

Ordinance No. 79

AN ORDINANCE DEFINING NUISANCE; PROVIDING FOR THEIR ABATEMENT; AND PRESCRIBING PENALTIES

The City of Scotts Mills 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:** The City of Scotts Mills.
- (2) **Council:** The governing body of the City.
- (3) **Person:** A natural person, firm, partnership, association, or corporation
- (4) **Person in charge of property is:** an agent, occupant, lessee, contract purchases, or person, other than the owner, having possession or control of the property.
- (5) **Public place:** A building, place or accommodation, whether publicly or privately owned, open and available to the general public.
- (6) **Nuisance:** Substantial interference with the right to use and enjoy land, which may be intentional, negligent or ultra hazardous in origin. An annoying or troublesome thing.
- (7) **Animal:** Any one of the lower animals distinguished from and not including man, belonging to the animal kingdom of living beings, typically differing from plant, and including mammals, fowl, reptiles and fish.
- (8) **Livestock:** Horses, mules, jackasses, burros, cattle, sheep, goats, donkeys, swine or any animal of similar size or larger maintained commercially or otherwise.
- (9) **Fowl:** A bird of any kind including poultry.
- (10) **Poultry:** Domestic fowl, such as chickens, turkeys, ducks, geese, ostrich, emu or other fowl raised for meat or eggs.

ANIMALS AND FOWLS

Section 2. Communicable Disease. No person may permit an animal owned or controlled by him to be at large within the city if the animal is afflicted with a communicable disease.

Section 3. Livestock, Poultry, and Bees.

- (1) No person may maintain a pigsty, slaughter house or tannery within the City, nor shall any person permit livestock or poultry owned by him or in his possession to run at large within the City of Scotts Mills.
- (2) No person may keep a stand or hive of bees on any property within 20 feet of the boundary line of the premises.
- (3) No person may stake or picket any animal in or upon any of the streets, alleys, or public places of the city, or stake or picket any such animal so that it may go or graze upon the property of another, unless it is with the consent of the owner or occupant of such property.
- (4) If it does not create a nuisance, a person may keep or maintain livestock within the City if:
 - (a) Such livestock are not maintained on septic drain fields.
 - (b) Such livestock are kept on an area equal to or greater than 1/4 acre.
 - (c) The livestock kept or maintained shall not exceed a total weight of 250 lbs. per 1/4 acre.

- (d) Upon the application and approval of a variance request to the city council a variance permit may be issued.
- (e) The farm is preexisting and immune under state law from local laws that make a farm practice a nuisance.
- (5) If it does not create a nuisance, a person may keep fowl or poultry.
- (6) Owners of exotic animals shall comply with state and federal guidelines and will provide a copy of the required permits and any related reports to the City annually.

Section 4. Removal of Carcasses. No person may permit any fowl or animal carcass owned by him or under his control to remain upon the public streets or places, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of such carcasses.

NUISANCES AFFECTING THE PUBLIC HEALTH.

Section 5. Nuisances Affecting the Public Health. No person may permit or cause a nuisance affecting public health. The following are nuisances affecting the public health and may be abated as provided in this ordinance:

- (1) Privies. An open vault or privy constructed and maintained within the City, except those constructed or maintained in accordance with the Oregon State Board of Health regulations for temporary use.
- (2) Debris on private property. Accumulations of debris, rubbish, manure, and other refuse located on private property that are not removed within a reasonable time and that affect the health, safety or welfare of the City.
- (3) Stagnant water. Stagnant water, which affords a breeding place for mosquitoes and other insect pests. Preexisting bodies of water are exempt from this subsection unless posing a health hazard.
- (4) Water pollution. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes, or other substances placed in or near such water in a manner that will cause harmful material to pollute the water.
- (5) Odor. Premises which are in such a state or condition as to cause an offensive odor or which are in an unsanitary condition.
- (6) Drainage of liquid waste from private premises.

NUISANCES AFFECTING PUBLIC SAFETY

Section 6. Abandoned Iceboxes. No person may leave in a place accessible to children an abandoned, unattended, or discarded icebox, refrigerator, or similar container which has an airtight door with a lock, or other mechanism which may not be released for opening from the inside, without first removing such lock or door from such icebox, refrigerator, or similar container.

Section 7. Attractive Nuisances.

- (1) No owner or person in charge of property may permit:
 - (a) An open pit, quarry, cistern, or other excavation without erecting adequate safeguards or barriers to prevent such places from being used by children.

