

ORDINANCE NO. 06-04

AN ORDINANCE OF THE CITY OF FERNDAL ESTABLISHING NUISANCE ABATEMENT PROCEDURES, PENALTIES AND COST RECOVERY PLAN AND REPEALING ORDINANCE 01-01

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THE CITY COUNCIL OF THE CITY OF FERNDALÉ DOES ORDAIN AS FOLLOWS:

ARTICLE 1: SHORT TITLE, PURPOSE AND SCOPE

- §1.01 This ordinance shall be known and cited as the “Nuisance Ordinance”.
- §1.02 The City of Ferndale has a responsibility to its residents and business owners to promote conditions that are beneficial to the health, safety and welfare of the entire community. The existence of public nuisances may have a detrimental effect on another person or property or a substantial number of other people and properties as well as the overall aesthetic quality of the City. The abatement of these conditions is in the best interest of the City and its residents and business owners.
- §1.03 The purpose of the Nuisance Ordinance is to provide a comprehensive method for identification of certain public nuisances within the City of Ferndale, encourage compliance where a public nuisance violation exists, and to establish the authority to abate and recover costs of abatement when the responsible party fails to comply.
- §1.04 The provisions adopted in this ordinance shall not be exclusive but shall be cumulative and complementary to any other provisions of Ferndale City ordinances and County, State and Federal laws. Nothing in this ordinance shall be read, interpreted or construed so as to limit any existing right or power of the City to pursue abatement of and/or abate any and all public nuisances.
- §1.05 This ordinance shall apply to any and all properties within the city limits of Ferndale.
- §1.06 The adoption of this ordinance will repeal Ordinance 01-01.

ARTICLE 2: STATUTORY AUTHORITY / ENFORCEMENT AUTHORITY

- §2.01 California Government Code section 38771 authorizes a city to declare by ordinance what constitutes a public nuisance. Civil Code section 3493 outlines the three remedies that a municipality can use to remove or abate the activity. Section 731 of the Code of Civil Procedure authorizes the District Attorney or the City Attorney to bring a civil action in the name of the People of the State of California to abate public nuisances. Penal Code 372 permits the filing of a criminal complaint. Government Code Sections 25485, 38771 and 38773.5 authorize cities to enact local enforcement ordinances that establish administrative procedures to abate public nuisances.
- §2.02 The California Constitution (Article XI, section 7) grants cities the police power to enforce their nuisance ordinance.
- §2.03 The City Manager (or in his/her absence the Mayor), or his/her designee, shall be the Enforcement Official.

CHAPTER ONE – PROPERTY NUISANCES**ARTICLE 3: DEFINITIONS:**

- §3.01 The legal principle of public nuisance prohibits unreasonable, noxious, or disturbing activities that negatively affect a community or neighborhood.
- §3.02 A nuisance is hereby defined to be:
- 3.02.1 Any condition declared by statute of the State of California or ordinance of the County of Humboldt or City of Ferndale to be a nuisance.
- 3.02.2 Any condition potentially detrimental to any member or members of the public including conditions which are unsafe, potentially unsafe, obstruct the free use or enjoyment of property including but not limited to the following.
- a. Weeds including any of the following: weeds which when mature bear seeds of a downy or wingy nature; any brush or weeds which attain such large growth as to become, when dry, a fire menace to adjacent improved property; weeds which are otherwise noxious or dangerous; poison oak and poison ivy when the conditions are such as to constitute a menace to the public health; dry grass, stubble, brush, litter, or other flammable material which endangers the public safety by creating a fire hazard.
 - b. Rubbish means waste matter, litter, trash, refuse, debris, dirt, dry grass, dead trees, tin cans, paper, and waste material of every kind, or other unsanitary substance, object or condition which is or when dry may become, a fire hazard, or which is or may become a menace to health, safety or welfare, or which is offensive to the senses.
 - c. Nuisance property means the following: vehicles, not limited to unregistered, inoperative or dismantled vehicles or vehicle parts; abandoned and broken equipment or machinery or parts thereof; building materials not currently being used for the construction of improvements on the site; appliances, household furnishings or equipment, tools, machines, garbage cans, packing boxes, and broken or discarded furniture.
 - d. Inoperative vehicle means any motor vehicle which cannot be moved under its own power, or cannot be operated lawfully on a California public street or highway, due to removal of, damage to, or inoperative condition of any component part or the lack of an engine, transmission, wheels, tires, doors, windshield or any other part necessary for such movement or lawful operation.
- 3.02.3 Any condition determined by the Enforcement Official to be a nuisance.

