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FILED
J. DEAN FOUQUETTE, SR.
UMATILLA COUNTY CLERK

1987 SEP -3 P 1:08

BEFORE THE BOARD OF COMMISSIONERS
FOR UMATILLA COUNTY

In the matter of co-adopting City)
of Pendleton Ordinance #3394 (non-)
conforming uses) for those areas) ORDINANCE #87-6
within the Pendleton Urban Growth)
Boundary)

- WHEREAS, The City of Pendleton has amended its zoning ordinance to allow property owners the ability to refinance and/or sell existing non-conforming uses; and
- WHEREAS, The City has requested the County co-adopt this amendment so that it will apply within the Pendleton Urban Growth Area; and
- WHEREAS, The County and the City have entered into an agreement to apply city planning and zoning regulations on county properties within the Urban Growth Area to carry out the requirements of ORS 197 and 227; and
- WHEREAS, The County Board of Commissioners held a public hearing on Tuesday, August 4, 1987 after a legal notice appeared in the East Oregonian on July 24, 1987; and
- WHEREAS, The Board received no opposition to the co-adoption of Pendleton Ordinance #3394;

NOW THEREFORE BE IT ORDAINED that the Umatilla County Board of Commissioners co-adopts the City of Pendleton Ordinance #3394 (attached) to apply to those lands outside the city limits but inside the Pendleton Urban Growth Boundary.

Nunc Pro Tunc August 4, 1987.

UMATILLA COUNTY BOARD OF COMMISSIONERS

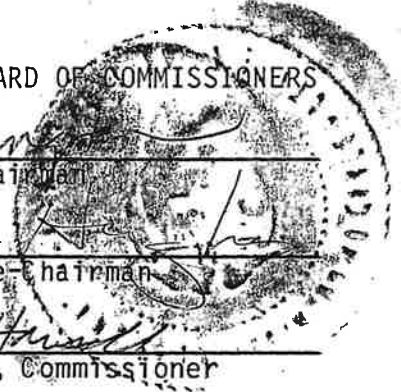
Glenn Youngman
Glenn Youngman, Chairman

Jeanne Hughes
Jeanne Hughes, Vice-Chairman

William S. Hansell
William S. Hansell, Commissioner



ATTESTED: J. Dean Fouquette Sr.
County Clerk



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ORDINANCE NO. 3394

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 3250 AND DECLARING AN EMERGENCY.

WHEREAS, the City of Pendleton intends to amend its zoning regulations regarding nonconforming land uses to be consistent with similar regulations of Umatilla County; and,

WHEREAS, such amendments are necessary for property owner refinancing and/or sale of existing nonconforming uses; and,

WHEREAS, other housekeeping amendments to the Zoning Ordinance are needed to correct a section numbering problem;

NOW, THEREFORE, THE CITY OF PENDLETON ORDAINS AS FOLLOWS:

SECTION 1. Ordinance No. 3250, Article XIII, Historic Conservation Subdistrict (HC), Sections 87 through 91, are amended to read:

"SECTION 91. [87] Description and Purposes. The Historic Conservation (HC) Subdistrict shall apply to all structures and sites listed on the Pendleton Comprehensive Plan Inventory of Historic Sites, Structures and Districts.

The purposes of the (HC) Subdistrict are to:

(1) Implement the historic and cultural resource policies of the Comprehensive Plan.

(2) Encourage the preservation, rehabilitation, and adaptive use of sites, structures and districts that are indicative of Pendleton's history and architectural and cultural heritage.

(3) Provide a process for the review of development proposed for any site, structure or district listed on Pendleton's Inventory of Historic Sites, Structures, and Districts."

"SECTION 92. [88] Development Standards and Process.

A. Permitted Uses. The uses permitted in the HC Subdistrict shall be the same as the uses permitted in the underlying district.

B. Actions Requiring Permits. A permit is required for the alteration of the exterior appearance, construction, reconstruction, demolition, or the removal of any structure listed on the Pendleton Comprehensive Plan Inventory of Historic Sites, Structures and Districts.

(1) Alteration of exterior appearance as governed by this Section includes any alteration of the architectural character and general composition of the exterior of a structure, including but not limited to the kind, color, and texture of the building material and the type, design, and character of all windows, doors, light fixtures, signs and appurtenant elements.

