

## SECTION 35 - ENFORCEMENT AND PENALTIES

1. Enforcement. It shall be the duty of the City Manager to enforce this Ordinance. All departments, officials and public employees of the City of Tillamook City, vested with the duty or authority to issue permits shall conform to the provisions of this Ordinance and shall issue no permit, certificate, or license for any use, building or purpose which violates or fails to comply with conditions or standards imposed by this Ordinance. Any permit, certificate or license issued in conflict with the provisions of this Ordinance, unintentionally or otherwise, shall be void.
2. Penalties for Violation. Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than \$500.00 or by imprisonment in the County Jail for a term not to exceed 100 days or both such fine and imprisonment. Such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this Ordinance is committed or continued by such a person, firm or corporation and shall be punishable as herein provided.
3. Injunctive Relief. The foregoing sanctions shall not be exclusive, and where the public health, safety, morals, or general welfare will be better served thereby, the City Manager may institute such proceedings for injunctive relief against a continuing violation as may be authorized by the statutes of the State of Oregon. In the enforcement of provisions prohibiting nuisances caused by odor, sound, vibration and the like, the City Manager may seek injunction against the specific device, activity or practice causing the nuisance.
4. Evidence. In any prosecution for causing or maintaining any condition or use of, or activity on, or constructing, moving or maintaining any structure on, any premises in violation of this Zoning Ordinance, a person in possession or control of the premises, as owner or lessee at the time of the violation or continuance thereof, shall be presumed to be the person who constructed, moved, caused or maintained the unlawful activity, use, condition or structure. This presumption shall be rebuttable and either the City or the defendant in such prosecution shall have the right to show that the offense was committed by some person other than, or in addition to, an owner or lessee or other person in possession or control of the premises; but this shall not be construed as relieving a person in possession and control of property from any duty imposed upon him by this Ordinance. For the purposes hereof, the person to whom the premises are taxed according to the records of the Tillamook County Assessor shall be prima facie the person in possession or control of the premises. Where premises on which the violation is committed are commercial or industrial premises on which a sign is situated identifying the commercial or industrial activity conducted thereon, or displaying the real or assumed business name of a person or proprietor thereof, the same shall constitute prima facie evidence that the person whose name is thus displayed is in possession or control of the premises as owner or lessee, but this shall not be construed to relieve from responsibility any agent, manager, employee or other person who actually committed the violation.
5. Abatement. Where, because of the absence of the responsible person, or persons from the City or from the State, as the case may be, the courts of the City of Tillamook City or the State of Oregon cannot secure effective jurisdiction over the person or persons responsible for the cause

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or continuation of a structure or condition erected or maintained in violation of this Ordinance, or where the City Council deems it important to the public interest that the unlawful structure or condition be removed or corrected without delay, the City Council may, after notice and hearing, order the removal of the unlawful structure or condition and, if such removal or correction is not effected within the time prescribed in the order, the City Manager shall cause such abatement, going upon the premises with such men or equipment as may be necessary and the City Council shall thereafter by ordinance assess the cost of abatement against the real property. The lien of the assessment shall be enforced in the same manner as in the case of street improvement liens. Notice of hearing shall be sufficient if give thirty (30) days in advance of the hearing, either by personal delivery or by mailing the same to the last known address of the owner of the property as shown by the County Assessor's records. The order shall be served upon the owner or responsible person in the manner prescribed for the notice of hearing, and the owner or responsible person shall have such period of time after service of the order, but less than thirty (30) days, as the City Council may deem to be reasonably necessary to accomplish the requirements of the order. The notice of hearing and the abatement order shall contain a notice to the property owner, or other person served, that the City of Tillamook City shall not be responsible for the condition or storage of the component parts of, or personal property situated within, the structure following abatement by the City. The remedy of abatement shall be in addition to, and not in lieu of, the other remedies prescribed in this section.