ARTICLE 4: PROPERTY NUISANCES DESCRIBED

Following are some examples of situations that constitute a property nuisance. The list shall not be considered exhaustive. Additional situations may be determined to be a public nuisance by the City's Enforcement Official.

§4.01 Streets, alleys, public-use sidewalks

- 4.01.1 It shall be the duty of every person owning or occupying any lot or block or land in the City of Ferndale which shall be bounded on any side by any legally established public-use sidewalk, street, lane, or alley, or other public thoroughfare to keep such street, public-use sidewalk, lane or alley free from all rubbish, filth, garbage, and obstructions of every kind, as far as the middle of such street or alley and as far as the edge of such public-use sidewalk nearest to the street, and as far in length as the corresponding dimensions of such lot or block. This ordinance shall not prevent a person from using one half of the street adjoining his premises for a reasonable time when such use may be necessary for the purpose of collecting and using material for building or repairing buildings, nor to prevent any person from depositing goods, wares, and merchandise upon any public-use sidewalk, lane, or alley in Ferndale for the purpose of immediately conveying them across the same.
- 4.01.2 No person shall throw, deposit, or place any rubbish, filth, garbage, or obstruction of any kind except as herein above provided in or upon any public street, lane, public-use sidewalk, or alley.
- 4.01.3 It is unlawful for any person, firm or corporation to deposit, drain, wash, allow to run over or upon, divert onto, across or upon any public-use sidewalk, street or alley within the City of Ferndale mud, sand, oil, petroleum or any toxic substance.
- 4.01.4 It shall be unlawful for any person, firm or corporation to wash or cause to be washed, polish or cause to be polished, any vehicle or part thereof upon any public-use sidewalk, street or alley in the City of Ferndale when a charge is made for such service, unless permission is obtained from the City of Ferndale.
- 4.01.5 It shall be unlawful for any person, firm or corporation to deposit on any public-use sidewalk, street, or alley in the City of Ferndale any material that by excessive weight will cause to crack, break or collapse, or that may be harmful to the pavement thereof, or any waste material, glass or other articles that may do injury to any person, animal or property.
- 4.01.6 Car repair. It is unlawful for any person, firm or corporation to repair or cause to be repaired, grease or cause to be greased, construct or cause to be constructed any vehicle or any part thereof upon any public-use sidewalk, street or alley in the City of Ferndale. Provided, however, temporary emergency repairs may be made upon a public street.

§4.02 Weeds, Rubbish, Debris, Junk

- 4.02.1 It is unlawful for any person owning, occupying, renting, managing, or controlling any real property in the City to cause or permit any weeds, or to place, cause or permit any rubbish to be or remain on any real property in the city or on portions of streets adjoining such real property to the center line of such streets. It shall be the duty of every such person to remove or destroy such weeds and/or rubbish. Destruction by burning within the city is unlawful unless the written permission of the Chief of the Fire Department is first obtained.
- 4.02.2 Trash disposal must be made in an appropriate manner, i.e. through the City's contracted trash pick up service, self-haul to an approved disposal site, or composting in a back yard compost pile.