(2) Nothing in this Section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this section that does not involve a change in design, material, or external appearance thereof. Nor does this Section prevent the construction, reconstruction, alteration, restoration, demolition, or removal of any such feature when the Building Official determines that such emergency action is required for this public safety due to an unsafe or dangerous condition. Prior to such emergency action, notification shall be provided to the chairperson of the Pendleton Development Commission.

C. Permit Process. The following process shall be followed for permits required under Section 92. [88] (B):

(1) Application for such permits shall be made to the City Manager. The application shall be made on such forms and in such detail as prescribed by the City Manager.

(2) Except as indicated in this subsection, the City Manager upon receipt of an application, shall refer the request to the Pendleton Development Commission, Director of Planning and Building, the Umatilla County Historical Society, and the State Historic Preservation Office.

(3) The chairperson of the Pendleton Development Commission shall call a meeting of the Commission and within thirty (30) days from the date of receipt of an application, the Pendleton Development Commission shall hold a public meeting to review the permit request. Notice of such meeting shall be published in a newspaper of general circulation at least ten (10) calendar days in advance of the meeting. The applicant and any other interested parties shall have the opportunity to be present at this meeting and shall have the opportunity to present information pertaining to the permit request. A recommendation from the City Manager shall also be presented. At this meeting the Pendleton Development Commission shall complete its review, unless the applicant agrees to continue the proceedings to the next scheduled meeting of the Commission, and approve or deny the request.

(4) The decision of the Pendleton Development Commission shall be transmitted to the applicant within three (3) working days of the meeting pertaining to the permit request. The decision shall be made in writing and shall specify the reasons relied upon in rendering the decision.

(5) In the case of an application to demolish a site or structure listed on Pendleton Inventory of Historic Sites and Structures, the Pendleton Development Commission may order that action on the request be deferred for a period not exceeding 90 days. During this period, the Pendleton Development Commission shall attempt to determine if public or private acquisition and preservation is feasible, or other alternatives are possible which could be carried out to prevent demolition or removal of the site or structure. If an acceptable plan is developed, the demolition permit may be withheld for a maximum period of one year to allow for acquisition or other means of saving the resource.

D. Permit Criteria. Decisions by the Pendleton Development Commission to approve, approve with conditions, or deny an application request required under Section 92 [88] (B) shall be based upon the following criteria:

(1) Consistency with the Pendleton Comprehensive Plan.

(2) The purpose statement of this Section as set forth in Section 91 [87] (A).

(3) The Secretary of the Interior's "Standards for the Historic Preservation with Guidelines for Applying the Standards" (U. S. Department of the Interior, Heritage Conservation and Recreation Service Publications, No. 7.)

(4) The State of Oregon Uniform Building Code [~~with particular reference to Chapter 49, Historic Buildings~~].

(5) An evaluation of the economic, social, environmental, and energy consequences, (as defined by OAR 660-16-000) of the permit request."

"SECTION 93. [89] Designation or Disestablishment of Historical Building, Site or Historic Preservation District.

A. Designation by Federal or State Agency. Designation of a building, site, or district as a historical resource by a state or federal agency shall automatically qualify said resource for inclusion in Pendleton's Comprehensive Plan Inventory of historical buildings, sites, and districts.

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B. Designation by Local Government Agency.

(1) Upon receipt of a written request from any citizen to designate or disestablish a particular building, site or district as a historical building, site or district, or upon direction by the City Council on its own motion, the City Manager shall notify abutting owners and shall transmit a copy of the request to the Pendleton Development Commission. The Pendleton Development Commission shall conduct a hearing regarding all proposals for designation or disestablishment as historical building, site, or district within thirty (30) days of its receipt of the request.

(2) At such hearing the owner of the property involved, the owners of all abutting property, a representative of the Umatilla County Historic Society, and the Department of Planning and Building shall be encouraged to be heard, and the Commission may hear all other interested parties.

(3) If the Pendleton Development Commission determines that a building proposed to be designated as a historical building has architectural significance or is of historical importance based upon past or present use, the Commission may designate such building as a historical building. If the Commission finds that a particular site or district had a prior use involving the establishment, growth or particular incidents relating to the history of the City, the Commission may designate the same as a historical site or district. Disestablishment can be ordered if the Commission finds that the site, structure, or district no longer meets the criteria for designation as a historic resource."

