PRIVATE OR PUBLIC PROPERTY; SETTING REGULATIONS AND PENALTIES FOR VIOLATIONS, AND REPEALING ORDINANCE 171
- o) First Reading by Title Only of Ordinance No. 698 AN ORDINANCE REPEALING ORDINANCE NO. 306, AN ORDINANCE REGULATING PARKING IN THE CITY OF AUMSVILLE
- p) First Reading by Title Only of Ordinance No. 699 AN ORDINANCE REGULATING THE USE OF BICYCLES, SKATEBOARDS, SCOOTERS, ROLLER SKATES AND SIMILAR APPARATUS WITHIN THE CITY AND REPEALING ORDINANCE NO. 349
- q) First Reading by Title Only of Ordinance No. 700 AN ORDINANCE RELATING TO MOTOR VEHICLE TRAFFIC, ESTABLISHING A TRUCK ROUTE, AND REPEALING ORDINANCE 363
- r) First Reading by Title Only of Ordinance No. 701 AN ORDINANCE REPEALING ORDINANCE NO. 370, AN ORDINANCE CONCERNING THE OREGON UNIFORM TRAFFIC CODE
- s) First Reading by Title Only of Ordinance No. 702 AN ORDINANCE REQUIRING ALL BUSINESSES AND PEDDLERS IN THE CITY OF AUMSVILLE TO MAKE APPLICATION FOR A LICENSE, FIXING FEES, PROVIDING FOR THE MANNER FOR ENFORCING THIS ORDINANCE, AND REPEALING ORDINANCE NO. 659

5) OLD BUSINESS: None

6) NEW BUSINESS:

- a) Resolution No. 16-20 A RESOLUTION ESTABLISHING WATER AND SEWER RATES FOR THE CITY OF AUMSVILLE (Action)
- b) Resignation - Councilor Ryan Bambrick (Action)
- c) Discuss the Second Meeting of December

7) CITY ADMINISTRATOR REPORT: (Information)

- a) Review Check Register October 29, 2020 through November 13, 2020

b) LOC Elected Essentials Workshops

8) MAYOR AND COUNCILORS REPORTS

9) GOOD OF THE ORDER: Other Business May Come Before the Council at This Time

10) CORRESPONDENCE: None

11) EXECUTIVE SESSION: None

12) ADJOURNMENT

The City of Aumsville does not and shall not; discriminate on the basis of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations. Anyone wishing to speak on an agenda item should ask to be recognized by the Mayor or Chair at the beginning of that agenda item. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities must be made at least 48 hours prior to the meeting. Please call (503) 749-2030 and leave a message or Oregon Relay Service for TDD at (800) 735-2900.



595 Main St. Aumsville, Oregon 97325
(503) 749-2030 • TTY 711 • Fax (503) 749-1852
www.aumsville.us

AUMSVILLE CITY COUNCIL

Minutes – November 9, 2020

Mayor Clevenger called the meeting to order at 7:04 PM via Zoom Conferencing. Council present was: Mayor Derek Clevenger, Nico Casarez, Angelica Ceja, Doug Ecclestone, Larry Purdy, and Della Seney. Council absent: Ryan Bambrick. City Administrator Ron Harding (CA Harding), City Clerk Colleen Rogers (CC Rogers) were also present via Zoom. The meeting was video recorded to be released later.

AGENDA APPROVAL: Councilor Casarez moved to approve the agenda as presented. Councilor Ceja seconded. Motion APPROVED 6-0: (Yes: Councilors Casarez, Ceja, Ecclestone, Purdy, Seney, and Mayor Clevenger. No: None.)

PROCLAMATION: Mayor Clevenger announced the Arbor Day Proclamation and CA Harding explained that the City had an Arbor Day celebration set for April 24th but due to COVID-19 were unable to go through with it. Part of our Tree City status requirements are to pass a Proclamation each year and plant a tree. We did plant the tree that day without celebration, but the proclamation was not approved at that time. Councilor Seney moved to approve the Arbor Day Proclamation as presented. Councilor Ecclestone seconded. Motion APPROVED 6-0: (Yes: Councilors Casarez, Ceja, Ecclestone, Purdy, Seney, and Mayor Clevenger. No: None.)

VISITORS: There were five online attendees. Login information was provided for members of the community to listen to the discussion.

PUBLIC COMMENT: There were no public comments at this time.

CONSENT AGENDA: Council reviewed the October 12, 2020 Council meeting minutes. Councilor Casarez moved to approve the consent agenda as presented. Councilor Seney seconded. Motion APPROVED 6-0: (Yes: Councilors Casarez, Ceja, Ecclestone, Purdy, Seney, and Mayor Clevenger. No: None.)

PUBLIC HEARING: None

OLD BUSINESS:

Ordinances from Chapters 1 and 3 of the city's municipal code were brought to Council at the October 12th meeting where they gave input for suggested changes. These changes were made, and Council approved the first reading of the ordinances by title only at the October 26th, 2020 Council meeting.

Each of the following ordinances were read for a second time by title only. Public comment was allowed after each ordinance was read before Council vote.

- Ordinance No. 671 Public Comment: There were no changes or comments since the first reading. Councilor Casarez moved to approve the second reading by title only and adopt Ordinance No. 671 AN ORDINANCE ESTABLISHING CITY PLANNING COMMISSION; PRESCRIBING ITS POWERS AND DUTIES AND REPEALING ORDINANCE NO. 354. Councilor Seney seconded. Motion APPROVED 6-0: (Yes: Councilors Casarez, Ceja, Ecclestone, Purdy, Seney, and Mayor Clevenger. No: None.)
- Ordinance No. 672 Public Comment: There were no changes or comments since the first reading. Councilor Seney moved to approve the second reading by title only and adopt Ordinance No. 672 AN ORDINANCE REPEALING ORDINANCE NO. 362, WHICH ESTABLISHED A PARK AND RECREATION COMMISSION FOR THE CITY OF AUMSVILLE. Councilor Ceja seconded. Motion APPROVED 6-0: (Yes: Councilors Casarez, Ceja, Ecclestone, Purdy, Seney, and Mayor Clevenger. No: None.)
- Ordinance No. 673 Public Comment: There were no changes or comments since the first reading. Councilor Ecclestone moved to approve the second reading by title only and adopt Ordinance No. 673 AN ORDINANCE REPEALING ORDINANCE NO. 476, WHICH ESTABLISHED AN AUMSVILLE TRAFFIC AND SAFETY COMMISSION. Councilor Seney seconded. Motion APPROVED 6-0: (Yes: Councilors Casarez, Ceja, Ecclestone, Purdy, Seney, and Mayor Clevenger. No: None.)
- Ordinance No. 674 Public Comment: There were no changes or comments since the first reading. Councilor Casarez moved to approve the second reading by title only and adopt Ordinance No. 674 AN ORDINANCE REPEALING ORDINANCE NO. 365, WHICH PROVIDES FOR MUNICIPAL SEWER AND WATER SERVICE FEES, SIDEWALK, CURBS, SIDESTRIPS, AND STREET ASSESSMENTS TO BECOME LEINS. Councilor Ceja seconded. Motion APPROVED 6-0: (Yes: Councilors Casarez, Ceja, Ecclestone, Purdy, Seney, and Mayor Clevenger. No: None.)
- Ordinance No. 675 Public Comment: There were no changes or comments since the first reading. Councilor Ecclestone moved to approve the second reading by title only and adopt Ordinance No. 675 AN ORDINANCE REPEALING ORDINANCE NO. 543, WHICH PROVIDED FOR APPOINTMENT OF AN AUMSVILLE SKATEPARK COMMITTEE FOR THE CITY OF AUMSVILLE, OREGON Councilor Casarez seconded. Motion APPROVED 6-0: (Yes: Councilors Casarez, Ceja, Ecclestone, Purdy, Seney, and Mayor Clevenger. No: None.)
- Ordinance No. 676 Public Comment: There were no changes or comments since the first reading. Councilor Seney moved to approve the second reading by title only and adopt Ordinance No. 676 AN ORDINANCE REPEALING ORDINANCE NO. 544, AN ORDINANCE OF THE CITY OF AUMSVILLE, OREGON, REGARDING CLAIMS FOR JUST COMPENSATION ARISING OUT OF THE ENACTMENT OF A STATEWIDE BALLOT MEASURE; MAKING CERTAIN PROVISION THEREFORE AND DECLARING AN EMERGENCY. Councilor Ecclestone seconded. Motion APPROVED 6-0: (Yes: Councilors Casarez, Ceja, Ecclestone, Purdy, Seney, and Mayor Clevenger. No: None.)

- Ordinance No. 677 Public Comment: There were no changes or comments since the first reading. Councilor Ecclestone moved to approve the second reading by title only and adopt Ordinance No. 677 AN ORDINANCE ADOPTING RULES TO BE KNOWN AS THE CITY OF AUMSVILLE PUBLIC CONTRACTING REGULATIONS AND REPEALING ORDINANCE NO. 559. Councilor Seney seconded. Motion APPROVED 6-0: (Yes: Councilors Casarez, Ceja, Ecclestone, Purdy, Seney, and Mayor Clevenger. No: None.)
- Ordinance No. 678 Public Comment: There were no changes or comments since the first reading. Councilor Seney moved to approve the second reading by title only and adopt Ordinance No. 678 AN ORDINANCE ESTABLISHING A SYSTEMS DEVELOPMENT CHARGE FOR CAPITAL IMPROVEMENTS FOR WATER SUPPLY, TREATMENT, TRANSMISSION, AND DISTRIBUTION; WASTEWATER COLLECTION, TREATMENT, AND DISPOSAL; STORM DRAINAGE, INCLUDING FLOOD CONTROL; STREETS; AND PARKS AND REPEALING ORDINANCE NO. 387. Councilor Ecclestone seconded. Motion APPROVED 6-0: (Yes: Councilors Casarez, Ceja, Ecclestone, Purdy, Seney, and Mayor Clevenger. No: None.)
- Ordinance No. 679 Public Comment: There were no changes or comments since the first reading. Councilor Casarez moved to approve the second reading by title only and adopt Ordinance No. 679 AN ORDINANCE ESTABLISHING WATER REGULATIONS AND REPEALING ORDINANCE NO. 401 Councilor Ecclestone seconded. Motion APPROVED 6-0: (Yes: Councilors Casarez, Ceja, Ecclestone, Purdy, Seney, and Mayor Clevenger. No: None.)
- Ordinance No. 680 Public Comment: There were no changes or comments since the first reading. Councilor Casarez moved to approve the second reading by title only and adopt Ordinance No. 680 AN ORDINANCE ESTABLISHING SEWER REGULATIONS AND REPEALING ORDINANCE NO. 402 Councilor Seney seconded. Motion APPROVED 6-0: (Yes: Councilors Casarez, Ceja, Ecclestone, Purdy, Seney, and Mayor Clevenger. No: None.)
- Ordinance No. 681 Public Comment: There were no changes or comments since the first reading. Councilor Seney moved to approve the second reading by title only and adopt Ordinance NO. 681 AN ORDINANCE ADOPTING REGULATIONS FOR USE OF THE CITY'S SANITARY SEWER SYSTEM AND REPEALING ORDINANCE NO. 570 Councilor Ecclestone seconded. Motion APPROVED 6-0: (Yes: Councilors Casarez, Ceja, Ecclestone, Purdy, Seney, and Mayor Clevenger. No: None.)

NEW BUSINESS: None

CITY ADMINISTRATOR'S REPORT: Council received CA Harding's written report, Chief Schmitz' Police report, and Public Works Director Oslie's report.

CA Harding updated Council on the COVID-19 epidemic. The Aumsville zip code area had a rise and we are now at 63 positive cases since the beginning of the outbreak. He stated that the virus continues to be an ongoing issue of concern. Staff continues to maintain our current COVID-19 protocols.

CA Harding stated that with the very low interest rates right now, we are working on refinancing our \$1.4M sewer loan. By doing this it will save the city approximately \$200K in interest. This savings is spread out over the duration of the loan at approximately \$10K to \$12K savings per year and it was discussed.

CA Harding reported that he has been dealing with the Communication Franchises that have their equipment on our water tower. They are wanting to amend their contracts before they expire. He told Council that he has told them we will wait until the expiration and then look at possible changes. Council consensus was to continue with this stance.

Flashing light at 11th & Main St. update: PP&L will not commit to a schedule for the removal of the light. They stated that it will get done as their schedule allows.

Stop sign on Del Mar at the tracks: ODOT Rail has not returned the several calls that the City has made to them.

Elected Officials Training: LOC is sponsoring several webinar trainings for existing and new elected officials. CA Harding gave some examples of some of the training and encouraged Council to look into it if they are interested.

MAYOR/COUNCIL REPORTS AND INITIATIVES: Councilor Seney attended a recent MWAC meeting. They are starting to develop and scope projects for 2024-2027. She also stated that they have contracts out for building and removals on Hwy 22 East in the Detroit area and are hoping to have them complete and people working by December 1st.

Council discussed having a second meeting in November and concurred they would meet on November 23rd.

GOOD OF THE ORDER: Mayor Clevenger updated Council on his schedule.

CORRESPONDENCE: None

ADJOURNED WITHOUT PREJUDICE AT 7:37 PM

Della Seney, Mayor Pro-tem

Ron Harding, City Administrator



595 Main St. Aumsville, Oregon 97325
(503) 749-2030 • TTY 711 • Fax (503) 749-1852
www.aumsville.us

STAFF REPORT

TO: City of Aumsville City Council

FROM: Ron Harding, City Administrator

SUBJECT: Proposed Ordinance Revisions

RECOMMENDATION: Approve first reading of ordinance in chapter 4, 5, and 6 of the Aumsville municipal code repealing Ord 311, 316, 369, 405, 410, 433, 490, 505, 597, 662, 171, 349, 363, and 659 and replacing with Ord 682, 683, 686, 687, 688, 689, 690, 691, 695, 696, 697, 699, 700, and 702, respectively.

BACKGROUND: The City of Aumsville worked last year with John Morgan from Morgan CPS to review and propose changes to the development ordinance that Council approved and adopted in August. A secondary project was to provide a complete overview of all other city ordinance chapters. Staff had identified a number of inconsistencies and there were some desires of Council to make certain changes to accommodate changes of the community. The project from Morgan CPS was completed in February just before the COVID-19 pandemic interrupted our work. City staff then began working with our city attorney to review for legal compliance. At this point we had discovered a number of our ordinances were no longer consistent with either changing state laws or recent case law and a more extensive rewrite would need to be completed. Below is a summary of the proposed substantive revisions. Other revision is proposed are in track changes on the original Ordinances. Copies provided in the agenda packet.

Chapter 4

(Ordinance No. 682 Repealing and Replacing Ord. 311) Social Games

Ordinance rewritten by city attorney to include additional provisions for definitions, and lowering the violation fine within statutory requirements. Social gaming is not gambling. Council will set a permit cost by fee resolution and it will be approved by the chief of police. Exemptions were made for charitable and service group fundraisers like the fire departments turkey shoot event.

(Ordinance No. 683 Repealing and Replacing Ord. 316) Posting of Notices

Changes in wording for clarity and to allow for recent court cases regarding freedom of speech.

(Ordinance No. 344 Recommend Repeal by 684) Criminal Code Adoption. *The state adopted criminal code serves sufficiently for the city. We do not need additional ordinances and in fact if we have an ordinance, we must update it biannually.*

(Ordinance No. 366 Recommend Repeal by 685) Fireworks Code Adoption, *Fireworks would be permitted under a new section in our development ordinance. Firework stands would need to be licensed under the state code in order to receive a temporary license in the city.*

(Ordinance No. 686 Repealing and Replacing Ord. 369) Nuisances

Revised for definition of leash, junk, person(s) responsible, nuisance noises, derelict buildings, and wording for clarity. There is a new section included for derelict buildings. We do not have a lot of buildings in this condition, but this does provide authority for the City if a concern is raised. There is also an appeals section included before the City takes any type of actions. The City does have the right to lien a property when abating any nuisances with a process requiring council actions. Even though it looks like a great number of changes most of them is reorganizing and clarifying current requirements.

(Ordinance No. 687 Repealing and Replacing Ord. 405) Drinking in Public

Changes in wording for clarity.

(Ordinance No. 688 Repealing and Replacing Ord. 410) Curfew

Updates to language for clarity and current ORS.

(Ordinance No. 689 Repealing and Replacing Ord. 433) Graffiti

Minor changes were made to allow the City to recover the cost of damages.

(Ordinance No. 434 as amended by Ordinance No. 463) Parental Responsibility

Reviewed by City Attorney – recommend repeal? May look to bring new ordinance forward at a later date.

(Ordinance No. 690 Repealing and Replacing Ord. 490) Alarm System Regulations

Updates to modernize definitions and change in numbers and fees of false alarms. This change allows more false alarms without penalty as it's common for false alarms during the original set up and training period. Removed the late fee section for expired permits and replaced it with "late penalty may be charged". Changed the alarm permit fee to be determined by Council resolution. Removes Section 12, Training Requirements. Removes Section 15, Sound Limitations.

(Ordinance No. 498) Emergency Operations Plan Authorization – no revisions needed

(Ordinance No. 691 Repealing and Replacing Ord. 505) Parks and Public Area Regulations
Updated language for clarity. Change in Section 9, instead of no signs or advertisements, only those issued by the city administrator. Section 14, deletion of firearms. Section 23 rewritten for Exclusion Period. Deletion of the emergency clause. A recent court case (Grants pass verses Blake)

(Ordinance No. 554) Chronic Nuisance Property Regulations (included in packet for reference, may or may not get revisions from attorney)

(Ordinance No. 555 Recommend Repeal by Ord 693) Giving False Information to Police Officer: Recommend repeal by city attorney.

(Ordinance No. 564 Recommend Repeal by Ord 694) *Requiring Residents to Register with the Aumsville Police Department if Convicted of a Sex Crime as Defined by State Law. We currently use the state police registry when needed. They manage the database within current state ORS guidelines.*

(Ordinance No. 695 Repealing and Replacing Ord. 597) *An Ordinance Establishing Driving and Criminal History Record Check Policies Concerning Public Employment and Public Service Providers and Volunteers. Changes were simply clarifying and wordsmithing.*

Chapter 5

(Ordinance No. 697 Repealing and Replacing 171) Vehicle Parking
More thorough description of types of vehicles and right-of-way. The ordinance was changed to allow enforcement easier and to clarify the intent of certain sections. Sections were deleted that conflict with the ordinance intent or implementation. Further defines city right of ways, strengthens storage of vehicles language. Emergency clause taken out.

(Ordinance No. 306 Recommend Repeal by Ord 698) Parking Regulations *We do not issue parking permits for neighborhoods streets. Recommend repeal.*

(Ordinance No. 699 Repealing and Replacing 349) Bicycles, Skateboards, Scooters, and Roller Skates Regulations. *Wordsmithing for clarifications and readability. Addition of E-bikes and Business District definitions. Additions of sections after 6 for clarity.*

(Ordinance No. 700 Repealing and Replacing 363) Truck Routes: *Updated description of Truck Route. Increase allowable gross vehicle weight to be more in line with current residential use.*

(Ordinance No. 370 Recommended Repeal by Ord 701) Traffic Code Adoption: *This ordinance is not needed per state ORS.*

Chapter 6

(Ordinance No. 702 Repealing and Replacing 659) Business and Peddlers License: *Removes Peddler's license and requires a standard business license.. Wording for clarity and removal of Emergency clause. Requires all businesses to get a business license regardless of location if they do business in the city limits and sets rates for a license by resolution of Council. Establishes fines. The change removes violation from a criminal to civil fine. Business who participate in temporary community events are exempt from the license requirement as long as a special use permit or park event permit is issued for the event itself.*

SAMPLE MOTION:

Option 1: Move to approve first reading of Ordinance No. ____ by title only and adopt, or

Option 2: Move to approve first reading of Ordinance No. ____ by title only and adopt with modifications, or

Option 3: Move to remand Ordinance No. _____ back to staff for revision.

If using option 1, you may use the sample motions below:

- First Reading by Title Only of Ordinance No. 682 AN ORDINANCE UPDATING THE AUMSVILLE MUNICIPAL CODE TO INCLUDE PROVISIONS RELATING TO SOCIAL GAMES AND REPEALING ORDINANCE NO. 311 as Presented
- First Reading by Title Only of Ordinance No. 683 AN ORDINANCE LIMITING THE POSTING, PLACING, DISPLAYING, AND ATTACHING OF SIGNS OR ANY OTHER MATTER ON PUBLIC PROPERTY TO ANY TREE, POLE, OR POST SITUATED ON ANY PUBLIC PROPERTY WITHIN THE CITY, AND REPEALING ORDINANCE NO. 316 as Presented
- First Reading by Title Only of Ordinance No. 684 AN ORDINANCE REPEALING ORDINANCE NO. 344, AN ORDINANCE CONCERNING THE OREGON CRIMINAL CODE as Presented
- First Reading by Title Only of Ordinance No. 685 AN ORDINANCE REPEALING ORDINANCE NO. 366, CONCERNING THE OREGON REVISED STATUTES CHAPTER 480 RELATING TO EXPLOSIVES as Presented
- First Reading by Title Only of Ordinance No. 686 AN ORDINANCE DEFINING NUISANCES, PROVIDING FOR THEIR ABATEMENT, PRESCRIBING PENALTIES, AND REPEALING ORDINANCE NO. 369 as Presented

- First Reading by Title Only of Ordinance No. 687 AN ORDINANCE LIMITING THE CONSUMPTION OF ALCOHOLIC LIQUOR UPON PUBLIC STREETS AND OTHER PLACES; PRESCRIBING A PENALTY THEREFORE AND REPEALING ORDINANCE NO. 405 as Presented
- I Move to Approve the First Reading by Title Only of Ordinance No. 688 AN ORDINANCE CREATING A JUVENILE CURFEW WITHIN AUMSVILLE'S CITY LIMITS; ESTABLISHING PARENTAL /GUARDIAN RESPONSIBILITY AND REPEALING ORDINANCE NO. 410 as Presented
- I Move to Approve the First Reading by Title Only of Ordinance No. 689 AN ORDINANCE MAKING IT UNLAWFUL TO POSSESS GRAFFITI IMPLEMENTS, PROVIDING FOR THEIR SEIZURE AND PROVIDING PENALTIES, AND REPEALING ORDINANCE NO. 433 as Presented
- I Move to Approve the First Reading by Title Only of Ordinance No. 690 AN ORDINANCE ESTABLISHING PROCEDURES REGULATING ALARM SYSTEMS WITHIN AUMSVILLE, TO BE KNOWN AS THE "AUMSVILLE ALARM ORDINANCE" AND REPEALING ORDINANCE NO. 490 as Presented
- I Move to Approve the First Reading by Title Only of Ordinance No. 691 AN ORDINANCE REGULATING THE USE OF PARKS, PARKWAYS, PUBLIC SQUARES, PUBLIC GROUNDS, STREETS, BOULEVARDS, PATHS, SIDEWALKS, GREENWAYS, REST AREAS, PLAYGROUNDS AND OTHER AREAS AND REPEALING ORDINANCE NO. 505 as Presented
- I Move to Approve the First Reading by Title Only of Ordinance No. 693 REPEALING ORDINANCE 555 CONCERNING GIVING FALSE INFORMATION TO POLICE as Presented
- I Move to Approve the First Reading by Title Only of Ordinance No. 694 AN ORDINANCE REPEALING ORDINANCE NO. 564, AN ORDINANCE CONCERNING REGISTRATION OF RESIDENTS CONVICTED OF A SEX CRIME as Presented
- I Move to Approve the First Reading by Title Only of Ordinance No. 695 AN ORDINANCE ESTABLISHING DRIVING AND CRIMINAL HISTORY RECORD CHECK POLICIES CONCERNING PUBLIC EMPLOYMENT AND PUBLIC SERVICE PROVIDERS AND VOLUNTEERS, AND REPEALING ORDINANCE NO. 597 as Presented
- I Move to Approve the First Reading by Title Only of Ordinance No. 697 AN ORDINANCE RELATING TO THE PARKING OF VEHICLES AND TRAILERS ON CITY STREETS, PRIVATE OR PUBLIC PROPERTY; SETTING REGULATIONS AND PENALTIES FOR VIOLATIONS, AND REPEALING ORDINANCE 171 as Presented
- I Move to Approve the First Reading by Title Only of Ordinance No. 698 AN ORDINANCE REPEALING ORDINANCE NO. 306, AN ORDINANCE REGULATING PARKING IN THE CITY OF AUMSVILLE as Presented
- I Move to Approve the First Reading by Title Only of Ordinance No. 699 AN ORDINANCE REGULATING THE USE OF BICYCLES, SKATEBOARDS, SCOOTERS, ROLLER SKATES AND SIMILAR APPARATUS WITHIN THE CITY AND REPEALING ORDINANCE NO. 349 as Presented
- I Move to Approve the First Reading by Title Only of Ordinance No. 700 AN

ORDINANCE RELATING TO MOTOR VEHICLE TRAFFIC, ESTABLISHING A TRUCK ROUTE, AND REPEALING ORDINANCE 363 as Presented

- I Move to Approve the First Reading by Title Only of Ordinance No. 701 AN ORDINANCE REPEALING ORDINANCE NO. 370, AN ORDINANCE CONCERNING THE OREGON UNIFORM TRAFFIC CODE as Presented
- I Move to Approve the First Reading by Title Only of Ordinance No. 702 AN ORDINANCE REQUIRING ALL BUSINESSES AND PEDDLERS IN THE CITY OF AUMSVILLE TO MAKE APPLICATION FOR A LICENSE, FIXING FEES, PROVIDING FOR THE MANNER FOR ENFORCING THIS ORDINANCE, AND REPEALING ORDINANCE NO. 659 as Presented

**CITY OF AUMSVILLE
ORDINANCE NO. 682**

AN ORDINANCE UPDATING THE AUMSVILLE MUNICIPAL CODE TO INCLUDE PROVISIONS RELATING TO SOCIAL GAMES AND REPEALING ORDINANCE NO. 311

WHEREAS, Oregon Revised Statute 167.121 permits cities to authorize the playing and conducting of social games in private businesses, private clubs, and places of public accommodation; and

WHEREAS, the City desires to permit, with limitations, playing and conducting social games in private businesses, private clubs, and places of public accommodation within the City; and

WHEREAS, Council finds it is in the public interest to authorize the playing and conducting of social games in private businesses, private clubs, and places of public accommodation, and

NOW THEREFORE, the City of Aumsville ordains as follows:

Section 1: The Aumsville Municipal Code is amended to include the provisions as shown in Exhibit A.

Section 2: This ordinance is and shall be effective 30 days from its date of passage by Council.

Section 3. Repeal. Ordinance 311 is hereby repealed.

Section 4. Effective Date. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 23rd day of November 2020. READ a second time on the ____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the ____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

EXHIBIT A

SOCIAL GAMING

Section 1. Definitions

As used in this ordinance:

- (A) **Social Game** means a game, other than a lottery, between players in a private business, private club or place of public accommodation where no house player, house bank or house odds exist and there is no house income from the operation of the social game.
- (B) **Chief of Police** or **Chief** means the chief of the city police department or their designee.
- (C) **City Administrator** means person appointed by the Council to manage City operations or their designee.

Section 2. Social Games – Authorization and Conditions

Social games as defined in Section 1 above are authorized only when each of the following applicable conditions are met:

- (A) No house player, house bank, or house odds exist;
- (B) There is no house income from operation of a social game;
- (C) The social game cannot be observed from a public right-of-way;
- (D) The room or enclosure where the social game takes place is open to free and immediate access by any police officer;
- (E) Doors leading into the social game room must remain unlocked during all hours of operation;
- (F) No owner or “principal managing employee” (as described below) may participate in any social game on the premises;
- (G) Charges for consumer goods sold on the premises to an individual playing a social game must neither be higher nor lower than the price charged a non-participant in a social game;
- (H) No owner or principal managing employee may accept any payment, fee, service, or gratuity from a social game participant as consideration for participation in the social game on the premises;
- (I) No owner or principal managing employee may charge a rental or lease fee for the use of a social game;
- (J) At no point in time may a social game be conducted without an owner or principal managing employee present;
- (K) No membership fee or cover fee may be charged for participation in the social game; and
- (L) All social gaming activities and the business where social gaming is permitted must comply with all applicable federal, state, and local laws and regulations.

Section 3. Exception: The city administrator may permit charitable, fraternal, or religious organizations located in the city limits to conduct social gaming activities such as bingo, lotto, raffle games, or Monte Carlo events operated in compliance with ORS 167.118.

Section 4. Responsibilities of Owner and Person in Charge

(A) An owner or person in charge of a business where social gaming is permitted shall:

1. Clearly designate the areas set aside for social gaming.
2. Designate an agent or employee to act as person in charge of a social gaming premise whenever social games are being played. An owner shall be strictly liable for any violation of this chapter which occurs when no person in charge is present at the social gaming premises.
3. Be strictly liable for any violation of the provisions of this chapter by a person in charge, agent, employee, or designee.
4. Not allow social gaming activities on the premises unless the private business, private club, or place of public accommodation meets all applicable requirements of the AMC and has been legally established and in existence for at least six months.
5. Obtain a license from the city of Aumsville to permit social gaming approved by the police chief, city administrator, or designee. Fees will be established by Council resolution fee schedule.

Section 5. Inspection of Social Games Premises

All persons authorizing social games on premises owned or managed pursuant to this ordinance shall permit upon presentation of official identification, entry to premises to any member of the Police Department for the limited purpose of inspecting the premises and any activities, records or devices involved in such games to ensure compliance with this ordinance.

Section 6. Notice of Social Games Required

Where social games are conducted, each owner or person in charge of the premises shall continuously and conspicuously post notice clearly readable and in letters at least 1 inch high that such games must be conducted in accordance with the conditions set forth in Section 2 which conditions shall be listed in their entirety.

Section 7. Civil Penalties

The Chief may assess civil penalties for any violation of the provisions of this ordinance in an amount of \$1000 per violation. Each day shall constitute a separate violation for purposes of this section.

ORDINANCE NO. 311**AN ORDINANCE ADOPTING STATE LAWS RELATING TO GAMBLING PERMITTING CERTAIN SOCIAL GAMES BY NON-PROFIT ORGANIZATIONS REPEALING ORDINANCE NO. 41 AND SETTING FORTH PENALTIES.**

The city of Aumsville does hereby ordain as follows:

Section 1. Adoption of State Law.

- (A) Sections 167.100 - 167.167 are hereby adopted by reference and made a part of this chapter.
- (B) All acts which are made unlawful by the above sections of ORS shall be considered as offenses against the city when committed within its boundaries and shall be punished as set forth in Section 3 of this ordinance.
- (C) Monies found in any gambling device or used in gambling or other prohibited conduct under this ordinance shall be confiscated and paid into the general fund of the city.

[Section 1 amended by Ord. No. 497, sec. 1, passed October 25, 2001.]

Section 2. Social Games Permitted. Social games as defined in ORS 167.117 are hereby totally prohibited in the city of Aumsville except as set forth below:

- (1) People who gather in private homes at the invitation of the home owner may engage in social games as defined in ORS 167.117 so long as no house player, house bank or house odds exist and there is no house income from the operation of the social games.
- (2) Charitable, fraternal, religious organizations, other non-profit organizations, and private businesses conducting social games for charity, must apply to the city council of the city of Aumsville for a permit or license to conduct said games. Each day shall constitute a separate event and a license shall be required for each event.
 - (a) Each organization shall apply to the city council of the city of Aumsville at least 30 days prior to the planned event. The license or permit application shall be accompanied by a fee of \$25.00 and shall provide the council with sufficient information to determine the status of the organization and for what purposes any funds derived from the social games will be used. Information required may include but not be limited to a Department of Justice license, proof of non-profit status by Oregon Department of Revenue and/or the Department of Internal Revenue, Articles of Incorporation, Charters, Bylaws and other such documents as may be required by the council.
 - (b) No charitable, fraternal, religious or non-profit organization or private business may be granted more than three (3) license or licenses or permit or permits per calendar year.

[Section 2 amended by Ord. No. 497, passed October 25, 2001; Sect. 2.2 by Ord. No. 620 passed July 23, 2012.]

Section 3. Penalties. Any person violating any provision of this ordinance shall be subject to a fine of not more than \$2,500.00, as determined by a court of competent jurisdiction. The chief of police shall have jurisdiction to enforce this ordinance by citation. It is the responsibility of the city attorney to cause a person cited under this ordinance to appear before a court of competent jurisdiction for determination of appropriate fine. [Section 3 amended by Ord. No. 497, sec. 3, passed October 25, 2001.]

Section 4. [Repeal.] Ordinance No. 41, enacted on January 30, 1913, is hereby repealed.

PASSED and unanimously adopted by the council and signed by the mayor March 11, 1985.

CITY OF AUMSVILLE
595 Main Street
Aumsville, Oregon 97325
Phone 749-2030

SOCIAL GAMING APPLICATION

Name of Non-Profit Organization _____

Proof of Non-Profit Status _____

Date of Event _____

Funds to be used for _____

This is the _____ application for a social gaming license this organization has applied for since January 1, _____.

Representative

Date

\$10.00 application fee received _____ Receipt No. _____

To be set before the Aumsville City Council at their regularly scheduled meeting to be held on _____, 7:00 p.m., Community Center.

Representative will attend meeting YES _____

NO _____

City Administrator

APPROVED _____

DISAPPROVED _____

Council action dated _____

Mayor

ORDINANCE NO. 683

AN ORDINANCE LIMITING THE POSTING, PLACING, DISPLAYING, AND ATTACHING OF SIGNS OR ANY OTHER MATTER ON PUBLIC PROPERTY TO ANY TREE, POLE, OR POST SITUATED ON ANY PUBLIC PROPERTY WITHIN THE CITY, AND REPEALING ORDINANCE 316.

The city of Aumsville, Oregon, ordains as follows:

Section 1. Definitions. As used in this ordinance, the following terms are defined asset out herein.

Public Agency. The City, County, State, or Federal government.

Public Property. Property under the control, dominion, and/or ownership of a Public Agency.

Public Right-of-Way. A public area dedicated or deeded to the public for public use under the control of a Public Agency, allowing for the passage of people or goods, including passageways such as streets, setback areas, bike paths, alleys, sidewalks, and walkways.

Sign. Any materials placed or constructed or light projected conveying a message or image used to inform or attract the attention of the public. Examples include materials or lights within the scope of the preceding sentence commonly referred to as signs, placards, A-boards, posters, billboards, murals, diagrams, banners, flags, or projected slides, images, or holograms. The scope of the term 'sign' is not dependent upon the content of the message or image conveyed.

Section 2. Prohibition. Except as otherwise specifically described below, , no person may attach, install, construct or otherwise place any sign in or on building, structure, tree, pole, fence, or post located on Public Property or Public Right-of-Way within the City.

All signs on private property are subject to the standards in the Aumsville Development Code.

Section 3. Exceptions. The limitation described above in Section 2 do not apply to signs owned and or installed either by or at the direction and/or permission of a public agency on public property under their control, dominion, and/or ownership.

Section 4. Abatement. The Aumsville Police and/or Public Works Departments may remove any sign or other device located in violation of this ordinance.

Section 5. Penalty. Violations of this ordinance shall be deemed an offense subject to a penalty not to exceed \$250. Every full business day during which a violation exists constitutes a separate violation.