§4.03 Real Property Maintenance

It is unlawful for any person owning, renting, leasing, occupying, managing or having charge, or possessing of any real property in this City to maintain such premises in such a manner that any of the following conditions are found to exist thereon:

- 4.03.1 A building, structure or portion thereof which is in a dilapidated or dangerous condition so as to be unfit, unsafe, or unsuitable for human occupancy. Such conditions include but are not limited to:
- a. Inadequate or inoperable mechanical, electrical, plumbing, or sanitation systems or equipment;
 - b. Lack of sound and effective exterior walls or roof covering to provide weather protection;
 - c. Lack of structural integrity, including deteriorated or inadequate foundations, joints, vertical or horizontal support;
 - d. Broken, missing, or inoperable windows or doors constituting a hazardous condition or a potential attraction to trespassers;
 - e. Broken, deteriorated, or substantially defaced structures visually impacting on the neighborhood or presenting a risk to public safety.
- 4.03.2 An abandoned building or structure such as:
- a. An unoccupied and unsecured building or structure;
 - b. A partially constructed, reconstructed, or demolished building or structure where work is abandoned for 180 consecutive days;
 - c. A damaged or partially destroyed building or structure not removed or repaired within 180 days after the damage or destruction, or, if the removal or repair cannot reasonably be accomplished within 180 days, arrangements must be made with the City Building Official.
- 4.03.3 Property maintained in a condition so defective, unsightly, or in a state of such deterioration, disrepair or neglect that it causes a health, safety or fire hazard or an attractive nuisance to children such as the

following. “Attractive Nuisance” shall mean any condition, instrumentality or machine located in a building or on premises, which is or may be unsafe or dangerous to children by reason of their inability to appreciate the peril therein, and which may reasonably be expected to attract children to the premises and risk injury by playing with, in, or on it.

- a. The accumulation of dirt, litter, refuse, trash or debris in carports, parking areas, driveways, front yards, side yards, rear yards, vestibules, doorways of buildings, the adjoining sidewalk, or alley;
- b. Storage of personal property (other than items designated for outdoor use) in front, exterior side, or rear yard areas visible to public view, including, but not limited to unregistered, inoperative or dismantled vehicles or vehicle parts, building materials not currently being used for the construction of improvements on the site, appliances, household furnishings or equipment, tools, machines, garbage cans, packing boxes, debris, rubbish, and broken or discarded furniture;
- c. Trees, weeds or other vegetation which are dead, decayed, infested, diseased, overgrown, or likely to harbor rats or vermin, or which are visually unsightly;
- d. Abandoned and broken equipment or machinery, or parts thereof;
- e. Fences or walls which lack structural support because of missing or wet soil, missing or failed footings, or missing or failed fastenings, or which otherwise do not stand erect; which are in disrepair due to damage, crumbling mortar, missing bricks or wood, rotted wood, breaks or dents in their structure.
- f. A vehicle or vehicles parked or stored in a front or side yard, except on a driveway or a paved area or behind a solid fence or wall a minimum of six (6) feet in height, on lots in a residentially zoned district.
- g. Parking of vehicles on dirt, grass, or yard surfaces not intended and approved for parking.
- h. Clothing, linen, towels, laundry, rugs, mattresses, and other similar material hung, placed, or attached to power lines, trees, bushes, fences, buildings, railings, or walls and visible from public property or an area open to the public. Properly installed and maintained clotheslines are permitted.
- i. Waste matter or personal property placed on rooftops.
- j. Vehicle or vessel repair which occurs in a residentially zoned district and is offensive or detrimental to the health, safety, or welfare of other persons, or which substantially interferes with the reasonable enjoyment of property by other persons, because of the substances, odors, noise, or visual clutter created by the repair; or because of the items stored in connection with the

repair, or because the repair is performed on a vehicle not owned by the occupant of the property.

- 4.03.4 Buildings, structures, or other surfaces upon which graffiti exists. Graffiti, as used in this section, shall mean defacement, damage, or destruction by the presence of paint or ink, chalk, dye, or other similar substances; or by carving, etching, or other engraving.
- 4.03.5 Any building or structure that is a public nuisance under common law.

ARTICLE 5: ABATEMENT

§5.01 Abatement Definition: the removal, stoppage, or destruction of that which causes a nuisance.

§5.02 Abatement Authority

- 5.02.1 The California Constitution (Article XI, section 7) grants cities the police power to enforce their nuisance ordinance.
- 5.02.2 The City has the authority to make the costs of any and all abatement proceedings a special assessment against the parcel collectible at the same time and in the same manners as ordinary taxes through recording a lien on the property.