"SECTION 94. [90] Other Powers and Duties of the Pendleton Development Commission.

A. Maintenance of Historic Sites and Structures. Any person may petition the Pendleton Development Commission for a public meeting to consider taking action to require owner maintenance of a historical building or site. If such building or site exists in a state of disrepair that detracts from the value of the resource, the Commission may order that a maintenance plan be prepared for review within a specified time period. The public meeting shall be conducted in the same manner, using the same criteria prescribed for review of historic building alterations.

B. Formation of Historic Preservation Districts. The Pendleton Development Commission, in approving the formation of new historic preservation districts, may develop and enforce additional standards and procedures governing development and alterations within the preservation district after conducting public meetings and making recommendations to the Planning Commission and City Council.

C. Other Preservation Activities may include but not be limited to the following:

(1) Investigate and report to the City Council on the use of various federal, state, local or private funding sources and mechanisms available to promote cultural resource preservation in the City.

(2) Work to assist those property owners seeking to have their properties listed on the National Register."

"SECTION 95. [91] Appeals. Appeals of a Pendleton Development Commission decision may be made in the manner as for appeals of a Planning Commission decision as prescribed by Section 156 of this Ordinance."

SECTION 2. Ordinance No. 3250, Article XIV, Mixed Use Development Subdistrict (MXD), Sections 91 through 94, are amended to read:

"SECTION 96. [91] A. Mixed Use Development Subdistrict Regulations.

Description and Purpose. It is the purpose of the Mixed Use Development Subdistrict to:

- (1) [A-] Provide incentives for better development design, provision of amenities, and creation of other public or private facilities or open spaces;
- (2) [B-] Encourage a diversity of compatible land uses, which may include a mixture of residential, office, neighborhood commercial, recreational, light industrial, and public or semi-public uses;
- (3) [C-] Provide a mechanism for the "master planning" of larger parcels of land within the City in conformance with the policies of the Comprehensive Plan;
- (4) [D-] Encourage the most efficient and timely development of streets, utilities, open spaces and housing units; while protecting the environment.

B. [SECTION-92-] Development Standards.

(1) [A-] All public improvements shall be installed to City standards, unless otherwise approved by the City Council on recommendation of the Planning Commission;

(2) [B-] Mixed Use Development Subdistricts shall not be less than one hundred (100) acres in size;

(3) [C-] Permitted uses in a Mixed Use Development Subdistrict shall be those permitted outright or conditionally in any residential or commercial zone; plus the outright uses of the light industrial zone.

(4) [D-] Professional Design. The applicant for a Mixed Use Development Subdistrict shall certify that the talents of at least one of the following professionals are utilized in the planning process:

(a) [(1)] an architect, or landscape architect, licensed by the state of Oregon.

(b) [(2)] a registered engineer or land surveyor licensed by the state of Oregon;

(c) [(3)] one of the professional consultants chosen by the applicant from either (a) [(1)] or (b) [(2)] above, shall be designated as coordinator to be responsible for conferring with the City Manager with respect to the concept and details of the development. The selection of the professional coordinator of the design team shall not limit the owner or the developer in consulting with the City Manager.

(5) [E-] Density. The density of residential development within an entire Mixed Use Development Subdistrict shall be within that set forth for the underlying zone, except as provided below:

(6) [F-] Density Bonus. The density bonuses below shall be available to an applicant that can provide any of the following benefits:

Low Density Residential - (Base Density 1-9 Units/Ac)	7.5% base density increase per amenity (not to exceed 75% total density increase).
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Medium Density Residential - (Base Density 5-15 Units/Ac)	5.0% base density increase per amenity (not to exceed 50% total density increase)
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High Density Residential - (Base Density 11-35 Units/Ac)	2.5% base density increase per amenity (not to exceed 25% total density increase)
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Density Bonus Amenities: One bonus is possible in b [#2], c [#3], and e [5]; several bonuses are possible with a [#1], d [4], and f [6]:

(a) [(1)] Improvements to public or private open space, such as but not limited to: play or picnic equipment; basketball, racquetball, or tennis courts; ice or roller skating rinks; ballfields; skateboard parks, golf course; swimming pools; clubhouse, etc.