Section 8. Weeds and Noxious Growth. No owner or person in charge of property may permit weeds or other noxious vegetation to grow upon their property. It shall be the duty of an owner or person in charge of property to cut down or to destroy weeds or other noxious vegetation as often as

needed in order to prevent the weeds or noxious vegetation from becoming unsightly, a safety or a fire hazard.

Section 9. Scattering Rubbish. No person may throw, dump, or deposit upon public or private property an injurious or offensive substance or any kind of rubbish, trash, debris, or refuse, or any substance that would mar the appearance, create a stench, detract from the cleanliness or safety of such property, or would be likely to injure an animal, vehicle, or person traveling upon a public way. No garbage cans should be left on a public road unless on a scheduled pickup day. An adequate cover to avoid scattering of trash must secure the cans.

Section 10. Trees.

- (1) No owner or person in charge of property that abuts upon any street or sidewalk may permit trees or bushes on his property, or on the parking strip adjacent thereto, to interfere with street or sidewalk traffic. It shall be the duty of an owner or person in charge of property that abuts upon a street or sidewalk to keep all trees and bushes on his premises and on the adjoining parking strip trimmed to a height of not less than eight feet above the sidewalks and not less than 10 feet above the streets.
- (2) No owner or person in charge of property may allow to stand any dead or decaying tree that is a hazard to the public or to persons or property on or near the property.

Section 11. Fences.

- (1) New fences must comply with the City of Scotts Mills development code section 3.2.5

Section 12. Surface Waters, Drainage.

- (1) No owner or person in charge of any public or community building or a structure to allow rain water, ice or snow to flow on to a street or public sidewalk or to flow across such sidewalk.

NUISANCES AFFECTING THE PUBLIC PEACE

Section 13. Radio and Television Interference.

- (1) No person may operate or use an electrical, mechanical, or other device apparatus, instrument, or machine that causes reasonably preventable interference with radio or television reception, provided that the radio or television receiver interfered with is of good engineering design.
- (2) This section does not apply to electrical and radio devices licensed, approved, and operated under the rules and regulations of the Federal Communications Commission.

Section 14. Unnecessary Noise.

- (1) No person may make, assist in making, continue, or cause to be made any loud or disturbing, noise, between the hours of 10:00 PM and 7:00 AM. Between the hours of 7:00 AM and 10:00 PM, the rules of prudence will apply. Upon application and approval a noise permit may be issued.

Section 15. Notices and Advertisements.

- (1) No person may affix or cause to be distributed any placard, bill advertisement, or poster upon real or personal property, public or private property, without first securing permission from the owner or person in control of the property. This section shall not

be construed as an amendment to or a repeal of any regulation now or hereafter adopted by the city regulating the use of and the location of signs and advertising.

- (2) This section does not prohibit the distribution of advertising material during a parade or approved public gathering.
- (3) Event related signage must be removed after seven days after the event.

Section 16. Wrecked and Dismantled Automobiles.

- (1) It shall be unlawful, for more than 14 days, to park, store, or leave, or permit the parking or storing of any licensed or unlicensed motor vehicle or machinery of any kind at any time, which is in rusted or wrecked or junked or partially dismantled or inoperative or abandoned condition, whether attended or not, upon any public or private property within the City of Scotts Mills, unless the same is enclosed in a building, or concealed by a solid fence or a living fence, or unless it is in connection with a business enterprise, lawfully licensed by the City, and properly operated in the appropriate business zone, pursuant to the zoning laws of the City of Scotts Mills.

Section 17. Declaration of Nuisance, General Nuisance.

- (1) The acts, conditions, or objects specifically enumerated and defined in Section 2 through Section 16 are hereby declared to be public nuisances and such acts, conditions, or objects may be abated by any of the procedures set forth in Section 18 through Section 22 of this ordinance.

ABATEMENT PROCEDURE

Section 18. Abatement Notice.