Section 5. Repeal. Ordinance 316 is hereby repealed.

Section 6. Effective Date. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 23rd day of November 2020. READ a second time on the ____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the ____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. XXX

AN ORDINANCE REVISING ORDINANCE 316 ~~LIMITING PROHIBITING~~ THE POSTING, PLACING, DISPLAYING AND ATTACHING OF SIGNS OR ANY ~~OTHER ADVERTISING~~ MATTER ON PUBLIC PROPERTY TO ANY TREE, POLE OR POST SITUATED ON ANY PUBLIC PROPERTY WITHIN THE CITY

The city of Aumsville, Oregon, ordains as follows:

Section 1. ~~[Prohibited.]~~ Definitions. As used in this ordinance, the following terms are defined as set out herein.

Public Agency. The City, County, State or Federal government.

Public Property. Property under the control, dominion and/or ownership of a Public Agency.

Public Right-of-Way. A public area dedicated or deeded to the public for public use under the control of a Public Agency allowing for the passage of people or goods including passageways such as streets, set back areas, bike paths, alleys, sidewalks and walkways.

Sign. Any materials placed or constructed or light projected conveying a message or image used to inform or attract the attention of the public. Examples include materials or lights within the scope of the preceding sentence commonly referred to as signs, placards, A-boards, posters, billboards, murals, diagrams, banners, flags or projected slides, images or holograms. The scope of the term 'sign' is not dependent upon the content of the message or image conveyed.

Section 2. Prohibition. Except as otherwise specifically described below, permitted, no person may attach, install, construct or otherwise place any sign in or on ~~attach by any means whatsoever any written message including but not limited to signs, advertisements, and notices to any building, structure, tree, pole, fence, or post located situated on any Public Property or Public Right-of-Way within the City.~~

(A) ~~Attach by any means whatsoever any advertising matter to any tree, pole or post situated on any public property within the city.~~

Section 2. ~~[Posting on Private Property.]~~ ~~No person may display any advertising matter on or across any private property within the city without the express consent of the owner or person in charge of such property. All signs on private property are subject to the standards in the Aumsville Development Code Section XXXX.~~

Section 3. ~~[Exceptions.]~~ Exceptions to The limitation described above in Section 2 do not apply to ban on public advertising:

~~The banner displaying the date of the Corn Festival shall be permitted each year. Signs owned and or installed either by or at the direction and/or permission of a Public Agency on Public Property under their control, dominion and/or ownership.~~

(A) ~~Upon request, the council may permit any person to display advertising for meetings or entertainment sponsored by public, civic, welfare, charitable, religious, or fraternal groups, notwithstanding the provisions of Sections 1 and 2 above. Any person desiring such permission shall apply to the city recorder who shall forward the request to the city council.~~

Commented [PE1]: See Comment below in terms of its constitutionality; I hope this language will cover and/or provide for it.

~~If the council finds that such sign is not likely to endanger any person or property, it may grant the application, providing the terms and conditions for such posting, or it may reject such application.~~

~~(B)~~(A) Nothing in Sections 1 and 2 above will prohibit the proper display of notices of any election to be held by the federal, state, or city governments, or any postings called for in the ordinances of the city of Aumsville.

Commented [PE2]: I deleted this language because the way it is written is violative of Oregon's constitutional free speech provision as it distinguishes between different types/categories of speech.

Commented [PE3]: Same idea. I try to address this

Section 4. Abatement.

(A) The Aumsville Police and/or Public Works Departments law enforcement agency of the city of Aumsville shall immediately may remove any advertising matter or sign or other device displayed within the city in located in -violation of any of the terms of this ordinance.

Commented [PE4]: I added this Department

Section 5. Penalty.

(A) Violations of this ordinance shall be deemed an offense subject to a penalty punishable by a fine not to exceed \$250. Every full business day during which a violation exists constitutes a of this ordinance shall continue shall be a separate violation offense.

Commented [PE5]: I altered the language to eliminate any argument that this is a criminal violation as opposed to a civil one.

~~**Section 5. Emergency Clause.** Whereas it is necessary for the immediate preservation of the public health, peace and safety of the citizens of the city of Aumsville, that this ordinance become effective at the earliest time possible; therefore, this ordinance shall become effective immediately upon passage by the council and signature of the mayor.~~

Commented [PE6]: My general objection to emergency clauses

PASSED by the City Council _____ and signed by the Mayor _____

ORDINANCE NO. 684

AN ORDINANCE REPEALING ORDINANCE NO. 344, AN ORDINANCE CONCERNING THE OREGON CRIMINAL CODE

The City of Aumsville ordains as follows:

Section 1. PURPOSE. This ordinance is no longer needed, the City Attorney recommended repealing.

Section 2. REPEAL. ORDINANCE NO. 344, AN ORDINANCE ADOPTING ALL AMENDMENTS AND CHANGES MADE TO THE OREGON REVISED STATUTES CONCERNING THE OREGON CRIMINAL CODE BY THE 1987 LEGISLATURE AND DECLARING AN EMERGENCY. dated November 16, 1987; is hereby repealed.

Section 3. EFFECTIVE DATE. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 23rd day of November, 2020. READ a second time on the ____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the ____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. 344**AN ORDINANCE ADOPTING ALL AMENDMENTS AND CHANGES MADE TO THE OREGON REVISED STATUTES CONCERNING THE OREGON CRIMINAL CODE BY THE 1987 LEGISLATURE AND DECLARING AN EMERGENCY.**

The city of Aumsville, Oregon, ordains as follows:

Section 1. General Provisions. The city of Aumsville does hereby adopt and incorporate by reference into the existing Aumsville ordinances, all amendments and changes made by the 1987 Oregon Legislature to the Oregon Revised Statutes concerning the Oregon Criminal Code. All changes and definitions adopted in the Oregon Revised Statutes at a date later than the adoption of this ordinance are also adopted by reference and made a part of this ordinance.

Section 2. Emergency Clause. It is hereby adjudged and declared that the existing conditions are such that this ordinance is necessary for the immediate preservation of the public peace, health and safety of the city of Aumsville. Emergency is hereby declared to exist, and this ordinance shall take effect and be in full force and effect when signed by the mayor and passed by this council.

PASSED unanimously by the council and signed by the mayor November 16, 1987.

ORDINANCE NO. 685

AN ORDINANCE REPEALING ORDINANCE NO. 366, CONCERNING THE OREGON REVISED STATUTES CHAPTER 480 RELATING TO EXPLOSIVES

The City of Aumsville ordains as follows:

Section 1. PURPOSE. This ordinance is no longer needed, the City Attorney recommended repealing.

Section 2. REPEAL. ORDINANCE NO. 366, AN ORDINANCE ADOPTING OREGON REVISED STATUTES CHAPTER 480 RELATING TO EXPLOSIVES, FLAMMABLE MATERIALS, FIREWORKS AND PRESSURE VESSELS IN ITS ENTIRETY AND REPEALING ANY AND ALL ORDINANCES IN CONFLICT HEREOF. dated December 11, 1989; is hereby repealed.

Section 3. EFFECTIVE DATE. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 23rd day of November, 2020. READ a second time on the ____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the ____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. 366

AN ORDINANCE ADOPTING OREGON REVISED STATUTES CHAPTER 480 RELATING TO EXPLOSIVES, FLAMMABLE MATERIALS, FIREWORKS AND PRESSURE VESSELS IN ITS ENTIRETY AND REPEALING ANY AND ALL ORDINANCES IN CONFLICT HEREOF.

The city of Aumsville, Oregon, ordains as follows:

Section 1. General Provisions. The city of Aumsville does hereby adopt and incorporate by reference into the existing Aumsville ordinances, chapter 480 of the Oregon Revised Statutes. All changes and definitions adopted by the Oregon Legislature in relation to Chapter 480 of the Oregon Revised Statutes at a date later than the adoption of this ordinance are adopted by reference and made a part of this ordinance.

Section 2. Repeal of Ordinances in Conflict. All ordinances of the city of Aumsville that are in conflict with this ordinance are hereby repealed.

Section 3. Emergency Clause. It is hereby adjudged and declared that existing conditions are such that this ordinance is necessary for the immediate preservation of the public peace, health and safety of the city of Aumsville. Emergency is hereby declared to exist, and this ordinance shall take effect and be in full force and effect when passed by the council and signed by the mayor.

PASSED unanimously by the council and signed by the mayor December 11, 1989.

Commented [PE1]: I see no reason why this couldn't be just repealed. It adds nothing of any real substance to the Code. State law is state law ... the City adopting it does nothing unless all you want is to have the ability to enforce it in the muni court.

Furthermore, it is improper and legally ineffective in Oregon for a governmental body with legislative authority to attempt to adopt legislation of another entity (governmental or otherwise) that then is capable of being changed by that other entity. That is an improper future delegation of legislative authority. See, *Advocates for Effective Regulation v. City of Eugene*, 160 Or.App. 292, 312-313 (1999).

ORDINANCE NO. 686

AN ORDINANCE DEFINING NUISANCES, PROVIDING FOR THEIR ABATEMENT, PRESCRIBING PENALTIES, AND REPEALING ORDINANCE NO. 369

The city of Aumsville, Oregon, ordains as follows:

Section 1. Incorporation of State Statute and Aumsville Ordinances. Any reference to state law or statute (Oregon Revised Statutes – ORS) or provisions of the Aumsville City Ordinances incorporated into this ordinance refers to the state statute or ordinance provisions in effect on the effective date of this ordinance.

Section 2. Definitions. Except where the context requires otherwise, the singular includes the plural and the masculine gender includes the feminine and the following terms are as defined mean:

- (A) Animal. Any animals as distinguished from and not including humans including mammals, fowl, reptiles, and fish.
- (B) Chief of Police means the chief of the Aumsville Police Department or their designee.
- (C) Chronic Nuisance Property means real property (including industrial, commercial, or residential buildings), herein also referred to as the “property,” “premises” or “subject property,” upon, near (as hereinafter described in this section) or in which three or more distinct occurrences of any of the below listed prohibited acts or behaviors (as defined in Oregon law) or any other act regulated by the ordinance occur, or the patrons, employees, residents, owners, or occupants thereof engage in three or more of said prohibited acts or behaviors on the property, or, in relation to the property within 400 feet of the property, or if the police are summoned to the property three times, during any 180 consecutive day period:
 - 1. Manufacture, distribution, or possession of a controlled substance;
 - 2. Rape in the First Degree;
 - 3. Menacing;
 - 4. Intimidation;
 - 5. Harassment;
 - 6. Disorderly conduct;
 - 7. Discharge of weapons;
 - 8. Unnecessary noise;
 - 9. Drinking in public (Ordinance No. 405);
 - 10. Minor in possession of alcohol;
 - 11. Assault;
 - 12. Sexual abuse;
 - 13. Public indecency;
 - 14. Public urination or defecation;
 - 15. Criminal mischief;
 - 16. Criminal mistreatment;

- 17. Criminal trespass;
 - 18. Warrant arrests;
 - 19. Recovery of stolen vehicles or merchandise;
 - 20. Unlawful use of a weapon; or
 - 21. Criminal homicide or any type of attempted criminal homicide.
- (D) City. The city of Aumsville, Marion County, state of Oregon.
- (E) City Administrator means the city administrator of the city of Aumsville or designee.
- (F) City Council. The governing body of the City.
- (G) Court. The court of competent jurisdiction to hear these matters.
- (H) Dog. The word "dog" shall include both the male and female sex of the species.
- (I) Domestic Animal. An animal conditioned so as to live and breed in a tame environment and normally amenable to human habitats.
- (J) Dwelling Unit. A group of one or more rooms designed or intended for use as a residence, including a single-family home, a townhouse, a duplex, a condominium, and an apartment.
- (K) Infraction Complaint. The document which when properly served upon the alleged ordinance violator brings the matter before the appropriate court for resolution. The elements of an infraction complaint are set forth in Section 15 of this ordinance.
- (L) Inoperable Vehicle. A unit designed and built to transport people or objects from one place to another which:
1. Has been left on private property for more than 30 days; and
 2. Has broken or missing window(s), or an engine that will not run, or lacks a transmission, or is missing tire(s) or wheel(s); or
 3. Is unlicensed for the current year; constitutes a presumption that the vehicle is inoperable.
- (K) Junk. The term junk includes all inoperable vehicles, old motor vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances or appliance parts, old iron or other metal, glass, paper, lumber, wood, or other waste or discarded material like household furniture.
- (L) Leash. A physical tethering the animal to the owner, not more than 8 feet long.
- (M) Livestock. Horses, mules, jackasses, burros, cattle, sheep, goats, donkeys, swine, or any animal of similar size or larger maintained, commercially or otherwise.
- (N) Owner. Any person, individual, corporation, partnership, or other legal entity who has legal or equitable interest in real property or a vehicle or an animal, or possessory interest therein.
- (O) Person. Includes:
1. The owner, title holder, contract seller, or contract buyer of the land upon which the violation is occurring, is equally responsible for the nuisance violation, as is the possessor, user of the land, or the person who is taking the action, conduct, or omission which constitutes a nuisance.
 2. The United States or agencies thereof, any state, public, or private corporation, local governmental unit, public agency, individual, partnership, association, firm, trust, estate, or any other legal entity, contractor, subcontractor, or combination thereof.

- (P) Person in Charge of Property. An agent, occupant, lessee, contract purchaser, or person other than the owner, having possession or control of the property.
- (Q) Person Responsible. The person responsible includes:
1. The owner of the property, or the owner's manager or agent or other person or entity in control of the property on behalf of the owner; and/or,
 2. The person or entity occupying the property, including a bailee, lessee, tenant, or other having possession.
 3. Responsible party for a specific property shall be presumed from the following:
 - a) The owner and the owner's agent, as shown on the assessor's tax rolls of Marion County.
 - b) The resident or occupant of the property, as shown on the records (including utilities records) of the city of Aumsville.
- (R) Public Place. A building, place, or accommodation, whether publicly or privately owned, open and available to the general public.
- (S) Poultry. Domestic fowl, such as chickens, turkeys, ducks, geese, or other fowl typically raised for meat or eggs.
- (T) Structure. Anything constructed or built, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

ANIMAL NUISANCES

Section 2. Animals and Bees.

- (A) No person shall keep or allow a stand or hive of bees, wasps, or any bee like insect on property within 20 feet of the property's boundary line.
- (B) No person may keep or maintain pigs within the city limits.
- (C) No person may keep or maintain livestock or poultry within the city unless:
1. Such animals are kept on lots having an area of one acre or more; except chickens which are allowed subject to the following:
 - a) No more than four chickens are allowed on any lot;
 - b) roosters are prohibited;
 - c) kept on property occupied by a single-family or duplex dwelling;
 - d) kept in an enclosed coop or run at all times;
 - e) kept for personal, non-commercial use only;
 - f) Chicken coop and/or run shall have a setback of 5 feet from any property boundary.
 - g) The total number of animals over six months of age to be kept or maintained shall not exceed four per acre.
- (D) No person shall ride or lead livestock on sidewalks of the city.
- (E) No person shall ride or lead livestock in any of the designated park areas of the city.
- (F) Any owner of an animal (see definition of animal) or person responsible shall remove excrement or other solid waste deposited by that animal on public or private property.

- (G) No person who keeps, possesses, or otherwise maintains any animal shall allow the accumulation of raw or untreated animal manure which creates an offensive odor to occur upon any property whether public or private.
- (H) No owner shall knowingly feed wild animals, or leave food accessible to wild animals, except wild birds; or permit any animal or bird that is afflicted with a communicable disease to come in contact with another animal, bird, or human that is susceptible to the affliction.
- (I) No domestic animal, livestock, or poultry shall run at large within the city upon any public street or other public place or trespass upon private property not owned or controlled by the owner or person responsible of such animal; except cats.
- (J) Limitation on number of dogs and cats kept per dwelling unit:
 - 1. It shall be unlawful for any person to own a total number of more than four dogs and cats, and one litter of puppies or kittens under six months of age per dwelling unit on property in the city.
 - 2. Feeding animals may constitute ownership for the purpose of this ordinance.
- (K) Exercising dogs: Dogs may be walked upon the streets and sidewalks of the city, but must be retained on a leash, and must be handled by persons who can control the animal in all situations. Dogs may be in public parks but are subject to adopted park rules. A leash is required in all areas except areas posted for off-leash activities.

NUISANCES AFFECTING PUBLIC HEALTH

Section 3. Nuisances Affecting Public Health and Welfare. No person shall cause or permit a nuisance affecting public health on property owned or controlled by them. The following are nuisances affecting public health:

- (A) Accumulations of garbage, debris, rubbish, manure, or other refuse that are not removed within a reasonable time that may affect the health or welfare of the city.
- (B) Stagnant water that affords a breeding place for mosquitoes and other insect pests.
- (C) Pollution of a body of water, well, spring, stream, or drainage ditch by sewage, industrial waste, or other substances placed in or near the water in a manner that will cause harmful materials to pollute the water.
- (D) Premises that are in such a state or condition as to cause an offensive odor, that are in an unsanitary condition, or that attract or are breeding grounds for mice, rats, and other vermin. Drainage of liquid wastes from private premises.
- (E) Plastics, oil, grease, or petroleum products introduced into the storm or sewer system, or spilled or poured on the ground, including landscaped areas, vacant lots, graveled areas, and paved areas
- (F) Taking lodging or camping in a car, outbuilding, or other place not intended for that purpose. In addition, there will be no overnight camping or tenting on public property without prior approval of the City.

Section 4. Unreasonable Noise.

- (A) No person shall make, assist in making, or permit any loud, unreasonable, and unnecessary noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, safety, or peace of others.
- (B) The following acts are declared to be loud, disturbing, and unnecessary noises in violation of this chapter, but the enumeration shall not be construed to be exclusive:
1. The keeping of any bird or animal which causing frequent or long continued noise shall disturb the comfort and repose of any person in the vicinity.
 2. The attaching of any bell to any animal or allowing a bell to remain on any animal which is disturbing to any person in the immediate vicinity.
 3. The use of any vehicle or engine, either stationary or moving, so operated as to create any loud or unnecessary grating, grinding, rattling, or other noise, with the exception of those vehicles that have been modified for a specific public service functions.
 4. The sounding of any horn or signaling device on any vehicle on any street, public or private place, except as a necessary warning of danger.
 5. The blowing of any steam whistle attached to any stationary boiler or sounding of any siren except to give notice of the time to begin or stop work, or as a warning of danger, or upon request of proper City authorities.
 6. The use of any mechanical device operated by compressed air, steam, or otherwise, unless the noise thereby created is effectively muffled.
 7. The erection, including excavation, demolition, alteration, or repair of any building in residential districts, other than between the hours of 7:00 a.m. and 7:00 p.m. except upon special permit granted by the city administrator.
 8. Construction, excavation, demolition, alteration, or repair of a building, vehicle, or machinery, including the starting of an engine, other than between the hours of 7:00 a.m. and 6:00 p.m. weekdays and between 9:00 a.m. and 7:00 p.m. on weekends, or in residential, commercial, or industrial garages or in a building between the hours of 7:00 a.m. and 9:00 p.m.; except within the limitations of a noise permit issued by the city administrator.
 9. The use of any bell, gong, or siren upon any vehicle, other than police, fire, or other emergency vehicle.
 10. The creation of any excessive noise on any street adjacent to any school, institution of learning, church, or court of justice while the same are in use, or adjacent to any hospital or institution for the care of the sick or infirm, which unreasonably interferes with the operation of such institution, or which disturbs or unduly annoys patients.
 11. The discharge in the open air of the exhaust of any steam engine, internal combustion engine, motorboat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises and emission of annoying smoke.
 12. The use or operation of any automatic or electric piano, television, phonograph, loud speaker, stereo, or radio, television, loudspeaker of any instrument for sound producing or any sound-amplifying device so loudly as renders the use thereof a nuisance; provided, however, that the sound, when measured at or

upon application to the boundary of property which is not the source, exceeds the maximum permitted sound level of 70 dBA sound level decibels; music, news, speeches, or is plainly audible at any time at a distance of 100 feet from the source of the sound.

13. The conducting, operating, or maintaining of any garage within 100 feet of any private residence, apartment, rooming house, or hotel in such manner as to cause loud or offensive noises to be emitted therefrom between the hours of 11:00 p.m. and 7:00 a.m.
14. Nothing in this section shall be construed to prohibit the Aumsville Rural Fire Department from using or cause to be used the siren located at the fire department for emergency reasons when necessary for the health, safety, or welfare of the city.
15. City permits may be granted to a responsible person or organization.

NUISANCES AFFECTING PUBLIC SAFETY

Section 5. Creating a Hazard. No person shall create a safety hazard by:

- (A) Maintaining or leaving in a place accessible to children, a container with a compartment of more than one and one-half cubic feet in capacity, and a door or lid that locks or fastens automatically when closed and that cannot be easily opened from the inside.
- (B) Being the owner or otherwise having possession of property on which there is a swimming pool, hot tub, spa, well, cistern, cesspool, excavation, or other holes of a depth of 4 feet or more, and a top width of 12 inches or more and failing to cover or fence it with a suitable protective construction.
- (C) Leaving a structure or materials in the public right-of-way, including sidewalks, in the city.
- (D) The burning of trash, leaves, or debris that creates an unreasonable amount of smoke, odor, or toxic fumes.

Section 6. Attractive Nuisances.

- (A) No owner or person in charge of property shall permit on the property:
 1. Unguarded machinery, equipment, or other devices that are attractive, dangerous, and accessible to children.
 2. Lumber, logs, or piling placed or stored in a manner so as to be attractive, dangerous, and accessible to children.
 - a) No owner or person in charge of property shall leave garbage or recycling cans in a street for more than 24 hours before or after scheduled service day.
 - b) This section does not apply to authorized construction projects with reasonable safeguard to prevent injury or death to children.

Section 7. Defective Sidewalks.

- (A) No owner of property, improved or unimproved, abutting on a public sidewalk or right-of-way, shall permit the sidewalk to deteriorate to such a condition that, because of cracks, chipping, weeds, settling, covering by dirt, heaves caused by tree roots or other causes, or other similar occurrences, the sidewalk becomes a hazard to persons using it.
- (B) The City shall not be liable to any person for loss or injury to a person or property suffered or sustained by reason of any accident on sidewalks caused by ice, snow, encumbrances, obstructions, cracks, chipping, weeds, settling, holes covered by dirt, heaves, or other similar conditions. Abutting property owners shall maintain sidewalks free from such conditions and are liable for any and all injuries to persons or property arising as a result of their failure to so maintain the sidewalks.

Section 8. Noxious Vegetation.

- (A) The term noxious vegetation does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard or a fire hazard or traffic hazard within the meaning of subsection (B).
- (B) The term noxious vegetation does include at any time of the year:
1. Weeds more than 10 inches high;
 2. Grass more than 10 inches high and not within the exception stated in subsection (A) of this section;
 3. Poison ivy / poison oak;
 4. Blackberry bushes, or any other berry, wild or planted and maintained, that extend into a public thoroughfare or across a property line;
 5. Scotch broom and other non-native and invasive vegetation;
 6. Vegetation that is:
 - a) A health hazard;
 - b) A fire hazard because it is near other combustibles;
 - c) A traffic hazard because it impairs the view of a public thoroughfare or otherwise makes the thoroughfare hazardous.
 7. No owner or person in charge of property shall allow noxious vegetation to be on the property or in the right-of-way of a public thoroughfare abutting the property. An owner or person in charge of property shall cut down or destroy grass, shrubbery, brush, weeds, or other noxious vegetation as often as needed to prevent them from becoming unsightly, from becoming a fire hazard, or in the case of weeds or other noxious vegetation, from maturing or going to seed.

Section 9. Unauthorized Dumping and Storage.

- (A) No person shall dump, store, or otherwise deposit, on public or private property, rubbish, trash, trash containers, debris, refuse, or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property, or that would be likely to injure a person, animal, or vehicle traveling on a public way.

- (B) No person shall deposit trash, rubbish, debris, or refuse which was generated from a residence or business into public trash receptacles or in city parks and public property.
- (C) No person shall put, place, sweep, throw, brush, blow, or in any other manner deposit any yard waste or other vegetative and non-vegetative matter (i.e., grass, leaves, bark dust, mulch, dirt, sand, gravel) upon any sidewalk, street, alley, or gutter.

Section 10. Trees, Bushes, and Shrubs.

- (A) No owner or person in charge of property that abuts a street or public sidewalk shall allow or permit trees or bushes or shrubs on property to interfere with vehicular or pedestrian traffic. The person responsible shall keep all trees, bushes, or shrubs on the premises, which includes the adjoining parking strip, trimmed so that any overhanging portions are at least eight feet above the sidewalk and at least fourteen (14) feet above the roadway.
- (B) No owner or person in charge of property shall allow a dead or decaying tree to stand if it is a hazard within right-of-way or public properties.

Section 11. Fences.

- (A) No owner or person in charge of property shall construct or maintain a barbed wire fence or permit barbed wire to remain as part of a fence unless it is positioned to the top 12 inches of any fence where allowed within a particular zone.
- (B) No owner or person in charge of property shall construct or maintain a fence incorporating materials that will do bodily harm such as broken glass, spikes, razor wire, electric fence, or other hazardous or dangerous materials.

Section 12. Surface Water, Drainage.

- (A) No owner or person in charge of a building or structure shall permit rainwater, ice, or snow to fall from the building or structure on a street or public sidewalk or to flow across the sidewalk.
- (B) The owner or person in charge of property shall install and maintain in a proper state of repair, adequate drainpipes or a drainage system, so that overflow water accumulating on the roof or about the building is not carried across or on the sidewalk.

Section 13. Radio and Television Interference.

- (A) 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, or with a cell phone, tablet computer, or other computer.
- (B) This section does not apply to devices licensed, approved, and operated under the rules and regulations of the Federal Communications Commission.

Section 14. Junk.

- (A) No person shall keep junk outdoors on a street, lot, or premises, or in a building that is not wholly or entirely enclosed except for doors used for ingress and egress.
- (B) No person shall allow the accumulation or storage of any junk items in the front yard of a residential, commercial, or industrial properties unless otherwise permitted with site development review.
- (C) No person shall allow inoperable vehicles, motor vehicle parts, abandoned automobiles, machinery, machinery parts, appliances or appliance parts, iron or other metal, glass, paper, lumber, wood or other waste or discarded material to be stored in the front yards, driveways, or on city streets.

DERELICT BUILDINGS

Section 15. Derelict Buildings.

- (A) It is a public nuisance for any person in charge of property to permit or allow derelict buildings to be present or remain on a property.
- (B) Derelict buildings, which may be abandoned and may or may not be in a state of deterioration, creating negative impacts on surrounding buildings and districts by attracting trespassers or vagrants, by presenting an unattractive appearance compared to the design, care, and upkeep of neighboring properties, or by being the site of vandalism and other crimes and misdemeanors thereby increasing incidents or potential for incidents on surrounding properties, such that the derelict building or buildings degrade the economic activity or economic potential of surrounding properties by discouraging customer visits, by discouraging investment in new or remodeled buildings, by discouraging property rentals or sales, by discouraging maintenance of surrounding properties, by discouraging the employment of qualified employees, and other factors leading to a diminishment of economic activity, value, utility, and vitality in the surrounding area are declared to be a nuisance.
- (C) Derelict buildings may or may not create a safety hazard to occupants or members of the public.

ABATEMENT PROCEDURE OTHER THAN FOR DERELICT BUILDINGS

Section 16. Inspection, Infraction Complaint, Abatement, and Other Remedies. Other than for derelict buildings which are regulated by Section 15, above, one or more of the following procedures may be used to enforce this ordinance:

- (A) Inspection:
 1. Inspections not requiring entry upon private land do not require the responsible property owner's authorization.
 2. In non-emergency situations attempted personal, telephone, or written contact will be made to contact the person responsible for fifteen days prior to entering onto private land for inspection. After such attempt, the city administrator, or designee, or any police officer shall have the power to enter onto private land for the purpose of investigating or abating any nuisance during regular working

hours, but they shall not enter into any building or dwelling without legal authorization or permission of the owner or occupant of the premises.

3. In emergency situations, where there is a possibility of eminent danger to human life or property; the city administrator, or designee, or any police officer shall have the power to enter onto private land for the purpose of investigating. The investigation may proceed at any time.

(B) Infraction Complaint:

1. An infraction complaint may be used for violation of this ordinance.
2. Infraction complaints may be filed against the same person for repeated or continued violations of this ordinance.
3. Each 24-hour period constitutes a separate occurrence.
4. The infraction complaint shall consist of the following four parts: the complaint, the abstract of record, the officer's record, and the summons.

(C) Abatement:

1. On determination by the chief of police, city administrator, or designee that a nuisance exists, they shall cause a notice to be posted on the premises or at the site of the nuisance, directing the person responsible to abate the nuisance.
2. At the time of posting, the staff member shall cause a copy of the notice to be forwarded by registered or certified mail to the person responsible at the person's last known address.
3. The notice to abate shall contain:
 - a) A description of the real property, by street address or otherwise, on which the nuisance exists;
 - b) A direction to abate the nuisance within 10 days or other timeframe contained within this ordinance from the date of the notice;
 - c) A description of the nuisance;
 - d) A statement that, unless the nuisance is removed, the City may abate the nuisance and the cost of abatement will be charged to the person responsible.
 - e) A statement that the person responsible may protest the order to abate by giving notice to the city administrator within 10 days from the date of the notice.
 - i. If the person responsible is not the owner, an additional notice shall be sent to the owner, stating that the cost of abatement not paid by the person responsible may be assessed to and become a lien on the property.
 - ii. Upon completion of the posting and mailing, the person posting and mailing shall execute and file certificates stating the date of mailing and place of the posting.
 - iii. An error in the name or address of the person responsible shall not make the notice void, and in such case the posted notice shall be sufficient.

(D) Other Remedies. Institute a complaint in the circuit court for any other remedy provided by law, including injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin, or abate the violation.

Section 17. Abatement by the Person Responsible.

- (A) Within 10 days after the posting and mailing of notice as provided in Section 16, the person responsible shall remove the nuisance or show that no nuisance exists.
- (B) A person responsible, protesting that no nuisance exists, shall file a written notice that specifies the basis for the protest with the city administrator.
- (C) The statement shall be referred to Council as a part of its regular agenda at its next scheduled meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by Council. Council shall determine whether a nuisance in fact exists, and the determination shall be entered in the official minutes of the council. Council determination shall be required only in cases where a written statement has been filed as provided.
- (D) If Council determines that a nuisance in fact exists, the person responsible shall abate the nuisance within 10 days after Council determination.

Section 18. Joint Responsibility. If more than one person is responsible, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the city in abating the nuisance.

Section 19. Abatement by the City.

- (A) If the nuisance has not been abated by the person responsible within the time allowed, the city administrator, chief of police, or designee may cause the nuisance to be abated.
- (B) The officer charged with abatement of the nuisance shall have the right to enter into or upon property at reasonable times to investigate or cause the removal of a nuisance.
- (C) The City shall keep an accurate record of the expense incurred by the City in physically abating the nuisance and shall include a charge of 20 percent of those expenses for administrative costs.

Section 20. Assessment of Costs.

- (A) The city administrator or designee shall forward to the owner and the person responsible, by registered or certified mail, a notice stating:
 1. The total cost of abatement, including the administrative costs;
 2. That the costs as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice;
 3. That if the owner or person responsible objects to the cost of the abatement as indicated, a notice of objection may be filed with the city administrator not more than 10 days from the date of the notice.

- (B) No sooner than 30 days after the date of the notice, the council, in the regular course of business, shall hear and make a decision on the objection to the costs assessed.
- (C) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs as stated or as decided by the council, shall be made by resolution and shall be entered in the docket of city liens. When the entry is made, it shall constitute a lien on the property from which the nuisance was removed or abated.
- (D) The lien shall be enforced and shall bear interest at the rate of up to nine percent per annum. The interest shall begin to accrue from the date of entry in the lien docket.
- (E) An error in the name of the owner or person responsible or a failure to receive the notice of the proposed assessment will not void the assessment, and it shall remain a valid lien against the property.

ABATEMENT PROCEDURE FOR DERELICT BUILDINGS

Section 21. Identification and Declaration of Derelict Buildings

- (A) Council must declare a building or buildings to be a nuisance due to being derelict as defined in Section 15 in accordance with the following process:
 1. The city administrator or designee shall determine if a building or buildings or vacant lot is potentially derelict in accordance with Section 15. The Building Official, Fire Marshal, Public Health Officer, Police Chief, or other qualified authority will be consulted in making such a potential determination.
 2. The city administrator or designee shall notify the property owner of any property found to be potentially derelict of the circumstances leading to the determination of potential violation and notify the property owner of the process of Council declaration, enforcement, and abatement. Notification shall be by certified letter and shall provide a reasonable period for the property owner to correct the circumstances leading to the potential declaration.
 3. If the property owner does not correct the circumstances leading to the potential declaration within the timeframe provided in the notification letter, the city administrator shall set a hearing before Council on the matter.
 4. Notice of the public hearing shall be given in the manner proscribed for a Type III land use proceeding.
 5. Council will consider the report of the city administrator or designee and testimony received at the public hearing to determine if the circumstances of the subject property meet the description of a Derelict Building found in Section 15.
 6. If Council finds the subject property does not meet the description of a Derelict Building, by motion it may dismiss the matter.
 7. If Council finds the subject property does meet the description of a Derelict Building, Council shall adopt an order declaring the building or buildings to be derelict and therefore a nuisance in violation of this ordinance. The order shall include findings of fact documenting the evidence supporting the declaration.

- (B) A building or buildings found to be derelict and therefore a nuisance are subject to the enforcement provisions and the abatement provisions of this ordinance. However, Council, by its declaration, may waive some or all of the enforcement provisions and order abatement and cost recovery.
- (C) If necessary to vacate a building for public health, safety, or welfare the city administrator or its designee shall cause the nuisance to be abated and cause the building to have posted at each entrance a notice stating:

NUISANCE NOTICE
BUILDING IS NOT SAFE TO OCCUPY

It is a violation of City of Aumsville Code to
occupy this building or remove this notice.

- (D) The City or its agents shall not be liable for trespass or conversion required for providing notice or ensuring compliance with notices and abatement procedures.
- (E) If an order of abatement has been issued by the city administrator and 10 days following the notice mailed pursuant to Section 21, specifying said abatement the act or condition remains unabated and no appeal has been filed, the City Administrator may cause abatement of the nuisance by entering the property, if necessary, and abating the nuisance including demolition of buildings, removal of property, and site cleanup. In the case of a declared derelict building and if the City Council has waived the enforcement provisions, the City Administrator may immediately cause abatement of the nuisance.
- (F) Real or personal property removed during an abatement process shall be in possession by the City but shall remain the property of the property owner or occupant of the subject property. Such real or personal property may be returned to the possession of the owner following abatement or may be sold at the discretion of the City in accordance with applicable state law. Proceeds of any sale shall be used to help defray the abatement costs as described in Section 20. Any proceeds in excess of the abatement costs shall be turned over to the property owner or occupant as appropriate.
- (G) Accurate records of the abatement costs shall be kept and shall include a surcharge of 25% of the cost of the abatement for administrative overhead. A billing for the amount of the costs shall be sent by certified or registered mail, return receipt requested, to the Responsible Person(s). Payment shall be due to the City of Aumsville within 30 days from the date of the billing. If more than one person is responsible, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the city for abating the nuisance.
- (H) Within 14 days of the date of the notice of assessment costs, the property owner or Responsible Person may object in writing to the city administrator. Any objections

must be heard at the next Council meeting according to the procedures required for a quasi-judicial hearing. The decision of Council must be recorded in the minutes.

