

ORDINANCE NO. 07- 3

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PULLMAN, WHITMAN COUNTY, WASHINGTON, RELATING TO HEALTH AND SANITATION, ADDING CHAPTERS 5.01, PULLMAN NUISANCE CONTROL CODE, 5.05, NUISANCE PARTY REGULATIONS, AND REPEALING CHAPTER 5.12, NUISANCES, OF THE PULLMAN CITY CODE AND PULLMAN CITY ORDINANCE NOS. 507 §§1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 AND 12 (1929), 81-68 §3(part)(1981), 99-12 §1 (1999), AND 02-2 §1 (2002) AND OTHER MATTERS PROPERLY RELATED THERETO.

WHEREAS, the City Council of the city of Pullman has determined it is in the best interest of the citizens of Pullman to review and update its existing nuisance code provisions; and,

WHEREAS, preservation of the health and safety of the citizens of Pullman and visitors to the City is an issue of utmost importance; and,

WHEREAS, the quality of life in Pullman is negatively impacted by the existence of public nuisances and visual disturbances caused by things such as litter, trash accumulations, noise code violations, uncontrolled social gatherings and associated violations of the law; and

WHEREAS, the City Council has determined that the implementation of increased municipal regulation of nuisances, litter, trash accumulations, noise code violations, uncontrolled social gatherings and other disturbances that endanger or interfere with the peaceful repose and enjoyment of the environment to which all Pullman residents and visitors are entitled; now therefore,

THE CITY COUNCIL OF THE CITY OF PULLMAN DO ORDAIN AS FOLLOWS:

Section 1: There is hereby added a new Chapter 5.01 to

the Pullman City Code entitled Pullman Nuisance Control Code.

Section 2: There is hereby added a new section 5.01.010 to the Pullman City Code to read as follows:

5.01.010 Purpose. It is the purpose of this chapter to declare what shall constitute a public nuisance within the city and to provide for the abatement of such nuisances in order to protect the public health, safety and welfare; to prohibit those conditions that create fire or other safety or health hazards; to prohibit those conditions which interfere with the enjoyment of public or private property; to prevent those conditions that contribute to the degradation of the character of neighborhoods and the depreciation of property values; and to prohibit conditions which degrade the city's scenic attractiveness, livability and economic welfare.

Section 3: There is hereby added a new section 5.01.020 to the Pullman City Code to read as follows:

5.01.020 Short title. This chapter may be known and cited as the "Pullman nuisance control code."

Section 4: There is hereby added a new section 5.01.030 to the Pullman City Code to read as follows:

5.01.030 Definitions. The words and phrases used in this chapter, unless the context otherwise indicates, shall have the following meanings:

- (1) "Abate" means to repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the enforcement officer, in his judgment, determines is necessary in the interest

of the general health, safety and welfare of the community.

- (2) "Building materials" means and includes lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing material, cans of paint and similar materials.
- (3) "Enforcement officer" means the Mayor or any alternate designated by him.
- (4) "Junk" includes all appliances or parts thereof, all parts of motor vehicles, tires, all iron or other metal, plastics, glass, paper, cardboard, rubber, lumber, wood, mattresses, disabled trailers or parts thereof, all of which meet one of the following requirements:
 - (a) Are discarded;
 - (b) Are unusable;
 - (c) Are broken; or
 - (d) Have not been used for their primary and original purpose for a period of six months and have no value other than scrap value.
- (5) "Nuisance Party" means a social gathering or party which is conducted on premises within the City and which, by reason of the conduct of the persons in attendance, results in any one or more of the following conditions or events occurring at the site of the said party or social gathering, or on neighboring public or private property: disorderly conduct; illegal open container; outdoor urination or defecation in a

public place; unlawful sale, furnishing, dispensing or consumption of beer or intoxicating liquor; sale or furnishing of beer or intoxicating liquor to an underage person; possession or consumption of beer or intoxicating liquor by an underage person; illegal use or sale of a controlled substance; public indecency; unlawful deposit of litter or refuse; the damage or destruction of property without the consent of the property owner; unlawful pedestrian or vehicular traffic; standing or parking of vehicles that obstructs the free flow of traffic on the public streets and sidewalks or that impedes the ability to render emergency services; unlawfully loud noise; or any other conduct or condition that threatens injury, inconvenience, or alarm to persons or damage to property which is hereby declared to be an unlawful public nuisance.

- (6) "Premises" means any building, lot, parcel, real estate or land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.
- (7) "Public Nuisance" means:
 - (a) A violation of any City of Pullman Health and Sanitation ordinance; or
 - (b) Doing an act; omitting to perform any act or duty; or permitting or allowing any act or omission which annoys, injures, or endangers the comfort, repose, health, or safety of

others; is unreasonably offensive to the senses; or which obstructs or interferes with the free use of property so as to interfere with or disrupt the free use of that property by any lawful owner or occupant; or

(c) Other nuisances as expressly defined in this chapter; or

(d) A nuisance party as defined in this chapter; or

(e) Conditions which are determined by the department director or department head responsible for enforcing an ordinance or chapter of the Pullman City Code to be violations of the standards and requirements of the ordinance or code and unreasonably detrimental to the public health and safety, or welfare, so as to constitute a public nuisance. The criteria for determining whether a nuisance exists shall be based on the criteria in subsection (b) of this section and Chapter 7.48 RCW.