- (b) [(2)] Qualifying for and obtaining federal, state, or local program funding to provide housing units for low to moderate income families and/or the elderly;
- (c) [(3)] At least 75% of the dwellings will have active and/or passive solar heating construction features built-in, with guaranteed access to sunlight via development regulations of structures and vegetation;
- (d) [(4)] Creation of areas devoted primarily to pedestrians, cyclists, equestrians, etc., in a functional relationship to adjacent or area-wide pedestrian, bicycle, or equestrian networks, existing or planned;
- (e) [(5)] Obtaining a commitment from a non-polluting, light industrial use to locate on the property;
- (f) [(6)] Creation of public access to, and/or preservation of natural areas and features, scenic vistas, and archaeological, cultural, or historic sites.

C. SECTION-93. MXD Permit Criteria. A Mixed Use Development Subdistrict may be granted by the City Council, on recommendation of the Planning Commission only if it is found that the development conforms to all of the following criteria:

- (1) [A-] There are special physical conditions or objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements;
- (2) [B-] Resulting development will be consistent with the provisions of the Comprehensive Plan, or zoning objectives of the area;
- (3) [C-] The area around the development can be planned to be in substantial harmony with the proposed plan;
- (4) [D-] Any proposed commercial development, or industrial development can be justified economically;
- (5) [E-] The streets are adequate to support the anticipated traffic and the development will not overload the streets outside of the planned area;
- (6) [F-] Proposed utility and drainage facilities are adequate for the population densities and type of development proposed;
- (7) [G-] The development can be completed within an acceptable period to time.

D. [SECTION-94] Procedure.

- (1) [A-] An applicant shall submit twenty (20) copies of a Mixed Use Development Plan to the Planning Commission for study at least twenty-eight (28) days prior to the public hearing at which it shall be discussed. The preliminary plan shall include the following information:
 - (a) [(1)] Proposed land uses and housing unit densities;
 - (b) [(2)] Proposed circulation pattern, including streets, pedestrian and bicycle ways, etc.
 - (c) [(3)] Proposed open spaces and public lands;
 - (d) [(4)] Proposed method of water and sewer service;
 - (e) [(5)] Economic and supporting data to justify any proposed commercial or industrial uses;
 - (f) [(6)] Relation of the proposed development to the surrounding area and the general plan.
- (2) [B-] Prior to the discussion of the preliminary plan at a Commission meeting, the Planning Commission staff shall distribute copies of the proposed development to affected agencies for review and comment.
- (3) [C-] After review of the Mixed Use Development plan for compliance with the criteria and regulations of this, and other applicable Ordinances, and the comments of affected agencies, the Planning Commission shall recommend to the City Council the approval, approval with conditions, or denial of the request.

(4) [D.] A final Mixed Use Development plan, taking into account any changes made to the preliminary plan by the Commission, shall be submitted to the Planning Commission within six (6) months of preliminary approval, for their recommendation to the City Council. At the time of final approval, the property owner shall, at a minimum, irrevocably consent to dedicate to the public the necessary rights-of-way for all streets shown on the development plan that are classified as collector or arterial streets by the City Comprehensive Plan. The street dedications shall include an irrevocable consent to their improvement to City standards (pavement, curbs, gutters, and sidewalks on both sides). There also shall be an irrevocable consent to dedicate, at the time requested by the City, any school, park, reservoir, fire station or other public lands at the time of final approval.

After approval, the property will become a MXD Subdistrict on the official City Zoning Map. Such approval in no way invalidates the requirements for compliance with subdivision platting regulations."

SECTION 3. Ordinance No. 3250, Article XVIII, Nonconforming Uses, Sections 125 through 130, are amended to read:

"SECTION 125. Intent and Purpose. Except as is hereinafter provided in this Ordinance, the lawful use of a building or structure or of any land or premises lawfully existing at the time of the effective date of this Ordinance or at the time of a change in the official zoning maps may be continued although such use does not conform with the provisions of this Ordinance. No unlawful use of property existing at the time of passage of this Ordinance shall be deemed a non-conforming use.