- (1) Upon determination by the Council that a nuisance as defined in this or any other ordinance of the City exists, the council shall forthwith cause such notice to be forwarded by certified mail, postage prepaid, to the owner or person in charge of the property at the last-known address.
- (2) If notification by mail is not possible, then posting on the property is an acceptable alternative.
- (3) The notice to abate shall contain:
 - (a) A description of the real property, by street addresses or otherwise, on which such nuisance exists.
 - (b) A direction to abate the nuisance within 14 days from the date of the notice.
 - (c) A description of the nuisance.
 - (d) A statement that unless such nuisance is corrected the City may abate the nuisance and the cost of abatement shall be a lien against the property.
 - (e) A statement that the owner or other person in charge of the property may protest the abatement by giving notice to the City Clerk within 14 days from the date of the notice.
- (4) Upon completion of the mailing/posting, the City Clerk or Clerks designee shall execute and file a certificate stating the date and place of such mailing and posting.
- (5) An error in the name or address of the owner or person in charge of the property or the use of a name other than that of the owner or other person shall not make the notice void and in such a case the mailed/posted notice shall be sufficient. A copy of the notice and acknowledgment of notice receipt shall be kept on record for 3 years after the abatement procedure is completed.

Section 19. Abatement by the Owner.

- (1) Within 14 days after mailing/posting of the notice as provided in Section 18, the owner or person in charge of the property shall correct the nuisance or show that no nuisance exists.
- (2) The owner or person in charge protesting that no nuisance exists shall file with the City Clerk a written statement that shall specify the basis for protesting.
- (3) The statement shall be referred to the council as a part of the council's regular agenda at the next succeeding meeting. At the time set for consideration of the abatement, the owner or other person may appear and be heard by the council and the council shall thereupon determine whether or not a nuisance in fact exists and such determination shall be entered in the official minutes of the council. Council determination shall be required only in those cases where a written statement has been filed as provided.
- (4) If the council determines that a nuisance does in fact exist, the owner or other person shall within 14 days after such council determination abate such nuisance.

Section 20. Abatement by the City.

- (1) If within the time allowed, the nuisance has not been abated by the owner or person in charge of the property, the council may cause the nuisance to be abated.
- (2) The code enforcer charged with abatement of such nuisance shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance.
- (3) If any imminent threat to lives or property in the City exists, the City may take immediate action to abate a nuisance.
- (4) The City Clerk shall keep an accurate record of the expense incurred by the City in abating the nuisance and shall include therein a charge of 20 % of the expense for administrative overhead or a minimum of \$25.

Section 21. Assessment of Costs.

- (1) The City Clerk, by certified mail, postage prepaid shall forward to the owner or person in charge of the property a notice stating:
 - (a) The total cost of abatement including the administration overhead.
 - (b) That the cost as indicated will be assessed to and become a lien against the property unless paid 30 days from the date of the notice.
 - (c) That if the owner or person in charge of the property objects to the cost of the abatement as indicated, he may file a notice of objection with the City Clerk not more than 14 days from the date of the notice.
- (2) Upon receipt of the objection notice, the council, in the next regular meeting, shall hear and determine the objections to the costs to be 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 determined by council shall be made by resolution and shall thereupon be entered in the docket of city liens and, upon such entry being made, shall constitute a lien upon the property from which the nuisance was corrected or abated.
- (4) The lien shall be enforced in the same manner as liens for street improvements are enforced, and shall bear interest at the rate of 6 % per annum. Such interest shall commence to run from date of the entry of lien in the lien docket.
- (5) An error in the name of the owner or person in charge of the property shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

GENERAL

Section 22. Summary Abatement. The procedures provided by this ordinance are not exclusive but in addition to procedures provided by other ordinances and the health officer, the chief of the fire department or law enforcement official may proceed summarily to abate a health or other nuisance which unmistakably exists and from which there is imminent danger to human life or property.

Section 23. Penalties. A person violating any of the provisions of this ordinance shall be fined in an amount not to exceed \$500.00.

Section 24. Separate Violations.

- (1) Each day's violation of a provision of this ordinance constitutes a separate offense.
- (2) 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 a nuisance.

Section 25. 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 26. Repeal. All ordinances, or any part thereof, in conflict with any portion of this ordinance are repealed to the extent of such conflict.

Section 27. Emergency Clause. It being necessary for the peace, health, safety and sound development of the City of Scotts Mills, an emergency is hereby declared to exist, and this ordinance shall take effect immediately upon its passage by the City Council, and signature of the Mayor.

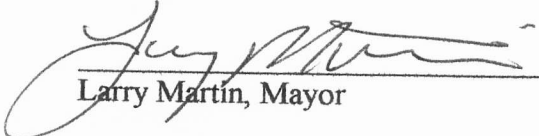
Read the first time this 8th day of August, 2006.

Read the second time this 8th day of August, 2006, by title only.

AYES: 4 NAYS: 0

Passed by the unanimous vote of the City Council this 8th day of August, 2006.