§5.03 Summary Abatement (Immediate or Emergency need)

- 5.03.1 Summary Abatement shall be executed when the Enforcement Official determines that the public nuisance constitutes an immediate and/or imminent peril to public health, safety or general welfare.
- 5.03.2 Summary Abatement is the abatement of the nuisance by the City, or a contractor of the City, by removal, demolition, repair or other acts with or without notice to the owner, agent or occupant of the property. The abatement shall be at the expense of the person causing, committing or maintaining the nuisance or the owner of the property on which it is occurring.

§5.04 Administrative Abatement (Non-emergency)

Administrative Abatement proceedings as described below will take place when the nuisance is of a non-emergency nature, and the Enforcement Official concurs that the nuisance violates this ordinance.

- 5.04.1 Courtesy Letter: Upon determination by an Enforcement Official that a nuisance exists, a Courtesy Letter will be delivered to the owner, occupant, lessee and/or agent of the property where the nuisance is occurring. The Courtesy Letter will:

- a. Give a sufficient description to identify the property where the nuisance is occurring and shall include the parcel number and address.
 - b. Quote appropriate Ordinance section pertaining to the complaint.
 - c. Describe the condition causing the nuisance.
 - d. Include a description of corrective action that must occur to remedy the violation.
 - e. Advise the owner, occupant, lessee and/or agent of the property that the nuisance must be abated within four (4) weeks of the date of receipt of the Courtesy Letter
 - f. Advise the owner, occupant, lessee and/or agent of the property that failure to abate the nuisance within four (4) weeks will result in further action.
- 5.04.2 Notice and Order: If the nuisance is not abated within four (4) weeks of delivery of the Courtesy Letter, the City will deliver by Certified Mail a Notice of Violation and Order to Abate to the owner, occupant, lessee and/or agent. The Notice and Order may be recorded in the Office of the County Recorder of the County of Humboldt. The Notice and Order will:
- a. Give a sufficient description to identify the property where the nuisance is occurring and shall include the parcel number and address.
 - b. Quote appropriate Ordinance section pertaining to the complaint
 - c. Describe the condition causing the nuisance
 - d. Include a description of corrective action that must occur to remedy the violation.
 - e. Provide dates by which the violation must be commenced and entirely abated;
 - i. Commencement must occur within two (2) weeks and abatement must be complete in a specified amount of time no less than four (4) weeks and no more than six (6) weeks from the delivery of the Notice and Order, depending on the nuisance, unless an extension is granted by the Enforcement Official. The dates shall be set by the Enforcement Official.
 - f. Provide a description of the penalties of failure to remedy the nuisance within the specified time defined as fifty dollars (\$50.00) per day each day beyond the specified time limits until the nuisance is abated, including fifty dollars (\$50.00) per day if the abatement is not commenced within two (2) weeks, and fifty dollars (\$50.00) per day if the abatement is not completed within the time period specified in the Notice and Order up to a maximum of one thousand dollars (\$1000.00).
 - i. Give notice that if the nuisance has not been abated within two (2) weeks of the specified time limit the City shall have the authority to abate the nuisance itself or via

a contractor and that the responsibility for the costs of abatement, including the costs of actual removal or demolition and the associated administrative and legal costs, will be assessed to the owner, lessee and/or occupant of the land on which the nuisance is located and that failure to comply may also warrant the pursuit of further civil and/or criminal charges in accordance with the laws of the State of California.

- ii. Describe the rights of the owner, lessee and/or occupant of the land to request a public hearing before the City Council. (Refer to Section 5.06)

5.04.3 Weed Abatement

- a. The City shall gain the authority to abate/destroy weeds, dry grass, rubbish and other inflammable material or vegetation ten (10) days from the delivery of the Courtesy Letter/Notice to Destroy Weeds. The costs of such abatement, including administrative costs, shall be the responsibility of the property owner.

