

## ORDINANCE 686

### **AN ORDINANCE DEFINING NUISANCE, PROVIDING FOR THEIR ABATEMENT, PRESCRIBING PENALTIES, REPEALING ORDINANCE NO. 369 AND AMENDED BY ORDINANCE 713**

**The City of Aumsville 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 defined mean:

**Animal.** Any animals as distinguished from and not including humans, including mammals, fowl, reptiles, and fish.

**Chief of Police.** The Chief of the Aumsville Police Department or their designee.

**City.** The City of Aumsville, Marion County, State of Oregon.

**City Administrator.** The City Administrator of the City of Aumsville or their designee.

**City Council.** The governing body of the City.

**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, or 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 tires(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 privation corporation, local government 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.

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 3. 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 4 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 20 feet from any property boundary.
    - g) The total number of animals over 6 months of age to be kept or maintained shall not exceed 4 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 per dwelling unit:
  - 1. It shall be unlawful for any person to own a total number of more than 4 dogs and cats, and one litter of puppies or kittens under 6 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 4. 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 waste 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.

## **Section 5. 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 function.
  - 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 7:00AM and 7:00PM 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 7:00AM and 6:00PM weekdays, and between 9:00AM and 7:00PM on weekends, or in residential, commercial, or industrial garages or in a building between the hours of 7:00AM and 9:00PM, 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 11:00PM and 7:00AM.
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 6. 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 1 ½ 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 7. 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 8. Sidewalks and Driveways.**

- (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.
- (C) Businesses must maintain driveway and parking area asphalt and concrete in good condition. Potholes, wheel stops, curbing and stripping must be repaired within 30 days of notice by the City.

(D) No person shall drive any vehicle upon a sidewalk, curb or sidewalk area except upon a permanent or duly authorized (permit required) driveway.

### **Section 9. 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 not 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 10. 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 11. 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 8 feet above the sidewalk and at least 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 12. 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 13. 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 14. 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 15. 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 property 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 16. 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 or 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 17. 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 15 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 violation of this ordinance.
3. Each 24-hour period constitutes a separate occurrence.
4. The infraction complaint shall consist of the following 4 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 a 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 of abatement 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 of 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 a 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 18. 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 19. 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 20. 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 21. 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, 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 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 9 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 proposed assessment, will not void the assessment and it shall remain a valid lien against the property.

### **ABATEMENT PROCEDURE FOR DERELICT BUILDINGS**

#### **Section 22. 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 agenda 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 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 of 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 percent 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 the 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 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 23. Summary Abatement.** The procedure provided by this ordinance is not exclusive but is in addition to procedure provided by other ordinances. The Fire Chief, a law enforcement officer, 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 24. Penalties.** A violation of a provision of this ordinance is punishable by a fine not to exceed \$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 filled, 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.

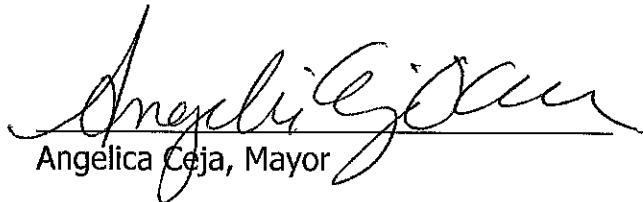
**Section 25. Separate Violation.** Each day's violation of a provision of this ordinance constitutes a separate offense.

**Section 26. 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.

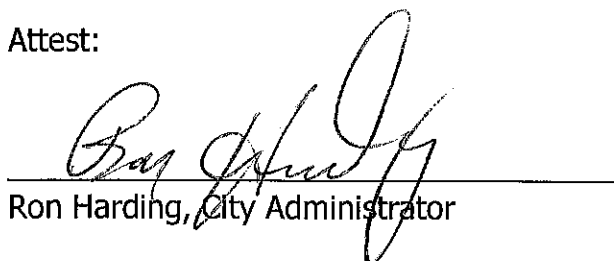
**Section 27. Severability.** The sections and subsections of this ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections or subsections.

**Section 28. Repeal and Amend.** Ordinance 369 is hereby repealed, and Ordinance 686 is hereby amended in Ordinance 713.

**Section 29. Effective Date.** This ordinance is hereby declared an emergency and shall take effect upon adoption by Council.

  
Angelica Ceja, Mayor

Attest:

  
Ron Harding, City Administrator