- (I) The cost of abatement may be waived for indigent persons, if upon timely application it appears to the city administrator that the following conditions are met:
 - 1. The owner is indigent, as that determination is provided for in ORS 151.485;
 - 2. The owner is living on the property from which the nuisance is to be abated; and
 - 3. The nuisance is incapable of being remediated by the owner.
- (J) Applications for a waiver of abatement costs shall be filed with the city administrator on forms supplied by the City within 14 days from the date of notice of the amount of cost of abatement. All information required to be given on the forms shall be supplied by and verified by the applicant. An application for waiver of nuisance abatement costs must be submitted for each cost of abatement notice sent to the applicant.
- (K) The city administrator shall file a lien against the property in Marion County real property records if payment is not made as provided in this section or waived under this section. Interest on the lien shall accrue on the amount of assessment due at the rate of (9%) nine percent per annum from the date the lien is recorded. The lien shall be enforced in the same manner as assessments for public improvements. Any error in the name of the owner or Responsible Person shall not void the lien. Neither shall failure to receive the notice of the proposed assessment render the lien void. Only final payment of the total amount due for the abatement of the assessment shall remove the lien. Once final payment is received the City of Aumsville shall record a release of the abatement lien. The lien provided for in this section shall be given priority over all liens except those for taxes and assessments.

GENERAL

Section 22. Summary Abatement. The procedure provided by this ordinance is not exclusive but is in addition to procedure provided by other ordinances. The chief of the fire department, a law enforcement office, or any other city official may proceed summarily to abate a health or other nuisance which unmistakably exists and which eminently endangers human life or property.

Section 23. Penalties. A violation of a provision of this ordinance is punishable by a fine of \$500.00. The abatement of a nuisance is not a penalty for violating this ordinance but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance. However, abatement of a nuisance within 10 days of the date of a notice to abate, or if a written protest has been filed, then abatement within 10 days of Council determination that a nuisance exists, will relieve the person responsible from the imposition of a penalty under this section. The city administrator, chief of police, or Council, if referred to them, may at any time, whether before or after the issuance of one or more infraction complaints or notices to abate, extend the abatement of a nuisance to more than 10 days.

Section 24. Separate Violation. Each day's violation of a provision of this ordinance constitutes a separate offense.

Section 25. Attorney Fees. In any action brought pursuant to this ordinance, the court may, in its discretion, award reasonable attorney fees in addition to any fines or penalties.

Section 26. Severability. The sections and subsections of this ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections or subsections.

Section 27. Repeal. Ordinance 639 is hereby repealed.

Section 28. Effective Date. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the **Xth** day of November 2020. READ a second time on the ____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the ____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. XXX

AN ORDINANCE DEFINING NUISANCES; PROVIDING FOR THEIR ABATEMENT; PRESCRIBING PENALTIES; REPEALING ORDINANCES ~~369~~ and ~~554554 S NO. 154 AND 264~~, AND DECLARING AN EMERGENCY.

The city of Aumsville, Oregon, ordains as follows:

Section 1. Incorporation of State Statute and Aumsville Ordinances. Any reference to state law or statute (Oregon Revised Statutes – ORS) or provisions of the Aumsville City Ordinances incorporated into this ordinance refers to the state statute or ordinance provisions in effect on the effective date of this ordinance.

Section 224. Definitions. Except where the context ~~requires indicates~~ otherwise, the singular ~~number~~ includes the plural and the masculine gender includes the feminine and the following ~~terms are as defined~~ mean:

Animal. ~~Any one of the lower animals as distinguished from and not including humans man, belonging to the animal kingdom of the living beings, typically differing from plant, and~~ including mammals, fowl, reptiles, and fish.

Chief of Police means the chief of the Aumsville Police Department or ~~their~~ designee.

Chronic Nuisance Property means real property ~~premises~~ (including industrial, commercial or residential buildings), herein also referred to as the “property,” “premises” or “subject property,” upon, near (as hereinafter described in this section) or in which three or more distinct occurrences of any of the below listed prohibited acts or behaviors (as defined in Oregon law) or any other act regulated by the ordinance occur, or the patrons, employees, residents, owners or occupants thereof engage in three or more of said prohibited acts or behaviors on the property, or, in relation to the property within 400 feet of the property, or if the police are summoned to the property three times, during any 180 consecutive day period:

- ~~(1) Manufacture, distribution or possession of a controlled substance;~~
- ~~(2) Rape in the First Degree;~~
- ~~(3) Menacing;~~
- ~~(4) Intimidation;~~
- ~~(5) Harassment;~~
- ~~(6) Disorderly conduct;~~
- ~~(7) Discharge of weapons;~~
- ~~(8) Unnecessary noise;~~
- ~~(9) Drinking in public (Ordinance No. 405);~~
- ~~(10) Minor in possession of alcohol;~~
- ~~(11) Assault;~~
- ~~(12) Sexual abuse;~~
- ~~(13) Public indecency;~~
- ~~(14) Public urination or defecation;~~
- ~~(15) Criminal mischief;~~
- ~~(16) Criminal mistreatment;~~

- ~~(1)~~(17) Criminal trespass;
- ~~(2)~~(18) Warrant arrests;
- (19) Recovery of stolen vehicles or merchandise;
- (20) Unlawful use of a weapon; or
- ~~(3)~~(21) Criminal homicide or any type of attempted criminal homicide.

City. The city of Aumsville, Marion County, state of Oregon.

City Administrator means the city administrator of the city of Aumsville or designee.

City Council. The governing body of the CityeCity.

Court. The court of competent jurisdiction to hear these matters.

Dog. The word "dog" shall include both the male and female sex of the species.

Domestic Animal. An animal conditioned so as to live and breed in a tame environment and normally amenable to human habitats.

Dwelling Unit. A group of one or more rooms designed or intended for use as a residence, including a single-family home, a townhouse, a duplex, a condominium, and an apartment.

Infraction Complaint. The document which when properly served upon the alleged ordinance violator brings the matter before the appropriate court for resolution. The elements of an infraction complaint are set forth in Section 15 of this ordinance.

Inoperable Vehicle. A unit designed and built to transport people or objects from one place to another which:

- (1) Has been left on private property for more than 30 days; and
- (2) Has broken or missing window(s), or an engine that will not run, or lacks a transmission, or is missing tire(s) or wheel(s); or
- (3) Is unlicensed for the current year; constitutes a presumption that the vehicle is inoperable.

Junk. The term junk includes all inoperable vehicles, old motor vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances or appliance parts, old iron or other metal, glass, paper, lumber, wood, or other waste or discarded material like household furniture.

Leash: A physical tethering the animal to the owner, not more than 8 feet long.

Livestock. Horses, mules, jackasses, burros, cattle, sheep, goats, donkeys, swine, or any animal of similar size or larger maintained, commercially or otherwise.

Owner. Any person, individual, corporation, partnership, or other legal entity who has legal or equitable interest in real property or a vehicle or an animal, or possessory interest therein.

Person. Includes:

- (1) The owner, title holder, contract seller, or contract buyer of the land upon which the violation is occurring, is equally responsible for the nuisance violation, as is the possessor, user of the land, or the person who is taking the action, conduct or omission which constitutes a nuisance.
- (2) The United States or agencies thereof, any state, public or private corporation, local governmental unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity, contractor, subcontractor, or combination thereof.

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

Person Responsible. The person responsible includes:

- (1) The owner of the property, or the owner's manager or agent or other person or entity in control of the property on behalf of the owner; and/or,
- (2) The person or entity occupying the property, including a bailee, lessee, tenant or other having possession.
- (3) Responsible party for a specific property shall be presumed from the following:
 - a) The owner and the owner's agent, as shown on the assessor's tax rolls of Marion County.
 - b) The resident or occupant of the property, as shown on the records (including utilities records) of the city of Aumsville.

- ~~(1) The owner.~~
- ~~(2) The person in charge of property, as defined in this section.~~
- ~~(3) The person who caused a nuisance to come into or continue in existence.~~

Public Place. A building, place, or accommodation, whether publicly or privately owned, open and available to the general public.

Poultry. Domestic fowl, such as chickens, turkeys, ducks, geese or other fowl typically raised for meat or eggs.

Structure. Anything constructed or built, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner.

ANIMAL NUISANCES

Section 2. Animals and Bees.

- (1) No person shall keep or allow a stand or hive of bees, wasps or any bee like insect on property within 20 feet of the property's boundary line ~~of the premises.~~
- (2) No person may keep or maintain ~~hogs-pigs~~ within the city limits.
- (3) No person may keep or maintain ~~any~~ livestock or poultry within the city unless:
 - (a) Such animals are kept on lots having an area of one acre or more; except ~~the having or keeping~~ chickens, ~~on less an acre,~~ which are allowed subject to the following:
 - 1) No more than four chickens are allowed on any ~~lot; one~~ lot; ~~and the keeping of a~~
 - ~~2) roosters are is prohibited; and~~
 - ~~3) Chickens shall only be kept on ~~upon~~ property occupied by a single-family or duplex dwelling; and~~
 - ~~3)4) Chickens shall be kept in an enclosed coop or run at all times; and~~

- ~~4)5) Chickens shall be~~ kept for personal, non-commercial use only; ~~and~~
- ~~5)6) Chicken~~ coop and/or run shall have a set back of 5 feet from any property boundary.
- (b) The total number of ~~such~~ animals over six months of age to be kept or maintained shall not exceed four per acre;
- ~~(c) The farm is preexisting and immune under state law from local laws that make a farm practice a nuisance.~~
- (4) No person shall ride or lead livestock on sidewalks of the city.
- (5) No person shall ride or lead livestock in any of the designated park areas of the city.
- (6) Any owner of an animal (see definition of animal) or person responsible shall remove excrement or other solid waste deposited by that animal on public or private property.
- (7) No person who keeps, possesses, or otherwise maintains any animal shall allow the accumulation of raw or untreated animal manure which creates an offensive odor to occur upon any property whether public or private.
- (8) No owner shall knowingly feed wild animals, or leave food accessible to wild animals, except wild birds; or permit any animal or bird that is afflicted with a communicable disease to come in contact with another animal, bird, or human that is susceptible to the affliction.
- (9) No domestic animal, livestock, or poultry shall run at large within the city upon any public street or other public place or trespass upon private property not owned or controlled by the owner or person responsible of such animal; except cats.
- (10) Limitation on number of dogs and cats kept per dwelling unit:
- (a) It shall be unlawful for any person to own a total number of more than four dogs and cats, and one litter of puppies or kittens under six months of age per dwelling unit on property in the city.
- (b) Feeding animals may constitute ownership for the purpose of this ordinance.
- (11) Exercising dogs: Dogs may be walked upon the streets and sidewalks of the city, but must be retained on a leash, and must be handled by persons who can control the animal in all situations. Dogs may be in public parks but are subject to adopted park rules for leash and other requirements.

Commented [RH1]:

NUISANCES AFFECTING PUBLIC HEALTH

Section 3. Nuisances Affecting Public Health and Welfare. No person shall cause or permit a nuisance affecting public health on property owned or controlled by ~~them.themhim-~~ The following are nuisances affecting public health:

- (1) Accumulations of garbage, debris, rubbish, manure, or other refuse that are not removed within a reasonable time ~~and~~ that may affect the health or welfare of the city.

Commented [ET2]: Paul-dealing with residents burning and creating a nuisance, can we create a restriction on burning materials that create excessive smoke/odor?

- ~~(1)~~(2) Stagnant water that affords a breeding place for mosquitoes and other insect pests.
- ~~(2)~~(3) Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial waste, or other substances placed in or near the water in a manner that will cause harmful materials to pollute the water.
- ~~(3)~~(4) Premises that are in such a state or condition as to cause an offensive odor, ~~or~~ that are in an unsanitary condition, or that attract or are breeding grounds for mice, rats, and other vermin. Drainage of liquid wastes from private premises.
- (5) Plastics, oil, grease, or petroleum products ~~allowed to be~~ introduced into the storm or sewer system, or spilled or poured on the ground, including landscaped areas, vacant lots, graveled areas, and paved areas.
- (6) Taking lodging or camping in a car, outbuilding, or other place not intended for that purpose. In addition, there will be no overnight camping or tenting on public property without prior approval of the city council.

Section 4. Unreasonable Noise.

- (A) No person shall make, assist in making, or permit any loud, unreasonable, and disturbing or unnecessary noise which either annoys, disturbs, injures or endangers the comfort, repose, health, safety or peace of others.
- (B) The following acts are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but the enumeration shall not be construed to be exclusive:
 - (1) The keeping of any bird or animal which causing frequent or long continued noise shall disturb the comfort and repose of any person in the vicinity.
 - (2) The attaching of any bell to any animal or allowing a bell to remain on any animal which is disturbing to any person in the immediate vicinity.
 - (3) The use of any vehicle or engine, either stationary or moving, so operated as to create any loud or unnecessary grating, grinding, rattling or other noise, with the exception of those vehicles that have been modified for a specific public service functionsfunction. ~~waste disposal trucks franchised by the City operating between 5:00 AM and 8:00 PM.~~

- (4) The sounding of any horn or signaling device on any vehicle on any street, public or private place, except as a necessary warning of danger.
- (5) The blowing of any steam whistle attached to any stationary boiler or sounding of any siren except to give notice of the time to begin or stop work, or as a warning of danger, or upon request of proper City authorities.
- (6) The use of any mechanical device operated by compressed air, steam or otherwise, unless the noise thereby created is effectively muffled.
- (4)(7) The erection, including excavation, demolition, alteration, or repair of any building in residential districts, other than between the hours of 7:00 a.m. and 7:00 p.m. except upon special permit granted by the City Administrator.
- (5)(8) Construction, excavation, demolition, alteration, or repair of a building, vehicle or machinery, including the starting of an engine, other than between the hours of 7:00 a.m. and 6:00 p.m. weekdays and between 9:00 a.m. and 7:00 p.m. on weekends, or in residential, commercial, or industrial garages or in a building between the hours of 7:00 a.m. and 9:00 p.m.; except within the limitations of a noise permit issued by the city administrator.
- ~~Construction, excavation, demolition, alteration, or repair of a building, vehicle or machinery, including the starting of an engine, other than between the hours of 7:00 a.m. and 6:00 p.m. weekdays and between 9:00 a.m. and 7:00 p.m. on weekends, or in residential, commercial, or industrial garages or in a building between the hours of 7:00 a.m. and 9:00 p.m.; except within the limitations of a noise permit issued by the city administrator.~~
- (9) The use of any bell, gong, or siren upon any vehicle, other than police, fire or other emergency vehicle.
- (10) The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court of justice while the same are in use, or adjacent to any hospital or institution for the care of the sick or infirm, which unreasonably interferes with the operation of such institution, or which disturbs or unduly annoys patients.
- (11) The discharge in the open air of the exhaust of any steam engine, internal combustion engine, motorboat or motor vehicle except through a

Formatted: Indent: Left: 1", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 0.78" + Indent at: 0.78", Tab stops: 1.28", List tab + Not at 0.78"

Formatted: Indent: Left: 0", First line: 0"

muffler or other device which will effectively prevent loud or explosive noises and emission of annoying smoke.

(12) The use or operation of any automatic or electric piano, television, phonograph, loud speaker, stereo, or radio, television, loudspeaker of any instrument for sound producing or any sound-amplifying device so loudly as renders the use thereof a nuisance; provided, however, that the sound, when measured at or upon application to the boundary of property which is not the source-Council, exceeds the maximum permitted sound level of 70 dBA sound level decibels; music, news, speeches, or is plainly audible at any time at a distance of 100 feet from the source of the sound.

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 0.78" + Indent at: 0.78"

~~(6)(13)~~ (1213) The conducting, operating or maintaining of any garage within 100 feet of any private residence, apartment, rooming house or hotel in such manner as to cause load or offensive noises to be emitted therefrom between the hours of 11:00 p.m. and 7:00 a.m.

~~(7)(14)~~ (1314) Nothing in this section shall be construed to prohibit the Aumsville Rural Fire Department from using or cause to be used the siren located at the fire department for emergency reasons when necessary for the health, safety or welfare of the city.

Commented [ET3]: Ryanne researching comparing old ord.

(15) City permits may be granted to a responsible person or organization.

~~(1) No person shall allow, cause, create or permit the continuance of unreasonable noise. The following enumerated noises are not exclusive by illustrative of unreasonable noises.~~

~~(a) The keeping of any bird or animal which by causing frequent or long-continued noise shall disturb the comfort and repose of any person in the vicinity.~~

~~(b) The use of a vehicle or engine, either stationary or moving, so out of repair, loaded, or operated as to create any loud or unnecessary noise.~~

~~(c) The use of a mechanical device operated by compressed air, steam, or otherwise, unless the noise thereby created is effectively muffled. Using a dynamic braking device, primarily on trucks and buses to convert a motor from an internal combustion engine to an air compressor for the purpose of vehicle braking without the use of wheel brakes, except to avoid imminent danger to persons or property.~~

~~(d)(1) Construction, excavation, demolition, alteration, or repair of a building, vehicle or machinery, including the starting of an engine, other than between the hours of 7:00 a.m. and 6:00 p.m. weekdays and between 9:00 a.m. and 7:00 p.m. on weekends, or in residential, commercial, or industrial garages or in a building~~

Formatted: Indent: Left: 1", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 0.78" + Indent at: 0.78", Tab stops: 1.28", List tab + Not at 0.78"

~~between the hours of 7:00 a.m. and 9:00 p.m.; except within the limitations of a noise permit issued by the city administrator.~~

- ~~(e) The use of a gong or siren upon a vehicle, other than police, fire, or other emergency vehicle.~~
- ~~(f) The creation of excessive noise on a street adjacent to a school, institution of learning, church, or court of justice, while the same are in use, or on a street adjacent to a hospital, nursing home, or other institution for the care of the sick or infirm, which unreasonably interferes with the operation of such institution or disturbs or unduly annoys patients.~~
- ~~(g) The discharge in the open air of the exhaust of a steam engine, internal combustion engine, motorboat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises.~~
- ~~(h) The use or operation of an automatic or electric piano, television, phonograph, loud speaker, stereo, or sound amplifying device so loudly that the sound, when measured at or within the boundary of property which is not the source of the sound is located, exceeds the maximum permitted sound level of 70 dBA sound level decibels; or is plainly audible at any time at a distance of 100 feet from the source of the sound.~~
- ~~(2) Sound produced in conjunction with officially organized sporting events, parades, festivals, fairs, and other events when issued a noise permit from the city administrator are exempt from these noise limitations; but must adhere to permit conditions and/or limitations.~~

NUISANCES AFFECTING PUBLIC SAFETY

Section 5. Creating a Hazard. No person shall create a safety hazard by:

- (1) Maintaining or leaving in a place accessible to children, a container with a compartment of more than one and one-half cubic feet in capacity, and a door or lid that locks or fastens automatically when closed and that cannot be easily opened from the inside.
- (2) Being the owner or otherwise having possession of property on which there is a swimming pool, hot tub, spa, well, cistern, cesspool, excavation, or other holes of a depth of 4 feet or more, and a top width of 12 inches or more and failing to cover or fence it with a suitable protective construction.
- (3) Leaving a structure or materials in the public right of way, including sidewalks, in the city.
- (4) The burning of trash, leaves, or debris that creates an unreasonable amount of smoke, odor, or toxic fumes.

Section 6. Attractive Nuisances.

- (1) No owner or person in charge of property shall permit on the property:

- (a) Unguarded machinery, equipment, or other devices that are attractive, dangerous, and accessible to children.
- (b) Lumber, logs, or piling placed or stored in a manner so as to be attractive, dangerous, and accessible to children.

(2) No owner or person in charge of property shall leave garbage or recycling cans in a street for more than 24 hours before or after scheduled service day. after pick-up.

(3) This section does not apply to authorized construction projects with reasonable safeguard to prevent injury or death to children.

Section 7. Defective Sidewalks.

- (1) No owner of property, improved or unimproved, abutting on a public sidewalk or right of way, shall permit the sidewalk to deteriorate to such a condition that, because of cracks, chipping, weeds, settling, covering by dirt, heaves caused by tree roots or other causes, or other similar occurrences, the sidewalk becomes a hazard to persons using it.
- (2) The city shall not be liable to any person for loss or injury to a person or property suffered or sustained by reason of any accident on sidewalks caused by ice, snow, encumbrances, obstructions, cracks, chipping, weeds, settling, holes covered by dirt, heaves, or other similar conditions. Abutting property owners shall maintain sidewalks free from such conditions and are liable for any and all injuries to persons or property arising as a result of their failure to so maintain the sidewalks.

Section 8. Noxious Vegetation.

- (1) The term noxious vegetation does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard or a fire hazard or traffic hazard within the meaning of subsection (2).
- (2) The term noxious vegetation does include at any time of the year:
 - (a) Weeds more than 10 inches high;
 - (b) Grass more than 10 inches high and not within the exception stated in subsection (1) of this section;
 - (c) Poison ivy / poison oak;
 - (d) Blackberry bushes, or any other berry, wild or planted and maintained, that extend into a public thoroughfare or across a property line;
 - (e) Scotch broom and other various non-native and invasive vegetation;
 - (f) Vegetation that is:
 - 1) A health hazard;
 - 2) A fire hazard because it is near other combustibles;

Commented [RH4]: There are home cannabis s grows authorized under current state laws. We receive complaints about odor from some of these operations. Is this something that we should or could include in this section. Do we want to attempt to enforce this issue? How would we quantify an offensive odor?

- 3) A traffic hazard because it impairs the view of a public thoroughfare or otherwise makes the thoroughfare hazardous.
- (3) No owner or person in charge of property shall allow noxious vegetation to be on the property or in the right-of-way of a public thoroughfare abutting the property. An owner or person in charge of property shall cut down or destroy grass, shrubbery, brush, weeds, or other noxious vegetation as often as needed to prevent them from becoming unsightly, from becoming a fire hazard, or in the case of weeds or other noxious vegetation, from maturing or going to seed.
- ~~(4) The city administrator may cause to be published in the January and February Aumsville Newsletters the text in subsection (3) as a notice to all owners or persons in charge of property of the duty to keep their property free from noxious vegetation. The notice shall state the city is willing to remove the nuisance of a particular parcel of property at the request of the owner or person in charge of the property for a fee sufficient to cover the city's abatement costs. The notice shall also state that even in the absence of such requests the city may abate all such nuisances 10 or more days after the final publication of the notice and charge the cost of doing so on a particular parcel of property to the owner or person in charge of the property itself. Prior to the city abating the nuisance, a letter shall be sent to the owner or person in charge of the property. This letter shall be deemed sufficient notice for this violation and any reoccurring violations in each calendar year.~~

Section 9. Unauthorized Dumping and Storage.

- (1) No person shall dump, store, or otherwise deposit, on public or private property, rubbish, trash, trash containers, debris, refuse, or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property, or that would be likely to injure a person, animal, or vehicle traveling on a public way.
- (2) No person shall deposit trash, rubbish, debris, or refuse which was generated from a residence or business into public trash receptacles or in city parks and public property.
- (3) No person shall put, place, sweep, throw, brush, blow, or in any other manner deposit any yard waste or other vegetative and non-vegetative matter (i.e., grass, leaves, bark dust, mulch, dirt, sand, gravel) upon any sidewalk, street, alley, or gutter.

Section 10. Trees, Bushes, and Shrubs.

- (1) No owner or person in charge of property that abuts a street or public sidewalk shall allow or permit trees or bushes or shrubs on property to interfere with vehicular or pedestrian traffic. The person responsible shall keep all trees, bushes, or shrubs on the premises, which includes the adjoining parking strip, and trimmed so that any overhanging

portions are at least eight feet above the sidewalk and at least fourteen (14) feet above the roadway.

- (2) No owner or person in charge of property shall allow a dead or decaying tree to stand if it is a hazard within right of way or public properties.

Section 11. Fences.

- (1) No owner or person in charge of property shall construct or maintain a barbed wire ~~fence, or fence or~~ permit barbed wire to remain as part of a fence ~~less than eight feet in heights, along a sidewalk or public way, unless its positioned to the top 12 inches of any fence where allowed within a particular zone.~~
- ~~(2) No owner or person in charge of property shall construct, maintain, or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person.~~
- ~~(3)~~(2) ~~Other than identified in Sections (1) and (2) above, non~~ No owner or person in charge of property shall construct or maintain a fence ~~incorporating materials~~ that will do bodily harm such as broken glass, spikes, razor wire, electric fence or other hazardous or dangerous materials.

Commented [RH5]: Our maximum fence height of eight feet.

Formatted: Indent: Left: 1", No bullets or numbering

Section 12. Surface Water, Drainage.

- (1) No owner or person in charge of a building or structure shall permit rainwater, ice, or snow to fall from the building or structure on a street or public sidewalk or to flow across the sidewalk.
- (2) The owner or person in charge of property shall install and maintain in a proper state of repair, adequate ~~drainpipes~~~~drain pipes~~~~drainpipes~~ or a drainage system, so that overflow water accumulating on the roof or about the building is not carried across or on the sidewalk.

Section 13. 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, or with a cell phone, tablet computer, or other computer.
- (2) This section does not apply to devices licensed, approved, and operated under the rules and regulations of the Federal Communications Commission.

Section 14. Junk.

- (1) No person shall keep junk outdoors on a street, lot, or premises, or in a building that is not wholly or entirely enclosed except for doors used for ingress and egress.
- (2) No person shall allow the accumulation or storage of any junk items in the front yard of a residential, commercial, or industrial properties unless otherwise permitted with site development review home.

- (3) No person shall allow an inoperable vehicles, motor vehicle parts, abandoned automobiles, machinery, machinery parts, appliances or appliance parts, iron or other metal, glass, paper, lumber, wood or other waste or discarded material to be stored in the front yards, driveways, or on city streets.

CHRONIC NUISANCE PROPERTY

Section 15. Chronic Nuisance Property.

- All of the behavior, acts or omissions described in this ordinance are hereby declared to be nuisances and if they commonly reoccur in relation to a specific property, such property may be declared "chronic nuisance property," thereby requiring the application of remedies set out in this ordinance.
- Any property within the city of Aumsville, which is found to be a chronic nuisance property, shall be in violation of this ordinance and subject to its remedies.
- Any person who is a responsible party for property, which is deemed a chronic nuisance property, shall be in violation of this ordinance and subject to its remedies.

Section 16. Pre-Filing Notification Procedure. After two occurrences on or near the property (as defined in this ordinance), of any of the prohibited acts or behaviors listed in this ordinance, within a consecutive 180-day period, the chief of police or designee shall provide notification, via certified mail, return receipt requested, to all known responsible parties for the property, stating the times and places of the alleged occurrences and the potential liability for violation of this ordinance. The city administrator and city attorney shall be provided copies of the notice.

Section 17. Compliance Agreement with Responsible Party(ies).

- (1) After providing notification to all known responsible parties, the chief of police or designee has the authority to solicit and obtain, on behalf of the city, a voluntary agreement with the party(ies) to comply with the provisions of this ordinance ("compliance agreement"). The compliance agreement shall be in writing and signed by all known responsible parties and the chief of police or designee on behalf of the city; a copy thereof shall be provided to the city administrator.
- (2) In proposing the compliance agreement, the chief of police or designee shall consider the factors outlined in Section 9, subsection 2 below.
 - The compliance agreement is strictly optional and remedial in nature and shall not be interpreted to limit in any manner the authority of the city to commence an action against any responsible party or another for a violation of any provision of the Aumsville ordinances or Oregon law.

Formatted: Not Highlight

~~— If the compliance agreement is not followed as agreed, the city may proceed with civil action as provided in this ordinance or the provisions of the ORS or the Aumsville ordinances.~~

Section 18. Commencement of Actions; Summons and Complaint. ~~In the event there occurs on or near (as defined in this ordinance), the property three or more continued prohibited acts or behavior as listed of this ordinance, contrary to the terms of the compliance agreement and/or in violation of this ordinance, the Aumsville City Council shall be advised and, upon deliberation, may direct that the city proceed to initiate court action pursuant to the provisions of this ordinance or take such other action as the council deems appropriate.~~

Section 19. Remedies; Fines; Civil Penalty; Enforcement Order.

- ~~— In the event the respondent(s) is found by a preponderance of the evidence to have violated this ordinance, the court may, by judgment and order:~~
- ~~— Require that the chronic nuisance property be closed against all use and occupancy for a period of not less than 30 days, but not more than 180 days; and/or~~
 - ~~— Assess a fine of not more than \$250.00 for each offense.~~
 - ~~— Subsequent acts and behavior in violation of the provisions of this ordinance, which occur within two years following the entry of any earlier judgment and order, may be actionable, at the direction of the city council, and, if violation(s) of this ordinance is established, the chronic nuisance property may be closed in accordance with this section, and the court may impose a civil penalty of a fine of not more than \$1,000.~~
 - ~~— In addition to the above, the court may employ any other remedy provided by law, deemed by the court to be appropriate to abate the nuisance.~~
 - ~~— In addition to the above, the court may assess costs and charges as described in Section 22.~~
 - ~~— In lieu of closure of the property, at the court's discretion, the respondent may be permitted to file a bond with the city that is acceptable to the court and subject to the court's satisfaction of the respondent's good faith commitment to abatement of the nuisance. Such bond shall be in the amount of at least \$500 and shall be conditioned upon the non-recurrence, for a period of one year after entry of the judgment, of any of the acts or behaviors listed in this ordinance. Forfeiture of the bond is subject to court review and order.~~
 - ~~— The court may authorize the city to physically secure the subject property against use or occupancy, in compliance with the judgment or order, in the event the owner(s) or the responsible party(ies) fail to do so within the time specified by the court.~~

Section 20. Defenses; Mitigation.

Formatted: Not Highlight

Commented [RH6]: Can we enforce this?

~~It is a defense to an action brought pursuant to this ordinance, that the responsible party, the respondent, at the time the alleged action or behavior occurred, could not, in the exercise of reasonable care or diligence, determine that the property had become chronic nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the determination that the property is a chronic nuisance property. The assertion that the party, the respondent, was not present at the property at the time the alleged acts or behavior occurred upon which the property was deemed chronic nuisance property, shall not, alone, be a defense to the action. The court may consider any of the following factors, as appropriate, in its decision, and shall cite those found applicable:~~

- ~~The effort taken by the responsible party to mitigate or correct the alleged action or behavior which occurred at or near (as defined in this ordinance) and in relation to the property;~~
- ~~Whether the alleged action or behavior was repeated or continuous;~~
- ~~The magnitude or gravity of the alleged action or behavior;~~
- ~~The cooperativeness of the responsible party with the city in causing the abatement of the alleged action or behavior;~~
- ~~The cost to the city of investigating and abating action or behavior or attempting to correct the condition; or~~
- ~~Any other factor deemed by the court to be relevant.~~

Formatted: Not Highlight

~~**Section 21. Emergency Remedy.** In addition to any remedy available to the city under this ordinance or otherwise, in the event the city administrator finds that a property or its use constitutes an immediate threat to the public safety and welfare, upon review and approval by the city council, the city may apply to the court for such relief as is deemed appropriate.~~

~~**Section 22. Costs; Lien.**~~

- ~~The court may assess the property owner(s) and the responsible party(ies) the following costs incurred by the city in the proceeding:~~
- ~~Cost incurred in the actual physical securing of the subject property against use or occupancy, including, but not limited to, the cost of personnel, materials, medical costs, consulting fees, notices and equipment charges;~~
- ~~The city's investigative costs; and~~
- ~~Administrative costs and attorney fees and costs (collectively referred to as cost) incurred in pre-filing implementation of the abatement process, together with the cost of the initiation and conducting of the court action.~~
- ~~The city administrator may, within 14 days of the court's entry of judgment and order against the respondent(s), submit a signed detailed statement of costs, including attorneys' fees, to the court for its review. If no objection to the statement is made within the period prescribed by Oregon Rules of Civil Procedure, Rule 67, the amount~~

~~submitted shall become a part of the judgment and a lien against the subject premises. A copy of the judgment and the statement of costs, together with a verified designation of the address and legal description of the property, shall be forwarded to the Marion County Clerk for filing.~~

- ~~(1) Persons assessed the costs and/or civil penalty pursuant to this ordinance shall be jointly and severally liable for the payment thereof to the city.~~

DERELICT BUILDINGS

Section 23. Derelict Buildings.

- (1) ~~It is a public nuisance for any person in charge of property to permit or allow derelict buildings to be present or remain on a property.~~
- (2) ~~Derelict buildings, which may be abandoned and may or may not be in a state of deterioration, creating negative impacts on surrounding buildings and districts by attracting trespassers or vagrants, by presenting an unattractive appearance compared to the design, care, and upkeep of neighboring properties, or by being the site of vandalism and other crimes and misdemeanors thereby increasing incidents or potential for incidents on surrounding properties, such that the derelict building or buildings degrade the economic activity or economic potential of surrounding properties by discouraging customer visits, by discouraging investment in new or remodeled buildings, by discouraging property rentals or sales, by discouraging maintenance of surrounding properties, by discouraging the employment of qualified employees, and other factors leading to a diminishment of economic activity, value, utility, and vitality in the surrounding area are declared to be a nuisance.~~
- (3) ~~Derelict buildings are identified and administered in accordance with Section 10, below. May or may not create a safety hazard to occupants or members of the public.~~

Section 15. Public Nuisance – Unlawful Activities.

- (1) ~~It is a public nuisance for any person in charge of property to permit or any person to cause to exist any place or business where patrons, employees, residents, or occupants engage in a pattern of behavior in the neighborhood involving the commission of three or more of the following offenses:~~
- ~~(a) Loitering to solicit prostitution;~~
 - ~~(b) Unlawful prostitution procurement activities;~~
 - ~~(c) Unreasonable noise;~~

- ~~(d) Assault,;~~
- ~~(e) Sexual abuse,;~~
- ~~(f) Public indecency,;~~
- ~~(g) Criminal trespass,;~~
- ~~(h) Criminal mischief,;~~
- ~~(i) Disorderly conduct,;~~
- ~~(j) Harassment,;~~
- ~~(k) Minor in possession of alcohol,;~~
- ~~(l) Unlawful manufacture, delivery, or possession of a controlled substance, e;~~
- ~~(m) Public urination/defecation; or~~
- ~~(n) No person shall lodge in a car, outbuilding, or other place not intended for that purpose, without permission of the owner or person entitled to the possession thereof. In addition, there will be no overnight camping or tenting on public property without prior approval of the city council.~~
- ~~(2) For purposes of this section, pattern of behavior in the neighborhood means one or more patrons, employees, residents, or occupants of the place or business having been arrested or issued a citation for violation of three or more of any of the offenses specified in subsection (1) that occur over any six-month period at the place or business or within 300 feet thereof.~~
- ~~(3) It is unlawful for any place or business to be a public nuisance or to be used as a public nuisance. If any place or business is found to be a public nuisance or to be used as such, it shall be subject to closure for a period of up to one year. Public nuisance closure will be subject to the enforcement procedures in Section 15 through Section 22.~~
- ~~(4) The acts, conditions, or objects specifically enumerated and defined in Section 2 to Section 14 are declared public nuisances and will be subject to the enforcement procedures in Section 15 through Section 22.~~
- ~~(5) In addition to the nuisances specifically enumerated in this ordinance, every other thing, substance, or act that is determined to be injurious or detrimental to the public health, safety, or welfare of the city is declared a nuisance and will be subject to the enforcement procedures in Section 15 through Section 22.~~

ABATEMENT PROCEDURE OTHER THAN FOR DERELICT BUILDINGS

Section 24. Inspection, Infraction Complaint, Abatement, and Other Remedies.
~~Other than for derelict buildings which are regulated by Section 29, below, one~~ One or more of the following procedures may be used to enforce this ordinance:

- (1) Inspection:
 - (a) Inspections not requiring entry upon private land do not require the responsible property owner's authorization.