(8) "Responsible Person" means any agent, lessor, lessee or other person occupying or having charge or control of any premises, except the owner.

(9) "Owner" means any person owning property, as shown on the real property records of Whitman County or on the last assessment roll for taxes, and shall also mean any lessee, tenant, occupant

or other person having control or possession of the property.

Section 5: There is hereby added a new section 5.01.040 to the Pullman City Code to read as follows:

5.01.040 Public Nuisances Prohibited. No person owning, leasing, renting, occupying, being in possession or having charge of any property in the City, including vacant lots, shall maintain or allow to be maintained on such property, except as may be permitted by any other City ordinance, any public nuisance, whether visible from any public street or alley, or from any other private property.

Section 6: There is hereby added a new section 5.01.050 to the Pullman City Code to read as follows:

5.01.050 Other Nuisances Defined. Without limitation of the generality of the definition of public nuisance set forth in this chapter, the following acts, omissions, conditions and things are declared to be and constitute public nuisances, subject to abatement as provided in this chapter:

- (1) Storing or accumulating, or permitting the storage or accumulation, of junk on any premises where the junk is exposed to view from any public place;
- (2) The accumulation, or permitting the accumulation of, tin cans, bottles, trash, litter, waste or refuse of any nature on any premises, except in garbage cans or containers maintained for regular collection;
- (3) Permitting the existence of any dilapidated, abandoned or partially destroyed building or

structure; any unused building or structure which is not properly secured from entry; or any building or structure commenced and left unfinished;

- (4) Storing, or permitting to be stored, any toxic, radioactive, caustic, flammable, explosive or other dangerous or hazardous substances, except when stored in compliance with the requirements of all regulatory agencies having jurisdiction;
- (5) Permitting the existence of any putrid, unsound or unwholesome bones, meat, hides or skins, or the whole or any part of any dead animal, fish or fowl,
- (6) Privies, vaults, cesspools, sumps, pits, excavations or like places which are not securely protected, or which are foul or malodorous;
- (7) Any refrigerator, freezer or other insulated container within which a child could suffocate;
- (8) Creating, or permitting to be created, any noise in excess of that allowable under Pullman City Code Chapter 8.80, Noise Regulations, as it exists or may be amended at or after the effective date of the ordinance codified in this chapter, which is incorporated in this chapter by this reference;
- (9) The accumulation, or permitting the accumulation, of building materials or objects of any nature where the same endangers property or safety, constitutes a fire hazard, or creates an attractive nuisance;

- (10) The existence of any offensive or dangerous accumulation of weeds, trash, dirt, filth, waste shrubs, lawn or yard trimmings, the carcass of any animal or other offensive matter;
- (11) The existence of any dead, diseased, infested or dying tree that may constitute a danger to street trees, streets or portions thereof;
- (12) The existence of any tree, shrub or foliage, unless by consent of the city, which is apt to destroy, impair, interfere or restrict:
 - (a) Streets, sidewalks, sewers, utilities or other public improvements,
 - (b) Visibility on, or free use of, or access to such improvements;
- (13) The existence of any vines or climbing plants growing into or over any street tree, or any public hydrant, pole or electrolier, or the existence of any shrub, vine or plant growing on, around or in front of any hydrant, standpipe, sprinkler system connection or any other appliance or facility provided for fire protection purposes in such a way as to obscure the view thereof or impair the access thereto;
- (14) The existence of a sidewalk or a portion of a sidewalk adjacent to any premises which is out of repair, and in a condition to endanger persons or property, or in a condition to interfere with the public convenience in the use of such sidewalk;

- (15) The dumping or otherwise unlawful depositing of refuse, sawdust or any other material without a permit;
- (16) The existence of any obstruction to a street, alley, crossing or sidewalk, and any excavation in or under any street, alley, crossing or sidewalk, which is by ordinance prohibited, or which is made without lawful permission, or which, having been made by lawful permission, is kept and maintained after the purpose thereof has been accomplished, and for an unreasonable length of time;
- (17) The existence of any fence or other structure or thing on private property abutting or fronting upon any public street, sidewalk or place which is in a sagging, leaning, fallen, decayed or otherwise dilapidated or unsafe condition;
- (18) The existence or maintenance on any premises of a storage area, junkyard or dumping ground for the wrecking or disassembling of automobiles, trucks, trailers, house trailers, boats, tractors or other vehicle or machinery of any kind, or for the storing or leaving of worn out, wrecked, inoperative or abandoned automobiles, trucks, trailers, house trailers, boats, tractors or other vehicle or machinery of any kind or of any major parts thereof;
- (19) Visible vehicle tires not mounted on a vehicle, vehicle bodies or parts, bed mattresses or springs, water heaters or other household

appliances, and damaged or stored or discarded furniture or other household goods or items including indoor furniture left outdoors in a residential zone or other zone within the City where such items are inconsistent with permitted uses authorized within the zone.