SIGNED BY:



Larry Martin, Mayor

ATTESTED BY:



Katherine Martin, City Clerk

Citizen Complaint Form
City of Scotts Mills
PO Box 220
Scotts Mills, OR 97375

Date: _____
Name: _____
Address: _____
Phone No.: _____

Nature of Complaint:
Health Concern Safety Concern Noise Complaint
Livestock Complaint Animal Complaint Other

Please explain: _____

How long has this been an issue? _____

Is this issue a possible violation of an ordinance? yes no
Have you attempted to discuss the issue with the other person, neighbor, or
animal/property owner? yes no
What was the result? _____

How would you propose the issue be resolved? _____

Continue on reverse side if necessary

FORM TO BE RETURNED TO CITY CLERK 7 DAYS PRIOR TO SCHEDULED MEETING.

Compliance Permit Form
City of Scotts Mills
PO Box 220
Scotts Mills, OR 97375

Date: _____
Name: _____
Address: _____
Phone No.: _____

Dog Compliance?

Number of dogs at above address? _____

Date(s) owner obtained animal(s)? _____

Dog (s) licensed?

Has owner provided proof?

Copy of proof attached?

Exotic Animal Compliance ?

Date(s) owner obtained animal(s)? _____

Are exotic animals currently registered?

Has owner provided proof (Any State or Federal Permits/Reports)?

Copy of proof attached?

Other? Please explain _____

Upon signature of the City Clerk, a copy of this document shall serve as a compliance permit to owner listed above. The original shall remain on file at City Hall.

Katie Martin
City Clerk

Date

Noise Permit Application

City of Scotts Mills

PO Box 220

Scotts Mills, OR 97375

Date: _____

Name: _____

Address: _____

Phone No.: _____

Type of Excessive Noise?: _____

Reason for Excessive Noise? _____

Length of time owner requests waiver of the nuisance ordinance as it relates to Excessive Noise? _____

****FORM TO BE RETURNED TO CITY CLERK
7 DAYS PRIOR TO SCHEDULED MEETING****

City Use Only:

Is the council satisfied that there is need for waiver?

Approval granted. Approval denied.

Permit expiration date? _____

Upon signature of the City Clerk, a copy of this document shall serve as a permit to owner listed above. The original shall remain on file at City Hall.

Katie Martin
City Clerk

Date

Request for Variance Permit

City of Scotts Mills

PO Box 220

Scotts Mills, OR 97375

Date: _____

Name: _____

Address: _____

Phone No.: _____

Reason for variance request? _____

Please explain: _____

City Use Only:

Is the council satisfied that there is need for waiver?

Approval granted. Approval denied.

Permit expiration date? _____

Upon signature of the City Clerk, a copy of this document shall serve as a permit to owner listed above. The original shall remain on file at City Hall.

Katie Martin
City Clerk

Date

FORM TO BE RETURNED TO CITY CLERK 7 DAYS PRIOR TO SCHEDULED MEETING

AMENDMENTS TO ORDINANCE #79

AN ORDINANCE DEFINING NUISANCE; PROVIDING FOR THEIR
ABATEMENT; AND PRESCRIBING PENALTIES

The City of Scotts Mills does ordain amendments as follows:

Section 1. Definitions.

(11) Track: *A course laid out, especially for racing, practicing or riding.*

Section 14. Unnecessary Noise.

- (2) *No person shall maintain and/or use a track within the city limits for the purpose of riding a motorized vehicle.*
- (3) *No person may use the public right of way for the use of riding off-road motorized recreational vehicles, such as 4(3)-wheelers, motorcycles, or ATV's. Any complaints or reports submitted to the city will be forwarded to Marion County Sheriffs Office, in addition to the abatement procedures found in this ordinance.*
- (4) *Use of unmuffled exhaust brakes are not allowed within the city limits.*

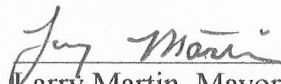
Amendments read the first time this 23rd day of August, 2007.

Amendments read the second time this 11th day of September, 2007, by title only.

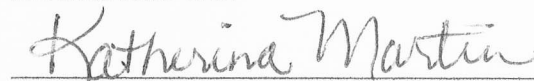
AYES: 4 NAYS: 0

Passed by the unanimous vote of the City Council this 11th day of September, 2007.

SIGNED BY:


Larry Martin, Mayor

ATTESTED BY:


Katherina Martin, City Clerk