~~[-INTENT-AND-PURPOSE.--The-lawful-use-of-land-existing-on-the-date-of-this Ordinance,-although-such-use-does-not-conform-to-the-regulations-specified herein-for-the-zoning-district-in-which-such-land-is-located,-may-be-continued, provided-that-no-such-use-shall-be-enlarged-or-increased-or-be-extended-to occupy-a-greater-area-than-that-occupied-by-such-use-on-the-date-of-this-Ordinance.--If-any-such-use-ceases,-as-herein-provided,-the-subsequent-use-of-such land-shall-be-in-conformance-with-the-regulations-specified-by-this-Ordinance for-the-district-in-which-the-property-is-located.]~~

"SECTION 126. Vested Rights. Nothing contained in this Ordinance shall:

A. require any change in the plans, construction, alteration or designated use of a structure on which construction has physically, lawfully and substantially commenced prior to the adoption of this Ordinance, provided the structure, if non-conforming or intended for a non-conforming use, is completed and in use within two (2) years from the time construction was commenced;

B. be construed to limit the sale, transfer, or other conveyance of property on which exists a non-conforming building, structure or use, so long as such sale, transfer or other conveyance does not otherwise violate the provisions of this Ordinance.

~~SECTION-126.--NONCONFORMING-USES-IN-BUILDINGS-AND-STRUCTURES-IN-NONRESIDENTIAL-ZONES.--In-nonresidential-districts,-nonconforming-uses-of-buildings-or structures-may-be-maintained-subject-to-the-following-conditions,-provided-said building-or-structure-is-not-abated,-or-specifically-regulated-otherwise-by-this or-other-Ordinances:~~

- ~~-----A.--No-additions-or-enlargements-shall-be-made-to-a-nonconforming-building or-structure-except:~~
- ~~----- (1) --Additions-or-enlargements-required-by-law;~~
- ~~----- (2) --Additions-or-enlargements-to-existing-dwellings,-churches,-or schools-if-such-uses-otherwise-conform-to-the-regulations-in~~

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~~effect for the district in which located (including height, yard, and area provisions).~~

~~-----B. If any nonconforming building or structure is removed or destroyed voluntarily or involuntarily, every building or structure occupying the premises thereafter and any uses of such buildings, structures, or premises shall conform to the regulations of the applicable zoning district and other provisions of this Ordinance.~~

SECTION 127. Alterations or Repairs of a Non-conforming Use.

A. Alterations or repairs of a non-conforming use may be permitted to continue the use in a reasonable manner subject to the provisions of this Ordinance. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use.

B. Any proposal for the alteration or repair of a non-conforming use, may be permitted to reasonably continue, restore or replace the use.

C. As used in this section, "alteration" of a non-conforming use includes; as determined by the City Manager:

1. A change in the use of no greater adverse impact to the neighborhood; and

2. A change in the structure or physical improvements of no greater adverse impact to the neighborhood.

D. A non-conforming use may be altered only insofar as it applies to the zone in which it is located. Once altered to conforming use, no building or land shall be permitted to revert to a non-conforming use;

~~[SECTION 127. NONCONFORMING USES IN BUILDING AND STRUCTURES IN RESIDENTIAL ZONES. A nonconforming use of a building or structure in a residential zoning district shall not be expanded or extended into any portion of such building or structure. If such nonconforming use is discontinued for a period of one (1) year, any subsequent use of the building, structure, or portion thereof shall conform to the requirements of this Ordinance.]~~

"SECTION 128. Restoration of a Non-Conforming Building, Structure or Lot.

A. A non-conforming building or structure which is damaged by fire, flood, wind, earthquake or other calamity or act of God or the public enemy, may be restored, and the occupancy or use of such building or structure or part thereof, which existed at the time of such partial destruction, may be resumed, provided that the restoration is commenced within a period of one (1) year and is diligently prosecuted to completion;

B. The restoration or reconstruction of a non-conforming building or structure may not create a greater non-conformance than existed at the time of damage or destruction;

C. Nothing in this Ordinance shall be construed to prevent the reconstruction or replacement of a preexisting building or structure conforming as to use on a non-conforming lot, so long as such lot did not become non-conforming in violation of the provisions of this Ordinance.