- (b) In non-emergency situations attempted personal, telephone, or written contact will be made to contact the person responsible for fifteen days prior to entering onto private land for inspection. After such attempt, the city administrator, or designee, or any police officer shall have the power to enter onto private land for the purpose of investigating or abating any nuisance during regular working hours, but they shall not enter into any building or dwelling without legal authorization or permission of the owner or occupant of the premises.
- (c) In emergency situations, where there is a possibility of eminent danger to human life or property; the city administrator, or designee, or any police officer shall have the power to enter onto private land for the purpose of investigating. The investigation may proceed at any time.
- (2) Infraction Complaint:
 - (a) An infraction complaint may be used for violation of this ordinance.
 - (b) Infraction complaints may be filed against the same person for repeated or continued violations of this ordinance.
 - (c) Each 24-hour period constitutes a separate occurrence.
 - (d) The infraction complaint shall consist of the following four parts: the complaint, the abstract of record, the officer's record, and the summons.
- (3) Abatement:
 - (a) On determination by the chief of police, city administrator, or designee that a nuisance exists, they shall cause a notice to be posted on the premises or at the site of the nuisance, directing the person responsible to abate the nuisance.
 - (b) At the time of posting, the staff member shall cause a copy of the notice to be forwarded by registered or certified mail to the person responsible at the person's last known address.
 - (c) The notice to abate shall contain:
 - (1) A description of the real property, by street address or otherwise, on which the nuisance exists;
 - (2) A direction to abate the nuisance within 10 days or other timeframe contained within this ordinance from the date of the notice;
 - (3) A description of the nuisance;
 - (4) A statement that, unless the nuisance is removed, the city may abate the nuisance and the cost of abatement will be charged to the person responsible.
 - (5) A statement that the person responsible may protest the order to abate by giving notice to the city administrator within 10 days from the date of the notice.
 - (d) If the person responsible is not the owner, an additional notice shall be sent to the owner, stating that the cost of abatement not

- paid by the person responsible may be assessed to and become a lien on the property.
- (e) Upon completion of the posting and mailing, the person posting and mailing shall execute and file certificates stating the date of mailing and place of the posting.
 - (f) An error in the name or address of the person responsible shall not make the notice void, and in such case the posted notice shall be sufficient.
- (4) Other Remedies. Institute a complaint in the circuit court for any other remedy provided by law, including injunction, mandamus, abatement, or other appropriate proceedings to prevent, temporarily or permanently enjoin or abate the violation.

Section ~~2546~~25. Abatement by the Person Responsible.

- (1) Within 10 days after the posting and mailing of notice as provided in **Section ~~1645~~**, the person responsible shall remove the nuisance or show that no nuisance exists.
- (2) A person responsible, protesting that no nuisance exists, shall file a written notice that specifies the basis for the protest with the city administrator.
- (3) The statement shall be referred to the council as a part of its regular agenda at its next scheduled meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the council. The council shall determine whether a nuisance in fact exists, and the determination shall be entered in the official minutes of the council. Council determination shall be required only in cases where a written statement has been filed as provided.
- (4) If the council determines that a nuisance in fact exists, the person responsible shall abate the nuisance within 10 days after the council determination.

Formatted: Highlight

Section ~~2647~~26. Joint Responsibility. If more than one person is responsible, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the city in abating the nuisance.

Section ~~2748~~27. Abatement by the City.

- (1) If the nuisance has not been abated by the person responsible within the time allowed, the city administrator, chief of police, or designee may cause the nuisance to be abated.
- (2) The officer charged with abatement of the nuisance shall have the right to enter into or upon property at reasonable times to investigate or cause the removal of a nuisance.
- (3) The city shall keep an accurate record of the expense incurred by the city in physically abating the nuisance and shall include a charge of 20 percent of those expenses for administrative costs.

Section ~~2828~~49. Assessment of Costs.

- (1) The city administrator or designee shall forward to the owner and the person responsible, by registered or certified mail, a notice stating:
 - (a) The total cost of abatement, including the administrative costs;
 - (b) That the costs as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice;
 - (c) That if the owner or person responsible objects to the cost of the abatement as indicated, a notice of objection may be filed with the city administrator not more than 10 days from the date of the notice.
- (2) No sooner than 30 days after the date of the notice, the council, in the regular course of business, shall hear and make a decision on the objection to the costs assessed.
- (3) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs as stated or as decided by the council, shall be made by resolution and shall be entered in the docket of city liens. When the entry is made, it shall constitute a lien on the property from which the nuisance was removed or abated.
- (4) The lien shall be enforced and shall bear interest at the rate of up to nine percent per annum. The interest shall begin to accrue from the date of entry in the lien docket.
- (5) An error in the name of the owner or person responsible or a failure to receive the notice of the proposed assessment will not void the assessment, and it shall remain a valid lien against the property.

ABATEMENT PROCEDURE FOR DERELICT BUILDINGS

Section 29. Identification and Declaration of Derelict Buildings

- (1) The City Council must declare a building or buildings to be a nuisance due to being derelict as defined in Section 23 in accordance with the following process:
 - (a) The City Administrator or designee shall determine if a building or buildings or vacant lot is potentially derelict in accordance with Section 23. The Building Official, Fire Marshal, Public Health Officer, Police Chief, or other qualified authority will be consulted in making such a potential determination.
 - (b) The City Administrator or designee shall notify the property owner of any property found to be potentially derelict of the circumstances leading to the determination of potential violation and notify the property owner of the process of City Council declaration, enforcement, and abatement. Notification shall be by certified letter and shall provide a reasonable period for the property owner to correct the circumstances leading to the potential declaration.

Formatted: Not Highlight

- (c) If the property owner does not correct the circumstances leading to the potential declaration within the timeframe provided in the notification letter, the City Administrator shall set a hearing before the City Council on the matter.
 - (d) Notice of the public hearing shall be given in the manner proscribed for a Type III land use proceeding.
 - (e) The City Council will consider the report of the City Administrator or designee and testimony received at the public hearing to determine if the circumstances of the subject property meet the description of a Derelict Building found in Section 14.
 - (f) If the City Council finds the subject property does not meet the description of a Derelict Building, by motion it may dismiss the matter.
 - (g) If the City Council finds the subject property does meet the description of a Derelict Building, the Council shall adopt an order declaring the building or buildings to be derelict and therefore a nuisance in violation of this ordinance. The order shall include findings of fact documenting the evidence supporting the declaration.
- (2) A building or buildings found to be derelict and therefore a nuisance are subject to the enforcement provisions and the abatement provisions of this ordinance. However, the City Council, in its declaration, may waive some or all of the enforcement provisions and order abatement and cost recovery.
- (3) If necessary to vacate a building for public health, safety or welfare the City Administrator or its designee shall cause the nuisance to be abated and cause the building to have posted at each entrance a notice stating:

NUISANCE NOTICE
BUILDING IS NOT SAFE TO OCCUPY

It is a violation of City of Aumsville Code to occupy this building or remove this notice.

- (4) The City or its agents shall not be liable for trespass or conversion required for providing notice or ensuring compliance with notices and abatement procedures.
- (5) If an order of abatement has been issued by the City Administrator and 10 days following the notice mailed pursuant to Section 29(1)(b) specifying said abatement the act or condition remains unabated and no appeal has been filed, the City Administrator may cause abatement of the nuisance by entering the property, if necessary, and abating the nuisance including demolition of buildings, removal of property, and site cleanup. In the case of a declared derelict building and if the City

- Council has waived the enforcement provisions, the City Administrator may immediately cause abatement of the nuisance.
- (6) Real or personal property removed during an abatement process shall be in possession by the City but shall remain the property of the property owner or occupant of the subject property. Such real or personal property may be returned to the possession of the owner following abatement or may be sold at the discretion of the City in accordance with applicable State law. Proceeds of any sale shall be used to help defray the abatement costs are described in Section 29(7) below. Any proceeds in excess of the abatement costs shall be turned over to the property owner or occupant as appropriate.
- (7) Accurate records of the abatement costs shall be kept and shall include a surcharge of 25% of the cost of the abatement for administrative overhead. A billing for the amount of the costs shall be sent by certified or registered mail, return receipt requested, to the Responsible Person(s). Payment shall be due to the City of Aumsville within 30 days from the date of the billing. If more than one person is responsible, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the city for abating the nuisance.
- (8) Within 14 days of the date of the notice of assessment costs, the property owner or Responsible Person may object in writing to the City Administrator. Any objections must be heard at the next City Council meeting according to the procedures required for a quasi-judicial hearing. The decision of City Council must be recorded in the minutes.
- (9) The cost of abatement may be waived for indigent persons, if upon timely application it appears to the City Administrator that the following conditions are met:
- (a) The owner is indigent, as that determination is provided for in ORS 151.485;
 - (b) The owner is living on the property from which the nuisance is to be abated; and
 - (c) The nuisance is incapable of being remediated by the owner.
- (10) Applications for a waiver of abatement costs shall be filed with the City Administrator on forms supplied by the City within 14 days from the date of notice of the amount of cost of abatement. All information required to be given on the forms shall be supplied by and verified by the applicant. An application for waiver of nuisance abatement costs must be submitted for each cost of abatement notice sent to the applicant.
- (11) The City Administrator shall file a lien against the property in Marion County real property records if payment is not made as provided in this section or waived under this section. Interest on the lien shall accrue on the amount of assessment due at the rate of (9%) nine percent per annum from the date the lien is recorded. The lien shall be enforced in the same manner as assessments for public improvements. Any error in the name of the owner or Responsible Person shall not void the lien.

Formatted: Not Highlight

Neither shall failure to receive the notice of the proposed assessment render the lien void. Only final payment of the total amount due for the abatement of the assessment shall remove the lien. Once final payment is received the City of Aumsville shall record a release of the abatement lien. The lien provided for in this section shall be given priority over all liens except those for taxes and assessments.

GENERAL

Section 303020. Summary Abatement. The procedure provided by this ordinance is not ~~exclusive, but~~exclusive but is in addition to procedure provided by other ordinances. The chief of the fire department, a law enforcement office, or any other city official may proceed summarily to abate a health or other nuisance which ~~unmistakably~~unmistakenly exists and which eminently endangers human life or property.

Section 31324. Penalties. A violation of a provision of this ordinance is punishable by a fine ~~of not to exceed~~ \$500.00. The abatement of a nuisance is not a penalty for violating this ~~ordinance, but~~ordinance but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance. However, abatement of a nuisance within 10 days of the date of a notice to abate, or if a written protest has been filed, then abatement within 10 days of council determination that a nuisance exists, will relieve the person responsible from the imposition of a penalty under this section. The city administrator, chief of police, or the council, if referred to them, may at any time, whether before or after the issuance of one or more infraction complaints or notices to abate, extend the abatement of a nuisance to more than 10 days.

Section 322. Separate Violation. Each day's violation of a provision of this ordinance constitutes a separate offense.

Section 33. Attorney Fees. In any action brought pursuant to this ordinance, the court may, in its discretion, award reasonable attorney fees in addition to any fines or penalties.

Section 34324. Severability. The sections and subsections of this ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections or subsections.

~~**Section 325. Repeal.** Ordinances No. 369 and 554 are hereby repealed.~~

~~**Section 326. Emergency Clause.** Whereas it is necessary for the immediate preservation of the public health, peace and safety of the citizens of the city of Aumsville, that this ordinance become effective at the earliest time possible; therefore, this ordinance shall become effective immediately upon passage by the council and signature of the mayor.~~

PASSED by the City Council _____ and signed by the
Mayor _____

ORDINANCE NO. 687

AN ORDINANCE LIMITING THE CONSUMPTION OF ALCOHOLIC LIQUOR UPON PUBLIC STREETS AND OTHER PLACES; PRESCRIBING A PENALTY THEREFORE AND REPEALING ORDINANCE NO. 405.

The city of Aumsville, Oregon, ordains as follows:

Section 1. Definitions. "Alcoholic liquor" means any alcoholic beverage containing more than one-half of one percent alcohol by volume, and every liquid or solid, patented or not, containing alcohol and capable of being consumed by human beings.

"Public place" means a place to which the public has access, including but not limited to any public street, alley, park, school grounds or other public grounds, or areas within the city limits of Aumsville.

Section 2. Alcoholic Liquor Prohibited in Public Places. Subject to the exemptions found in Section 3 below, no person shall consume or possess an open container of alcoholic liquor while in or upon any public place.

Section 3. Exemptions. The following public places are exempt under this ordinance:

- (A) Interior building or any tavern or lounge duly authorized and licensed under Oregon law and the rules and regulations of the Oregon Liquor Control Commission.
- (B) Any public area exempted by a majority vote of Council.

Section 4. Penalties. Any person violating the provisions of this ordinance is subject to a civil penalty not to exceed Five Hundred Dollars (\$500.00) per occurrence.

Section 5. Repeal. Ordinance 405 is hereby repealed.

Section 6. Effective Date. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 23rd day of November 2020. READ a second time on the _____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the _____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this _____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. 405

AN ORDINANCE ~~LIMITING PROHIBITING~~ THE ~~DRINKING OR~~ CONSUMPTION OF ALCOHOLIC LIQUOR UPON PUBLIC STREETS AND OTHER PLACES; PRESCRIBING A PENALTY THEREFORE AND REPEALING ORDINANCE NO. 368.

The city of Aumsville, Oregon, ordains as follows:

Section 1. Definitions. "Alcoholic liquor" means any alcoholic beverage containing more than one-half of one percent alcohol by volume, and every ~~liquor liquid~~ or solid, patented or not, containing alcohol and capable of being consumed by human beings.

"Public ~~P~~place" means a place to which the ~~general~~ public has access ~~including and includes~~, but ~~is~~ not limited to, any public street, alley, park, school grounds or other public grounds or areas within the ~~corporate~~ city limits of ~~the city of~~ Aumsville.

[Section 1 amended by Ord. No. 668, sec 1, passed July 8, 2019]

Section 2. Alcoholic Liquor Prohibited in Public Places. ~~Subject to the exemptions found in Section 3 below,~~ No person shall consume ~~alcoholic liquor~~ or possess an open container of ~~an~~ alcoholic liquor while in or upon any public place.

[Section 2 amended by Ord. No. 668, sec 1, passed July 8, 2019]

Section 3. Exemptions. The following public places are exempt under this ordinance:

- (A) Interior building or any tavern or lounge ~~that is~~ duly authorized and licensed under ~~the laws of the state of~~ Oregon ~~law~~ and the rules and regulations of the Oregon Liquor Control Commission.
- (B) Any public area ~~that may from time to time be~~ exempted by a majority vote of the ~~City Council~~ ~~common council of the city of Aumsville.~~

Section 4. Penalties. Any person violating the provisions of this ordinance ~~is subject to may be punished by~~ a ~~civil penalty fine~~ not to exceed ~~the sum of~~ Five Hundred Dollars (\$500.00) ~~per occurrence.~~

~~PASSED by the council March 21, 1994 and signed by the mayor March 22, 1994.~~

Commented [PE1]: I believe this is meant to mimic the statutory language found in ORS 471.001 which is why I made the slight change.

ORDINANCE NO. 688

AN ORDINANCE CREATING A JUVENILE CURFEW WITHIN AUMSVILLE'S CITY LIMITS; ESTABLISHING PARENTAL /GUARDIAN RESPONSIBILITY AND REPEALING ORDINANCE NO. 410.

The City of Aumsville ordains as follows:

Section 1. Minors Nighttime Curfew. No minor under 18 years of age may be in or upon any street, highway, park, alley, or other public place between the hours of 10:00 p.m. and 6:00 a.m. the following morning, Sunday through Thursday and 12:00 midnight and 6:00 a.m. the following morning, Friday and Saturday unless the minor is:

- (A) Accompanied by a parent, guardian, or other person 18 years of age or over authorized by the parent or by law to have care and custody of the minor; or
- (B) Engaged in lawful pursuit or activity requiring the presence of the minor in such public places during the hours specified in this section; or
- (C) Emancipated pursuant to ORS 419B.550 to 419B.558.

Section 2. Minors Daytime Curfew.

- (A) No minor between the ages of 7 to 18 years, who has not completed 12th grade may be in or upon any street, highway, park, alley, or other public place during regular school hours, excepting attending school unless:
 - (1) Accompanied by a parent, guardian, or other person 18 years of age or over and authorized by the parent or by law to have care and custody of the minor;
 - (2) Engaged in lawful pursuit or activity requiring the minor's presence in such public places during regular school hours and said presence is authorized by the minor's parent, guardian, or other person having the legal care and custody thereof;
 - (3) Validly emancipated pursuant to Oregon or other law; or
 - (4) The minor is authorized and approved to be away from the school as provided in ORS 339.030 and 339.065, but is not suspended or expelled.
- (B) For the purpose of this section, "regular school hours" are those full-time school hours for the school which the minor would attend in the school district where the minor resides on days the school is in session excepting days resulting from scheduled vacations, holidays, or when inclement weather/other similar events preclude attendance.

Section 3. Parental Responsibility.

- (A) No parent, guardian or other person having legal custody of a minor under 18 years shall allow or permit the minor to be in violation of Section 1 above.
- (B) No parent, guardian, or person having legal care and custody of a minor between the ages of 5 and 18 years shall allow such minor to be in violation of Section 2 above.
- (C) No parent, guardian, or other person having legal care and custody of a minor under 18 years may fail, refuse, or neglect to come to the police department after

being notified by the police of the minor's custody at the police department. The minor, subject to the terms of ORS 419C100, be then released to the parent, guardian or other person have legal care and custody of the minor.

(D) Violating the obligations under this section is subject to a maximum civil penalty of \$250.00 per day per minor.

Section 4. Enforcement.

(A) A police officer or any other law enforcement officer is authorized to take a minor violating Section 1 and/or Section 2 above into custody and thereafter take the minor to the police department. The officer shall thereupon use his/her due diligence to locate the parent, guardian, or other person having legal custody of the minor, and subject to ORS 419C.100, may release the minor to such person at the police department.

(B) For violations of Section 2, a police or other law enforcement officer, may after locating and notifying the parent, legal guardian, or other person having legal care of the minor that the officer may, with that person's agreement release the minor to the principal or other designated official at the school where the minor is enrolled.

Section 5. Repeal. Ordinance 410 is hereby repealed.

Section 6. Effective Date. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 23rd day of November 2020. READ a second time on the ____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the ____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. 410

~~AN ORDINANCE CREATING IMPOSING A JUVENILE CURFEW WITHIN THE CORPORATE LIMITS OF THE CITY OF AUMSVILLE'S CITY LIMITS; AND ESTABLISHING PARENTAL /GUARDIAN RESPONSIBILITY IMPOSING CIVIL PENALTIES UPON PARENTS OF CHILDREN WHO VIOLATE CURFEW AND REPEALING ORDINANCE NO. 367 AND ALL OTHER SECTIONS OF ORDINANCES OR ORDINANCES IN CONFLICT THEROF.~~

The ~~e~~City of Aumsville ordains as follows:

Commented [PE1]: Grammatical Charter compliance

Section 1. Minors Nighttime Curfew. No ~~minor person~~ under 18 years of age ~~may~~ ~~shall~~ be in or upon any street, highway, park, alley or other public place between the hours of 10:00 p.m. and 6:00 a.m. the following morning, Sunday through Thursday and 12:00 midnight and 6:00 a.m. the following morning, Friday and Saturday unless the minor is:

Commented [PE2]: Trying for consistency between sections

- (A) Accompanied by a parent, guardian or other person 18 years of age or over ~~and~~ authorized by the parent or by law to have care and custody of the minor; or
- (B) Engaged in lawful pursuit or activity ~~which~~ ~~requir~~~~ing~~~~es~~ the presence of the minor in such public places during the hours specified in this section; or
- (C) Emancipated pursuant to ORS 419B.550 to 419B.558.

~~[Section 1 amended by Ord. No. 495, sec. 1, passed September 24, 2001.]~~

Section 2. Minors Daytime Curfew.

- (A) No minor between the ages of 7 ~~to~~~~and~~ 18 years, who has not completed ~~the~~ 12th grade ~~may~~~~shall~~ be in or upon any street, highway, park, alley or other public place during regular school ~~hours; except~~~~hours, excepting~~ ~~while~~ attending school ~~as required by ORS 339.010 to 339.065;~~ unless ~~the minor is:~~
 - (1) Accompanied by a parent, guardian or other person 18 years of age or over and authorized by the parent or by law to have care and custody of the minor;
 - (2) Engaged in lawful pursuit or activity ~~which~~ ~~require~~~~requir~~~~ings~~ the ~~minor's~~ presence ~~of the minor~~ in such public places during regular school hours and ~~said presence~~ is authorized by the minor's parent, guardian, or other person having the legal care and custody ~~there~~ ~~of~~ ~~such~~ ~~minor;~~
 - (3) ~~Validly E~~emancipated pursuant to ~~Oregon or other law; ORS 419B.550 to 419B.558;~~ or
 - (4) The minor is authorized and approved to be away from the school as provided in ORS 339.030 and 339.065, but is not suspended or expelled.
- (B) For the purpose of this section, "regular school hours" are: those ~~fulltime~~ ~~school~~ hours for the ~~fulltime~~ school which the ~~minore~~~~child~~ would attend in

the school district ~~in which~~ the ~~minor~~ child resides, on ~~any days for which the school is in session~~ excepting days unless such day is a resulting from scheduled vacation or holiday vacations, holidays or when inclement weather/other similar events preclude attendance. ~~observed by the school.~~

[Section 2 added by Ord. No. 495, sec. 1, passed September 24, 2001.]

Section 3. Parental Responsibility.

- (A) No parent, guardian or other person having ~~the~~ legal custody of a minor ~~person~~ under ~~the age of~~ 18 years shall allow or permit the minor to be in violation of Section 1 above.
- ~~(B)~~ No parent, guardian, or person having ~~the~~ legal care and custody of a minor between the ages of 5 and 18 years ~~who has not completed the 4th grade~~ shall allow such minor to be in violation of Section 2 above.
- ~~(B)~~(C) No parent, guardian or other person having legal care and custody of a minor under 18 years may fail, refuse or neglect to come to the police department after being notified by the police of the minor's custody at the police department. The minor, subject to the terms of ORS 419C100, be then released to the parent, guardian or other person have legal care and custody of the minor.
- ~~(C)~~(D) Violating ~~the obligations~~ parental responsibility under this section is a ~~violation~~ subject to a maximum civil penalty of fine of \$250.00 per day per minor.

[Section 2 renumbered to Section 3 as amended by Ord. No. 495, sec. 1, passed September 24, 2001.]

Section 4. Enforcement.

- (A) ~~Any~~ police officer or any other law enforcement officer is authorized ~~and empowered~~ to take a minor violating Section 1 and/or Section 2 above into custody ~~a minor violating any provision of Section 1 and/or Section 2 above and.~~ ~~A minor who has been thereafter taken into custody may be taken the minor~~ to the police department. The officer shall thereupon use his/her due diligence to locate find the parent, ~~or~~ guardian or other person having legal custody of the minor, and ~~shall~~ subject to ORS 419C.100, may release the minor to such person at the police department.
- ~~(A)~~(B) For violations of Section 2, a police ~~or other law enforcement~~ officer ~~may, in lieu of holding the minor person in custody may after locating and notifying the parent, legal guardian or other person having legal care of the minor that the officer may, with that person's agreement~~ release the minor to the principal or other designated official at the school ~~at which the where the~~ minor is enrolled.
- (A) ~~It shall be unlawful and shall be considered a separate offense for any parent, guardian, or any other adult person having the legal care and custody of any person under the age of 18 years to refuse to come to the~~

~~police officer and take the minor person under his or her custody immediately to the minor's home upon being notified by the police department in accordance with this section.~~

~~[Section 3 renumbered to Section 4 as amended by Ord. No. 495, sec. 1, passed September 24, 2001.]~~

~~**Section 5. Subsequent Violations.** Upon subsequent violations the parent, guardian or person having legal care and custody shall be served with a citation to appear before the Aumsville Municipal Court with the minor to show cause why this ordinance has been violated again. The municipal court may, upon a finding of a second violation, impose the civil penalty set forth above. [Section 4 renumbered to Section 5 as amended by Ord. No. 495, sec. 1, passed September 24, 2001.]~~

~~**Section 6. Repeal.** Ordinance No. 367 is hereby repealed. Further, any and all other ordinances or sections of ordinances that are in conflict with this Ordinance No. 410 are hereby repealed. [Section 5 renumbered to Section 6 by Ord. No. 495, sec. 1, passed September 24, 2001.]~~

~~PASSED by the council and signed by the mayor October 10, 1994.~~

Commented [PE3]: I adjusted this and put the substance into Section 3 in order to avoid confusion as it is unclear what the violation of the mandate to pick up the minor actually offends; putting it in Section 3 cleans that up. .

Commented [PE4]: I am not entirely clear why this is even needed. It doesn't have an 'enhanced' penalty or say anything other than another violation is another violation. That's just silly. I would leave it out. It is surplusage.

ORDINANCE NO. 689

AN ORDINANCE MAKING IT UNLAWFUL TO POSSESS GRAFFITI IMPLEMENTS, PROVIDING FOR THEIR SEIZURE AND PROVIDING PENALTIES, AND REPEALING ORDINANCE NO. 433.

The City of Aumsville ordains as follows:

Section 1. Definitions.

- (A) Aerosol Paint Container. Any aerosol container adopted or made for spraying paint.
- (B) Etching Device. A glass cutter, awl, or any device capable of scratching or etching the surface of any structure or personal property.
- (C) Felt Tip Marker. Any indelible marker or similar implement with a tip, which, at its broadest width, is greater than one-fourth inch.
- (D) 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.
- (E) Graffiti Implement. Any aerosol paint container, a felt tip marker, an etching device, or a graffiti stick.
- (F) Graffiti Stick. A device containing a solid form paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure, and upon application, leaving a mark at least one-fourth of an inch in width.

Section 2. Unlawfully Possessing Graffiti Implement. No person may possess, with the intent to unlawfully apply graffiti on any real or personal property of another, any graffiti implement.

Section 3. Seizure Impoundment. In addition to any citation issued, a graffiti implement possessed in violation of this ordinance may be immediately seized and impounded by the Aumsville Police Department. The court, upon disposition of the issued citation, shall determine whether the instrument shall be returned to the defendant or deemed contraband and disposed of according to state law.

Section 4. Penalty. A conviction for violation of Section 2 of this ordinance shall be punishable by a fine \$3,000; in conjunction with the fine, community service shall also be ordered consistent with Section 5 below.

Section 5. Community Service. In conjunction with a fine that may be imposed for violation of this ordinance the court shall order community service. To the extent possible, the community service shall be applied for the removal of graffiti and restoration of all surfaces to their original condition prior to the graffiti damage.

Section 7. Parental Civil Liability. In addition to any other remedy provided by law, the parent or parents of an unemancipated minor child shall be liable for actual

damages to person or property in connection with the removal of graffiti caused by said child in accordance with the provisions of ORS 30.765.

Section 8. Repeal. Ordinance 433 is hereby repealed.

Section 9. Effective Date. This ordinance shall take effect on the 30th day after its enactment.

Read first on the 23rd day of November 2020. READ a second time on the ____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the ____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. 433**AN ORDINANCE MAKING IT UNLAWFUL TO POSSESS GRAFFITI IMPLEMENTS, PROVIDING FOR THEIR SEIZURE AND PROVIDING PENALTIES.**

The city of Aumsville ordains as follows:

Section 1. Definitions.

- (A) Aerosol Paint Container. Any aerosol container adopted or made for spraying paint.
- (B) Etching Device. A glass cutter, awl or any device capable of scratching or etching the surface of any structure or personal property.
- (C) Felt Tip Marker. Any indelible marker or similar implement with a tip, which, at its broadest width, is greater than one-fourth inch.
- (D) 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.
- (E) Graffiti Implement. Any aerosol paint container, a felt tip marker, an etching device or a graffiti stick.
- (F) Graffiti Stick. A device containing a solid form paint, chalk, wax, epoxy or other similar substance capable of being applied to a surface by pressure, and upon application, leaving a mark at least one-fourth of an inch in width.

Section 2. Unlawfully Possessing Graffiti Implement. No person may possess, with the intent to unlawfully apply graffiti on any real or personal property of another, any graffiti implement.

Section 3. Seizure Impoundment. In addition to any citation issued, a graffiti implement possessed in violation of this ordinance may be immediately seized and impounded by the Aumsville Police Department. The court, upon disposition of the issued citation, shall determine whether the instrument shall be returned to the defendant or deemed contraband and disposed of according to state law.

Section 4. Penalty. A conviction for the violation of Section 2 of this ordinance shall be punishable by a fine not to exceed \$3,000, in conjunction with the fine, community service shall also be ordered, as required in Section 5 below. [Section 4 amended by Ord. No. 461 passed October 11, 1999]

Section 5. Community Service. In conjunction with a fine that may be imposed for violation of this ordinance the court shall order community service. To the extent possible, the community service shall be applied for the removal of graffiti and restoration of all surfaces to their original condition prior to the graffiti damage. [Section 5 amended by Ord. No. 461 passed October 11, 1999]

Section 6. Parental Responsibility. If a minor is determined to have violated Section 2 of this ordinance the minor's parent, guardian or other person having the legal custody of the minor may be charged with violation of Aumsville Ordinance No. 434 dealing with parental responsibility.

Section 7. Parental Civil Liability. In addition to any other remedy provided by law, the parent or parents of an unemancipated minor child shall be liable for actual damages to person or property in connection with the removal of graffiti caused by said child in accordance with the provisions of ORS 30.765.

Section 8. Effective Date. This ordinance shall take effect on the 30th day after its enactment.

PASSED by the council September 9, 1996 and signed by the mayor September 16, 1996.

ORDINANCE NO. 690

AN ORDINANCE ESTABLISHING PROCEDURES REGULATING ALARM SYSTEMS WITHIN AUMSVILLE, TO BE KNOWN AS THE "AUMSVILLE ALARM ORDINANCE" AND REPEALING ORDINANCE NO. 490.

WHEREAS, the occupants of residential, commercial, and industrial establishments within the incorporated areas of the City find it desirable to install and utilize alarm systems for such emergencies as burglary and robbery; and

WHEREAS, the public interest requires the enactment of rules, regulations, standards, and procedures to regulate and control the alarm systems such that the City's police department and other agencies charged with the promotion of public safety and protection of the city's citizens efficiently and economically coordinate their functions

Based on the foregoing, the city of Aumsville ordains as follows:

Section 1. Purpose and scope.

- (A) This ordinance provides minimum standards applicable to burglary, robbery, and panic alarm systems (including systems utilizing automatic dialing devices) to promote alarm users' responsibility for maintaining the reliability and proper use of alarm systems in the City thereby preventing unnecessary emergency response(s) by the City's emergency workers to false alarms and thereby protecting the City's emergency response capability and capacity.
- (B) This ordinance establishes:
1. a requirement for alarm permits;
 2. provides for monetary penalties for excessive false alarms and delinquent accounts;
 3. provides for possible discontinuation of police response to alarms;
 4. revocation of alarm permits; and
 5. establishes a system of administration.

Section 2. Definitions.

- (A) For the purposes of this ordinance:
1. **Alarm coordinator** means the individual designated by the Aumsville City Administrator to issue permits and enforce the provisions of this ordinance.
 2. **Alarm permit** refers to the official document that is issued by the Aumsville Police Department to users of alarm systems within the city limits.
 3. **Alarm system** or **system** means any assembly of equipment, mechanical or electrical, including one interconnected with radio frequency signals which is designed to signal the occurrence of an illegal entry, emergency or other activity by emitting or transmitting a remote or local audible, visual, or electronic signal requesting emergency services personnel response. An alarm system does not

include an alarm installed on a motor vehicle or an alarm that is carried as a personal protection device on an individual's body.

4. **Alarm user** means the person, firm, partnership, association, corporation, company, or organization of any kind owning, controlling, or occupying any building, structure, or facility wherein an alarm system is maintained.
5. **Burglar alarm system** means an alarm system signaling an entry or attempted entry into an area protected by the system.
6. **City** means the City of Aumsville.
7. **False alarm** means an alarm signal that elicits a response by emergency services personnel when a situation requiring such a response does not in fact exist but does not include an alarm signal caused by violent conditions of nature or other means not reasonably subject to control by the alarm business, operator, or alarm user.
8. **Robbery alarm system** means an alarm system transmitting a silent robbery signal from a business location or a panic/duress signal from a residential location.

Section 3. Permits required—Fees—Exemptions.

- (A) Every alarm user, including those connected through an alarm center, must obtain an Aumsville alarm permit from the alarm coordinator for each alarm system prior to use thereof. Applications for an alarm permit must be filed with the alarm coordinator and must be accompanied by the required fee which fee shall be set by Council by resolution. Each permit shall be valid for one year from the date of issue.
- (B) A late penalty may be charged in addition to the alarm permit fee to an alarm user failing to obtain an alarm permit within 30 days of the system becoming operative or to a user failing to renew a permit within 45 days of the permit's expiration date.
- (C) Alarm permits are personal to the permit holder and are issued for a specified location. They are not transferable to another person or different location.

Section 4. False alarms.

For each false alarm over 3 each permit year, the permit holder must pay a fee as established by Council.

Section 5. Permit revocation.

- (A) Any alarm system having seven (7) or more false alarms during any permit year is subject to having its permit revoked.
- (B) Before revoking any permit, the police chief will give 10 days' written notice to allow the permit holder an opportunity to correct the system and submit proof thereof.

Section 6. Violation penalties.

(A) Penalties will be assessed by the alarm coordinator for false alarms as follows:

Number of False Alarms	
Within permit year:	Penalty (per violation)
3	\$__0__
4	\$__50,00__
5 or more	\$__150.00__

(1) Violation of any other provision of this ordinance is subject to a penalty not to exceed \$500.00 per violation.

Section 7. Repeal. Ordinance 490 is hereby repealed.

Section 8. Effective Date. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 23rd day of November 2020. READ a second time on the ____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the ____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. XXX

AN ORDINANCE REVISING ORDINANCE 490 ESTABLISHING PROCEDURES REGULATING ALARM SYSTEMS WITHIN AUMSVILLE, TO BE KNOWN AS THE "AUMSVILLE ALARM ORDINANCE."

