

Ordinance No 216

An ordinance to amend sections 3, 7, and nine of ordinance 209 entitled "An ordinance to provide for the prevention and removal of nuisances and to punish those who allow or maintain them, and to provide how the costs and expenses of abating such nuisances shall be collected and paid, and to define what shall constitute a nuisance within the limits of the City of Albany" Approved by the Mayor April 16th 1891

The People of the City of Albany do ordain as follows:

Section 1. That section 3 of ordinance No. 209 entitled "An ordinance to provide for the prevention and removal of nuisances and to punish those who allow or maintain them and to provide how the costs and expenses of abating such nuisances shall be collected and paid, and to define what shall constitute a nuisance within the limits of the City of Albany" Approved by the Mayor April 16th 1891. be and the same is hereby amended so as to read as follows;

Section 3. No person or persons shall permit or suffer to accumulate in or upon any yard, lot, place or premises or upon any street, alley or sidewalk adjacent to or abutting upon any lot, block place or premises, owned or controlled by him or them, or for which he or they may be agent or agents within the City of Albany, any stagnant or impure water, refuse, vegetables, decayed or decaying substances, garbage, manure,

Ordinance
No. 216
Rep 1506

a fire of any kind, nor suffer such lot place or premises to be or remain in such a condition as to cause or produce or create any noisome or offensive smell or atmosphere, or thereby to be, become or cause or create or produce a public nuisance, nor shall the owner or owners or any person or persons in the possession or control of any lot or premises in said City of Albany allowing upon any street or alley therein erect, construct or place in or upon, or suffer or permit to be erected, constructed or placed in or upon or suffer or permit to remain in or upon any portion of such street or alley so allowing upon such lot or premises any building, or structure or thing belonging to or under the control or in the possession of such person or persons, whereby the public use of such portion of such street or alley is or may be obstructed or impeded; Provided that no person shall be prosecuted for a violation of this section, unless such violation shall continue for five days after he or they have received the notice provided for in Section 7 of said ordinance No 209.

~~Section 2~~ That section 7 of said ordinance No 209 be and the same is hereby amended so as to read as follows;

~~Section 7~~ Whenever the Marshall of said City shall be informed of the existence within the limits of said City of any nuisance prohibited by sections 3 and 4 of this ordinance, he shall immediately make or cause to be made an examination of the yard, lot, street, alley,

sidewalk, place or premises on which it
 is charged that such nuisance is suff-
 ering or permitted to exist, and if a
 nuisance is found to exist thereon
 or to exist upon any street, sidewalk
 or gutter adjacent to or abutting on any
 such yard, lot, place or premises
 unless it shall be necessary in
 order to abate such nuisance to fill
 up or drain the property on which
 the same is situated, he shall
 forthwith give to either the owner
 agent or occupant or person or persons
 in the possession or control of such
 yard, lot, place or premises or to
 all of them, a notice to remove
 or abate such nuisance within
 5 days from the service of such
 notice upon such owner, agent,
 or occupant or person or persons
 in such possession or control, and
 if such nuisance is not removed
 at the end of five days from the
 service of such notice, on such
 owner, occupant, agent or person or
 persons in such possession or
 control, the marshal shall cause
 such owner, occupant, agent or
 person or persons in such possession
 or control, to be arrested for suffering
 or permitting, such nuisance to
 exist, and if he or they shall be
 convicted before the Recorder's Court
 therefor, the marshal, shall at once
 thereafter cause the same to be re-
 moved, and he shall be and
 he is hereby authorized to remove
 every and all obstructions that it may
 in his judgement be necessary to remove
 in order to reach, and remove

2

or abate such nuisance. The expense of the removing of any such nuisance by the marshal shall be paid by the city in the first instance, but in case the author or continuer of such nuisance is the owner or occupant or person in the possession or control of the property wherein or abutting which such nuisance exists, the costs and expenses of the removal thereof shall be taxed to such owner or occupant or person or persons in such possession or control as part of the costs and expenses in such cause, and be recovered by the city from such owner or occupant or person or persons in such possession or control notified as herein before provided. The Recorder shall tax such costs and expenses as soon as they are ascertained, and if such costs, and expenses are not paid, when so taxed against such owner occupant or person or persons in such possession or control, within five days after such taxing, the Recorder shall forthwith thereafter enter a statement of such costs and expenses on the book of the City liens; Such statement shall contain the following matters in relation to the removal and abatement of such nuisance;

note

- I. A particular description of land wherein or abutting which such nuisance existed.
- II. The amount of costs and expenses of the arrest, and conviction of the author or continuer of such nuisance
- III. The names of the owner and occupant or person in possession or control of the land, wherein or abutting

while such nuisance existed.

IV. The amount of the costs and expenses of the removal of such nuisance by the Marshall, from the date of the entry of such statement on the book of City liens, such costs and expenses shall be and constitute a lien on or against the tract of land or premises described in such statement, and such lien shall be enforced against such land or premises in the same manner and with like effect, as provided in the charter, and ordinances of said city for the enforcement of liens on real property in said city for street improvements; Provided that if any such nuisance so found to exist be in or upon the part of any Street or alley in said city abutting upon any lot or premises owned by or in the possession or control of the author or a continuor of such nuisance, the marshal may proceed in his discretion to abate or remove the same in the manner in this section above provided, without the assist or conviction of the author or continuor of such nuisance and the costs, and expenses of removing and abating such nuisance by the marshal, shall be taxed against such author or continuor of such nuisance by the recorder as soon as ascertained, and if such costs and expenses are not paid within 5 days thereafter the Recorder shall forthwith enter a statement of such costs and expenses on the book of the city liens. Such statement shall contain the following matters and things;

First. A particular description of the lot

or premises abutting such street or alley unless such nuisance existed.

Second; - The amount of the costs and expenses of removing such nuisance.

Third; - The name of the owner or occupant or person in possession or control of such lot or premises and who is the author or continuor of such nuisance. From the date of the entry of such statement on the book of the city liens, such costs and expenses shall be and constitute a lien, on or against the lot or premises described in such statement, and such liens shall be enforced against such lot or premises in the same manner, and with like effect as provided in the charter, and ordinances of said city for the enforcement of liens on real estate in said city, for the collection of the costs, and expenses of such improvements therein.

mark

Section 23. That section 9 of said ordinance No 209 be and the same is hereby amended, so as to read as follows;

Section 9. All accumulations in or upon any yard, lot, or place, or premises or upon any street, sidewalk or alley adjacent or abutting upon any lot, block, place or premises within the limits of said city of Albany of any stagnant or impure water refuse, vegetables, decayed or decaying substances, garbage, manure, or filth of any kind, from which

a noisome or offensive smell or at-
 mosphere shall arise, and all
 buildings, structures, and awnings
 within the limits of said city,
 which shall become so much
 injured by fire, decay or are acc-
 ount of defective material used
 in the construction thereof, or from
 any other cause as to be dangerous
 to surrounding property, or in danger
 of falling, and all privies belonging
 to or appertaining to any house,
 store, building or premises in said
 city, which are or shall be kept
 in such a condition or manner
 to cause noisome or offensive
 smell or atmosphere to arise there-
 from or to be offensive to decency in
 any manner, and any building
 house or structure or thing standing
 or being in or upon any street alley
 in said city in such a manner
 to obstruct or any manner impede
 the public use of such street or alley
 or any part of either, are hereby dec-
 lared and defined to be nuisances.

The notice provided for in regard
 to the abating and removing of
 nuisances in said city shall be
 in writing and shall contain a
 description as accurate as may be
 of the lot or premises on or
 abutting which such nuisance
 exist, and also an accurate
 description of the nuisance, sought
 to be abated, and if the same
 or any part thereof is in or upon
 any street or alley in said city,
 a description of the portion thereof
 where such nuisance exists

2

and shall command the owner agent, occupant or person in the possession or control of the lot or premises upon or abutting which such nuisance exists, or all or any of them, to remove or abate the same within five days from the service of such notice upon any or all of such persons. Such notice shall be signed by the Marshall, and shall be served by him in the following manner;

1. By delivering a copy thereof prepared and certified by him, to such owner agent, occupant or person in such possession or control, or to all or any of them, if such person or persons or any of them, can with reasonable diligence be found within the corporate limits of said city of Albany

2. If after reasonable diligence the Marshall shall be unable to find any of the persons named in subdivision 1. of this section within the corporate limits of said city to some person of the family above the age of fourteen years, at the dwelling house or usual place of abode of any or all of such persons in said city.

3. When service of such notice cannot be made as provided in subdivisions 1. and 2. of this section, the Marshall shall serve the same by depositing in the post office, at the city of Albany Oregon, a copy of such notice prepared and certified by himself, duly stamped, and directed to any or all of the persons named in said

subdivisions 1 and 2 of this section at his or their place or places of residence respectively unless such residence is out of the State of Oregon, and in that event such notice shall be served upon such owner, agent or occupant or person in possession or control of such lot or premises by publishing the same at least once a week for four consecutive weeks in some news paper published in said city and of general circulation therein and in Lane County Oregon.

4. The proof of the service of such notice, or of the deposit thereof in the post office, shall be by the affidavit of the Marshall.

5. In case of service of such notice by publishing the same, as provided in subdivision 3. of this section, the proof thereof shall be the affidavit of the printer or his foreman, or his principal clerk showing the same. The proof of the service of such notice shall be attached to the original thereof, and be filed in the office of the Recorder of said City, where such notice and proof shall remain in the custody of the Recorder as perpetual record.

Section 4. This ordinance shall be in full force, and effect from, and after five days from its approval by the Mayor.

Passed the Council June 24th 1891.

Attest: Approved June 26th 1891
 J. L. Combs Mayor
 W. J. Hutton,
 Recorder of the City of Albany.

City Recorder's - to
Certificate to Ordinance No 216

City of Albany,
State of Oregon
County of Linn

Office of City Recorder

I, John H. Henderson Recorder of the City of Albany
Oregon, do hereby certify, that the foregoing
~~Ordinance No 216~~ Ordinance No 216 has been by me
carefully compared with the Original
Ordinance No 216, now on file in
this office, and that it is a true,
and correct copy of the same, of said
Ordinance No 216 as passed by the
Council 24th day of June 1891

In testimony whereof I have hereunto set
my hand and affixed the seal of
the City of Albany this 26th day of June 1891

John H. Henderson
Recorder of the City of Albany.