§5.05 Delivery of Notices

- 5.05.1 Any notice or letter required to be delivered by the ordinance shall be deemed to have been delivered when a copy of said notice is either served personally or has been deposited in the mail, postage prepaid, certified, return receipt requested to the owner and/or occupant, lessee or agent of the property. A copy of the notice may also be prominently affixed to the premises. If no address can be found or is known to the City, then any notice shall be so mailed to such person at the address of the premises where the nuisance is occurring. The failure of any person to receive such notice shall not affect the validity of the proceedings of this ordinance.

§5.06 Public Hearing

- 5.06.1 Upon written request by the owner, lessee or occupant of the property received by the City within two (2) weeks of delivery of the Notice and Order, a public hearing shall be scheduled before the next regularly scheduled City Council meeting. Any person affected may be present at such hearing, may be represented by counsel, may present testimony, and may cross-examine the Enforcement Official, and other witnesses. The hearing may be continued from time to time by motion of the majority of the City Council. The City may set the matter for public hearing whether or not a public hearing has been requested by an affected owner, lessee or occupant of the property.
- 5.06.2 Within the same two (2) week time period, the owner, lessee or occupant of the property may submit to the City in writing a sworn

declaration that the nuisance does not exist and/or is not their responsibility. In this case, the enforcement officer may call a public hearing and the hearing may proceed without the party present. The decisions made by the City Council shall be binding.

- 5.06.3 Determination of the Council - Upon conclusion of a hearing, the Council may terminate the abatement proceedings or order the abatement to proceed.
- a. The City Council may grant additional time for the responsible party to effect the abatement of the nuisance, provided that such an extension is warranted and limited to a specific time period, set by a motion and passed by a majority of the City Council.
 - b. If the City Council determines that the nuisance shall be abated, the violator shall have 14 days from that determination to abate the nuisance. Failure to do so will result in the accruing of penalty fees and further action.

§5.07 Jurisdiction to Abate

- 5.07.1 Should any public nuisance not be abated within two (2) weeks of the date stated in the Notice and Order or within the time extension granted by the City Council, the City shall have the authority to enter the property and abate the public nuisance.
- 5.07.2 In abating the nuisance, the City may go to whatever legal extent necessary to complete the abatement of the public nuisance including removal and demolishing of the nuisance. In its discretion the City may seek judicial review and permission to abate any nuisance from any court of competent jurisdiction. All costs shall be recoverable.

ARTICLE 6: PENALTIES/COST RECOVERY/LIENS

§6.01 Penalty

- 6.01.1 Each day in which a public nuisance is not abated following the commencement and completion dates specified in the Notice and Order will constitute a separate infraction of this ordinance with a penalty of fifty dollars (\$50.00) per day, including fifty dollars (\$50.00) per day if not commenced by the specified date and fifty dollars (\$50.00) per day each day that the nuisance continues to exist on the property beyond the specified abatement deadline, up to a maximum of one thousand dollars (\$1000.00). Additional civil and criminal charges or penalties may be imposed in accordance with the laws of the State of California.
- 6.01.2 Repeat violations of this ordinance by the same responsible party within one year of delivery of the first Notice and Order may result in higher per day penalties, up to one hundred dollars (\$100.00) per day, up to a maximum of two-thousand dollars (\$2,000.00).

§6.02 Cost Recovery

- 6.02.1 Costs: In the event that the owner, lessee, occupant does not abate the nuisance within the time period specified in the Notice and Order, the City shall retain the right to abate the public nuisance at the expense of the responsible party. Expenses to the owner, lessee, or occupant shall include the actual costs of abatement as well as the associated administrative and legal costs, including court costs and attorneys' fees, city personnel costs, and penalties.
- 6.02.2 Assessment of Costs and Penalties: At a regularly scheduled City Council meeting, of which responsible parties will be notified, the Council shall hear and consider the account, penalties and proposed assessment, together with objections and protests. The Council may make such modifications and revisions of the proposed assessment as it deems just, and may order the account and proposed assessment confirmed or denied, in whole or in part, or as modified and revised. The determination of the Council shall be final and conclusive.
- 6.02.3 Penalties and/or Costs will be billed directly to the responsible party. Failure to pay will result in the preparation and recording of a lien.

§6.03 Lien

- 6.03.1 Upon failure of the responsible party to pay penalties and costs, and upon confirmation by the Enforcement Official the Enforcement Official shall cause to be prepared and recorded in the Office of the County Recorder of the County of Humboldt, a Notice of Lien. Said Notice shall contain the following:
- a. An address, parcel number, legal description or other description sufficient to identify the premises.
 - b. A description of the proceedings under which the special assessment was made, including the order of the Council confirming the assessment.
 - c. The amount of the assessment.
 - d. A claim of lien upon the described premises.
- 6.03.2 Upon the recordation of such Notice of Lien, the amount claimed shall constitute a lien upon the described premises.
- 6.03.3 Collection with Ordinary Taxes: The Notice of Lien, after recordation, shall be delivered to the County Auditor who shall enter the amount of the lien on the assessment roll as special assessments. Thereafter the amount set forth shall be collected at the same time and in the same manner as ordinary City taxes are collected, and shall be subject to the same penalties and interest, and to the same procedures for foreclosure and sale in case of delinquency, as is provided for ordinary city taxes, and all laws applicable to the levy, collection and enforcement of City taxes are hereby made applicable to such assessment.
- 6.03.4 The City reserves the right to take such other and further enforcement and/or collection action, as it deems appropriate.

CHAPTER TWO – CONDUCT NUISANCES**ARTICLE 7: CONDUCT NUISANCE DESCRIBED****§7.01 Drugs/Drinking**

- 7.01.1 It shall be unlawful for any person to drink or possess upon his or her person an open container of any alcoholic beverage upon any public street, alley or automobile upon public property except as authorized below:
- 7.01.2 No person shall drink or possess upon his or her person any open container of any alcoholic beverage on any park or playground, except with meals at specifically designated areas of any park where facilities are provided.
- 7.01.3 No person shall drink or possess upon his or her person any open container of any alcoholic beverage on any public street or public property, except when specifically authorized in a defined area during a community event that has been duly issued a “Daily On Sale General License” by the State of California Alcoholic Beverage Control Board.
- 7.01.4 Notwithstanding Number 3 above, it shall not be unlawful to drink alcoholic beverages on any park or playground during such time as a permit to sell alcoholic beverages, issued by the State of California Alcoholic Beverage Control Board, is in effect on such park or playground.

§7.02 Dances, parties

- 7.02.1 It shall be unlawful for any person, firm or corporation to conduct a public dance or dance hall in the City of Ferndale without first complying with the terms of this Section.
- 7.02.2 A dance or dance hall is defined as any hall, park, or place where the public is invited to attend a dance, whether an admission fee is charged or not.
- 7.02.3 Any person, firm or corporation desiring to hold a public dance in the City of Ferndale, shall first obtain from the Ferndale Police Chief, a permit. An application for such a permit should be filed with the Police Chief at least three (3) full weeks prior to the date of the proposed dance. No application shall be accepted from any person, firm or corporation unless said person, firm or corporation holds a valid, current Ferndale City Business License.
- a. Upon receipt of an application for a dance permit, the Police Chief shall determine whether licensed and bonded private security will be necessary, at the applicant’s expense.
 - b. If liquor will be available at the dance, applicant must provide a liquor license obtained from ABC.

- c. It shall be unlawful for any person as owner, manager, proprietor, employee or otherwise to keep open any public dance in the City of Ferndale, or to permit any dancing between the hours of 12:00 midnight and 8:00 am of the succeeding day, provided however, the Police Chief may issue a permit allowing the dance to continue after 12:00 midnight and such permit shall clearly designate the dance to which the permit refers, the location of the same, the hour when dancing shall cease, the name of the person conducting the same, and the date for which the permit is issued.
- d. Before the issuance of any permits authorizing a public dance, the Police Chief shall first approve the location of the proposed dance and the permit shall be valid only for the location indicated.
- e. Any denial of an application for a permit to hold a public dance in the City of Ferndale by the Police Chief may be appealed to the Ferndale City Council, which decision shall be final.

§7.03 Curfew

- 7.03.1 No minor person under the age of eighteen (18) years shall loiter, loaf or congregate or be present at or be upon any public street, way, square, park, place, building or in any place of business, or business house, or public dance hall or other place designed for the accommodation of the public between the hours of eleven (11:00) p.m. of one day and five (5:00) a.m. of the following day. Any person who has not attained his eighteenth birthday shall be deemed to be under the age of eighteen (18) years.
- 7.03.2 No minor person under the age of sixteen (16) years shall loiter, loaf or congregate or be present at or to be upon any public street, way, square, park, place, building or at or in any place of business, or business house, or public dance hall or other place designed for the accommodation of the public between the hours of ten (10:00) p.m. of one day and five (5:00) a.m. of the following day. Any person who has not attained his sixteenth birthday shall be deemed to be under the age of sixteen (16) years.
- 7.03.3 The provisions of this section shall not apply to any minor who at the time mentioned in 1 and 2 is accompanied by his parent, guardian or other adult person having the lawful custody of such minor.
- 7.03.4 The provisions of this section shall not apply to the following places, public theatres and places where supervised entertainment or play or instruction for minors under the age of eighteen (18) years is conducted; provided that this exception shall apply only to minors who are in attendance at such theatres or places for the purpose of attending the entertainment, supervised entertainment, play or instruction thereby afforded.

- 7.03.5 The provisions of this section shall not apply to any minor while engaged in going to or returning from, in direct route, the place mentioned in 4 and his home or other place of abode, provided such minor does not stop or loiter or loaf or congregate or deviate from such route.
- 7.03.6 The provisions of this section shall not apply to any minor who is lawfully employed, or to such a minor while engaged in going to or place of employment and his place of abode.

§7.04 Noise

- 7.04.1 It shall be unlawful for any person to make, continue or cause to be made or continued, within the limits of the City of Ferndale, any disturbing, excessive or offensive noise which causes discomfort or annoyance to any reasonable persons of normal sensitivity residing in the area.
- 7.04.2 The following acts, among others, are declared to be offensive, loud, disturbing, and unnecessary noises originating from residential properties or on public ways in violation of this section, but such enumeration shall not be deemed to be exclusive:
- a. The using, operating, or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, stereo, television, or other machine or device for producing or reproducing sound in such a manner as to disturb the peace, quiet, and comfort of neighboring residential inhabitants at any time with volume louder than is necessary for convenient hearing for the persons who are in the room, vehicle, or chamber in which such machine or device is operating and who are voluntary listeners. The operation of any such set, instrument, phonograph, stereo, machine, or device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of fifty (50') feet from the residential building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section;
 - b. The using, operating, or permitting to be played, used, or operated of any radio receiving set, stereo, tape recorder, sound amplifier, or other machine or device for producing or reproducing sound from any motor vehicle on any public street at any time with volume louder than is necessary for convenient hearing for the persons who are in the motor vehicle in which such sound machine or device is operating and who are voluntary listeners. The operation of any such sound machine or device in such a manner as to be plainly audible at any time at a distance of ten (10') feet from the motor vehicle in which it is located shall be prima facie evidence of a violation of this section; and

- c. Yelling, shouting, hooting, whistling, or singing originating from any residential property or upon any public way at any time so as to annoy or disturb the quiet comfort or repose of persons in the vicinity; and
- d. Construction-related noise near residential uses. Construction work or related activity which is adjacent to or across a street or right of way from a residential use, except between the hours of 7 a.m. and 7 p.m. on weekdays, or between 8 a.m. and 7 p.m. on Saturday and Sunday. No such construction is permitted on Federal holidays. As used in this section, "construction" shall mean any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action, for or on any private property, public or private right-of-way, streets, structures, utilities, facilities, or other similar property.

ARTICLE 8: PENALTIES

§8.01 Any person or persons violating any provision or provisions of Article 7 shall be deemed guilty of a misdemeanor, and shall be punishable on conviction by a fine of not more than One Thousand (\$1000.00) Dollars, or by imprisonment in the County Jail for not more than one (1) year, or by both fine and imprisonment.