WHEREAS, the occupants of ~~numerous~~ residential, commercial and industrial establishments within the incorporated areas of the City find it desirable to install and utilize alarm systems for such emergencies as burglary and robbery; and

WHEREAS, the public interest requires the enactment of rules, regulations, standards, and procedures to regulate and control the alarm systems such that the City's Police Department and other agencies charged with the promotion of public safety and protection of the City's citizens efficiently and economically coordinate their functions

Based on the foregoing, the city of Aumsville ordains as follows:

.010 Purpose and scope.

- (1) This ordinance provides minimum standards applicable to burglary, robbery and panic alarm systems (including systems utilizing automatic dialing devices) to promote alarm users' responsibility for maintaining the reliability and proper use of alarm systems in the City thereby preventing unnecessary emergency response(s) by the City's emergency workers to false alarms and thereby protecting the City's emergency response capability and capacity.
- (2) This ordinance establishes:
 - a. a requirement for alarm permits;
 - b. provides for monetary penalties for excessive false alarms and delinquent accounts;
 - c. provides for possible discontinuation of police response to alarms;
 - d. revocation of alarm permits; and
 - e. establishes a system of administration.

.020 Definitions.

For the purposes of this ordinance:

- (1) "Alarm coordinator" means the individual designated by the Aumsville City Administrator to issue permits and enforce the provisions of this ordinance.
- (2) "Alarm permit" refers to the official document that is issued by the Aumsville Police Department to users of alarm systems within the city limits.
- (3) "Alarm system" or "system" means any assembly of equipment, mechanical or electrical, including one interconnected with radio frequency signals which is designed to signal the occurrence of an illegal entry, emergency or other activity by emitting or transmitting a remote or local audible, visual or electronic signal requesting emergency services personnel response. An alarm system does not include an alarm installed on a motor vehicle or an alarm that is carried as a personal protection device on an individual's body.

- (4) "Alarm user" means the person, firm, partnership, association, corporation, company or organization of any kind owning, controlling or occupying any building, structure or facility wherein an alarm system is maintained.
- (5) "Burglar alarm system" means an alarm system signaling an entry or attempted entry into an area protected by the system.
- (6) "City" means the City of Aumsville.
- (7) "False alarm" means an alarm signal that elicits a response by emergency services personnel when a situation requiring such a response does not in fact exist but does not include an alarm signal caused by violent conditions of nature or other means not reasonably subject to control by the alarm business, operator or alarm user.
- (8) "Robbery alarm system" means an alarm system transmitting a silent robbery signal from a business location or a panic/duress signal from a residential location.

.030 Permits required—Fees—Exemptions.

- (1) Every alarm user, including those connected through an alarm center, must obtain an Aumsville alarm permit from the alarm coordinator for each alarm system prior to use thereof. Applications for an alarm permit must be filed with the alarm coordinator and must be accompanied by the required fee which fee shall be set by the City Council by resolution. Each permit shall be valid for one year from the date of issue.
- (2) A late penalty may be charged in addition to the alarm permit fee to an alarm user failing to obtain an alarm permit within 30 days of the system ~~becomes~~ becoming operative or to a user failing to renew a permit within 45 days of the permit's expiration date.
- (3) Alarm permits are personal to the permit holder and are issued for a specified location. They are not transferable to another person or different location.

.040 False alarms.

For each false alarm over ~~32~~ each permit year, the permit holder ~~shall be~~ must pay a fee as established by City Council.

.050 Permit revocation.

- (1) Any alarm system having seven (7) or more false alarms during any permit year is subject to having its permit revoked.
- (2) Before revoking any permit, the police chief will give 10 days' written notice to allow the permit holder an opportunity to correct the system and submit proof thereof.

.060 Violation penalties.

- (1) Penalties will be assessed by the Alarm coordinator for false alarms as follows:

Number of False Alarms	
Within permit year:	Penalty (per violation)
32	\$ <u> 0 </u>
43	\$ <u> 50,00 </u>

Number of False Alarms

Within permit year:	Penalty (per violation)
<u>54</u> or more	\$ <u>150.00</u>

(2) Violation of any other provision of this ordinance is subject to a penalty not to exceed \$500.00 per violation.

ORDINANCE NO. 691

AN ORDINANCE REGULATING THE USE OF PARKS, PARKWAYS, PUBLIC SQUARES, PUBLIC GROUNDS, STREETS, BOULEVARDS, PATHS, SIDEWALKS, GREENWAYS, REST AREAS, PLAYGROUNDS AND OTHER AREAS AND REPEALING ORDINANCE NO. 505.

The city of Aumsville ordains as follows:

Section 1. Purpose, Policy, and Scope.

- (A) Council, except as otherwise expressly provided, declares its intention to exercise general supervision, management, and control of all public parks, public parkways, public squares, public ground, including but not restricted to streets, boulevards, paths, sidewalks, greenways, rest areas, playgrounds, and other areas, hereinafter collectively referred to as "public areas" whether publicly owned, dedicated, leased, or otherwise set aside for public use and not under the supervision or control of any other public agency.
- (B) All public areas as herein designated for general public use shall be kept and maintained for the use and benefit of the public, subject to such reasonable and necessary rules and regulations as herein prescribed or as may be from time to time adopted to protect and preserve the enjoyment, convenience, and safety of the general public in the use thereof.
- (C) In order to protect the health, safety, and welfare of the general public, Council declares its intention to prescribe rules and regulations as set forth or from time to time as necessary with respect to such public areas.
- (D) Parks are defined as those parks that are designated as parks by Council. It is the express intent of Council, in some circumstances, to regulate activity only in the city parks set forth herein. In those instances, the ordinance section shall designate that the conduct or activity is prohibited in the park.
- (E) In the event that someone or some organization want to use the parks and/or public areas for an event such as a demonstration/contest, a festival, a carnival, or the like, Council authorizes the city administrator to modify, change, or delete the rules and regulations that are contained in this ordinance as the circumstances may dictate; taking into account what is in the best interest of the city and its citizens. However, the city administrator shall not allow the use of alcoholic beverages on public property.

Section 2. Delegation of Authority. The city administrator is authorized to make such reasonable rules and regulations not inconsistent with this and other city ordinances and the policies of Council as herein enunciated, as may be necessary for the control and management of the public areas hereinabove designated.

All such rules and regulations shall be set forth in writing and, to the extent deemed necessary by the city administrator, shall be posted in conspicuous places in the areas affected thereby, for the guidance of the general public and individual users.

If any person feels aggrieved by any such rule or regulation, they may appeal to Council by filing with the city administrator an opposition against such rule or regulation, which shall be placed on the agenda of Council at its next regular meeting and, until amended or repealed by Council, such rule or regulation shall remain in full force and effect.

Section 3. Regulations Prescribed by Council. Council finds that it is in the public interest and necessary for the peace, health, and safety of the general public that the rules and regulations set forth in this ordinance be enforced, and for the purposes herein set forth are adopted.

Section 4. City Employees Not Affected. Nothing contained herein shall prevent the performance of any act or duty by city employees that has been duly authorized by the city administrator or public works or police department.

Section 5. Closures. No person shall ride, drive, or walk on parts or portions of the public areas or pavements as are closed at that time to public travel, or interfere with barriers erected to prevent public access to designated areas of a park during private events as permitted by the City.

Section 6. Conduct. No person shall use or play loud, boisterous, threatening, abusive language, behave in a disorderly manner, or act in any way tending to a breach of the public peace.

Section 7. Damage - Payment for Restoration.

- (A) Owners or persons in control of, or persons who permit the entry of any dog, horse, or other animal into any public area under the control of the City, in addition to any remedies imposed by this ordinance or state law for such violation may be liable for the full value of repair or restoration of any property damaged or destroyed, and if not paid upon written demand by the City, recovery may be sought by the City in any court of competent jurisdiction.
- (B) Any person who shall utilize the public areas herein described and who shall damage or destroy any public property under the control of the City, in addition to any remedies imposed by this ordinance or state law for such violation may be liable for the full value of repair or restoration of any property damaged or destroyed, and if not paid upon written demand by the City, recovery may be sought by the City in any court of competent jurisdiction.

Section 8. Commercial Activity on Public Property.

- (A) It is unlawful to engage in any commercial enterprise or activity in or on any public area under the control of the City without a permit for such commercial enterprise or activity issued by the city administrator or their designee.
- (B) As used in subsection (1) above, "commercial enterprise or activity" means either a regular course of commercial conduct or particular transaction(s) or act(s). The commercial character of an activity is determined by reference to the nature of the course of conduct or particular transaction or act rather than by reference to its purpose.

Section 9. Installations on Public Property.

- (A) It is unlawful to place, erect, install, or position any physical item or structure of any kind in any public area without a permit for such item(s) or structure(s) first being issued by the city administrator.

Section 10. Parks - Intoxicating Liquor Prohibited. Unless authorized by a vote of Council of the City of Aumsville for a community wide event, it is unlawful for any person to:

- (A) Take into or upon any park any alcoholic beverage; or
- (B) Sell or dispense any alcoholic beverage in any park.

Section 11. Rubbish Accumulation Prohibited. It is unlawful for any person to obstruct the free use and enjoyment of any public areas by misuse of refuse containers or by placing any straw, dirt, chips, paper, shavings, shells, ashes, swill or garbage, or other rubbish, or refuse or debris, in or upon any public areas, except in designated trash receptacle.

Section 12. Vandalism Prohibited.

- (A) It is unlawful for any person to remove, destroy, break, injure, mutilate, deface, or damage in any way, any structure, monument, statue, case, fountain, wall, fence, railing, vehicle, bench, tree, shrub, fern, plant, flower, or other property in any public areas unless otherwise licensed or privileged to do so.
- (B) It is unlawful for any person to injure, deface, damage, or destroy any notice of the rules and regulations for the government of the public areas, which shall have been posted or permanently fixed by order or permission of the city administrator.

Section 13. Gambling Prohibited. It is unlawful for any person to play any game of chance or to carry on betting of any kind within public areas.

Section 14. Firearms or Fireworks Prohibited. It is unlawful for any person to use, carry, or display, firecrackers, fireworks, or explosives of any kind in any park. Except as allowed by ORS 166.172 and 166.173 (2020), it is unlawful for any person to either discharge a firearm or carry a loaded firearm in any park.

Section 15. Parks - Molesting Animals, Birds and Fish Prohibited. It is unlawful to destroy, injure, disturb or molest any wild or domestic animal, within any park limits. It is unlawful for any person to give, offer, or attempt to give or offer any animal with the park any noxious articles or anything prohibited by notices conspicuously posted therein.

Section 16. Animals.

- (A) It is unlawful for the owner, possessor, or keeper of any animal to permit such animal to roam at large or otherwise be not physically controlled in any public area except:
 - 1. those area posted for this purpose.
 - 2. in a city designated off-leash area.
- (B) If such animal is found in any public areas, it may be impounded.
- (C) No one shall ride any horse, or other animal, in any part of a city park unless permitted by the use of events permit.
- (D) No one shall hitch horses or other animals to any tree, shrub, fence, railing, or other structure within any part of a park.

Section 17. Parks - Use of Established Entrance. No one shall enter or leave the parks in a motor vehicle, except at an established entrance, and no one shall enter or remain in the parks after the hours fixed by regulation.

Section 18. No Admittance Areas. No person shall enter any building, enclosure, or place within any public area where the words "No Admittance" are displayed or posted.

Section 19. Parks - Public Restroom Facility.

- (A) It is unlawful to blow, spread, or place any nasal or other bodily discharge, or spit, urinate, or defecate on the floors, walls, partitions, furniture, fittings, or on any portion of any public restroom facility except directly into the particular fixture provided for that purpose.
- (B) It is unlawful to place any bottle, can, cloth, rag, or metal, wood, or stone in any of the plumbing fixtures in such facility.
- (C) It is unlawful for any person to:
 - 1. stand or climb on a water closet, closet seat, basin, partition, or other furniture or fitting;
 - 2. loiter about or push, crowd, or otherwise act in a disorderly manner;
 - 3. interfere with any attendant in the discharge of his or her duties;
 - 4. use loud or boisterous language within any public restroom facility or at or near the entrance thereto;
 - 5. cut, deface, mar, destroy, break, remove, or write on or scratch any wall, floor, ceiling, partition, fixture, or furniture;
 - 6. use towels in any improper manner; or
 - 7. waste soap, toilet paper, or other items provided in the City's restroom facilities.

Section 20. Parks - Traffic Regulations.

- (A) No person shall ride, drive or operate any bicycle, motorcycle, motor vehicle, truck, wagon, or any other vehicle, in any part of a park, except on the drives designated therefor.
- (B) No person may park any motor vehicle on any city park or playground except in designated parking areas. The City may cause any vehicle found parked in areas not designated therefor to be impounded and impose and collect charges therefor prior to the release of the vehicle.
- (C) It is unlawful for any person to store, park, or leave unattended any motor vehicle, boat, trailer, conveyance, or other personal property within any public area under the City's control for a continuous period of more than twenty-four hours.
- (D) No person shall ride or stand upon any device or conveyance other than roller skates, in-line roller skates, scooters, or a skateboard within the boundaries of the skate park.

Section 21. Parks - Public Drinking Fountain. It is unlawful for any person to willfully mark, scratch, disfigure, remove, or in any manner damage any public drinking fountain, or throw, place, or deposit in any cup or basin of same any matter or refuse whatever, or obstruct the regular flow of water in any manner whatever.

Section 22. Signs, Lights, Cameras, Call Boxes, Hydrants. It is unlawful for any person to willfully cut, remove, deface, or in any manner damage any street sign, any street, bridge, light or light fixture, or any hydrant, fence, gate or enclosure, or any part thereof, placed in any public areas.

Section 23. Parks – Exclusion Period.

- (A) In addition to other measures provided for violations of this ordinance or state laws, any peace officer or city employee may exclude any person violating any provision of regulation of any state law while on city property from all or a part of the city's property. The exclusion period may be for any period up to a maximum of 60 days for each occurrence.
- (B) Except as otherwise provided herein, a person excluded under this section shall neither enter nor remain upon city property during the exclusion period. An excluded person entering or remaining on the city property from which they were excluded is deemed a trespasser and may be arrested and prosecuted for criminal trespass in the second degree (ORS 164.245).
- (C) Written notice signed by the issuing party shall be given to a person excluded from city property. The notice will specify:
 - 1. The reason for the exclusion;
 - 2. The places and duration of the exclusion; and
 - 3. The consequences for failure to comply with the notice.The exclusion commences 72 hours after delivery of the notice to the excluded person.

(D) Variance.

1. A person excluded may, at any time during the exclusion period, petition the city administrator for a waiver or variance of the exclusion. Petitions shall be addressed and delivered to:

City Administrator
City of Aumsville
595 Main St
Aumsville, OR 97325

2. The circumstances and reason for the exclusion and the places and duration of the exclusion will be reviewed by the city administrator in their consideration of the variance.

(E) Appeal Procedures.

1. Not later than five days after receipt of the notice of exclusion, an excluded person may file a written appeal to the city administrator for review thereof. Appeals must be addressed or delivered to:

City Administrator
City of Aumsville
595 Main St
Aumsville, OR 97235

2. The appeal may petition for any or all of the following:
 - a. Rescission of the exclusion;
 - b. Altering the locale(s) of exclusion; and/or
 - c. Reduction of the exclusion's duration.
3. An appeal shall contain the following:
 - a. A copy of the exclusion notice;
 - b. A request for either a hearing or written review without a hearing of the exclusion order;
 - c. A statement setting out the reasons the exclusion order is invalid or otherwise improper; and
 - d. A current address and telephone number where the person filing the appeal may be contacted.
4. In the event of an appeal (regardless of whether a written review or hearing has been requested) the exclusion order shall be lifted until such time a written decision thereon is made by the city administrator.
5. If a hearing is requested as a part of the appeal, the hearing will be conducted by the city administrator within 10 days after receipt of the appeal and a written decision made within five business days thereafter.
6. At any time during the exclusion period, a person may petition for a temporary waiver of the exclusion under subsection (D) above.
7. No peace officer or city employee has the authority to grant an excluded person permission to be in or on city property other than the city administrator through the appeal process.

Section 24. Parks - Penalty for Violation.

- (A) Any person violating any provision of this ordinance is subject to a civil penalty of \$500.00 for each occurrence. If the person violating this ordinance is under 18 years of age then the person’s parent or legal guardian may be cited into the Aumsville Municipal Court.
- (B) Nothing in this ordinance prohibits a person under the age of 18 from being cited into the Aumsville Municipal Court should the City obtain a blanket remand from the Marion County Juvenile Court for violation(s) of this ordinance to the Aumsville Municipal Court.

Section 25. Repeal. Ordinance 505 is hereby repealed.

Section 26. Effective Date. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 23rd day of December 2020. READ a second time on the ____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the ____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. XXX**AN ORDINANCE AMENDING ORDINANCE 505 REGULATING THE USE OF PARKS, PARKWAYS, PUBLIC SQUARES, PUBLIC GROUNDS, STREETS, BOULEVARDS, PATHS, SIDEWALKS, GREENWAYS, REST AREAS, PLAYGROUNDS AND OTHER AREAS.**

The city of Aumsville ordains as follows:

Section 1. Purpose, Policy and Scope.

- A. The city council, except as otherwise expressly provided, declares its intention to exercise general supervision, management and control of all public parks, public parkways, public squares, public ground, including but not restricted to streets, boulevards, paths, sidewalks, greenways, rest areas, playgrounds and other areas, hereinafter collectively referred to as "public areas" whether publicly owned, dedicated, leased or otherwise set aside for public use and not under the supervision or control of any other public agency.
- B. All public areas as herein designated for general public use shall be kept and maintained for the use and benefit of the public, subject to such reasonable and necessary rules and regulations as herein prescribed or as may be from time to time adopted to protect and preserve the enjoyment, convenience and safety of the general public in the use thereof.
- C. In order to protect the health, safety, and welfare of the general public, the Aumsville City Council declares its intention to prescribe rules and regulations as set forth or from time to time as necessary with respect to such public areas.
- D. Parks are defined as those parks that are designated as parks by the city council. It is the express intent of the city council, in some circumstances, to regulate activity only in the city parks set forth herein. In those instances, the ordinance section shall designate that the conduct or activity is prohibited in the park.
- E. In the event that someone or some organization want to use the parks and/or public areas for an event such as a demonstration/contest, a festival, a carnival, or the like the city council authorizes the city administrator to modify, change or delete the rules and regulations that are contained in this ordinance as the circumstances may dictate; taking into account what is in the best interest of the city and its citizens. However, the city administrator shall not allow the use of alcoholic beverages on public property.

Section 2. Delegation of Authority. The city administrator is authorized to make such reasonable rules and regulations not inconsistent with this and other city ordinances and the policies of the council as herein enunciated, as may be necessary for the control and management of the public areas hereinabove designated.

All such rules and regulations shall be set forth in writing and, to the extent deemed necessary by the city administrator, shall be posted in conspicuous places in the areas affected thereby, for the guidance of the general public and individual users.

If any person feels aggrieved by any such rule or regulation, he may appeal to the council by filing with the city administrator an opposition against such rule or regulation, which shall be placed on the agenda of the council at its next regular meeting, and until amended or repealed by council such rule or regulation shall remain in full force and effect.

Section 3. Regulations Prescribed by Council. The council finds that it is in the public interest and necessary for the peace, health and safety of the general public that the rules and regulations set forth in this ordinance be enforced, and for the purposes herein set forth are adopted.

Section 4. City Employees Not Affected. Nothing contained herein shall prevent the performance of any act or duty by city employees that has been duly authorized by the city administrator or public works or police department.

Section 5. Closures. No person shall ride, drive or walk on ~~such~~ parts or portions of the public areas or pavements as ~~are may be~~ closed ~~at that time~~ to public travel, or interfere with barriers erected to prevent public access to designated areas of a park against the public.

Section 6. Conduct. No person shall ~~sleep on the seats or benches,~~ or use or play loud, boisterous, threatening, abusive, ~~insulting or indecent~~ language, ~~or~~ behave in a disorderly manner, ~~or do any~~ act in any way tending to a breach of the public peace.

Commented [PE1]: Response to Blake v. Grants Pass

Section 7. Damage - Payment for Restoration.

- A. Owners or persons in control of, or persons who permit the entry of any dog, horse or other animal into any public area under the control of the city, in addition to any ~~remedies penalties~~ imposed by this ordinance or state law for such violation ~~thereof, may, shall~~ be ~~held~~ liable for, ~~and shall pay to the city,~~ the full value of repair or restoration of any ~~public~~ property damaged or destroyed, and if not paid upon written demand by the city, recovery ~~of same~~ may be sought by ~~action brought in the name of~~ the city in any court of competent jurisdiction.
- B. Any person who shall utilize the public areas herein described and who shall damage or destroy any public property under the control of the city, in addition to any ~~remedies penalties~~ imposed by this ordinance or state law for such violation ~~hereof, may~~ shall be ~~held~~ liable for, ~~and shall pay to the city,~~ the full value of repair or restoration of any ~~public~~ property damaged or destroyed, and if not paid upon written demand by the city, recovery ~~of same~~ may be sought by ~~action brought in the name of~~ the city in any court of competent jurisdiction.

Section 8. Commercial Activity on Public Property, Sales and Services For Hire Restricted.

1. It is unlawful to engage in any commercial enterprise or activity for any person to sell or offer for sale any article or perform or offer to perform any service for hire in or on any of the public areas under the control of the City without a written permit for such commercial enterprise or activity concession granted issued by the city administrator or their designee.
2. As used in subsection (1) above, "commercial enterprise or activity" means either a regular course of commercial conduct or particular transaction(s) or act(s). The commercial character of an activity is determined by reference to the nature of the course of conduct or particular transaction or act rather than by reference to its purpose.

Section 9. Installations on Public Property, Advertising and Decorative Devices Forbidden.

1. It is unlawful for any person to place, erect, install, place, position or carry any physical item or structure, sign, bulletin board or advertising device of any kind whatever, or erect any post or pole or the attachment of any notice, bill, poster, sign wire, rod or cord to any tree, shrub, fence, railing, fountain, wall post or structure, or place any advertising, decorative or other device of any kind whatever, on any of the vases, statues, bridges or monuments in any public areas without a permit for such item(s) or structure(s) first being issued by the city administrator, may by a written permit allow said devices temporarily.
- 2.

Section 10. Parks - Intoxicating Liquor Prohibited. Unless authorized by a vote of the common council of the City of Aumsville for a community wide event, it is unlawful for any person to:

- A. Take into or upon any park any alcoholic beverage; or
- B. Sell or dispense any alcoholic beverage in any park.

Section 11. Rubbish Accumulation Prohibited. It is unlawful for any person to obstruct the free use and enjoyment of any public areas by misuse of refuse containers or by placing any straw, dirt, chips, paper, shavings, shells, ashes, swill or garbage, or other rubbish, or refuse or debris, in or upon any public areas, except in designated trash receptacle.

Section 12. Vandalism Prohibited.

- A. It is unlawful for any person to remove, destroy, break, injure, mutilate, deface or damage in any way, any structure, monument, statue, case, fountain, wall, fence, railing, vehicle, bench, tree, shrub, fern, plant, flower or other property in any public areas unless otherwise licensed or privileged to do so.
- B. It is unlawful for any person to injure, deface, damage or destroy any notice of the rules and regulations for the government of the public areas, which shall

Commented [PE2]: These two provisions are unconstitutional as they limit speech and speech related activities by content in public places. Public sidewalks and parks are deemed to be and are treated by the courts as "public fora" and as such can be used for all manner of speech and speech-related conduct; anti-solicitation ordinances/regulations are uniformly struck down, absent some other issue like aggressive behaviors.

If the desire is to limit impacts – rubbish, noise volumes, aesthetic issues, bad behavior, etc. - that may arise in the course of speech or speech related conduct, then a regulation should aim its regulatory sights at the impact itself rather than the speech that may give rise to that impact. Once Council decides what impacts they want to address – if the ordinance doesn't do that already - we can amend it to control for those discreet impacts and by doing so, have a constitutionally sufficient regulation.

Commented [RH3R2]: As this relates to park property section 8 is simply intended to keep someone from opening a business or concessions using public property. Can this be re-written as such?

Section 9

The issue here is just having someone erect an advertisement on park property. If they are holding or carrying a sign that's not an issue. I can't imagine the city cannot prevent a business from putting a sign on public property as a form of advertisement.

Commented [PE4]: Made changes to both Section 8 and 9 which I hope go to your concern.

have been posted or permanently fixed by order or permission of the city administrator.

Section 13. Gambling Prohibited. It is unlawful for any person to play any game of chance or to carry on betting of any kind within public areas.

Section 14. Firearms or Fireworks Prohibited. It is unlawful for any person to use, carry or display ~~firearms~~, firecrackers, fireworks, or explosives of any kind in any park. ~~Except as allowed by ORS 166.172 and 166.173 (2020), it is unlawful for any person to either discharge a firearm or carry a loaded firearm in any park.~~

Commented [PE5]: Oregon is an open carry state, as such I would alter this Section in the way I have done to avoid this issue.

Section 15. Parks - Molesting Animals, Birds and Fish Prohibited. It is unlawful ~~for any person to use any weapon, stick, stone or missile of any kind for the purpose of destroy, action, injury, disturbance or molestation of any wild or domestic animal, fowl or fish within any the~~ park limits. It is unlawful for any person to give, ~~or offer,~~ or attempt to give ~~or offer to~~ any animal with the parks, any noxious articles, or anything prohibited by notices conspicuously posted therein.

Commented [PE6]: Fish and fowl are all considered animals

Section 16. Animals.

~~(A) It is unlawful for the owner, possessor or keeper of any animal to permit such animal to roam at large in any public areas, and, if such animal is found in any public areas, it may be impounded.~~

A. It is unlawful for the owner, possessor, or keeper of any animal to permit such animal to roam at large ~~or otherwise be not physically controlled~~ in any public areas ~~except: those area posted for this purpose. as noted below.~~

1. ~~An animal may roam on the sidewalk areas in the public area immediately adjacent to and in front of the residence of vicinity of the animal's owner, possessor, or keeper; or 's residence.~~

~~2. An animal may roam in a city designated off-leash area.~~
A.B. ~~_____ and, if~~ such animal is found in any public areas, it may be impounded.

B.C. ~~_____ No one shall ride any horse, or other animal, in any part of a city park unless permitted by the use of events permit. -~~

C.D. ~~_____ No one shall hitch horses or other animals to any tree, shrub, fence, railing or other structure within any part of a park.~~

Commented [RH7]: This basically negate the entire leash law. Are you saying we cannot require a leash on public property or just on the sidewalks?

Commented [PE8]: This is not my alteration of the Code ... this is John Morgan's. What has been the practice in the City on this? If the practice is to allow dogs to be off-leash in "the vicinity" of their owner's residence, you may not want to change that unless you want to make it more definitive. Once I saw your comment, I adjusted the language a bit.

Section 17. Parks - Use of Established Entrance. No one shall enter or leave the parks in a motor vehicle, except at an established entrance; and no one shall enter or remain in the parks after the hours fixed by regulation.

Section 18. No Admittance Areas. No person shall enter any building, enclosure, or place within any ~~of the~~ public areas ~~where upon which~~ the words "No Admittance" are displayed or posted ~~by sign, placard or otherwise.~~

Section 19. Parks - Public Restroom Facility.

- A. It is unlawful ~~for any person~~ to blow, spread or place any nasal or other bodily discharge, or spit, urinate or defecate on the floors, walls, partitions, furniture, fittings, or on any portion of any public restroom facility, ~~or in any place in such a facility~~, excepting directly into the particular fixture provided for that purpose.
- ~~A.B. Nor shall any~~ ~~It is unlawful~~ ~~person to~~ place any bottle, can, cloth, rag, or metal, wood or stone ~~substance~~ in any of the plumbing fixtures in ~~any~~ such ~~facility~~ ~~station~~.
- C. It is unlawful for any person to:
1. ~~stand~~ or climb on a water closet, closet seat, basin, partition or other furniture or fitting; ~~or~~
 2. ~~to~~ loiter about or push, crowd or otherwise act in a disorderly manner; ~~or~~
 3. ~~to~~ interfere with any attendant in the discharge of his or her duties; ~~or~~
 - ~~4. skate, swear, or use obscene, loud or boisterous language within any public restroom facility, or at or near the entrance thereto; or~~
 5. ~~It is unlawful for any person to~~ cut, deface, mar, destroy, break, remove or write on or scratch any wall, floor, ceiling, partition, fixture or furniture;
 6. ~~or~~ use towels in any improper manner; ~~or~~
 7. ~~waste soap, toilet paper, or other items any of the facilities provided in the City's any public restroom facilities.~~

Formatted: Indent: Hanging: 0.3"

Section 20. Parks - Traffic Regulations.

- A. No ~~person~~ shall ride, drive or operate any bicycle, motorcycle, motor vehicle, truck, wagon, or any other vehicle, in any part of a park, except on the ~~regular~~ drives designated therefor.
- B. ~~No~~ ~~It is unlawful for any~~ person ~~may~~ park any motor vehicle on any ~~city~~ park or playground ~~area in the city~~, except in designated parking areas. The ~~city may cause police department shall have and exercise authority to tow~~ any vehicle found parked in an ~~park or playground area~~ ~~s~~ ~~not designated therefor parking purposes, and to be impounded such vehicles and to impose and collect associated administrative charges therefor prior to the release of the vehicle fees.~~
- C. It is unlawful for any person to store, park, ~~or~~ leave ~~standing-unattended for a continuous period of more than twenty-four hours~~, any motor vehicle, boat, trailer, conveyance or other personal property within any public area under the city's control ~~for a continuous period of more than twenty-four hours~~.
- D. No person shall ride or stand upon any device or conveyance other than roller skates, in-line roller skates, scooters or a skateboard within the boundaries of the skate park.

Section 21. Parks - Public Drinking Fountain. It is unlawful for any person to willfully mark, scratch, disfigure, remove or in any manner damage any public drinking fountain, or throw, place or deposit in any cup or basin of same any matter or refuse whatever, or obstruct the regular flow of water in any manner whatever.

Section 22. Signs, Lights, Call Boxes, Hydrants. It is unlawful for any person to willfully cut, remove, deface or in any manner damage any street sign, any street, bridge, light or light fixture, or any hydrant, fence, gate or enclosure, or any part thereof, placed in any public areas.

Section 23. Parks — ~~Exclusion~~ ~~Ejection~~ Period.

~~Any city employee or city councilor may request any person acting in violation of Aumsville ordinance or state law to leave any city park. The city police shall have the authority to eject from any park any person acting in violation of Aumsville ordinance or state law, for a period of time up to six months. Any person entering upon or remaining in the park in violation of such a directive, shall be guilty of criminal trespass and subject to prosecution therefore.~~

- A. ~~In addition to other measures provided for violations of this ordinance or state laws, any peace officer or city employee may exclude any person violating any provision of regulation of any state law while on city property from all or a part of the city's property. The exclusion period may be for any period up to a maximum of 60 days for each occurrence.~~
- B. ~~Except as otherwise provided herein, a person excluded under this section shall neither enter nor remain upon city property during the exclusion period. An excluded person entering or remaining on the city property from which they were excluded is deemed a trespasser and may be arrested and prosecuted for criminal trespass in the second degree (ORS 164.245).~~
- C. ~~Written notice signed by the issuing party shall be given to a person excluded from city property. The notice will specify:~~
- ~~1. The reason for the exclusion;~~
 - ~~2. The places and duration of the exclusion; and~~
 - ~~3. The consequences for failure to comply with the notice.~~
- ~~The exclusion commences 72 hours after delivery of the notice to the excluded person.~~
- D. ~~Variance.~~
- ~~1. A person excluded may, at any time during the exclusion period, petition the city administrator for a waiver or variance of the exclusion. Petitions shall be addressed and delivered to:~~

City Administrator
City of Aumsville
595 Main St
Aumsville, OR 97325
 - ~~2. The circumstances and reason for the exclusion and the places and duration of the exclusion will be reviewed by the city administrator in their consideration of the variance.~~

Commented [PE9]: Ejection is a distinct legal concept applicable to adverse possession claims and landlord tenant issues, so its use here is in error so I altered the title to get to the same effect.

Commented [PE10]: This section has to be re-written to allow for a person subject to the exclusion to challenge the legal/factual sufficiency of it.

I have redone the language to provide for that appeal process; the language is similar to language I developed for Tualatin Hill (THPRD) relative to their regulatory policies for use of their parks.

Commented [PE11]: I have made additional adjustments to the exclusion language which go to the Grants Pass decision's terms. In essence, I have taken out the immediacy of the exclusion by delaying it for 72 hours and thus giving the person the time to appeal the order without the prospect of losing access to the public place. I also adjusted it to delay the exclusion if an appeal is taken.

E. Appeal Procedures.

1. Not later than five days after receipt of the notice of exclusion, an excluded person may file a written appeal to the city administrator for review thereof. Appeals must be addressed or delivered to:
City Administrator
City of Aumsville
595 Main St
Aumsville, OR 97235
2. The appeal may petition for any or all of the following:
 - a. Rescission of the exclusion;
 - b. Altering the locale(s) of exclusion; and/or
 - c. Reduction of the exclusion's duration.
3. An appeal shall contain the following:
 - a. A copy of the exclusion notice;
 - b. A request for either a hearing or written review without a hearing of the exclusion order;
 - c. A statement setting out the reasons the exclusion order is invalid or otherwise improper; and
 - d. A current address and telephone number where the person filing the appeal may be contacted.
4. In the event of an appeal (regardless of whether a written review or hearing has been requested) the exclusion order shall be lifted until such time a written decision thereon is made by the city administrator.
5. If a hearing is requested as a part of the appeal, the hearing will be conducted by the city administrator within 10 days after receipt of the appeal and a written decision made within five business days thereafter.
6. At any time during the exclusion period, a person may petition for a temporary waiver of the exclusion under subsection (D) above.
- 4.7. No peace officer or city employee has the authority to grant an excluded person permission to be in or on city property other than the city administrator through the appeal process.

Section 24. Parks - Penalty for Violation.

- A. Any person violating any provision of this ordinance ~~is shall subject to a civil penalty upon conviction be punished by a fine~~ of not more than \$500.00. ~~as determined by a court of competent jurisdiction.~~ If the person violating ~~any provision of~~ this ordinance is under ~~the age of~~ 18 years of age then the person's parent or legal guardian may be cited into the Aumsville Municipal Court pursuant to ~~Aumsville Ordinance Number 434, known as the P~~parental ~~R~~responsibility ordinance.
- A.B. ~~—Additionally, n~~Nothing in this ordinance ~~shall~~ prohibits ~~a person~~the offender, if they are under the age of-18, from being cited ~~directly~~ into the Aumsville Municipal Court ~~should if~~ the city ~~of Aumsville~~ obtains a blanket

remand from the Marion County Juvenile Court ~~for remanding a violation(s)~~ of this ordinance to the Aumsville Municipal Court.

~~**Section 25. Emergency Clause.** Whereas it is necessary for the immediate preservation of the public health, peace and safety of the citizens of the city of Aumsville, that this ordinance become effective at the earliest time possible; therefore, this ordinance shall become effective immediately upon passage by the council and signature of the mayor.~~

Commented [PE12]: As I have noted before, I try to avoid the use of emergency clauses unless there actually is an emergency.

Commented [RH13R12]: Agreed.