- (20) Any unsightly building, billboard, fence or other structure, or any old, abandoned or partially destroyed building left unfinished or any of same that may be dangerous to life or property;
- (21) The existence or maintenance of graffiti, and other defacement of public and private property, including walls, rocks, bridges, buildings, fences, gates, vehicles, signs, road surfaces and other structures, trees, and all other real and personal property within the city;
- (22) All vacant, unused, or unoccupied buildings and structures within the city, which are allowed to become or remain open to entrance by unauthorized persons or the general public, because of broken, missing, or open doors, windows, or other openings, so that the same may be used by vagrants or other persons in a manner detrimental to the health and welfare of the inhabitants of the city.

Section 7: There is hereby added a new section 5.01.060 to the Pullman City Code to read as follows:

5.01.060 Prohibited conduct.

- (1) It is unlawful for any Responsible Person or owner to permit, maintain, suffer, carry on or

allow, upon any premises located within city limits, any of the acts or things declared by this chapter to be a public nuisance.

(2) It is unlawful for any person, firm or corporation, by itself or by its agents or employees, or as the agent or employee of another person, firm or corporation, to do or permit to be done upon any premises over which it has control, or to maintain, carry on, suffer or allow, at any place or places in the preceding sections mentioned, any of the acts or things herein declared to be nuisances, or to do or cause, or permit or suffer to be done, or maintain any act or thing which shall be detrimental or injurious to public health or offensive to the senses or contrary to public decency or morality.

(3) In case the owner or agent of any premises is found to have had actual or constructive knowledge of the maintenance on or in said premises of any nuisances as herein defined, he or she shall, for the purpose of this chapter, be deemed in violation of this chapter.

Section 8: There is hereby added a new section 5.01.070 to the Pullman City Code to read as follows:

5.01.070 Violation a Civil Infraction. Upon determination by a code enforcement officer or other responsible official of the City that a nuisance exists, a Notice of Civil Infraction shall be issued to a Responsible Person or Owner in accordance with the procedures set forth

in Chapter 1.02 of the Pullman City Code. Any person violating any of the provisions of this chapter is guilty of a Class Two (2) civil infraction. A person cited for violation of this chapter for a second or subsequent incident is guilty of a Class One (1) civil infraction.

If the code enforcement officer has been previously notified that a property at which a nuisance exists is managed by a property manager or a property management company, the code enforcement officer will attempt to also provide a copy of the notice to such property manager or property management company via United States mail. Notification to a property manager or property management company will not excuse the cited person from his or her obligation to immediately abate or to appear in court. The lack of courtesy notice to a property manager or property management company shall not prevent the issuance of an infraction to any person for any continuing or subsequent nuisance at said property.

Section 9: There is hereby added a new section 5.01.080 to the Pullman City Code to read as follows:

5.01.080 Abatement procedure. If a condition deemed a nuisance by the code enforcement officer or other responsible official of the City has not been voluntarily abated by a Responsible Person or Owner, the City may proceed with abatement of the condition. The following procedures for notice and hearing shall be followed for all abatements except a Summary Abatement as defined in section 5.01.120.

(1) Notice.

- (a) On determination by the code enforcement officer, or other responsible official of the City, that a nuisance exists despite prior enforcement activities, he/she shall cause a notice to be posted on the premises or at the site of the nuisance, directing the owner or other Responsible Person to abate the condition within seven (7) days after notice or other reasonable period.
- (b) At the time of the posting, the code enforcement officer shall also cause a copy of the notice to be mailed by United States mail, to the owner of the property as listed in the tax records of Whitman County. If the code enforcement officer has been previously notified that a property is managed by a property manager or a property management company, the code enforcement officer will attempt to also provide a courtesy copy of the notice to such property manager or property management company via United States mail.
- (c) The notice to abate shall be substantially in the following form:

NOTICE TO ABATE UNSAFE OR UNLAWFUL CONDITION

(Name and address of person notified)

As owner, Responsible Person, agent, lessee or other person occupying or having charge or control of the building, lot or premises at

_____ you are hereby notified that the undersigned pursuant to Chapter 5.01 of Pullman City Code has determined that there exists upon or adjoining said premises the following condition contrary to the provisions of subsection ___ of 5.01._____:

You are hereby notified to abate said condition to the satisfaction of the undersigned within seven (7) days of the date of this notice. If you do not abate such condition within seven (7) days the City will abate the condition at your expense.

Abatement is to be accomplished in the following manner: _____ (Insert description of necessary action)_____.

This Notice may be appealed to the Board of Adjustment pursuant to PCC 5.01.080(2)(b) within five (5) days of the date of this Notice.

Dated: _____

By: _____ (Name of enforcement officer).

- (d) If the Notice to Abate is issued to a person other than the property owner, an additional notice shall be sent via U.S. Mail to the last known owner as listed in the tax records of Whitman County, stating that any cost of abatement accrued to the city and not paid by the Responsible Person, may be assessed to and become a lien on the property.