CHAPTER THREE – ANIMAL NUISANCES**ARTICLE 9: ANIMAL NUISANCES DESCRIBED****§9.01 Horses and other farm animals (Livestock)**

- 9.01.1 It is unlawful for any person to cause or permit or allow any domestic chicken, turkey, duck, swine, goose, horse, burro, mule, cow, bull, steer, ox, sheep, or goat or pig to run at large, or to be astray within the corporate limits of the City of Ferndale.
- 9.01.2 No person shall keep any swine within the city limits except (1) when housed at the Fairgrounds for purposes of exhibition, or (2) when zoning requirements allow for it.
- 9.01.3 It shall be the duty of all animal owners, allowing their animals off their property, to clean up after the animal. Owners allowing animals to defecate on property other than their own, shall clean up after their animal. Owners in violation of this section shall be cited.
- 9.01.4 No person shall ride, drive or lead a horse along or upon any sidewalk in the City of Ferndale.
- 9.01.5 In addition to the summary abatement procedures listed in this ordinance, livestock burial shall be at least 200' from a business or residence.

§9.02 Dogs and other domestic pets

- 9.02.1 Confined to owner's premises: It is unlawful for any person to cause or permit or allow any dog or dogs, owned, harbored, controlled or kept by him, to roam or run or stray away from the premises where the same is or are owned, harbored or kept, at any time, except in the custody and control of the owner or some responsible person authorized by the owner.
- 9.02.2 Leashed when away from home: Dogs shall be kept on a leash not to exceed eight (8) feet in length in all areas of the incorporated City, not on the owner's premises.
- 9.02.3 Puppy vaccination: Pups to be restrained until after vaccination. All dogs under four months of age shall be confined to the premises of, or kept under the physical restraint by the owner, keeper or harborer, and such restraint shall continue until a period of thirty (30) days has elapsed after vaccination of the particular dog with an approved anti-rabies vaccine.
- 9.02.4 Females strictly confined. All unsprayed female dogs shall be strictly confined to the owner's premises when the dog is in breeding condition.
- 9.02.5 Barking Dogs: It shall be unlawful for any person to cause or permit or allow any dog or dogs, owned, harbored, controlled or kept by said

person to disturb the peace of the neighborhood with unnecessary barking for more than five minutes.

- 9.02.6 It shall be the duty of all animal owners, allowing their animals off their property, to clean up after the animal. Owners allowing animals to defecate on property other than their own, shall clean up after their animal. Owners in violation of this section shall be cited.

§9.03 Bees

- 9.03.1 No person shall keep more than two hives of bees on any one assessor's parcel within the City of Ferndale. The provisions of this section shall not apply to the keeping of bees within an educational institution for study or observation or for scientific purposes provided such bees are not permitted to fly at large.

§9.04 Slaughterhouses

- 9.04.1 Slaughterhouses will not be allowed within the City limits.

ARTICLE 10: PENALTY

- §10.01 Any person violating the provisions of Article 9 shall be deemed guilty of a misdemeanor, and upon conviction shall be subject to a fine not to exceed \$1000 and imprisonment in the county jail not to exceed one year, or both.

ARTICLE 11: SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this ordinance.

ARTICLE 12: EFFECTIVE DATE

This ordinance becomes effective thirty (30) days after the date of its enactment.

ARTICLE 13: POSTING REQUIREMENT

The City Clerk shall cause publication of this ordinance within 15 days after passage in a newspaper of general circulation published and circulated in the city, and posted in at least three public places in the city.

ARTICLE 14: ENACTING DATE AND SIGNATURES

PASSED, APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FERNDALE AT A REGULAR MEETING ON November 16, 2006 BY THE FOLLOWING VOTE.

AYES:

NOES:

ABSENT:

ATTEST:

Frances Scalvini, City Clerk

Mayor

First Reading: August 3, 2006
Second Reading: September 7, 2006
Amended 2nd Reading: November 16, 2006