PASSED by the City Council _____

and signed by the Mayor _____

ORDINANCE NO. 693

AN ORDINANCE REPEALING ORDINANCE NO. 555, AN ORDINANCE CONCERNING GIVING FALSE INFORMATION TO POLICE OFFICERS

The City of Aumsville ordains as follows:

Section 1. PURPOSE. This ordinance is no longer needed, the City Attorney recommended repealing.

Section 2. REPEAL. ORDINANCE NO. 555, AN ORDINANCE PROHIBITING THE GIVING OF FALSE INFORMATION TO POLICE OFFICERS. Adopted September 26, 2005; is hereby repealed.

Section 3. EFFECTIVE DATE. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 23rd day of November, 2020. READ a second time on the ____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the ____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. 555**AN ORDINANCE PROHIBITING THE GIVING OF FALSE INFORMATION TO POLICE OFFICERS.**

The city of Aumsville ordains as follows:

Section 1. Giving False Information to Police Officers. It shall be unlawful for any person to knowingly and willfully give any false, untrue or misleading information, with intent to obstruct justice, to a police officer while he is acting in his official capacity.

Section 2. Penalty. The offense described in this ordinance of giving false information to police officers is a violation punishable by a maximum fine of \$1,000.00.

Section 3. Effective Date. This ordinance shall take effect on the thirtieth day after its enactment.

PASSED by the council September 26, 2005 and signed by the mayor September 27, 2005.

ORDINANCE NO. 694

AN ORDINANCE REPEALING ORDINANCE NO. 564, AN ORDINANCE CONCERNING REGISTRATION OF RESIDENTS CONVICTED OF A SEX CRIME

The City of Aumsville ordains as follows:

Section 1. PURPOSE. This ordinance is no longer needed, the City Attorney recommended repealing.

Section 2. REPEAL. ORDINANCE NO. 564, AN ORDINANCE REQUIRING RESIDENTS OF THE CITY OF AUMSVILLE TO REGISTER WITH THE CHIEF OF THE AUMSVILLE POLICE DEPARTMENT ID THEY HAVE BEEN CONVICTED OF A SEX CRIME AS DEFINED BY STATE LAW; DEFINING CERTAIN ASPECTS OF THE ORDINANCE AND PRESCRIBING PENALTIES FOR THE FAILURE TO REGISTER. dated April 24, 2006; is hereby repealed.

Section 3. EFFECTIVE DATE. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 23rd day of November, 2020. READ a second time on the ____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the ____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. 564

AN ORDINANCE REQUIRING RESIDENTS OF THE CITY OF AUMSVILLE TO REGISTER WITH THE CHIEF OF THE AUMSVILLE POLICE DEPARTMENT IF THEY HAVE BEEN CONVICTED OF A SEX CRIME AS DEFINED BY STATE LAW; DEFINING CERTAIN ASPECTS OF THE ORDINANCE AND PRESCRIBING PENALTIES FOR THE FAILURE TO REGISTER.

RECITALS

Whereas, It is an important function of the City to provide for the well being of its citizens; and

Whereas, It is determined that keeping a data base or registration of all Sex Offenders who reside within the corporate limits in the City of Aumsville will help law enforcement in its protection of the City's residents and help law enforcement prevent future sex crimes from occurring; and

Whereas, it is the intent of the City that this Ordinance only supplements current State law regarding Sex Offender registration as it relates directly to the registration of convicted Sex Offenders that reside within the corporate limits of the City of Aumsville; now therefore,

The city of Aumsville ordains as follows:

Section 1. Recitals.

- 1.1 The recitals set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2. Definitions.

- 2.1 City. City of Aumsville, including all residences and the like within the corporate limits of the City as defined by current City Ordinances and State Law.
- 2.2 Resident or Resides. A person over the age of 18 who lives or resides within the corporate limits of the City of Aumsville. A person staying with a friend, relative, or the like within the corporate limits of the City of Aumsville for a period of less than 30 days is not considered a resident of the City of Aumsville.

- 2.2.1 Public Indecency. A person commits the crime of Public Indecency if while in, or in view of, a public place the person performs:
- (a) An act of sexual intercourse;
 - (b) An act of deviate sexual intercourse;
 - (c) An act of exposing the genitals of the person with the intent of arousing a sexual desire of the person or another person.
- 2.2.2 Private Indecency. A person commits a crime of Private Indecency if the person exposes the genitals of the person with the intent of arousing the sexual desire of the person or another person, and:
- (a) The person is in a place where another person has a reasonable expectation of privacy;
 - (b) The person is in view of the other person;
 - (c) The exposure reasonably would be expected to alarm or annoy the other person;
 - (d) The person knows that the other person did not consent to the exposure.

This section does not apply to a person who commits the act described herein, if the person co-habitates as, and is involved in a sexually intimate relationship with the other person.

A place where another person has a reasonable expectation of privacy includes, but is not limited to residence, yards of residents, working areas, and offices.

- 2.3 Sex Crime. Sex Crime means rape in any degree; Sodomy in any degree; Unlawful sexual penetration in any degree; Sexual abuse in any degree; Incest with a child victim; Using a child in a display of sexually explicit conduct; Encouraging child sexual abuse in any degree; Transporting child pornography into the State; Paying for viewing a child's sexually explicit conduct; Compelling prostitution; Promoting prostitution; Kidnapping in the first degree if the victim was under 18 years of age; Contributing to the sexual delinquency of a minor; Sexual misconduct if the offender is at least 18 years of age; Possession of materials depicting sexually explicit conduct of a child in the first degree; Kidnapping in the second degree if the victim is under 18 years of age, except by a parent or by a person found to be within the jurisdiction of the Juvenile Court; Any attempt to commit any of the crimes set forth above; Burglary, when committed with the intent to commit any of the crimes set forth above; Public indecency or private indecency, if the person has a prior conviction for a crime listed above.

- 2.4 **Sex Offender.** Sex Offender means a person who has been convicted of a sex crime or has been found guilty, except for insanity of a sex crime. For the purposes of this ordinance, a sex offender must be at least 18 years of age or older at the time the person was convicted of the sex crime, or at the time he was found guilty except for insanity of a sex crime.
- 2.5 **Registration.** Registration means to actually register with the Aumsville Chief of Police, by filling out a form as set forth in this Ordinance below. Setting forth the person's name, date of birth, and residence, along with the name of any probation officer if applicable; The name of the Court of Conviction of the sex crime, and any other information deemed appropriate by the Chief of Police to help and able them to monitor and protect the citizens of Aumsville.

Section 3. Registration. All sexual offenders as defined above who reside within the City of Aumsville must, within 30 days of taking up residency within the corporate limits of the City of Aumsville, register with the Aumsville Chief of Police, by doing the following:

- 3.1 Filling out a form to be determined by the Chief of Police, which sets forth the following information:
- (a) The name of the sex offender
 - (b) The address of the sex offender
 - (c) The telephone number of the sex offender
 - (d) The crime for which the sex offender was convicted of, including the date of conviction and the Court that the sex offender was convicted in.
 - (e) A designation that the person is either on or off supervised parole or probation, and if applicable, the name of the sex offender's parole or probation officer.

Section 4. Release of Information. The Chief of Police of the City of Aumsville shall not release any information to the public in regards to the Sexual Offender's registration, except for the name and address of the Sexual Offender. All other information shall be deemed confidential and shall not be released.

Section 5. Ordinance Inapplicable to Person who has Obtained Relief From State Sexual Offender Reporting. This Ordinance is not applicable to any person who has obtained relief from the Sexual Offender Reporting Requirements as set forth by the State of Oregon, pursuant to ORS 181.600.

Section 6. Penalties. Any person violating this order by failing to register as a Sex Offender with the City of Aumsville upon being found guilty shall be fined an amount not to exceed \$250.00 for the first offense. Any person who is found guilty of failure to register as a Sex Offender pursuant to this Ordinance a second time within a five year period shall be deemed guilty of a misdemeanor and be sentenced to a fine not to exceed \$6,250.00 and one year in the County Jail.

Section 7. Effective Date. This ordinance shall take effect on the thirtieth day after its enactment.

PASSED by the council April 24, 2006 and signed by the mayor April 27, 2006.

ORDINANCE NO. 554**AN ORDINANCE ESTABLISHING CHRONIC NUISANCE PROPERTY REGULATIONS WITHIN THE CITY OF AUMSVILLE.**

The city of Aumsville ordains as follows:

Section 1. Title of Provisions. This ordinance shall be known as the “Chronic Nuisance Property Ordinance” for the city of Aumsville.

Section 2. Incorporation of State Statute and Aumsville Ordinances. Any reference to state law or statute (Oregon Revised Statutes – ORS) or provisions of the Aumsville City Ordinances incorporated into this ordinance refers to the state statute or ordinance provisions in effect on the effective date of this ordinance.

Section 3. Definitions. As used in this ordinance, the following definitions apply:

1. Chief of Police means the chief of the Aumsville Police Department or designee.
2. City Administrator means the city administrator of the city of Aumsville or designee.
3. Chronic Nuisance Property means real property premises (including industrial, commercial or residential buildings), herein also referred to as the “property,” “premises” or “subject property,” upon, near (as hereinafter described in this section) or in which three or more distinct occurrences of any of the below listed prohibited acts or behaviors (as defined in Oregon law) occur, or the patrons, employees, residents, owners or occupants thereof engage in three or more of said prohibited acts or behaviors on the property, or, in relation to the property within 400 feet of the property, during any 180 consecutive day period:
 - A. Manufacture, distribution or possession of a controlled substance;
 - B. Rape in the First Degree;
 - C. Menacing;
 - D. Intimidation;
 - E. Harassment;
 - F. Disorderly conduct;
 - G. Discharge of weapons;
 - H. Unnecessary noise (Ordinance No. 369, Sections 3A and 14);
 - I. Drinking in public (Ordinance No. 405);
 - J. Minor in possession of alcohol (Ordinance No. 369, Section 14);
 - K. Assault;
 - L. Sexual abuse;
 - M. Public indecency;
 - N. Public urination or defecation (Ordinance No. 369, Section 14);
 - O. Criminal mischief;
 - P. Criminal mistreatment;
 - Q. Criminal trespass;
 - R. Unlawful use of a weapon; or
 - S. Criminal homicide or any type of attempted criminal homicide.

4. Owner means the person(s), including individual(s), corporation, partnership or other entity, having legal or equitable title to the property. Property means any real property and any improvement thereon incidental or appurtenant, including but not limited to any room, apartment, house, building, structure or any separate part or portion thereof, whether permanent or not.
5. Responsible Party includes:
 - A. The owner of the property, or the owner's manager or agent or other person or entity in control of the property on behalf of the owner; and/or,
 - B. The person or entity occupying the property, including a bailee, lessee, tenant or other having possession.
 - C. Responsible party for a specific property shall be presumed from the following:
 1. The owner and the owner's agent, as shown on the assessor's tax rolls of Marion County.
 2. The resident or occupant of the property, as shown on the records (including utilities records) of the city of Aumsville.
6. Court means a court of competent jurisdiction, which may address the respective issue.

Section 4. Chronic Nuisance Property.

1. The behavior, acts or omissions described in this ordinance are hereby declared to be nuisances and if they commonly reoccur in relation to a specific property, such property may be declared "chronic nuisance property," thereby requiring the application of remedies set out in this ordinance.
2. Any property within the city of Aumsville, which is found to be a chronic nuisance property, shall be in violation of this ordinance and subject to its remedies.
3. Any person who is a responsible party for property, which is deemed a chronic nuisance property, shall be in violation of this ordinance and subject to its remedies.

Section 5. Pre-Filing Notification Procedure. After two occurrences on or near the property (as defined in this ordinance), of any of the prohibited acts or behaviors listed in this ordinance, within a consecutive 180-day period, the chief of police or designee shall provide notification, via certified mail, return receipt requested, to all known responsible parties for the property, stating the times and places of the alleged occurrences and the potential liability for violation of this ordinance. The city administrator and city attorney shall be provided copies of the notice.

Section 6. Compliance Agreement With Responsible Party(ies).

1. After providing notification to all known responsible parties, the chief of police or designee has the authority to solicit and obtain, on behalf of the city, a voluntary agreement with the party(ies) to comply with the provisions of this ordinance ("compliance agreement"). The compliance agreement shall be in writing and signed by all known responsible parties and the chief of police or designee on behalf of the city; a copy thereof shall be provided to the city administrator.
2. In proposing the compliance agreement, the chief of police or designee shall consider the factors outlined in Section 9, subsection 2 below.

3. The compliance agreement is strictly optional and remedial in nature, and shall not be interpreted to limit in any manner the authority of the city to commence an action against any responsible party or another for a violation of any provision of the Aumsville ordinances or Oregon law.
4. If the compliance agreement is not followed as agreed, the city may proceed with civil action as provided in this ordinance or the provisions of the ORS or the Aumsville ordinances.

Section 7. Commencement of Actions; Summons and Complaint. In the event there occurs on or near (as defined in this ordinance), the property three or more continued prohibited acts or behavior as listed in Section 3 of this ordinance, contrary to the terms of the compliance agreement and/or in violation of this ordinance, the Aumsville City Council shall be advised and, upon deliberation, may direct that the city proceed to initiate court action pursuant to the provisions of this ordinance or take such other action as the council deems appropriate.

Section 8. Remedies; Fines; Civil Penalty; Enforcement Order.

1. In the event the respondent(s) is found by a preponderance of the evidence to have violated this ordinance, the court may, by judgment and order:
 - A. Require that the chronic nuisance property be closed against all use and occupancy for a period of not less than 30 days, but not more than 180 days; and/or
 - B. Assess a fine of not more than \$250.00 for each offense.
 - C. Subsequent acts and behavior in violation of the provisions of this ordinance, which occur within two years following the entry of any earlier judgment and order, may be actionable, at the direction of the city council, and, if violation(s) of this ordinance is established, the chronic nuisance property may be closed in accordance with this section, and the court may impose a civil penalty of a fine of not more than \$1,000.
 - D. In addition to the above, the court may employ any other remedy provided by law, deemed by the court to be appropriate to abate the nuisance.
 - E. In addition to the above, the court may assess costs and charges as described in Section 11.
2. In lieu of closure of the property, at the court's discretion, the respondent may be permitted to file a bond with the city that is acceptable to the court and subject to the court's satisfaction of the respondent's good faith commitment to abatement of the nuisance. Such bond shall be in the amount of at least \$500 and shall be conditioned upon the non-recurrence, for a period of one year after entry of the judgment, of any of the acts or behaviors listed in Section 3 of this ordinance. Forfeiture of the bond is subject to court review and order.
3. The court may authorize the city to physically secure the subject property against use or occupancy, in compliance with the judgment or order, in the event the owner(s) or the responsible party(ies) fail to do so within the time specified by the court.

Section 9. Defenses; Mitigation.

1. It is a defense to an action brought pursuant to this ordinance, that the responsible party, the respondent, at the time the alleged action or behavior occurred, could not, in the exercise of reasonable care or diligence, determine that the property had become chronic nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the determination that the property is a chronic nuisance property. The assertion that the party, the respondent, was not present at the property at the time the alleged acts or behavior occurred upon which the property was deemed chronic nuisance property, shall not, alone, be a defense to the action.
2. The court may consider any of the following factors, as appropriate, in its decision, and shall cite those found applicable:
 - A. The effort taken by the responsible party to mitigate or correct the alleged action or behavior which occurred at or near (as defined in this ordinance) and in relation to the property;
 - B. Whether the alleged action or behavior was repeated or continuous;
 - C. The magnitude or gravity of the alleged action or behavior;
 - D. The cooperativeness of the responsible party with the city in causing the abatement of the alleged action or behavior;
 - E. The cost to the city of investigating and abating action or behavior or attempting to correct the condition; or
 - F. Any other factor deemed by the court to be relevant.

Section 10. Emergency Remedy. In addition to any remedy available to the city under this ordinance or otherwise, in the event the city administrator finds that a property or its use constitutes an immediate threat to the public safety and welfare, upon review and approval by the city council, the city may apply to the court for such relief as is deemed appropriate.

Section 11. Costs; Lien.

1. The court may assess the property owner(s) and the responsible party(ies) the following costs incurred by the city in the proceeding:
 - A. Cost incurred in the actual physical securing of the subject property against use or occupancy, including, but not limited to, the cost of personnel, materials, medical costs, consulting fees, notices and equipment charges;
 - B. The city's investigative costs; and
 - C. Administrative costs and attorney fees and costs (collectively referred to as cost) incurred in pre-filing implementation of the abatement process, together with the cost of the initiation and conducting of the court action.
2. The city administrator may, within 14 days of the court's entry of judgment and order against the respondent(s), submit a signed detailed statement of costs, including attorneys' fees, to the court for its review. If no objection to the statement is made within the period prescribed by Oregon Rules of Civil Procedure, Rule 67, the amount submitted shall become a part of the judgment and a lien against the subject premises. A copy of the judgment and the statement of costs, together with a verified designation of the address and legal

description of the property, shall be forwarded to the Marion County Clerk for filing.

3. Persons assessed the costs and/or civil penalty pursuant to this ordinance shall be jointly and severally liable for the payment thereof to the city.

Section 12. Attorney Fees. In any action brought pursuant to this ordinance, the court may, in its discretion, award reasonable attorneys fees to the prevailing party.

Section 13. Severability. If any provision of this ordinance, or its application to any person or circumstance, is held to be invalid for any reason, the remainder of the ordinance, or the application of its provisions to other persons or circumstances, shall not in any way be affected.

Section 14. Non-Exclusive Remedy. The remedies described in this ordinance shall not be the exclusive remedies of the city in enforcement of the prohibition of the acts and behaviors described in Section 3.

Section 15. Effective Date. This ordinance shall take effect on the thirtieth day after its enactment.

PASSED by the council September 26, 2005 and signed by the mayor September 27, 2005.

ORDINANCE NO. 695

AN ORDINANCE ESTABLISHING DRIVING AND CRIMINAL HISTORY RECORD CHECK POLICIES CONCERNING PUBLIC EMPLOYMENT AND PUBLIC SERVICE PROVIDERS AND VOLUNTEERS, AND REPEALING ORDINANCE NO. 597.

Whereas, the City of Aumsville finds it in the City's interest to have the Aumsville Police Department complete criminal and driving history record checks for employees, finalists for positions of employment, contracted service providers, or voluntary public service requiring certain services; and

Whereas, ORS 181.555(1) and OAR 257-010-0025(1)(b) establish procedures for access to criminal conviction record information possessed by the Oregon State Police (OSP) through The Law Enforcement Data System (LEDS), and

Whereas, OAR 257-015-0060(2)(a) allows agencies authorized by OSP to access Computerized Criminal History records via LEDS after implementation of a local ordinance; now therefore,

The City of Aumsville ordains as follows:

Section 1. Purpose.

(A) This Ordinance authorizes the Aumsville Police Department to access OSP criminal offender information through LEDS, for employees, finalists for positions of employment, contracted service providers, and public service volunteers with the City of Aumsville so as to ensure selected individuals have the highest degree of citizen trust and confidence.

Section 2. Procedure.

(A) All proceedings pursuant to this Ordinance shall be conducted consistent with ORS 181.555 and OAR 257-010-0025, which establishes procedures for access to criminal record information possessed by the OSP through LEDS, and proper driving history check protocol; as supplemented below.

1. Authorization Forms - Finalists for employment, employees, and public service volunteers with the City of Aumsville will be required to authorize the City of Aumsville to conduct a driving and criminal conviction check through the LEDS system if their job duties require the following activities:
 - a. Delivering services to minors.
 - b. Handling/processing cash and/or checks.
 - c. Law enforcement related duties.
 - d. Building services/Maintenance.
 - e. Maintaining confidential medical and/or criminal records.
 - f. Any other classification of job duties authorized by the City of Aumsville.

The city administrator will maintain the driving and criminal history authorization forms for those doing work on behalf of the City and will request that a driving and/or criminal history check be made if it is determined that this will be in the best interest of the City in filling the position or assigning the job duty.

- (B) Process - A member of the Aumsville Police Department trained and authorized to perform criminal history checks through the CJIS system will conduct the driving and criminal conviction check on the employee, prospective employee, contract service provider, or volunteer and orally report to the department head or city administrator the driving history and if the persons record indicates "no criminal record" or "criminal record". If the person's record is reported as "criminal record", the police department will, under OAR 257-010-0025(l)(c), request a written criminal history report from the OSP Identification Services Section and pay the applicable fee for this service. The police department will make the written criminal history record available to the city administrator and department head for their consideration in hiring a new employee, taking disciplinary actions against an existing employee, establishing or maintaining contracts with service providers, and selecting and retaining public service volunteers.
- (C) Driving and Criminal History Records Retention - The written driving and criminal history records on persons that are not selected will be retained in accordance with the requirements Oregon Administrative Rule record retention requirements, and thereafter will be destroyed by shredding. The driving and any criminal history record of persons with a criminal conviction that are hired or appointed, will become part of the confidential personnel files of that person. Access to confidential personnel files is limited to only authorized persons who have an official need to access such files that is sanctioned by law or regulation.
- (D) Selection Consideration - A person's driving history and felony criminal history, or a history of conviction of a misdemeanor involving moral turpitude or theft, will be closely examined by the department head and city administrator to determine if the person possesses the required degree of citizen and public trust and confidence. Each employee, contractor, or volunteer selection or evaluation will, however, be made on an individual, case-by-case basis, taking into account the person's qualifications, the requirements of the particular job or volunteer post, and the results of the criminal history check. Factors such as the age of an offender at the time of the offense, the type of offense and subsequent rehabilitation, and the public sensitivity of the position under consideration, must be taken into account in evaluating a criminal history report. Selecting or retaining a person or contractor with a criminal history record will require a positive recommendation by the department head and the approval of the city administrator, after full disclosure and consideration of the criminal history and the person.

Section 3. Repeal. Ordinance 597 is hereby repealed.

Section 4. Effective Date. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 23rd day of December 2020. READ a second time on the ____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the ____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. XXX**AN ORDINANCE AMENDING ORDINANCE 597 ESTABLISHING DRIVING AND CRIMINAL HISTORY RECORD CHECK POLICIES CONCERNING PUBLIC EMPLOYMENT AND PUBLIC SERVICE PROVIDERS AND VOLUNTEERS.**

Whereas, the City of Aumsville finds it in the ~~e~~City's ~~best~~ interest, ~~both financially and efficiency of time,~~ to have the ~~city Aumsville p~~Police ~~d~~Department complete criminal and driving history record checks for employees, finalists for positions of employment, contracted service providers, or voluntary public service ~~that requiring~~e certain services; and

Whereas, ORS 181.555(1) AND OAR 257-010-0025(1)(b) establish procedures for access to criminal conviction record information possessed by the Oregon State Police (OSP) through The Law Enforcement Data System (LEDS), and

Whereas, OAR 257-015-0060(2)(a) allows agencies authorized by OSP to access Computerized Criminal History records via LEDS after implementation of a local ordinance; now therefore,

The City of Aumsville ordains as follows:

Section 1. Purpose.

- 1.1 ~~The purpose of t~~his Ordinance ~~is to authorize~~s the ~~City of~~ Aumsville Police Department to access OSP criminal offender information through LEDS, for employees, finalists for positions of employment, contracted service providers, and public service volunteers with the City of Aumsville ~~so as~~ to ensure selected individuals have the highest degree of citizen trust and confidence.

Section 2. Procedure.

- 2.1 All proceedings pursuant to this Ordinance shall be conducted ~~consistent in accordance~~ with ORS 181.555 and OAR 257-010-0025, which establishes procedures for access to criminal record information possessed by the OSP through LEDS, and proper driving history check protocol; as supplemented below.
- (a) Authorization Forms - Finalists for employment, employees, and public service volunteers with the City of Aumsville will be required to authorize the City of Aumsville to conduct a driving and criminal conviction check through the LEDS system if their job duties require the following activities~~;~~:
- Delivering services to minors.
 - Handling/processing cash and/or checks.
 - Law enforcement related duties.
 - Building services/Maintenance.
 - Maintaining confidential medical and/or criminal records

Formatted: Heading 1, Widow/Orphan control, Tab stops: Not at 0.17" + 0.42" + 0.88" + 1.04"

• Any other classification of job duties authorized by the City of Aumsville
The eCity aAdministrator will maintain the driving and criminal history authorization forms for those doing work on behalf of the eCity; and will request that a driving and/or criminal history check be made if it is determined that this will be in the best interest of the eCity in filling the position or assigning the job duty.

(b) Process - A member of the Aumsville Police Department trained and authorized to perform criminal history checks through the CJIS system will conduct the driving and criminal conviction check on the employee, prospective employee, contract service provider, or volunteer and orally report to the department head or eCity aAdministrator the driving history and if the persons record indicates "no criminal record" or "criminal record". If the person's record is reported as "criminal record", the police department will, under OAR 257-010-0025(l)(c), request a written criminal history report from the OSP Identification Services Section and pay the applicable fee for this service. The police department will make the written criminal history record available to the city administrator and department head for their consideration in making the selection hiring a new employee, taking disciplinary actions against an existing employee, establishing or maintaining contracts with service providers, and selecting and retaining public service volunteers-

Commented [PE1]: This subsection doesn't exist in the current rule.

(c) Driving and Criminal History Records Retention - The written driving and criminal history records on persons that are not selected will be retained in accordance with the requirements Oregon Administrative Rule record retention requirements, and thereafter will be destroyed by shredding. The driving and any criminal history record of persons with a criminal conviction that are hired or appointed, will become part of the confidential personnel files of that person. Access to confidential personnel files is limited to only authorized persons who have an official need to access such files that is sanctioned by law or regulation.

Commented [PE2]: I am not finding any authority in the rule that would allow OSP to give anything in writing to the City on criminal records for this purpose. Here is what the pertinent section of the rule – OAR 257-010-0025 - says:

c) Qualified entities (.ie., Aumsville) ... may request from OSP Identification Services Section a criminal records check for purposes of evaluating the fitness of a subject individual as an employee, contractor or volunteer. The OSP Identification Services Section may access ... criminal records only through use of the subject individual's fingerprints.

* * * *

(C) The OSP Identification Services Section shall only respond to a qualified entity's inquiry concerning a subject individual in the following manner and shall **NOT provide specific criminal offender information:**
(i) **Yes.** (No disqualifying criteria established by the qualified entity and ORS 181A.245 was found.)
(ii) **No.** (One or more disqualifying criteria established by the qualified entity and ORS 181A.245 was found.)

As you can see, there is no specific information given out, so I am not sure where the City is getting this written report from.

As a result, I would ask the Chief to make sure this section of the ordinance accurately reflects the OSP practice. If it does, we have to find out the specific authority for OSP to give this type of information to the City. Until that happens, I would then alter the language of the ordinance to reflect the authority accurately.

(d) Selection Consideration ~~--A-~~ A person's driving history and felony criminal history, or a history of conviction of a misdemeanor involving moral turpitude or theft, will be closely examined by the department head and city administrator; to determine if the applicant person possesses the required degree of citizen and public trust and confidence. Each public service employee, contractor or volunteer selection or evaluation will, however, be made on an individual, case-by-case basis, taking into account the person's qualifications, the requirements of the particular job or volunteer post, and the results of the criminal history check. Factors such as the age of an offender at the time of the offense, the type of offense and subsequent rehabilitation, and the public sensitivity of the position under consideration, must be taken into account in evaluating a criminal history report. Selecting or retaining a person or contractor with a criminal history record will require a positive recommendation by the department head and the approval of the city administrator, after full disclosure and consideration of the criminal history and the person.

Commented [PE3]: I am not sure this is needed but if you want this in so as to have a written 'reminder' of what should be taken into consideration with applicants background considerations, that's fine.

Section 3. Emergency Clause. ~~Whereas it is necessary for the immediate preservation of the public health, peace and safety of the citizens of the city of~~

~~Aumsville, that this ordinance become effective at the earliest time possible; therefore, this ordinance shall become effective immediately upon passage by the council and signature of the mayor.~~

Commented [PE4]: Again. Take out emergency provision

PASSED by the City Council _____ and signed by the
Mayor _____

ORDINANCE NO. 697

AN ORDINANCE RELATING TO THE PARKING OF VEHICLES AND TRAILERS ON CITY STREETS, PRIVATE OR PUBLIC PROPERTY; SETTING REGULATIONS AND PENALTIES FOR VIOLATIONS; AND REPEALING ORDINANCE 171.

The city of Aumsville does ordain as follows:

Section 1. Definitions. Except where the context indicates otherwise, the singular includes the plural and the masculine includes the feminine. The following mean:

(A) City. City of Aumsville.

(B) Person. Every natural person, firm, partnership, association or corporation, whether acting for itself or as an employee or agent.

(C) Motor vehicle. A vehicle that is self-propelled or designed for self-propulsion.

(D) Vehicle. Any device in, upon or by which any person or property is or may be transported or drawn upon a public highway including vehicles propelled or powered by any means, other than human-propelled or powered.

(E) Trailer. Every vehicle without motive power designed to be drawn by another vehicle.

(F) Sidewalk means the area on a street having a shoulder, that portion of the between the outside lateral line of the shoulder and the adjacent property line capable of being used by a pedestrian or, on the side of a street having no shoulder, that portion of the street between the lateral line of the roadway and the adjacent property line capable of being used by a pedestrian.

(G) Streets. Every public way, road, street, thoroughfare and place, including but not limited to improved or unimproved city right-of-way, bridges, viaducts, and other structures within the boundaries of the City open, used, or intended use.

(H) City Council. Governing body of the City.

(I) Camper means a structure that:

1. Has a floor;
2. Is designed to be mounted upon a motor vehicle;
3. Is not permanently attached to a motor vehicle upon which it is mounted;
4. Is designed to provide facilities for human habitation or for camping;
5. Is six feet or more in overall length;
6. Is five and one-half feet or more in height from floor to ceiling at any point; and
7. Has no more than one axle designed to support a portion of the weight of the camper.

(J) Motor home means a motor vehicle that:

1. Is reconstructed, permanently altered or originally designed to provide facilities for human habitation; or
2. Has a structure permanently attached to it that would be a camper if the structure was not permanently attached to the motor vehicle.

(K) Recreational vehicle means a vehicle with or without motive power designed for use as temporary living quarters and as further defined by rule by the State of Oregon's Director of Transportation.

1. Recreation Area. A, playground, watercourse, creek, or other area in the City, devoted to active or passive recreational use by the public.
2. Abandoned Vehicle. A Vehicle with one or more of the following conditions for more than 24 hours:
 - a) The vehicle fails to have a lawfully affixed, unexpired registration plate, or fails to display current registration.
 - b) The vehicle appears to be inoperative or disabled.
 - c) The vehicle appears to be wrecked, partially dismantled, or junked.

Section 2. Violations. It is unlawful for:

- (A) Any vehicle to be parked on or across any portion of a sidewalk.
- (B) A trailer to remain on a city street, for a period of more than five (5) days in any 30-day period.
 1. Parking or storage of vehicles, trailer, recreation vehicle, or personal property within the City's improved or unimproved right-of-way.
- (C) Abandoned Vehicles to be on a city street at any time.
- (D) Vehicles, within 20 feet of an intersection, or vehicles parked in a manner otherwise that creates a sight obstruction for vehicular traffic or capable of impeding pedestrian travel as determined by an official officer of the Aumsville police department.
- (E) A Vehicle to block any private or public driveway.
- (F) A Vehicle to be parked within 10 feet of a fire hydrant.
- (G) A Vehicle to be parked in a City posted or authorized "NO PARKING" Zone
- (H) An unattended vehicle with the engine running to be left on any city street or public property.
- (I) Parking of a vehicle of over 15,000 pounds gross weight on a city street overnight.
- (J) Parking of a vehicle or trailer on a city street, to make any mechanical repairs, other than those of a minor nature, and not to involve more than 24 hours to complete.
- (K) Parking of an unattended vehicle, trailer, or camper on a city street, or public property, that has any part thereof suspended by a vehicle jack, or any other unstable device.
- (L) Parking a vehicle in any alley, except to load or unload persons or materials.
- (M) Parking, other than in front of the home of the vehicle owner, upon any street for the principal purpose of displaying such vehicle for sale.
- (N) Parking upon any street for the principal purpose of storing, or permitting to be stored, a motor vehicle, recreational vehicle, boat, trailer, or other personal property. It shall constitute prima facie evidence of storage of a motor vehicle if the same is not moved for a period of 72 hours. The continuity of the time shall not be deemed broken by movement of the vehicle elsewhere on the block unless the movement removes the vehicle from the block where it was located before it is returned.

- (O) Parking perpendicular or diagonally to the sidewalk or curb, except in areas designated and posted for this type parking.
 1. No person shall stand or park a vehicle in a street other than parallel with the edge of the roadway, headed in the direction of lawful traffic movement, and with the curbside wheels of the vehicle within twelve inches of the edge of the curb, except where the street is marked or signed for angle parking.
- (P) Placing a camper on a city street at any time, when not mounted on a motor vehicle.
- (Q) Parking a recreational vehicle on a city street or city right-of-way for a period of more than five days in any 30-day period.
- (R) No person in a park shall:
 1. Drive any vehicle on any area except designated paved park roads, driveways, or parking areas.
 2. Park a vehicle in other than an established parking area or other such areas as may on occasion be specifically designated as temporary parking.
 3. Double park any vehicle on any road or parkway unless directed by a park official or traffic officer.

Section 3. Violation. Violation of Section 2 of this ordinance shall be subject to a penalty of \$100.00.

Section 4. Repeal. Ordinance 171 is hereby repealed.

Section 5. Effective Date. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 23rd day of November 2020. READ a second time on the ____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the ____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. XXX

AN ORDINANCE RELATING TO THE PARKING OF VEHICLES AND TRAILERS ON THE CITY STREETS, OF AUMSVILLE AND PRIVATE OR PUBLIC PROPERTY; SETTING FORTH REGULATIONS AND PENALTIES FOR VIOLATIONS; AND REPEALING ORDINANCE 171 AND DECLARING AN EMERGENCY.

The city of Aumsville does ordain as follows:

Section 1. Definitions. Except where the context indicates otherwise, the singular number includes the plural; and the masculine gender includes the feminine; and the following mean:

- (1) City. City of Aumsville.
- (2) Person. Every natural person, firm, partnership, association, or corporation, whether ~~he or it is~~ acting for ~~himself~~, itself, or as ~~an~~ clerk, servant, employee, or agent of another.
- (3) Motor vehicle. A vehicle that is self-propelled or designed for self-propulsion.
- (4) Vehicle. Any device in, upon or by which any person or property is or may be transported or drawn upon a public highway including vehicles propelled or powered by any means, other than human-propelled or powered.
- (2) ~~Any wheeled conveyance, whether motor powered or animal drawn, but excluding human propelled. The term includes any trailer in tow of any size, kind, or description. Exception is made for vehicles in the service of the city parks.~~
- (5) Trailer. Every vehicle without motive power designed to be drawn by another vehicle.
- (6) "Sidewalk" means the area on a street having a shoulder, that portion of the between the outside lateral line of the shoulder and the adjacent property line capable of being used by a pedestrian or, on the side of a street having no shoulder, that portion of the street between the lateral line of the roadway and the adjacent property line capable of being used by a pedestrian.
- (7) ~~Streets~~ Highway. Every public way, road, street, thoroughfare and place, including but not limited to improved or unimproved city right-of-way, bridges, viaducts, and other structures within the boundaries of the City open, used, or intended for use, ~~of the general public for vehicles or vehicular traffic.~~
- (3) ~~City Street~~. ~~As defined in Ordinance No. 167, Article 17.~~
- (4)(8) Sidewalk. ~~As defined in Ordinance No. 167, Article 16.~~
- (5)(9) City Council. Governing body of the ~~e~~City.
- (10) Camper. means a structure that:
 - (1) Has a floor;

Commented [PE1]: I'm generally reluctant to include emergency clauses in ordinances without a real 'emergency' calling out for a need for that approach. The Charter can be read to allow it but I don't believe the Charter language is necessarily an 'endorsement' of that approach here. These regulations

Commented [RH2R1]: I agree in fact any ordinance from here forward we will assume to take out the Emergency clause unless otherwise noted.

Commented [PE3]: I would take this out.

Formatted: Font: (Default) Arial, Font color: Black

Formatted: Font: (Default) Arial, 12 pt, Font color: Black

Formatted: Font: (Default) Arial, 12 pt, Font color: Black

Formatted: Font: (Default) Arial, 12 pt, Font color: Black

Formatted: Font: (Default) Arial, 12 pt, Font color: Black

Formatted: Font: (Default) Arial, 12 pt, Font color: Black

Formatted: Font: (Default) Arial, 12 pt, Font color: Black

Formatted: Font: (Default) Arial, 12 pt, Font color: Black

Formatted: Font: (Default) Arial, Font color: Black

Commented [PE4]: I would set out the actual definition here and not reference another city ordinance. Unless there is a particular need by the City to employ specific phrasing in a definition that may also be found in state law - in this case, the Oregon Vehicle Code. I have found it worthwhile to employ definitions found in state statute (either by referencing them in the city ordinance/code or restating them verbatim like I am do here) which promotes consistency between city code and state law and thus, ease of enforcement.

Commented [RH5R4]: Its seems like you have made the change is there anything we need to complete this?

Commented [PE6]: I would actually delete the phrase "city street" and use the term "street". I will insert the basic state definition but you are free to take that out and leave it undefined which then would mean the City is using it in the way folks ordinarily employ that particular word.

As you can see, I did that here and replaced it with the Oregon Vehicle Code's definition of "Highway". I also did the same thing for the word "Sidewalk".

Granted, these

Commented [PE7]: Same comment

Commented [PE8]: I believe it is better to continue the use of a term that has been previously defined in the form it was defined as.

- (2) Is designed to be mounted upon a motor vehicle;
- (3) Is not permanently attached to a motor vehicle upon which it is mounted;
- (4) Is designed to provide facilities for human habitation or for camping;
- (5) Is six feet or more in overall length;
- (6) Is five and one-half feet or more in height from floor to ceiling at any point; and
- (7) Has no more than one axle designed to support a portion of the weight of the camper. A structure designed to be mounted upon a motor vehicle, and is not permanently attached thereto, and is designed to provide facilities for human habitation, or for camping.

- (11) “Motor home.” means a motor vehicle that:
- (1) Is reconstructed, permanently altered or originally designed to provide facilities for human habitation; or
 - (2) Has a structure permanently attached to it that would be a camper if the structure was not permanently attached to the motor vehicle.

- (11) “Recreational vehicle.” means a vehicle with or without motive power designed for use as temporary living quarters and as further defined by rule by the State of Oregon’s Director of Transportation.
Recreational Vehicle. Means a vehicle with or without motive power, which is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes; including any camper mounted upon a motor vehicle.

- (12) Park/Recreation Area. A park, playground, watercourse, creek, recreation center, or any other area in the eCity, owned or used by the city, and devoted to active or passive recreational use by the public.

- (13) Abandoned Vehicle. A Vehicle with one or more of the following conditions for more than 24 hours:
- A. The vehicle fails to have a lawfully affixed, unexpired registration plate, or fails to display current registration.
 - B. The vehicle appears to be inoperative or disabled.
 - C. The vehicle appears to be wrecked, partially dismantled, or junked.

Section 2. Offenses Against the City Violations. It is shall be unlawful for: for any person to commit, or allow to be committed, with any vehicle including recreational vehicles under their control any of the following (See also Development Ordinance Sections 18.08(B) and 22.05):

- (1) Parking of any v\vehicle, including recreational vehicles, to be parked on or across any portion of a sidewalk;:-
- (2) Parking of a T\trailer to remain on a eCity street, for a period of more than five (5) consecutive days in -any 30-day period
- (2) Parking or storage of vehicles, trailer, recreation vehicle, or personal property within the City’s improved or unimproved right-of-way.

Commented [PE9]: Motor (?)

Commented [PE10]: In light of the fact that these are “parking” regulations, I believe it better to not confuse matters by using park in the way it is defined here.

Commented [PE11]: Offences are criminal in nature and I avoid use of that term so as to keep in the civil realm. The Oregon Traffic Code was changed from a criminal set of statutes to civil back in the 70’s; as a result, I try to avoid complicating matters by not using words that have a criminal connotation like “fine” or “punish”.

Commented [PE12]: The violation that th ordinance s proscribing is the “act” itself and NOT the act of committing it. It is the “fact” that the vehicle is there NO the fact that someone put the vehicle there, f you catch the distinction I am trying to make. It simplifies matters in terms of enforcing the regulation itself.

Commented [PE13]: I redefined Vehicle to include recreational Vehicle

Commented [PE14]: I made the assumption this is what you mean

Formatted: Indent: Left: 0.79", No bullets or numbering

- (3) ~~Parking of a Abandoned Vehicles wrecked, inoperative, or non-currently licensed vehicle, to be including recreational vehicles,~~ on a city street at any time.
- (4) ~~Parking a v Vehicles, including recreational vehicles, within 2015 feet of an intersection, or vehicles parked in a manner otherwise that create a site creates a sight obstruction for to vehicular traffic or capable of impeding pedestrian travel.~~
- (5) ~~Parking of a va Vehicle, including recreational vehicles, so as to block any private or public driveway.~~
- (6) ~~A Vehicle to be parked~~ Parking within 10 feet of a fire hydrant.
- (7) ~~A Vehicle to be parked~~ Parking in a City posted or authorized "NO PARKING" Zone that has been designated by the city, and city and posted as prescribed by the city.
~~It is unlawful; for the purpose to prohibit or restrict parking in front of any sidewalk, dwelling house, business hours, or in any alley, for any person to letter, mark, or paint in any manner any letters, marks, or signs on any sidewalk, curb, street, or alley, or to post anything designed or intended to prohibit or restrict parking on a parking strip; except as authorized by the city council.~~
- (8) ~~An~~ Parking of an unattended vehicle with the engine running ~~to be left,~~ on any city street; or public property.
- (9) ~~Parking of an unattended vehicle on a city street, or any publicly owned property with the key in the ignition.~~
- (10) Parking of a commercial vehicle of over ~~10,000~~ 15,000 pounds gross weight on a city street overnight.
- (11) Parking of a vehicle or trailer on a city street, to make any mechanical repairs, other than those of a minor nature, and not to involve more than ~~four~~ 24 hours to complete.
- (12) Parking of an unattended vehicle, trailer, or camper on a city street, or public property, that has any part thereof suspended by a vehicle jack, or any other unstable device.
- (13) Parking a vehicle in any alley, except to load or unload persons or materials.
- (14) Parking, ~~other than in front of the home of the vehicle owner,~~ upon any street for the principal purpose of displaying such vehicle for sale.
- (15) Parking upon any street for the principal purpose of storing, or permitting to be stored, a motor vehicle, recreational vehicle, boat, trailer, or other personal property. It shall constitute prima facie evidence of storage of a motor vehicle if the same is not moved for a period of 72 hours ~~five days~~. The continuity of the time shall not be deemed broken by movement of the vehicle elsewhere on the block unless the movement removes the vehicle from the block where it was located before it is returned.
- (16) Parking perpendicular or diagonally to the sidewalk or curb, except in areas designated and posted for this type parking.
 - (a) No person shall stand or park a vehicle in a street other than parallel with the edge of the roadway, headed in the direction of lawful traffic

Commented [PE15]: I don't believe you need this limitation any more if you accept the change I made to (7).

Commented [PE16]: This is covered in the preceding prohibition

Commented [RC17]: Steve researching weight of certain trucks

Commented [PE18]: I am assuming you don't care whether it is a commercial vehicle or not ... the concern is a large vehicle of any sort.

movement, and with the curbside wheels of the vehicle within twelve inches of the edge of the curb, except where the street is marked or signed for angle parking.

(17) Placing a camper on a city street at any time, when not mounted on a motor vehicle.

(18) Parking a recreational vehicle on a city street or city right-of-way for a period of more than five days in any 30-day period. ~~The chief of police may grant an extension up to 10 days in a 30-day period and the Aumsville City Council may grant a longer extension.~~

(19) No person in a park shall:

(a) Drive any vehicle on any area except gravel or designated paved park roads, driveways or parking areas ~~or other such areas as may on occasion be specifically designated as temporary parking by an elected official, city administrator or designee.~~

(b) Park a vehicle in other than an established parking area or other such areas as may on occasion be specifically designated as temporary parking ~~by an elected official, city administrator or designee.~~

(c) Double park any vehicle on any road or parkway unless directed by a park official or traffic officer.

Section 3. Violation. Violation of Section 2, ~~or any subsection thereof,~~ of this ordinance shall be subject to punishable by a penalty fine of ~~not more than~~ \$100.00.

~~**Section 4. [Emergency Clause.]** This ordinance being necessary for the immediate preservation of public peace and safety, an emergency is hereby declared and this ordinance shall be in full force and effect from the date of its passage.~~

PASSED by the City Council _____ and signed by the
Mayor _____

Commented [RH19]: I took out reference to gravel as this has been used to say gravel driveways are permitted and they are not.

Commented [PE20]: Good

Commented [RH21]: Is this fine amount still appropriate? Does it cover the cost to warn, cite and process in court?

Commented [PE22]: I had initially overlooked this but after your question, I adjusted the language consistent with my prior advice on getting rid of terms that have criminal connotations to them and took out "punishable" and "fine".

ORDINANCE NO. 698

AN ORDINANCE REPEALING ORDINANCE NO. 306, AN ORDINANCE REGULATING PARKING IN THE CITY OF AUMSVILLE

The City of Aumsville ordains as follows:

Section 1. PURPOSE. This ordinance is no longer needed, the City Attorney recommended repealing.

Section 2. REPEAL. ORDINANCE NO. 306, AN ORDINANCE REGULATING PARKING IN THE CITY OF AUMSVILLE; SETTING TIME LIMITS ON CERTAIN STREETS; PROVIDING FOR THE ISSUANCE OF SPECIAL PARKING PERMITS; SETTING FORTH PENALTIES AND SETTING FORTH A BAIL SCHEDULE, dated September 10, 1984; is hereby repealed.

Section 3. EFFECTIVE DATE. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 23rd day of November, 2020. READ a second time on the ____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the ____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. 306**AN ORDINANCE REGULATING PARKING IN THE CITY OF AUMSVILLE;
SETTING TIME LIMITS ON CERTAIN STREETS; PROVIDING FOR THE
ISSUANCE OF SPECIAL PARKING PERMITS; SETTING FORTH PENALTIES
AND SETTING FORTH A BAIL SCHEDULE.**

WHEREAS, the city of Aumsville, Oregon, by its Resolution No. 11-84, passed by the council of such city at its meeting on August 13, 1984, set forth certain areas designated by official traffic signs to be parking for two (2) hours only.

WHEREAS, there is a need for a fine to be set and a bail schedule to be imposed;

The city of Aumsville ordains as follows:

Section 1. [Maximum Time Limit.] No person shall park in areas designated by an official traffic sign longer than the maximum time set forth by said sign.

Section 2. [Movement of Vehicle.] Where maximum parking time limits are designated by an official traffic sign, movement of a vehicle within a block shall not extend the time limits for parking.

Section 3. [Residential Parking Permits.] Permits shall be issued by the recorder to residents living along the specified route limiting maximum parking time. Such permit shall be displayed in the windshield of the vehicle occupying the parking space and no citations shall be issued to those vehicles displaying the permit.

Section 4. Bail and Fines.

- (1) Violation of this ordinance is punishable by a fine not to exceed \$50.00.
- (2) Notwithstanding any other provision of law, the municipal court of Aumsville that establishes bail or sets a fine for violation of this ordinance shall not establish the bail or impose a fine of an amount less than \$5.00. This section does not require the Aumsville Municipal Court to impose bail upon the person if the court determines that the person may be released without bail.

PASSED unanimously by the council and signed by the council president September 10, 1984.

ORDINANCE NO. 699

AN ORDINANCE REGULATING THE USE OF BICYCLES, SKATEBOARDS, SCOOTERS, ROLLER SKATES AND SIMILAR APPARATUS WITHIN THE CITY AND REPEALING ORDINANCE 349.

The City of Aumsville ordains as follows:

Section 1. Definitions.

- (A) Bicycle. A vehicle as is defined in ORS 801.150.
- (B) Electric-Assisted Bicycle or E-Bike. A vehicle as defined by ORS 801.258
- (C) Business District. Mill Creek Road between First Street and Eleventh Street.
- (D) Skateboard. A board of any material with wheels on the bottom designed to be ridden by a person.
- (E) Scooter. A vehicle consisting of a narrow board mounted between two wheels (or more) with an upright steering handle attached to the front wheel. A scooter includes those powered by an electric motor or gasoline engine.
- (F) Roller Skates. Two metal or plastic framed objects with wheels designed to be attached to or worn on the feet of a person. Includes roller blades.

Section 2. Prohibited Riding Areas. No person shall ride or operate a bicycle upon a sidewalk in the business district. No person shall ride or operate a scooter, skateboard, or similar apparatus upon a sidewalk in the business district of Aumsville.

Section 3. Yielding Right-of-Way. Any person operating a bicycle, electric-assisted bicycle, scooter, skateboard, roller skates, or similar apparatus upon any other sidewalk shall yield the right-of-way to any pedestrian(s).

Section 4. Bicycle and E-Bike Safety Regulations.

- (A) Every bicycle or E-Bike operated upon the streets or other public place shall be equipped with brakes adequate to control the movement of and to stop and to hold the vehicle.
- (B) A person propelling a bicycle or E-Bike shall not ride other than with his or her feet on the pedals and facing the front thereof.
- (C) No bicycle or E-Bike shall be used to carry more persons at one time than the number for which it is designed and equipped.
- (D) All bicycles or E-Bike shall be equipped with safety reflectors or lights, both front and back.
- (E) Every person operating a bicycle or E-Bike upon a street or other public place shall ride as near to the right-hand side of the street as practical, exercising due care when passing a pedestrian or a standing vehicle or one proceeding in the same direction.
- (F) Persons riding bicycles or E-Bike upon a street or other public place shall not ride more than two abreast.

Section 5. Skateboards, Scooters, and Roller Skates Safety Regulations.

- (A) Use of a skateboard, scooter, roller skates, or similar apparatus in areas other than the business district is permitted provided the use and the operation thereof is safe. A person commits the offense of unsafe operation of the above-mentioned apparatus if the person does one of the following:
1. Operates the skateboard, roller skates, scooter, or similar apparatus so as to suddenly leave a curb or other place of safety and move into the path of a vehicle, bicycle, or pedestrian that is so close as to constitute an immediate hazard.
 2. Operates a skateboard, roller skates, scooter, or other similar apparatus and does not give an audible warning before overtaking and passing a pedestrian and does not yield the right-of-way to all pedestrians.
 3. Operates a skateboard, roller skates, scooter, or other similar apparatus in a careless manner that endangers or would be likely to endanger any person or property.
 4. Operates a skateboard, roller skates, scooter, or similar apparatus at a speed greater than an ordinary walk when approaching or entering a crosswalk, approaching or crossing a driveway or crossing a curb cut or pedestrian ramp and a motor vehicle is approaching the crosswalk, driveway, curb cut, or pedestrian ramp.

Section 6. Bicycle, Skateboards, Scooters, and Roller Skates Parking

Regulations. No person shall park or leave a bicycle, skateboard, scooter, or skates so that a public sideway, street, or a driveway is obstructed, or so that a business, office, or residential entryway is obstructed.

Section 7. Prohibited Riding Times.

- (A) No person shall ride a skateboard, roller skates, scooter, or other similar apparatus upon any street or sidewalk between one hour after sunset and one hour before sunrise unless the apparatus or rider is equipped with lighting equipment that meets the described requirements:
1. The lighting equipment must be used during limited visibility conditions.
 2. The lighting equipment must show a white light visible from a distance of at least 500 feet to the front of the apparatus.
 3. The lighting equipment must have a red reflector or lighting device or material of such size or characteristic and so mounted as to be visible from all distances up to 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.

Section 8. Seizure.

- (A) At such time as a citation is issued to a skateboard, bicycle, scooter, roller skates, or other similar apparatus rider who is in violation of this ordinance, the police may seize the apparatus upon which the violator was riding.

(B) Said apparatus may be recovered from the Aumsville Police Department by an adult rider 24 hours after being seized. Said apparatus may be recovered from the Aumsville Police Department by a juvenile offender 24 hours after being seized provided the offender is accompanied by a parent or guardian.

Section 9. Procedure. A citation to appear in Aumsville Municipal Court for violation of this ordinance shall be issued to the alleged violator stating the date, time, and place to appear and the date, time, and place of the alleged offense.

Section 10. Penalty. The civil penalty for violation of any provision of this ordinance shall be a fine not less than \$100.00.

Section 11. Repeal. Ordinance 349 is hereby repealed.

Section 12. Effective Date. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 23rd day of November 2020. READ a second time on the ____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the ____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. XXX

AN ORDINANCE ~~AMENDING ORDINANCE 349~~ REGULATING THE USE OF BICYCLES, SKATEBOARDS, SCOOTERS, ROLLER SKATES AND SIMILAR APPARATUS WITHIN THE CITY ~~AND REPEALING ORDINANCE 349~~ ~~AND PROVIDING FOR A PENALTY THEREOF.~~

Commented [PE1]: I don't see one

The ~~e~~City of Aumsville ordains as follows:

Section 1. Definitions.

- ~~(A)~~ Bicycle. A vehicle as is defined in ~~ORS 806~~1.150.
- ~~(B)~~ Electric- Assisted Bicycle or E-Bike. A vehicle as defined by ORS 801.258
- ~~(A)~~~~(C)~~ Business District.
- ~~(B)~~~~(D)~~ Skateboard. A board of any material with wheels on the bottom designed to be ridden by a person.
- ~~(C)~~~~(E)~~ Scooter. A vehicle consisting of a narrow board mounted between two wheels (or more) with an upright steering handle attached to the front wheel. A scooter includes those powered by an electric motor or gasoline engine.
- ~~(D)~~~~(F)~~ Roller Skates. Two metal or plastic framed objects with wheels designed to be attached to or worn on the feet of a person. Includes roller blades.

Commented [PE2]: There is no such statute. You mean ORS 801.150. I would just write out the definition the statute has.

Do you want to include electric-assisted bicycles as well? If so, the Oregon definition thereof should be adopted and then insert the phrase in the applicable regulations.

Section 2. Prohibited Riding Areas. No person shall ride or operate a bicycle, scooter, skateboard or other similar apparatus upon a sidewalk in the ~~Business District of Aumsville.~~ No person shall ride or operate a scooter, skateboard, or other similar apparatus upon a sidewalk ~~in the business district of Aumsville.~~ Said business district to be defined as Mill Creek Road between First Street and Eleventh Street.

Commented [PE3]: This geographic area should be defined in the ordinance.

Commented [RC4R3]: As defined by the Development Ordinance

Commented [RC5]: Move up

Section 3. Yielding Right-of-Way. -Any person operating a bicycle, Electric-Assisted Bicycle, scooter, skateboard, roller skates or ~~other~~ similar apparatus upon any other sidewalk shall yield the right-of-way to any pedestrian(s).

Section ~~43~~. Bicycle and E-Bike Safety Regulations.

- (A) Every bicycle or E-Bike operated upon the streets or other public place shall be equipped with brakes adequate to control the movement of and to stop and to hold the ~~vehicle~~bicycle.
- (B) A person propelling a bicycle or E-Bike shall not ride other than with his or her feet on the pedals and facing the front ~~thereof~~ the bicycle.
- (C) No bicycle or E-Bike shall be used to carry more persons at one time than the number for which it is designed and equipped.

- (D) All bicycles or E-Bike shall be equipped with safety reflectors or lights, both front and back.
- (E) Every person operating a bicycle or E-Bike upon a street or other public place shall ride as near to the right-hand side of the street as practical, exercising due care when passing a pedestrian or a standing vehicle or one proceeding in the same direction.
- (F) Persons riding bicycles or E-Bike upon a street or other public place shall not ride more than two abreast.

Section 5. Skateboards, Scooters, and Roller Skates Safety Regulations.

- (A) Use of a skateboard, scooter, roller skates, or ~~other~~ similar apparatus in ~~other~~ areas ~~other~~ than the business district is permitted ~~provided so long as~~ the use and the operation thereof is safe. A person commits the offense of unsafe operation of the above-mentioned apparatus if the person does one of the following:
- (1) Operates the skateboard, roller skates, scooter or similar apparatus so as to suddenly leave a curb or other place of safety and move into the path of a vehicle, bicycle or pedestrian that is so close as to constitute an immediate hazard.
 - (2) Operates a skateboard, roller skates, scooter or other similar apparatus and does not give an audible warning before overtaking and passing a pedestrian and does not yield the right of way to all pedestrians.
 - (3) Operates a skateboard, roller skates, scooter or other similar apparatus in a careless manner that endangers or would be likely to endanger any person or property.
 - (4) Operates a skateboard, roller skates, scooter or similar apparatus at a speed greater than an ordinary walk when approaching or entering a crosswalk, approaching or crossing a driveway or crossing a curb cut or pedestrian ramp and a motor vehicle is approaching the crosswalk, driveway, curb cut or pedestrian ramp.

Section 6. Bicycle, Skateboards, Scooters, and Roller Skates Parking

Regulations. No person shall park or leave a bicycle, skateboard, scooter, or skates so that a public sideway, street, or a driveway is obstructed, or so that a business, office, or residential entryway is obstructed.

Section 5. Prohibited Riding Times.

- (A) No person shall ride a skateboard, roller skates, scooter or other similar apparatus upon any street or sidewalk between one hour after sunset and one hour before sunrise unless the apparatus or rider is equipped with lighting equipment that meets the described requirements:
- (1) The lighting equipment must be used during limited visibility conditions.

Commented [PE6]: There is no penalty provision for any of these violations; you should decide upon what you want and then insert it here.

I also believe the descriptions of some of the violations are somewhat amorphous/vague so you may want to have staff clarify them.

- (2) The lighting equipment must show a white light visible from a distance of at least 500 feet to the front of the apparatus.
- (3) The lighting equipment must have a red reflector or lighting device or material of such size or characteristic and so mounted as to be visible from all distances up to 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.

Section 6. Seizure.

- (A) At such time as a citation is issued to a skateboard, bicycle, scooter, roller skates or other similar apparatus rider who is in violation of this ordinance, the police may seize the apparatus upon which the violator was riding.
- (B) Said apparatus may be recovered from the Aumsville Police Department by an adult rider 24 hours after being seized.

(C) Said apparatus may be recovered from the Aumsville Police Department by a juvenile offender 24 hours after being seized provided the offender is accompanied by a parent or guardian.

Section 7. Procedure. A citation to appear in Aumsville Municipal Court for violation of this ordinance shall be issued to the alleged violator stating the date, time and place to appear and the date, time and place of the alleged offense. At the request of the offender, a trial shall be conducted without a jury. All juvenile offenders shall be cited to juvenile court.

Section 8. Penalty. The penalty for violation of any provision of this ordinance shall be a fine not less than \$5.00 and not more than \$100.00.

Section 9. Repeal. Ordinances 21 and 56 are repealed in their entirety.

~~**Section 7. Emergency Clause.** Whereas it is necessary for the immediate preservation of the public health, peace and safety of the citizens of the city of Aumsville, that this ordinance become effective at the earliest time possible; therefore, this ordinance shall become effective immediately upon passage by the council and signature of the mayor.~~

Commented [PE7]: My typical admonition about emergency clauses applies

PASSED by the City Council _____ and signed by the
Mayor _____

Section 4. Skateboards, Roller Skates, Scooters Safety Regulations.

- ~~(A)~~ Use of a skateboard, scooter, roller skates, or other similar apparatus in other areas than the business district is permitted so long as the use and the operation is safe. A person commits the offense of unsafe operation of the above mentioned apparatus if the person does one of the following:
- ~~(1)~~ Operates the skateboard, roller skates, scooter or similar apparatus so as to suddenly leave a curb or other place of safety and move into the path of a vehicle, bicycle or pedestrian that is so close as to constitute an immediate hazard.
 - ~~(2)~~ Operates a skateboard, roller skates, scooter or other similar apparatus and does not give an audible warning before overtaking and passing a pedestrian and does not yield the right of way to all pedestrians.
 - ~~(3)~~ Operates a skateboard, roller skates, scooter or other similar apparatus in a careless manner that endangers or would be likely to endanger any person or property.
 - ~~(4)~~(5) Operates a skateboard, roller skates, scooter or similar apparatus at a speed greater than an ordinary walk when approaching or entering a crosswalk, approaching or crossing a driveway or crossing a curb cut or pedestrian ramp and a motor vehicle is approaching the crosswalk, driveway, curb cut or pedestrian ramp.

Section 5. Prohibited Riding Times.

- ~~(A)~~(B) No person shall ride a skateboard, roller skates, scooter or other similar apparatus upon any street or sidewalk between one hour after sunset and one hour before sunrise unless the apparatus or rider is equipped with lighting equipment that meets the described requirements:
- ~~(1)~~(4) The lighting equipment must be used during limited visibility conditions.
 - ~~(2)~~(5) The lighting equipment must show a white light visible from a distance of at least 500 feet to the front of the apparatus.
 - ~~(3)~~(6) The lighting equipment must have a red reflector or lighting device or material of such size or characteristic and so mounted as to be visible from all distances up to 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.

Section 6. Seizure.

- ~~(A)~~(D) At such time as a citation is issued to a skateboard, bicycle, scooter, roller skates or other similar apparatus rider who is in violation of this ordinance, the police may seize the apparatus upon which the violator was riding.
- ~~(B)~~(E) Said apparatus may be recovered from the Aumsville Police Department by an adult rider 24 hours after being seized.

~~(G)~~(F) Said apparatus may be recovered from the Aumsville Police Department by a juvenile offender 24 hours after being seized provided the offender is accompanied by a parent or guardian.

Section 7. Procedure. A citation to appear in Aumsville Municipal Court for violation of this ordinance shall be issued to the alleged violator stating the date, time and place to appear and the date, time and place of the alleged offense. At the request of the offender, a trial shall be conducted without a jury. All juvenile offenders shall be cited to juvenile court.

Section 8. Penalty. The penalty for violation of any provision of this ordinance shall be a fine not less than \$5.00 and not more than \$100.00.

Section 9. Repeal. Ordinances 21 and 56 are repealed in their entirety.

PASSED by the council June 13, 1988 and signed by the mayor June 14, 1988.

ORDINANCE NO. 700

AN ORDINANCE RELATING TO MOTOR VEHICLE TRAFFIC, ESTABLISHING A TRUCK ROUTE, AND REPEALING ORDINANCE 363.

The City of Aumsville ordains as follows:

Section 1. Boundaries Established.

N 11th Street, commonly known as Aumsville Hwy, from the northern boundary of the city, south to the intersection of Mill Creek Road (commonly known as Main Street);

Main Street, commonly known as Mill Creek Road, from the westerly boundary of the city to the easterly boundary of the city

S 8th Street, commonly known as West Stayton Road, from Main Street to the southerly boundary (bridge) of the city

N 1st Street, commonly known as Shaw Hwy, from Main Street to Del Mar Drive

Olney Street, from N 9th Street, west to N 11th Street (Aumsville Hwy)

Section 2. Length Restriction. It shall be unlawful to operate any truck over thirty (30) feet in total length or any truck and trailer or truck and semi-trailer combination upon any city owned public street within the city unless such street has been designated as a truck route.

Section 3. Weight Restriction. It shall be unlawful to operate any truck of 30,000 pounds gross weight upon any public street within the city unless such street has been designated as a truck route.

Section 4. Loading and Unloading. Vehicles being operated on public streets for the specific reason of picking up or discharging goods at any business establishment or residence located on other than a designated truck route; or trucks, with business at adjacent industrial sites, parked temporarily, shall be exempt from the provisions of this ordinance.

Section 5. Penalty. Any violation of this ordinance is hereby declared a nuisance and any person found in violation thereof shall be subject to a penalty of Two Hundred Fifty Dollars (\$250). A violation of this ordinance shall be considered a separate violation for each offense.

Section 6. Repeal. Ordinance No. 363 is hereby repealed.

Section 7. Effective Date. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 23rd day of November 2020. READ a second time on the ____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the ____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. XXX363

AN ORDINANCE RELATING TO MOTOR VEHICLE TRAFFIC, ESTABLISHING A TRUCK ROUTE, REPEALING ORDINANCE 363246 and 249, AND DECLARING AN EMERGENCY.

The eCity of Aumsville, Oregon, ordains as follows:

Section 1. [Boundaries Established.]

N 11th Street, commonly known as Aumsville Hwy, from the northern boundary of the city, south to the intersection of Mill Creek Road (commonly known as Main Street); Main Street, commonly known as Mill Creek Road, from the westerly boundary of the city to the easterly boundary of the city
S 8th Street, commonly known as West Stayton Road, from Main Street to the southerly boundary (bridge) of the city
N 1st Street, commonly known as Shaw Hwy, from Main Street to Del Mar Drive
Olney Street, from N 9th Street, west to N 11th Street (Aumsville Hwy)
Market Road No. 89 (commonly known as 11th Street) from the northern boundary of the city south to the intersection of Market Road No. 28 (commonly known as Main Street); Market Road No. 28 from the western boundary of the city easterly to the eastern boundary of the city; Market Road No. 88 (commonly known as First Street) from Market Road No. 88 to the northern boundary of said city; 8th Street from the Mill Creek Bridge north to the intersection of Market Road No. 28 is hereby designated as a truck route.

Section 2. [Length Restriction.] It shall be unlawful to operate any truck over thirty (30) feet in total length or any truck and trailer or truck and semi-trailer combination upon any city owned public street within the city unless such street has been designated as a truck route.

Section 3. Weight Restriction. It shall be unlawful to operate any truck of 320,000 pounds gross weight upon any public street within the city unless such street has been designated as a truck route. [Section 3 amended by Ord. No. 499, sec. 1, passed December 10, 2004]

Section 4. Loading and Unloading. Vehicles being operated on public streets for the specific reason of picking up or discharging goods at any business establishment or residence located on other than a designated truck route; or trucks, with business at adjacent industrial sites, parked temporarily, shall be exempt from the provisions of this ordinance. [Section 4 amended by Ord. No. 531, passed February 23, 2004]

Section 5. Penalty. Any violation of this ordinance is hereby declared a nuisance and any person found guilty in violation thereof, shall be punished by a fine subject to a penalty of not more than Two Hundred Fifty Dollars (\$250-). A violation of this ordinance shall be considered a separate violation offense for each offense day the violation continues.

Section 6. Repeal. Ordinances No. 363246 and 249 are hereby repealed.

Commented [PE1]: I don't believe this qualifies as an emergency - the delineation of truck routes - factually speaking. Avoid doing this for run-of-the-mill legislation.

Commented [PE2]: See Charter Sec. 26

Commented [PE3]: I am assuming this road is a city street and thus under the sole jurisdiction of the city. If not, then I don't believe this designation is appropriate unless the city has written approval from either ODOT (for state highways) or Marion County (for a county road). See, ORS 810.040.

Assuming If you do have proper authority, I would rewrite the ordinance and set out the facts in recitals, i.e., that the City is a road authority for city streets, that it has the ability to create truck routes within the city on city streets, that the City has been given written approval by both Marion County and ODOT to create truck routes on roads under their respective jurisdictions, etc.

Commented [RC4R3]: Truck Route: Olney to 11th St to 9th St

Commented [RCSR3]: To be written out by Steve

Commented [PE6]: The term "public street" I assume includes both state highways and county roads ... unless you have been given authority to create such a limitation in writing by the state and/or county for roads under their jurisdictions, this limitation is not enforceable.

Commented [PE7]: I modified the language to avoids any attempt to make this a criminal enactment by avoiding words like "punished" or "fine".

Section 7. Emergency Clause. ~~Whereas it is necessary for the immediate preservation of the public health, peace and welfare of the citizens of the city of Aumsville that this ordinance become effective at the earliest time possible, therefore, this ordinance shall become effective immediately upon its passage by the city council and signature of the Mayor.~~

~~PASSED unanimously by the city council December 11, 1989 and signed by the mayor December 13, 1989.~~

Commented [PE8]: Avoid if possible. I would delete this.

ORDINANCE NO. 701

AN ORDINANCE REPEALING ORDINANCE NO. 370, AN ORDINANCE CONCERNING THE OREGON UNIFORM TRAFFIC CODE

The City of Aumsville ordains as follows:

Section 1. PURPOSE. This ordinance is no longer needed, the City Attorney recommended repealing.

Section 2. REPEAL. ORDINANCE NO. 370, AN ORDINANCE ADOPTING ALL AMENDMENTS AND CHANGES MADE TO THE OREGON REVISED STATUTES CHAPTERS 801, 802, 803, 805, 806, 807, 808, 810, 811, 813, 815, 816, 818, 820, 821, 822, AND 823 CONCERNING THE OREGON UNIFORM TRAFFIC CODE BY THE 1989 OREGON LEGISLATURE dated December 11, 1989; is hereby repealed.

Section 3. EFFECTIVE DATE. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 23rd day of November, 2020. READ a second time on the ____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the ____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. 370

AN ORDINANCE ADOPTING ALL AMENDMENTS AND CHANGES MADE TO THE OREGON REVISED STATUTES CHAPTERS 801, 802, 803, 805, 806, 807, 808, 810, 811, 813, 815, 816, 818, 820, 821, 822, and 823 CONCERNING THE OREGON UNIFORM TRAFFIC CODE BY THE 1989 OREGON LEGISLATURE, REPEALING ORDINANCE 345 AND DECLARING AN EMERGENCY.

The city of Aumsville, Oregon, ordains as follows:

Section 1. General Provisions. The city of Aumsville does hereby adopt and incorporate by reference into the existing Aumsville ordinances, all amendments and changes made by the 1989 Oregon Legislature to the Oregon Revised Statutes Chapters 801, 802, 803, 805, 806, 807, 808, 810, 811, 813, 815, 816, 818 820, 821, 822, and 823 concerning the Oregon Uniform Traffic Code.

Section 2. Repeal. Ordinance No. 345 is hereby repealed.

Section 3. Emergency Clause. It is hereby adjudged and declared that the existing conditions are such that this ordinance is necessary for the immediate preservation of the public peace, health and safety of the city of Aumsville. Emergency is hereby declared to exist, and this ordinance shall take full force and effect when passed by the council and signed by the mayor.

PASSED unanimously by the city council December 11, 1989 and signed by the mayor December 25, 1989.

ORDINANCE NO. 702

AN ORDINANCE REQUIRING ALL BUSINESSES AND PEDDLERS IN THE CITY OF AUMSVILLE TO MAKE APPLICATION FOR A LICENSE, FIXING FEES, PROVIDING FOR THE MANNER FOR ENFORCING THIS ORDINANCE, AND REPEALING ORDINANCE NO. 659.

The city of Aumsville does ordain:

Section 1. Definitions.

- (A) Business. For the purpose of this ordinance, a business is defined as any person, partnership firm, company, corporation, or other entity operating within the city and carrying on a profession, vocation, or trade and/or offering its goods and services to the community.
- (B) City. The City of Aumsville.
- (C) Home Occupation. For the purpose of this ordinance a home occupation is as defined and regulated in the Development Code.
- (D) Peddler. For purpose of this ordinance a peddler is defined as any person or persons going in and upon private property, or calling at residences; not having been requested or invited to do so by the owner or owners, for the purpose of soliciting orders for the sale of, or disposing of, goods, wares, merchandise, or services and/or for the purpose of peddling. It does not include those seeking donations without a product (charitable), political candidates, or religious organizations.
- (E) Transient Business. A Transient Business is one operating from various locations in the city having no fixed location from which their operation(s) are conducted, the operation of which must be removed at the end of each day.

Section 2. Purpose. This ordinance establishes a registration device method for local businesses for the City to establish revenue to pay for the expenses required to issue licenses and provide revenue for municipal services to business.

Section 3. License Required. Any Business operating in the city is required an application for a license to do so with the City. No person may engage in business in the city without first obtaining a license and paying the license fees required. The license shall be issued annually with a commencement date of July 1 and ending June 30. No prorating of fees for licenses issued less than 12 months will occur.

Section 4. Applications and Fees.

- (A) Application for a business license shall be made upon forms furnished by the City which application shall address the following:
 1. Name, address (legal and local), and identification verification of the applicant;
 2. The name of the business;
 3. The address at which the business will be conducted (if applicable);
 4. A description of the nature of the business and the goods to be sold;

5. For transient businesses:
 - a) the name and address;
 - b) The length of time for which the right to do business is desired;
 - c) If a vehicle is to be used, a description of the same, together with license number or other means of identification; as well as proof of general liability insurance coverage;
 6. The amount of the license fee tendered with the application;
 7. The signature of the applicant or agent making application;
 8. The date of application;
- (B) Payment of the license fee as the same is set out in the City's fee schedule.

Section 5. License Fees. All license fees shall be set by resolution.

Section 6. Transfers and Relocations.

- (A) In the event of the transfer of ownership of any business, the business license may not be transferred by application of the new owner to the City.
- (B) In the event a business relocates, the licensee shall reapply by application to the City.

Section 7. Denial, Suspension, or Revocation of License.

- (A) A license issued under this ordinance may be denied, suspended, or revoked for any of the following causes:
1. Fraud, misrepresentation, or false statement contained in the application for a license; or
 2. violation of this ordinance;
 3. A violation of local, state, or federal law.
- (B) The license shall contain the signature of the issuing officer, the name and address of the licensee, the type of business, the date of issuance and the length of time the license is in effect. The City shall keep a record of all licenses issued
- (C) Notice. The city administrator shall provide written notice to the applicant or licensee of a denial, suspension, or revocation. The notice shall state the reason for the action taken and shall inform the applicant of the right to appeal under Section 8 of this ordinance.
- (D) Reapplication. A person whose application for a business license has been denied, or whose license has been revoked may, after 90 days from the date of denial or revocation, apply for a new license upon payment of the application fee and submission of an application form and related documents.

Section 8. Appeal.

- (A) In the event an application for a license under this ordinance is denied, or in the event a license is suspended or revoked, the applicant or license holder shall have the right to appeal. The written notice of appeal to Council shall be filed with the city administrator within 15 days after the denial of license or suspension or revocation.

- (B) Council shall hear and make a determination in regard to the appeal at its next regular meeting held not less than 20 days after the filing of the notice of appeal.
- (C) The decision of Council on such appeal shall be final and conclusive.

Section 9. Disclaimers, Exceptions, General Requirements, Exemptions.

- (A) Disclaimers and Exceptions. The levy or collection of a license fee upon any business shall not be construed to be a license or permit by the City to the person engaged therein in the event such business shall be unlawful, illegal, or prohibited by the laws of the state of Oregon or the United States, or ordinances of the City.
- (B) Nothing herein contained shall be taken or construed as vesting any right in any license as a contract obligation on the part of the City. Business license fees, as set by Council resolution, may be increased or decreased, and other or additional taxes or fees may be levied, increased, or decreased, at any time by Council. No person having paid the fee required, and having made application for a business license, shall be entitled to a refund.
- (C) General License Requirements. In addition to any other requirement of this ordinance, each licensee shall:
 - 1. Conform to all federal, state, and local laws and regulations, the provisions of this ordinance, and any rules adopted hereunder.
 - 2. Notify the City within 10 days of any change in material information contained in the application, related materials, or license.
 - 3. Displaying of License.
 - a) Businesses with established place of business shall display business license in a conspicuous place at all times.
 - b) Individual without an established place of business shall be required to continually carry the license with them when conducting business in the city limits of Aumsville.

Section 10. Specific Requirements.

- (A) Businesses dealing in the purchase or trade of secondhand goods, such as jewelry, guns, or electronic equipment, shall keep a record of the sales for inspection by the chief of police. Such a record shall include the name of the seller, the name of the buyer, the date of sale, a description of the merchandise sold, any serial numbers or distinguishing marks on the goods being traded, as well as other information that would enable return of stolen goods.
- (B) Merchant Police, Security Services, and Similar Businesses.
 - 1. Each individual shall agree to a complete background check by the chief of police to determine the qualifications and reliability of the individual for the proposed business. The City may require a bond and such insurance as may be deemed proper. The license shall be issued only upon the police chief's approval of each person involved, such approval to be based on the complete background check.

Section 11. Exemptions. The license requirement does not apply to temporary businesses established for the purpose of supporting a festival or outdoor market. Business or vendors are limited to events that last no longer than 72 hours.

Section 12. Violations and Penalties.

- (A) Any person or business violating any of the provisions of this ordinance is subject to a penalty of \$500 for any one violation with each day constituting a separate violation.
- (B) In addition to the enforcement provisions of this ordinance, upon request by the city administrator, the city attorney may institute any additional proceedings, including, but not limited to, seeking injunction relief to enforce the provisions of this ordinance.

Section 13. Repeal. Ordinance No. 659 is hereby repealed.

Section 14. Severability. Council declares that should any section, paragraph, sentence, or word of this ordinance be declared for any reason invalid, said declaration shall not affect the validity or applicability of the ordinance as a whole or any part thereof other than the part so held to be invalid.

Section 15. Effective Date. This ordinance shall take effect on the thirtieth day after its enactment.

Read first on the 23rd day of November 2020. READ a second time on the _____ day of _____, 2020. ADOPTED AND PASSED by the Aumsville City Council on the _____ day of _____, 2020.

Ron Harding, City Administrator

SIGNED by the mayor this ____ day of _____, 2020

Derek Clevenger, Mayor

ORDINANCE NO. 659

AN ORDINANCE REQUIRING ALL BUSINESSES AND PEDDLERS IN THE CITY OF AUMSVILLE TO MAKE APPLICATION FOR A LICENSE, FIXING FEES, PROVIDING FOR THE MANNER FOR ENFORCING THIS ORDINANCE, AND REPEALING ORDINANCES NO. 269 AND 567.

The city of Aumsville does ordain:

Section 1. Definitions.

(1) Business. For the purpose of this ordinance, a business is defined as any person, partnership firm, company, ~~or~~ corporation ~~or other entity establishing itself in a set location or address operating within the City and for the purpose of~~ carrying on a profession, vocation or trade, and/or ~~offering its goods and services to the community,~~

~~(+)(2) City, The City of Aumsville.~~

~~(2)(3) Home Occupation.~~ For the purpose of this ordinance a home occupation is as defined and regulated in the Development Code as an occupation, profession, craft or hobby, which is customarily incidental to, or carried on in, a dwelling place or premises. The occupation must be carried on by a member of the family residing within the dwelling place. There shall be no structural alterations or changes in the dwelling or on the premises unless a permit has been issued for the same. Home occupation activities are to be such that they can be conveniently, unobtrusively, and inoffensively pursued in a family dwelling. No outside storage of vehicles, goods or debris is permitted. Home occupation business activities cannot use more than 20% of the available space in residence.

~~(3)(4)~~ Peddler. For purpose of this ordinance a peddler is defined as any person or persons going in and upon private property, or calling at residences; not having been requested or invited to do so by the owner or owners, for the purpose of soliciting orders for the sale of, or disposing of, goods, wares, merchandise or services and/or for the purpose of peddling. It does not include those seeking donations without a product (charitable), political candidates, or religious organizations.

~~(4)(5)~~ Transient Business. ~~For the purpose of this ordinance a~~ Transient ~~Business is one defined as a business that operating es from various locations in the City having properties and has no fixed permanent locale tion from which their operation(s) are business is conducted, the operation of which .The business must be removed at the end of each day.~~

Section 2. Purpose. ~~This ordinance establishes a cost free registration device method for local businesses for the City to establish revenue to pay for the expenses required to issue licenses and provide revenue for municipal services to business.~~

~~Section 2. Purpose. This ordinance is enacted to regulate businesses to ensure that businesses are complying with applicable city ordinances, state and federal laws; and to provide revenue to pay for the expenses required to issue licenses and, to provide revenue to pay for municipal services to business.~~

Section 3. Peddling Restricted. ~~The practice of persons going in and upon private property or calling at residences without having been requested or invited to do so by the owner or~~

Formatted: Font: 11.5 pt, Italic

Formatted: No underline

Commented [PE1]: I would delete this language and make it only the business license code only revenue generating. What you risk otherwise is someone arguing that the City has an affirmative duty to ensure compliance with ALL federal and state laws which I would think is not really what the City is aiming at. By including this type of language, the City places that obligation on itself. Should someone get in a tussle with a local business, over some consumer transaction, the argument could be made that the City owed them a 'duty' to ensure that the business complied with all consumer protection requirements in both state and federal law; the City could then be named in a lawsuit to recover damages for not doing what the City Code says they are supposed to do.

There is an older Oregon Supreme Court case - *Brennan v. City of Eugene*, 285 Or 401, 591 P.2d 719 (1978) that effectively states if the City takes on a self-imposed 'special duty' and then fails to satisfy the demands of that obligation, they City is then liable for negligence as a result of that failure.

I think it is best just to avoid that issue entirely (at least in this context) and just make the business license code revenue generating for the City.

~~owners, for the purpose of soliciting orders or offering goods, merchandise and/or services for sale is hereby prohibited and declared to be a violation of city ordinance and punishable as a violation unless the appropriate business license is obtained. The peddler must have his current city license displayed on his/her person at all times when operating in the city. Failure to display license during the solicitation shall constitute a violation and the peddler will be subject to a fine and/or suspension of license.~~

Section 4. License Required. Any ~~Business person, firm, company or corporation establishing a new business operating within the eCity limits of Aumsville~~ shall be ~~is~~ required to make application for a license ~~to do so with the City at city hall. Further, n~~No person may engage in ~~Business in the City the business of a peddler as defined in Section 1~~ without first obtaining a license and paying the license ~~or investigation~~ fees required. ~~The license shall be issued annually with a commencement date of July 1 and ending June 30~~January 1 and ending December 31.

Commented [RC2]: We do it June every year now; is this a change?

Section 5. Applications and Fees.

- (1) Application for a business license shall be made ~~to the office of the city administrator~~ upon forms furnished by the eCity ~~which.~~ ~~Each~~ application shall ~~address state~~ the following ~~information:~~
- (A) Name, address (legal and local); and identification verification of the applicant;
 - (B) The name of the ~~proposed~~ business;
 - (C) The address at which the business will be conducted (if applicable);
 - (D) A description of the nature of the business and the goods to be sold;
 - (E) For ~~peddlers and~~ transient businesses, ~~If not self-employed:~~
 - a. the name and address ~~of the employer;~~
 - b. The length of time for which the right to do business is desired;
 - c. If a vehicle is to be used, a description of the same, together with license number or other means of identification; as well as proof of general liability insurance coverage ~~in an amount to be determined by the chief of police;~~
 - (F) The amount of the license fee tendered with the application;
 - (G) The signature of the applicant or agent making application;
 - (H) The date of application;
 - (I) ~~Evidence of satisfaction of state registration, bonding, or insurance if required, including registration number and expiration date.~~
- (2) ~~Prior to approving or denying an application, the city may require the applicant to supply any additional information necessary to determine the applicant's qualifications for the license. Review of an application shall not begin until all requested information has been provided.~~
- (3)(2) ~~At the time of filing the application, the applicant shall p~~Payment of the license fee a fee, (as the same is set out in the City's -of Aumsville-fee schedule.) ~~to the city to cover the cost of investigation.~~

Commented [RC3]: Ask CIS for recommendation? Or Jim or ORS?

Commented [PE4]: I would set a standard amount and set it in the ordinance or, since you may want the flexibility to do it every fiscal year, say it can be changed by way of a fee resolution that the Council could pass yearly to update all the City's fees. Leaving it to the discretion of the Chief could prove to be problematic legally since there could be variations in the amount(s) which might be hard to justify. .

Section 6. Investigation and Issuance.

- (1) ~~Upon receipt of a peddler's license application, the city may refer the original application to the police chief who shall cause an investigation of the applicant's business and moral character to be made as may be necessary for the protection of the public.~~

- (2) ~~If, as a result of the investigation, the character or business responsibility of the applicant is found to be satisfactory, the police chief shall endorse on the application his approval.~~
- (3) ~~If, as a result of the investigation, the character or business responsibility of the applicant is found to be *unsatisfactory*, the police chief shall endorse on the application his disapproval and his reasons for the same.~~
- (4) ~~The police chief, or his agent, shall investigate and approve or disapprove of the application within 10 days from the receipt of the application. If the application is not approved or disapproved within the time allowed, the police chief is considered to have given his consent and approval of the application.~~
- (5) ~~Approval of Application.~~
- (A) ~~The city administrator shall issue a decision on an application within 30 days of the submission of a complete application form, all requested additional information, and fee.~~
- (B) ~~The city administrator may issue a license upon finding that the applicant has met all requirements of federal, state, and county laws, and applicable city ordinances.~~
- (C)(B) ~~If the application is approved, the city administrator shall notify the applicant. The notice shall state any conditions or limitations placed on the license as a condition of maintaining the license, which the city administrator deems necessary to protect the public health, safety or welfare, or which are required by federal, state, or county law, and applicable city ordinances.~~

Section 7. License Fees.

- (1) ~~All business license fees shall be set determined by resolution of the city council with the~~
- (2) ~~All revenues therefrom license fees shall be deposited in the City's general fund. Costs associated with Any costs involved in the enforcement or administration of this ordinance shall be paid expended from the general fund.~~

Section 8. Registration.

- (1) ~~Charitable, religious, or political organizations, or persons, and those organizations or persons conducting lawful surveys or canvassing the city of Aumsville are required to contact the city administrator or the chief of police and furnish information as to dates and times they will be conducting operations in the city.~~
- (2) ~~The term of a business license or home occupation license, is for a period of one year beginning July 1 through June 30. If a license is issued during the year, it will need to be renewed by June 30.~~
- (3) ~~The term of a peddler's or transient license is determined at the time of application for a period no longer than 30 days.~~

Section 9. Transfers and Relocations.

- (1) ~~No peddler's license issued under this ordinance may be used by a person other than the one to whom the license is issued.~~
- (2) ~~Peddlers are required to have license with them at all times and display license so it is visible to homeowner.~~
- (3)(1) ~~In the event of the transfer of ownership of any business, the applicable business license may not be transferred only by application of the new owner to the eCity.~~

Commented [PE5]: I am not sure you really need to include the highlighted portion in the ordinance as I don't believe it legally necessary; that being said, you certainly can but it may limit you if you needed to get or borrow t funds from some other source. I have adjusted the language just so you have it if you opt to keep it.

Commented [PE6]: In light of my suggestion that the business license ordinance only be a revenue generating device rather than a regulatory one, I don't see the value of keeping this provision.

administrator. The transfer may be approved upon finding that the new applicant meets the requirements of all applicable city ordinances.

- (4)(2) In the event a business relocates, the licensee shall reapply by application to the City administrator to transfer the business license to the new address. The new license may be issued upon finding that the new location meets the requirements of all applicable city ordinances.

Section 10. Denial, Suspension, or Revocation of License.

- (1) A license issued under this ordinance may be denied, suspended or revoked by the city administrator after notice for any of the following causes:
- (A) Fraud, misrepresentation, or false statement contained in the application for a license; or
 - ~~(B) Fraud, misrepresentation or false statement made in the course of carrying on the license activity;~~
 - (B) A violation of this ordinance;
 - (C) A violation of local, state, or federal law.
 - ~~(D) Conviction of any crime or misdemeanor involving moral turpitude, or;~~
 - ~~(E) Conducting the licensed activity in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.~~
- (2) The license shall contain the signature of the issuing officer, and shall show the name and address of the licensee, the type of business, the date of issuance and the length of time the license is in effect. The city shall keep a record of all licenses issued
- (3) Notice. The city administrator shall provide written notice to the applicant or licensee of a denial, suspension, or revocation. The notice shall state the reason for the action taken and shall inform the applicant of the right to appeal under Section 11 of this ordinance. Reapplication. A person whose application for a business license has been denied, or whose license has been revoked may, after 90 days from the date of denial or revocation, apply for a new license upon payment of the application fee and submission of an application form and related documents.

Section 11. Appeal.

- (1) In the event an application for a license under this ordinance is denied, or in the event a license is suspended or revoked, the applicant or license holder shall have the right to appeal. The written notice of appeal to the council shall be filed with the city administrator within 15 days after the denial of license or suspension or revocation.
- (2) The council shall hear and make a determination in regard to the appeal at its next regular meeting held not less than 20 days after the filing of the notice of appeal.
- (3) The decision of the council on such appeal shall be final and conclusive.

Section 12. Disclaimers, Exceptions, General Requirements, Exemptions.

- (1) Disclaimers and Exceptions. The levy or collection of a license fee upon any business shall not be construed to be a license or permit by the city to the person engaged therein in the event such business shall be unlawful, illegal or prohibited by the laws of the state of Oregon or the United States, or ordinances of the city.
- (2) Nothing herein contained shall be taken or construed as vesting any right in any license as a contract obligation on the part of the city. Business license fees, as set by

council resolution, may be increased or decreased, and other or additional taxes or fees may be levied, increased or decreased, at any time by the city council. No person having paid the fee required, and having made application for a business license, shall be entitled to a refund.

- (3) General License Requirements. In addition to any other requirement of this ordinance, each licensee shall:
- (A) Conform to all federal, state and local laws and regulations, the provisions of this ordinance, and any rules adopted hereunder.
 - (B) Notify the city within 10 days of any change in material information contained in the application, related materials, or license.
 - (C) Displaying of License.
 - 1. Businesses with established place of business shall display business license in a conspicuous place at all times.
 - 2. Individual without an established place of business shall be required to continually carry the license with them when conducting business in the city limits of Aumsville.

Section 13. Specific Requirements.

- (1) Businesses dealing in the purchase or trade of secondhand goods, such as jewelry, guns or electronic equipment, shall keep a record of the sales for inspection by the chief of police. Such a record shall include the name of the seller, the name of the buyer, the date of sale, a description of the merchandise sold, any serial numbers or distinguishing marks on the goods being traded, as well as other information that would enable return of stolen goods.
- (2) Merchant Police, Security Services and Similar Businesses.
 - (A) Each individual shall agree to a complete background check by the chief of police to determine the qualifications and reliability of the individual for the proposed business. The city may require a bond and such insurance as may be deemed proper. The license shall be issued only upon the police chief's approval of each person involved, such approval to be based on the complete background check.

Section 14. Exemptions.

- (1) The license requirement does not apply to temporary businesses established for the purpose of supporting a festival or outdoor ~~market~~-market. Business or vendors are limited to events that last no longer than 72 hours.

Section 15. Violations and Penalties.

- (1) Any person or business ~~convicted of~~ violating any of the provisions of this ordinance ~~is subject to a penalty shall be punished by a fine not to exceed of \$500 for any one violation offense, with~~ each day constituting a separate ~~violation offense.~~
- (2) ~~Inspection and Right of Entry. Whenever they shall have cause to suspect a violation of any provisions of this ordinance, or when necessary to investigate an application for, or revocation of a license under any of the procedures prescribed in this ordinance, officials responsible for enforcement or administration; of this ordinance, or their duly authorized representatives, may enter on any site, or into any structure, for the purpose of investigation, provided they do so in a reasonable manner. No secured building shall~~

Commented [PE7]: I try to avoid the use of words/phrases that sound penal or criminal inasmuch as the regulations themselves are really civil enactments.

Commented [PE8]: See above

~~be entered without the consent of the owner or occupant unless under authority of a lawful warrant.~~

~~(3) Abatement. Any business which is established, operated, moved, altered, enlarged or maintained contrary to the licensing requirements shall be, and is hereby declared to be, unlawful and a public nuisance, and may be abated as such.~~

~~(4)(3)~~ Legal Proceedings by City Attorney. -In addition to the enforcement provisions of this ordinance, upon request by the city administrator, the city attorney may institute any additional proceedings, including, but not limited to, seeking injunction relief to enforce the provisions of this ordinance.

Section 16. Repeal. Ordinance No. ~~659269, enacted October 13, 1981, and Ordinance 567 enacted October 10, 2006~~ are hereby repealed.

Section 17. Severability. The eCouncil declares that should any section, paragraph, sentence, or word of this ordinance be declared for any reason invalid, said declaration shall not affect the validity or applicability of the ordinance as a whole or any part thereof other than the part so held to be invalid.

~~**Section 18. Effective Date.** Whereas, it is necessary for the immediate preservation of the public health, peace and safety of the citizens of the city of Aumsville that this ordinance become effective at the earliest time possible. Therefore, this ordinance shall become effective immediately upon its passage by the council and signature of the mayor.~~

PASSED by the council _____

and signed by the mayor _____.



595 Main St. Aumsville, Oregon 97325
(503) 749-2030 • TTY 711 • Fax (503) 749-1852
www.aumsville.us

STAFF REPORT

TO: City of Aumsville City Council

FROM: Ron Harding, City Administrator

SUBJECT: Resolution Approving Water and Sewer Rates

RECOMMENDATION: Approve resolution 16-20 setting water and sewer rates at current rates to meet requirement under our newly approve water and sewer Ordinance No.679 and No. 680.

BACKGROUND: On November 9th, 2020 city council approved Ordinance No. 679 and Ordinance No. 680. These ordinances were approved as part of our overall Ordinance review project to clean up language that was confusing or that did not properly reflect how the city was administering these Ordinances. The language in the new Ordinance requires city council to set new rates each year by resolution. The city normally sets rates in June of each year to align with our fiscal budget but as a matter of house keeping we wanted to make sure we have a rate resolution to go along with the newly approved ordinances.

MOTION:

- Move to approve Resolution No. 16-20 setting water and sewer rates at current rates to meet requirement under our newly approve water and sewer Ordinance No.679 and No. 680.
- Move to approve Resolution No. 16-20 setting water and sewer rates at current rates to meet requirement under our newly approve water and sewer Ordinance No.679 and No. 680 with the following revisions.
- Move to remand back to staff for revisions as directed.

RESOLUTION NO. 16-20

A RESOLUTION ESTABLISHING WATER AND SEWER RATES FOR THE CITY OF AUMSVILLE

WHEREAS, on the 9th day of November, 2020 the city council of the City of Aumsville adopted Ordinances No. 679 and 680, which authorize the Council to set the monthly charges and required deposit for use of the water and sewer systems of the City of Aumsville by resolution; and

WHEREAS, Exhibit A establishes the required deposit and water and sewer rates effective from December 1, 2020 and May 31, 2021; and,

WHEREAS, property owners will not be required to submit a deposit for water and sewer service for their tenants, provided they complete and sign an updated service agreement, attached as Exhibit B; now therefore,

BE IT RESOLVED that the City Administrator is hereby authorized to execute the implementation of the water and sewer rates outlined in Exhibit A from December 2020 to be effective through May 31, 2021.

CONSIDERED AND PASSED BY THE AUMSVILLE CITY COUNCIL ON THE 9TH DAY OF NOVEMBER, 2020.

Della Seney, Mayor Pro-tem

ATTEST:

Ron Harding, City Administrator

Exhibit A

Water and Sewer Service Charges

Water Service Charges

Residential				
	Gallons Included	Minimum Service Charge Inside City Limits	Outside City Limits	Consumption Charge Per 1000 Gallons over Base
Single User Domestic	7,000	\$43.42	\$86.85	\$4.08
Single User - Senior Rates	7,000	\$32.56	\$65.14	\$4.08

Commercial, Industrial, Public Agency & Non-Profit Rates

Single User Meters				
Meter Size	Gallons Included	Minimum Service Charge Inside City Limits	Outside City Limits	Consumption Charge Per 1000 Gallons over Base
3/4" or less	7,000	\$43.42	\$86.84	\$4.08
1"	11,690	\$72.50	\$145.00	\$4.08
1 1/2"	16,800	\$104.25	\$208.50	\$4.08
2"	37,310	\$231.53	\$463.06	\$4.08
3"	70,000	\$434.44	\$868.88	\$4.08
4"	116,620	\$723.78	\$1,447.56	\$4.08
6"	233,240	\$1,447.60	\$2,895.20	\$4.08
8"	373,170	\$2,316.09	\$4,632.18	\$4.08
10"	670,810	\$4,163.44	\$8,326.88	\$4.08

Commercial, Industrial, Public Agency & Non-Profit Rates

Multiple-User Meters						
<i>For base rate charges, use the higher of Minimum Service Charge or [Per User Rate x Total Users]</i>						
Meter Size	Gallons Included (Per User)	Minimum Service Charge Inside City Limits	Per User Inside City Limits	Minimum Service Charge Outside City Limits	Per User Outside City Limits	Consumption Charge Per 1000 Gallons over Base
3/4" or less	7,000	\$43.42	\$43.42	\$86.84	\$86.84	\$4.08
1"	7,000	\$72.50	\$43.42	\$145.00	\$86.84	\$4.08
1 1/2"	7,000	\$104.25	\$43.42	\$208.50	\$86.84	\$4.08
2"	7,000	\$231.53	\$43.42	\$463.06	\$86.84	\$4.08
3"	7,000	\$434.44	\$43.42	\$868.88	\$86.84	\$4.08
4"	7,000	\$723.78	\$43.42	\$1,447.56	\$86.84	\$4.08
6"	7,000	\$1,447.60	\$43.42	\$2,895.20	\$86.84	\$4.08
8"	7,000	\$2,316.09	\$43.42	\$4,632.18	\$86.84	\$4.08
10"	7,000	\$4,163.44	\$43.42	\$8,326.88	\$86.84	\$4.08

Sewer Service Charges

Residential				
	Gallons Included	Minimum Service Charge Inside City Limits	Outside City Limits	Consumption Charge Per 1000 Gallons over Base
Single User Domestic	99999999	\$49.73	\$99.46	\$0.00
Single User - Senior Rates	99999999	\$39.76	\$79.52	\$0.00
Multiple Dwellings - Per Unit	99999999	\$49.73	\$99.46	\$0.00

Commercial, Industrial, Public Agency & Non-Profit Rates				
	Gallons Included	Minimum Service Charge Inside City Limits	Outside City Limits	Consumption Charge Per 1000 Gallons over Base
Apt's Comb w/Bus. - Per Unit	99999999	\$49.73	\$99.46	\$0.00
Business	99999999	\$56.35	\$112.70	\$0.00
Small Church	99999999	\$49.73	\$99.46	\$0.00
Large Church (1.5")	7000	\$56.35	\$112.70	\$0.48
School	7000	\$56.35	\$112.70	\$0.48
Large Commercial/Industrial	7000	\$56.35	\$112.70	\$0.48

Deposit Required to Begin Water and Sewer Services

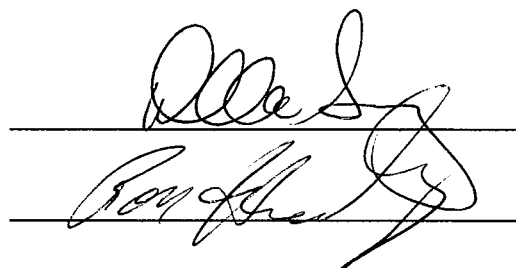
Single User Domestic	\$0 with service agreement
Single User - Senior Rates	\$0 with service agreement
Rental Property - Owner	\$0 with service agreement

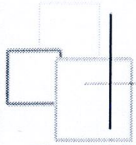
Accounts Payable Register

City of Aumsville

Fiscal: 2020-21
Deposit Period: 2020-21 - October
Check Period: 2020-21 - October - Second Council

Riverview Community Bank	9001000967		
Check			
<u>54379</u>	JENNIFER SWENDSEN	10/29/2020	Void
<u>54398</u>	JENNIFER SWENDSEN	11/3/2020	\$483.95
		Total	Check
		Total	9001000967
		Grand Total	\$483.95





Accounts Payable Register

City of Aumsville

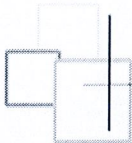
Fiscal: 2020-21

Deposit Period: 2020-21 - November

Check Period: 2020-21 - November - First Council

Number	Name	Print Date	Amount
Riverview Community Bank	9001000967		
Check			
54401	AIRGAS USA, LLC	11/12/2020	\$35.94
54402	BMS TECHNOLOGIES	11/12/2020	\$2,007.75
54403	BRANDON BLYTHE	11/12/2020	\$180.00
54404	BRIAN BUCHHOLZ	11/12/2020	\$180.00
54405	CITY OF SALEM	11/12/2020	\$1,592.50
54406	DAMIAN FLOWERS	11/12/2020	\$300.00
54407	DAVID W KINNEY	11/12/2020	\$517.50
54408	FERGUSON ENTERPRISES INC #3325	11/12/2020	\$261.53
54409	JESSE GREENE	11/12/2020	\$180.00
54410	KNIFE RIVER	11/12/2020	\$926.98
54411	MARION COUNTY TAX COLLECTOR	11/12/2020	\$9.70
54412	MATTHEW ETZEL	11/12/2020	\$300.00
54413	MATTHEW WINANS	11/12/2020	\$180.00
54414	MICHAEL JONES	11/12/2020	\$180.00
54415	MNOP	11/12/2020	\$1,494.60
54416	MOONLIGHT MAINTENANCE	11/12/2020	\$336.75
54417	OFFICE DEPOT, INC	11/12/2020	\$64.69
54418	ONE CALL CONCEPTS INC	11/12/2020	\$20.58
54419	PHILLIP WRIGHT	11/12/2020	\$180.00
54420	PLATT ELECTRIC SUPPLY	11/12/2020	\$1,232.92
54421	POWER CHEVROLET	11/12/2020	\$109.22
54422	RICHARD SCHMITZ	11/12/2020	\$300.00
54423	RON HARDING	11/12/2020	\$300.00
54424	SCOTT KENAGY	11/12/2020	\$180.00
54425	SHANE BIRD	11/12/2020	\$180.00
54426	STAYTON BUILDERS MART	11/12/2020	\$33.10
54427	STETTLER SUPPLY COMPANY	11/12/2020	\$68.57
54428	STEVE OSLIE	11/12/2020	\$300.00
54429	ULTREX BUSINESS SOLUTIONS	11/12/2020	\$35.87
54430	VALLEY SHADE TREE LLC	11/12/2020	\$4,225.00
54431	WATERLAB CORP	11/12/2020	\$785.00
54432	WAVE	11/12/2020	\$9.95
54433	WESTECH ENGINEERING INC	11/12/2020	\$12,129.21
<u>EFT Payment 11/12/2020 12:30:54 PM - 1</u>	DE LAGE LANDEN FINANCIAL SERVICES, INC.	11/12/2020	\$85.00
<u>EFT Payment 11/12/2020 12:30:54 PM - 2</u>	INVOICE CLOUD	11/12/2020	\$1,757.91
<u>EFT Payment 11/12/2020 12:30:54 PM - 3</u>	OREGON DEPARTMENT OF REVENUE	11/12/2020	\$60.04
<u>EFT Payment 11/12/2020 12:30:54 PM - 4</u>	PACIFIC POWER	11/12/2020	\$10,215.18
<u>EFT Payment 11/12/2020 12:30:54 PM - 5</u>	REPUBLIC SERVICES #456	11/12/2020	\$60.00
<u>EFT Payment 11/12/2020 12:30:54 PM - 6</u>	RIVERVIEW COMMUNITY BANK	11/12/2020	\$5,452.60
<u>EFT Payment 11/12/2020 12:30:54 PM - 7</u>	VERIZON WIRELESS	11/12/2020	\$75.62
	Total Check		\$46,543.71
	Total 9001000967		\$46,543.71
	Grand Total		\$46,543.71

[Signature] 11/12/20
[Signature] 11/12/2020



Payroll Register

City of Aumsville

Fiscal: 2020-21
Deposit Period: 2020-21 - November
Check Period: 2020-21 - November - First Council

Number	Name	Print Date	Amount
Riverview Community Bank	9001000967		
Check			
54399	Casarez, Santos N	11/13/2020	\$83.02
54400	Purdy, Larry W	11/13/2020	\$83.02
<u>Direct Deposit Run - 11/10/2020</u>	Payroll Vendor	11/13/2020	\$36,150.72
<u>EFT 12012020</u>	PERS	11/13/2020	\$11,088.82
<u>EFT 41558503</u>	EFTPS	11/13/2020	\$13,059.45
<u>EFT 67371110</u>	Oregon Department of Revenue	11/13/2020	\$3,573.40
<u>EFT HSA11132020</u>	HSA Bank	11/13/2020	\$875.83
<u>EFT OSGP11132020</u>	VOYA - STATE OF OREGON - LG#:2234	11/13/2020	\$540.00
<u>EFT V11132020</u>	Valic	11/13/2020	\$425.00
<u>HDSHP DON 11132020</u>	CITY OF AUMSVILLE	11/13/2020	\$184.49
	Total	Check	\$66,063.75
	Total	9001000967	\$66,063.75
	Grand Total		\$66,063.75

Della Sereny

[Signature]



ELECTED ESSENTIALS WORKSHOPS

New to city government? Need a refresher on government fundamentals?

Plan now to attend one of six FREE virtual trainings.

Topics covered include:

- Council Responsibilities
- Ethics
- Public Meetings
- Public Records
- Legal Powers & Impediments Affecting Elected Officials

The workshops will include live Q&A time with speakers following each topic.

There will be six virtual Elected Essential Trainings this year. We have allocated two regions to each date to help spread out the number of attendees at each training. If that date assigned to your region does not work in your schedule, please feel free to sign up for the date that works best for you. The map of LOC Regions can be found on the [LOC website](#).

Workshop Dates:

December 1 – Regions 1 & 5
December 2 – Regions 6 & 7
December 3 – Regions 3 & 4

December 11 – Regions 2 & 8
December 14 – Regions 9 & 10
December 15 – Regions 11 & 12

All workshops are 8:30 a.m. - 3:30 p.m.

REGISTER NOW! – www.orcities.org

For questions, please contact the LOC at loc@orcities.org or (503) 588-6550.