~~[SECTION 128. PARTIALLY DESTROYED BUILDINGS OR STRUCTURES OCCUPIED BY NONCONFORMING USE OR USES.~~

~~-----A. Whenever, in any district, a building or structure, occupied by a nonconforming use is damaged or destroyed to the extent of 50 percent or less of its replacement value by fire, explosion, or other casualty, it may be restored and the occupancy or use of such building or structure, or part thereof, which existed at the time of such partial destruction may be continued, if such restoration is started within a period of 6 (six) months of such damage or destruction and is completed within eighteen (18) months.~~

~~-----B.---In-the-event-such-damage-or-restoration-exceed-50-percent-of-the-replacement-value-of-the-building-or-structure-occupied-by-a-nonconforming-use-(as-determined-by-the-records-of-the-Umatilla-County-Assessor's-Office)-no-repairs-or-reconstruction-shall-be-made-unless-every-portion-of-such-building-or-structure-is-made-to-conform-to-the-height,-yard,-parking-area-and-use-regulations-of-the-district-in-which-the-property-is-located.]~~

"SECTION 129. Discontinuance of a Non-Conforming Use. When a non-conforming use of a structure or property is discontinued for a period in excess of one (1) year, the structure or property shall not thereafter be used except in conformance with the zone in which it is located.

~~[SECTION-129.--REPAIRS-AND-MAINTENANCE.--Nothing-in-this-Article-shall-be-deemed-as-preventing-the-maintenance-or-repair-of-any-building-or-part-thereof-declared-to-be-unsafe-by-any-official-charged-with-protecting-the-public-safety, upon-order-of-such-official].~~

"SECTION 130. Non Conforming Lots.

A. Any lot which is smaller than the minimum area required in any zone except any Exclusive Farm Use Zone may be occupied by an allowed use in that zone, provided that:

- 1. The lot was a tax lot as shown on the assessor's rolls on the date of this Ordinance or a lot in a recorded subdivision; and
- 2. The use conforms to all other requirements of that zone.

B. A non-conforming lot of record may not be redivided or reduced in area unless it is rezoned to become legally dividable, except where it can be shown by a survey from a surveyor licensed in Oregon that the survey lines do not correspond with physical boundary markers (such as fences) thought to be the true property lines by adjoining property owners, when these physical boundary markers have existed for at least ten (10) years, proof of which shall be provided by the person seeking the change of the lot.

~~[SECTION-130.--NONCONFORMING-USE-OF-LAND-~~

~~-----A.---Where-no-main-buildings-are-used-in-conjunction-with-the-nonconforming-use-of-land,-or-where-the-only-buildings-are-accessory-or-incidental-to-such-use,-the-nonconforming-use-of-such-land-shall-be-discontinued-not-later-than-three-(3)-years-after-such-use-becomes-nonconforming.--All-uses-thereafter-shall-conform-to-the-regulations-of-the-applicable-zoning-classification-and-of-this-Ordinance.~~

~~-----B.---A-nonconforming-use-of-land-shall-not-be-expanded-or-extended-in-any-way-either-on-the-same-land-or-any-adjoining-land.~~

~~-----C.---The-discontinuance-of-a-nonconforming-land-use-or-a-change-in-a-nonconforming-land-use-to-some-other-kind-of-nonconforming-use-constitutes-abandonment-and-termination-of-the-nonconforming-use,-and-thereafter-the-use-of-land-must-conform-to-the-regulations-of-this-Ordinance].~~

SECTION 4. Severability: The sections of this Ordinance are severable. The invalidity of a Section shall not affect the validity of the remaining Sections.

SECTION 5. Saving Clause: Any portion of the Pendleton Zoning Ordinance adopted by Ordinance No. 3250 which is inconsistent with this Ordinance shall remain in full force and effect prior to this effective date of this Ordinance.

SECTION 6. Emergency Clause: Inasmuch as it is necessary for the preservation of the peace, health and safety of the City of Pendleton that this Ordinance shall have immediate effect, an emergency is declared to exist, and this Ordinance shall be in full force and effect after its passage by the Council.

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PASSED by the vote of the Council Members present and approved by the Mayor
this 7 day of July, 1987.

APPROVED: John Brumby
~~Mayor~~
Council President

ATTEST: Bill Tierne
City Recorder

[Signature]
Rudy M. Murgio, City Attorney

APPROVED AS TO FORM: