

**TITLE IX: GENERAL REGULATIONS**

Chapter

**90. ANIMALS**

**91. STREETS AND SIDEWALKS**

**92. FIRE PROTECTION**

**93. NUISANCES**

**94. ABANDONED VEHICLES**

**95. ALCOHOLIC BEVERAGES**

**96. CONTROLLED SUBSTANCES**



## CHAPTER 90: ANIMALS

### Section

- 90.01 Purpose
- 90.02 Definitions
- 90.03 Duties of animal owner
- 90.04 Animals at large prohibited
- 90.05 Barking and howling prohibited
- 90.06 Animal waste matter
- 90.07 Rabies vaccinations
- 90.08 License, registration, fees and exceptions
- 90.09 Abandoned animals
- 90.10 Sick or injured animals
- 90.11 Animal impoundment
- 90.12 Disposition of impounded animals
- 90.13 Dangerous animals
- 90.14 Fighting animals prohibited
- 90.15 Betting on animal fights prohibited
- 90.16 Reporting of biting animals
- 90.17 Quarantine of biting animals
- 90.18 Animals as a public nuisance
- 90.19 Animal abuse
- 90.20 Animal neglect prohibited
- 90.21 Dead animals; removal of carcasses
- 90.22 Keeping feral animals
- 90.23 Raising livestock prohibited
- 90.24 Entry onto private land/premises; search warrant/seizure of animals
- 90.25 Failure to surrender animal
- 90.26 Resisting an animal control officer or peace officer
- 90.27 Interfering with an animal control officer or peace officer
- 90.28 Unlawful possession of a domesticated animal
- 90.29 Enforcement authority

- 90.99 Penalty

### ***Cross-reference:***

*Dangerous animals, see § 93.05*

*Livestock and poultry, see § 93.06*

### **§ 90.01 PURPOSE.**

An Animal Control Authority for the City of Oakridge is hereby established, for the purpose of providing for the health, welfare and safety of citizens within the corporate boundaries of the city, and for the health, welfare and safety of their animals. (Ord. 858, passed 3-21-02)

### **§ 90.02 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ANIMAL.*** Any nonhuman animal species that include mammals, reptiles, amphibians, birds, and fish.

***ANIMAL CONTROL AUTHORITY.*** The animal control enforcement authority appointed by the city.

***ANIMAL CONTROL OFFICER.*** An officer of the Animal Control Authority, or a peace officer. An ***ANIMAL CONTROL OFFICER*** may also be a sworn peace officer as defined in O.R.S. 161.015, whose primary duties include enforcement of municipal

## Oakridge - General Regulations

ordinances regarding animal control, and investigation of offenses against animals under O.R.S. 167.310 to 167.390. Other personnel may also be assigned as needed, to carry out the duties of the animal control officer.

**ANIMAL OWNER.** A person who is the owner of a licensed or registered animal, who has the right of property in an animal, who harbors an animal or exercises care, possession, custody or control of an animal, or who knowingly permits an animal to remain on any premises occupied by the person. Any person who resides where an animal is kept, harbored or cared for, is presumed to be the owner of that animal. This presumption may be rebutted by proof that the person has no property right in the animal, is not the licensed owner and is neither harboring nor caring for the animal. For the purposes of this definition, veterinarians and commercial kennel operators are not considered animal owners.

**ABANDONED ANIMAL.** Any animal left without proper food and water, or other sustenance for a period of more than 24 hours, or any barking dog left without supervision for a period of more than 24 hours. An impounded animal, unredeemed or unclaimed by its owner after 120 hours may also be considered abandoned. Any animal abandoned under O.R.S. 167.340.

**AT LARGE.** Any pet, domestic, or companion animal inside the corporate limits of the city, off the premises of the owner, and not under complete control by adequate leash or other humane form of restraint.

**BARKING ANIMAL.** An animal that persistently barks, whines, or howls, and thereby unreasonably deprives a person of peace and quiet.

**COMMERCIAL KENNEL.** A business that includes sheltering and caring for animals (especially dogs) where clients or customers pay for the boarding of pets, and other animal/pet care related services.

**DANGEROUS ANIMAL.** An animal which has the propensity to menace, bite, or attack any person or other animal without provocation, and the capacity to inflict serious harm on that person or other animal. It shall be presumed that any animal which has injured a human being or other animal without provocation is a **DANGEROUS ANIMAL**.

**DOMESTICATED ANIMAL.** An animal that has been trained or made tame and is dependent upon its owner for essential necessities (i.e. food, water, shelter, etc.).

**FERAL ANIMAL.** Animals born and reared in the wild, or any animal not domesticated or not reared as livestock, with an ability to survive without constant human companionship, care or maintenance.

**FIGHTING ANIMALS.** Any animal expressly bred, trained, or maintained for the purposes of animal fighting. Any animal, especially dogs or fowl, engaged or subjected to combat for sport or wager.

**HUMANE.** Reasonable care and maintenance of an animal, so as to minimize pain or discomfort.

**HUMANE DESTRUCTION.** Destruction or euthanasia of an animal accomplished by a means that minimizes pain and suffering.

**INTERFERE.** To act in an intentional manner that prevents, or attempts to prevent an animal control officer or peace officer from performing lawful duties, regarding an animal or animal owner.

**KENNEL.** An enclosed and containing structure in which animals are sheltered and cared for, especially dogs.

**LEASH.** A humane device constructed of rope, leather strap, chain or other sturdy material, not exceeding eight feet in length, designed to be held in the hand of a person capable of controlling the animal to which it is attached.

**LIVESTOCK.** Cows, sheep, horses, swine, fowl, poultry and any fur-bearing animal bred and maintained commercially or otherwise within a pen, cage or hutch.

**MINIMUM CARE.** The care sufficient to preserve the health and well being of an animal.

**NEUTER.** The removal of the ovaries and uterus in female animals. The removal of gonads or testes in male animals.

**NUISANCE.** A state in which an animal, because of its behavior, disturbs and disrupts the peace and tranquility, or threatens the welfare of residents or other animals, within the corporate boundaries of the city.

**PEACE OFFICER.** A city police officer or other officer specified in O.R.S. 161.015.

**PERSON.** A natural person, association, corporation, firm or partnership.

**RESIST.** The use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person. (Ord. 858, passed 3-21-02)

**§ 90.03 DUTIES OF ANIMAL OWNER.**

Any animal owner within the corporate boundaries of the city must provide the animal with a minimum level of care. Violation of this section is a Class C violation. Duties include the following:

(A) Every animal owner shall provide the animal with food of sufficient quantity and quality to allow for normal growth or maintenance of body weight.

(B) Every animal owner shall provide the animal with open or adequate access to potable water in

sufficient quantity to satisfy the animal's needs. (Snow or ice is not an adequate water source.)

(C) Every animal owner shall provide the animal with access to a doghouse, or other enclosed structure sufficient to protect the animal from the elements (i.e. wind, rain, snow, sun). Trees are not acceptable shelters under this chapter. The shelter must also have adequate bedding to protect the animal against cold and dampness.

(D) Every animal owner has a responsibility to provide an animal with veterinary care necessary to relieve distress from injury, neglect or disease.

(E) Pets or domestic animals shall not be confined to an area without adequate space for exercise necessary for the health of the animal or which does not allow access to a dry place for the animal to rest.

(1) The air temperature in any confinement area must be suitable for the animal involved.

(2) Confinement areas must be kept reasonably clean and free from excess waste or other contaminants which could affect the animal's health. (Ord. 858, passed 3-21-02) Penalty, see § 90.99

**§ 90.04 ANIMALS AT LARGE PROHIBITED.**

No person shall allow an animal under his or her care to be at large. Violation of this section is a Class C violation. (Ord. 858, passed 3-21-02) Penalty, see § 90.99

**§ 90.05 BARKING AND HOWLING PROHIBITED.**

No person shall allow an animal under his or her care to bark, whine, or howl in such a manner that it

2005 S-1

unreasonably deprives another person of peace and quiet. Violation of this section is a Class C violation. (Ord. 858, passed 3-21-02) Penalty, see § 90.99

#### § 90.06 ANIMAL WASTE MATTER.

(A) (1) It is a violation for any person to allow an animal under their care to defecate on any improved property (that does not belong to the animal owner), public thoroughfare, easement, or right-of-way. Violation of this section is a Class C violation.

(2) It shall be a defense to a violation of this division if the animal owner immediately removes the waste matter.

(B) (1) It is also a violation of this chapter to allow animal waste matter to accumulate on the animal owner's property for more than a seven-day period, or to the extent the accumulated animal waste matter causes an offensive odor to others, outside the boundaries of the animal owner's property. Violation of this section is a Class C violation.

(2) It shall be a defense to a violation of this division if the animal owner contains the animal waste matter in material or a medium that absorbs or blocks the odor.

(Ord. 858, passed 3-21-02) Penalty, see § 90.99

#### § 90.07 RABIES VACCINATIONS.

Every owner of a dog or cat, six months of age or older, shall immediately cause the animal to be vaccinated for rabies. Violation of this section is a Class A violation.

(Ord. 858, passed 3-21-02) Penalty, see § 90.99

#### § 90.08 LICENSE, REGISTRATION, FEES AND EXCEPTIONS.

##### (A) *Licenses for dogs.*

(1) Every owner of a dog, six months of age or older, shall immediately obtain a license for the dog. Violation of this section is a Class C violation.

(2) Licenses shall be valid for one or three years, from the date of issuance, or until the sale or gift of the animal, whichever occurs first. Dog licenses are non-transferable.

(3) No dog license shall be issued until a certificate of vaccination for rabies, valid for the license year, is presented to the Animal Control Authority or authorized representative. A dog owner may prepay the license fee, however, before a license tag is issued. Prepaying a license fee does not satisfy licensing requirements of this chapter.

(4) Dog owners shall renew animal licenses before they become delinquent for as long as they own the animal. Violation of this section is a Class C violation.

(5) It shall be a defense to a violation of division (A)(1) and (A)(4) of this section, if the animal owner demonstrates the dog in question is deceased, has been given to someone else, or is no longer under the owner's care, before the license expires. Demonstration that the dog in question belongs to someone else includes a bill of sale or transfer, with the new owner's name, address, phone number and other applicable information.

(6) A license tag issued to a dog owner shall be attached securely to a collar or harness on the animal for which it was issued. If a license tag is lost, the owner may obtain a duplicate license tag upon payment of the required fee. Violation of this section is a Class C violation.

2005 S-1



(B) *Registration for cats.*

(1) Every owner of a cat six months of age or older shall immediately register the animal with the City Animal Control Authority. It shall be the responsibility of every cat owner to ensure that the animal can be properly identified by a tag, implanted identification chip, or other form of identification. Cat owners are only required to register their cats one time. Violation of this section is a Class C violation.

(C) *Fees.*

(1) Fees which are due and payable upon the issuance of a dog license, cat registration, and other fees required to be paid under the provisions of this chapter, shall be set by Council resolution and amended regularly.

(D) *License fees; exceptions.*

(1) No license fee is required for an assistance animal as defined by O.R.S. 346.680. Proof of rabies vaccination is also required before a license for an assistance animal is issued.

(2) Owners of neutered dogs may apply for a reduced license fee. A person who requests a reduced license fee for a neutered dog must present a certificate from a licensed veterinarian, stating the animal in question has been neutered, along with proof of rabies vaccination.

(3) Senior citizens (65 years of age or older), shall receive a reduced license fee. Applicants must provide proof of their age, along with proof of rabies vaccination for the animal.

(4) Commercial kennel owners/operators within the corporate boundaries of the city shall not be required to license animals under their care. Commercial kennel owners/operators must possess a

valid city business license and meet all zoning/ planning requirements prior to operation. (Ord. 858, passed 3-21-02) Penalty, see § 90.99

**§ 90.09 ABANDONED ANIMALS.**

(A) (1) It is a violation of this chapter for an animal owner to abandon an animal. Violation of this section is a Class A violation.

(2) It is no defense if the person intentionally or knowingly abandons an animal near an animal shelter, veterinary clinic or other place of shelter if the animal owner, or person responsible for the disposition of the animal, did not make reasonable arrangements for the care of the animal.

(B) Any animal control officer, upon finding an abandoned animal, may:

(1) Provide food and water and arrange for needed medical service for the abandoned animal. The animal owner shall pay for such services.

(2) Impound the abandoned animal. (Ord. 858, passed 3-21-02) Penalty, see § 90.99

**§ 90.10 SICK OR INJURED ANIMALS.**

(A) The animal control officer may deliver a sick or injured animal to its owner, if the animal is found away from the owner's property. If, after a reasonable attempt is made to contact the owner and the animal control officer is unable to do so, he may deliver the injured or sick animal to a veterinarian if one is available. An animal owner will bear all costs and medical expenses incurred in accordance with this section.

(B) An animal control officer may humanely destroy any animal too ill, or severely injured, and not

2005 S-1

on the property of its owner, when the owner is unknown or cannot be reached after reasonable attempts to do so.

(C) An animal owner may release a sick or injured animal to the Animal Control Authority for humane destruction, or euthanasia. However, the animal owner shall bear the cost, as set forth in the fee schedule. Release means the signing of a euthanasia form that waives interest and ownership after fees are paid.

(D) It is a violation of this chapter for an animal owner to deprive a sick or injured animal of medical care, or attention. Violation of this section is a Class A violation.

(E) It is a violation of this chapter for an animal owner to fail to humanely destroy, or to provide for the humane destruction of an animal too ill or too severely injured to move. Violation of this section is a Class A violation.  
(Ord. 858, passed 3-21-02) Penalty, see § 90.99

#### § 90.11 ANIMAL IMPOUNDMENT.

(A) *Authority to impound.* An animal control officer may impound any animal in violation of this chapter.

(B) *Notice of impoundment.*

(1) As soon as practical, notice of impoundment shall be posted at the home of the animal owner (if known), transmitted via telephone or electronic media, and mailed to the animal owner.

(2) The impoundment notice shall advise the owner of the place where the animal is kept, the procedures required for redemption, the fees for impoundment and related maintenance, and the consequences for failing to redeem the animal.

(3) If the animal is unlicensed (or the owner is otherwise unknown) and is not redeemed within 120 hours, the animal may be sold or destroyed.

(Ord. 858, passed 3-21-02)

#### § 90.12 DISPOSITION OF IMPOUNDED ANIMALS.

The Animal Control Authority shall dispose of animals in accordance with the following provisions:

(A) Animals not redeemed within 120 hours after impoundment may be sold or destroyed (by any humane method). Additionally, the animal owner (if known) may be issued a citation for animal abandonment.

(B) Redemption of an impounded animal shall be made by exhibiting proof of ownership and by paying impoundment, daily care, and licensing fees (if applicable). Additionally, animal owners must reimburse the city for any medical costs incurred, prior to the release of the impounded animal.

(C) The Animal Control Authority may require an adoptive or prospective animal owner to prepay animal licensing fees before releasing the animal. Additionally, an adoptive or prospective animal owner may be required to sign a promissory statement indicating the animal will be neutered within 30 days of adoption.

(D) No live animal shall be sold or otherwise released by the Animal Control Authority for surgical or medical demonstration or vivisection.

(Ord. 858, passed 3-21-02) Penalty, see § 90.99

#### § 90.13 DANGEROUS ANIMALS.

(A) No person shall expose the public to a dangerous animal. Violation of this section is a Class A violation.

2005 S-1

(B) A dangerous animal may be impounded by an animal control officer and disposed of, pursuant to the procedures outlined in §§ 90.11 and 90.12.

(C) The owner of a dangerous animal that has been impounded may apply to the municipal judge for release of the animal within 120 hours of the impound date and time. The judge shall set a time and place for hearing the application and notify the impoundment officer, and upon a summary hearing, shall determine whether the animal has been wrongfully impounded and whether it shall be returned to its owner, and upon what terms.

(D) Before the dangerous animal is released, the municipal judge must enter findings that proper precautions will be taken to insure the public health and safety.

(E) A dangerous animal running at large which, because of its disposition or diseased condition, is too hazardous to apprehend, may be summarily destroyed by an animal control officer, or by a person acting in self-defense without notice to or consent of the animal's owner.

(Ord. 858, passed 3-21-02) Penalty, see § 90.99

#### **§ 90.14 FIGHTING ANIMALS PROHIBITED.**

It is a violation of this chapter for anyone to possess, breed, harbor, or maintain any animal for the purpose of subjecting it to combat with another animal for sport or wager. Violation of this section is a Class A violation.

(Ord. 858, passed 3-21-02) Penalty, see § 90.99

#### **§ 90.15 BETTING ON ANIMAL FIGHTS PROHIBITED.**

It is a violation of this chapter for any person to place wagers or bets on animals engaged in combat or

the outcome of an animal fight. Violation of this section is a Class A violation.

(Ord. 858, passed 3-21-02) Penalty, see § 90.99

#### **§ 90.16 REPORTING OF BITING ANIMALS.**

(A) The owner of an animal which bites a human shall immediately notify the Animal Control Authority of the bite, the time and circumstances of the bite, and the name and address of the person bitten (if known). The animal owner must also immediately present proof that the animal in question has a current rabies vaccination.

(B) Any person who is bitten by an animal shall immediately notify the Animal Control Authority of such bite, giving a description of the animal, the time and circumstances of the bite, and the name and address of the owner, if known.

(C) When a doctor, veterinarian, hospital employee, or other person, has information that an animal has bitten a person, the person shall immediately notify the Animal Control Authority.

(D) Failure of any person to notify the Animal Control Authority of an animal bite shall be a violation of this chapter. Violation of this section is a Class A violation.

(Ord. 858, passed 3-21-02) Penalty, see § 90.99

#### **§ 90.17 QUARANTINE OF BITING ANIMALS.**

(A) Upon notice that an animal has bitten someone, the Animal Control Authority shall cause the animal owner to quarantine the animal for a ten-day observation period and shall also cause a quarantine notice to be delivered to the animal owner. The animal may be quarantined:

2005 S-1

**Oakridge - General Regulations**

(1) On the owner's premises, in such a manner as to prevent it from being in contact with any other animal or person; or

(2) At the owner's expense at a veterinary hospital or kennel approved by the Animal Control Authority.

(B) A rabid animal or an animal bitten by another animal proved to be rabid shall be destroyed. A health official or licensed veterinarian may require the rabid animal's head to be submitted to the Oregon State Public Health Laboratory for a pathology examination.

(Ord. 858, passed 3-21-02) Penalty, see § 90.99

**§ 90.18 ANIMALS AS A PUBLIC NUISANCE.**

(A) An animal is a public nuisance if it:

(1) Injures or causes injury to a person or another animal;

(2) Chases vehicles or people;

(3) Damages or destroys property of persons other than the owner of the animal;

(4) Scatters garbage;

(5) Trespasses upon private property of persons other than the owner of the animal;

(6) Is a female in heat and running at large.

(B) It shall be a defense to this section if:

(1) The dog or other animal bites or attempts to bite a person wrongfully provoking or assaulting the animal's owner, the owner's spouse or children;

(2) The animal bites or attempts to bite a person trespassing upon premises occupied by the animal's owner, the owner's spouse or children; or

(3) A person wrongfully assaults the dog or animal.

(C) Violation of this section is a Class B violation.

(Ord. 858, passed 3-21-02) Penalty, see § 90.99

**§ 90.19 ANIMAL ABUSE.**

It is a violation of this chapter for any person to abuse an animal. Elements of animal abuse include:

(A) When a person causes physical injury to an animal. Violation of this section is a Class B violation.

(B) When a person causes physical injury and cruelly causes the death of an animal. Violation of this section is a Class A violation.

(Ord. 858, passed 3-21-02) Penalty, see § 90.99

**§ 90.20 ANIMAL NEGLECT PROHIBITED.**

(A) When a person negligently fails to provide minimum care for an animal in that person's custody or control, and such failure results in the serious physical injury or death to the animal. Violation of this section is a Class A violation.

(B) It is no defense to a violation of this section if the animal in question was impounded because of neglect and subsequently euthanized by the Animal Control Authority or veterinarian because of illness or its deteriorated physical state, or because the animal was not redeemed from impoundment after 120 hours.

(Ord. 858, passed 3-21-02) Penalty, see § 90.99

2005 S-1



**§ 90.21 DEAD ANIMALS; REMOVAL OF CARCASSES.**

It is a violation for any person to knowingly permit the carcass of a deceased animal (owned by that person) to remain on public property or to be exposed on private property for more than 24 hours. Cost for removal and disposal of a deceased animal shall be the responsibility of the animal owner. Violation of this section is a Class C violation. (Ord. 858, passed 3-21-02) Penalty, see § 90.99

**§ 90.22 KEEPING FERAL ANIMALS.**

It is a violation of this chapter for any person to keep, care for, or attempt to domesticate a feral animal. Violation of this section is a Class C violation. (Ord. 858, passed 3-21-02) Penalty, see § 90.99

**§ 90.23 RAISING LIVESTOCK PROHIBITED.**

It is a violation of this chapter to raise livestock within the corporate boundaries of the city, in any non-permitted area, or any area not zoned for the raising of livestock. Violation of this section is a Class C violation. (Ord. 858, passed 3-21-02) Penalty, see § 90.99

**§ 90.24 ENTRY ONTO PRIVATE LAND/PREMISES; SEARCH WARRANT/SEIZURE OF ANIMALS.**

(A) Any animal control officer or peace officer may enter onto private land in the course of the officer's duties while enforcing the provisions of this chapter, but the officer shall not enter into any building or dwelling without legal authorization or permission of the owner or occupant of the premises.

(B) If there is probable cause to believe that any animal is being mistreated under the terms of this chapter, a peace officer or an animal control officer who is also a sworn police officer may enter the premises where the animal is located, after obtaining a warrant or in any other manner authorized by law, to provide the animal with food, water, and emergency medical treatment, and may impound the animal. (Ord. 858, passed 3-21-02) Penalty, see § 90.99

**§ 90.25 FAILURE TO SURRENDER ANIMAL.**

It is a violation for an animal owner to fail to surrender an animal to the Animal Control Authority (including a city animal control officer, or peace officer), upon their demand, so the animal can be impounded or quarantined as provided for in this chapter. Violation of this section is a Class A violation. (Ord. 858, passed 3-21-02) Penalty, see § 90.99

**§ 90.26 RESISTING AN ANIMAL CONTROL OFFICER OR PEACE OFFICER.**

It is a violation for any person to resist someone known to them as a peace officer or an animal control officer, who is enforcing any provision of this chapter. Violation of this section is a Class A violation. (Ord. 858, passed 3-21-02) Penalty, see § 90.99

**§ 90.27 INTERFERING WITH AN ANIMAL CONTROL OFFICER OR PEACE OFFICER.**

It is a violation for any person to interfere with someone known to them as an animal control officer or peace officer, who is enforcing any provision of

this chapter. Violation of this section is a Class A violation.

(Ord. 858, passed 3-21-02) Penalty, see § 90.99

#### **§ 90.28 UNLAWFUL POSSESSION OF A DOMESTICATED ANIMAL.**

It is a violation of this chapter for a person convicted of animal abuse, animal neglect, or animal abandonment (under Oregon Revised Statutes), and living within the corporate boundaries of the city, to possess a domesticated animal. Violation of this section is a Class A violation.

(Ord. 858, passed 3-21-02) Penalty, see § 90.99

#### **§ 90.29 ENFORCEMENT AUTHORITY.**

Animal control officers are hereby empowered to enforce the provisions of this chapter.

(Ord. 858, passed 3-21-02)

#### **§ 90.99 PENALTY.**

(A) *Fines.*

(1) Fines for a Class A violation range from \$500 (minimum) to \$1000 (maximum).

(2) Fines for a Class B violation range from \$100 (minimum) to \$500 (maximum).

(3) Fines for a Class C violation range from \$50 (minimum) to \$250 (maximum).

(B) *Citations for violations.* Animal control officers may issue uniform citations to charge a person with any violation of this chapter.

(Ord. 858, passed 3-21-02)

## CHAPTER 91: STREETS AND SIDEWALKS

### Section

#### *Sidewalk Regulations*

- 91.01 Definition
- 91.02 Repair of sidewalks
- 91.03 Liability for sidewalk injuries
- 91.04 Standards and specifications
- 91.05 Submission of plans
- 91.06 Supervision of work
- 91.07 Notice to construct, alter and the like
- 91.08 Work done by city

#### *Street Regulations*

- 91.20 Public rights-of-way
- 91.21 License process and rates
  
- 91.99 Penalty

#### ***Cross-reference:***

- Damaging sidewalks and curbs, see § 71.04*
- Obstructing streets, see § 72.02*
- Storage of vehicles on streets, see § 71.06*
- Vending goods on streets and sidewalks, see § 130.08*

### ***SIDEWALK REGULATIONS***

#### **§ 91.01 DEFINITION.**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***SIDEWALK.*** The part of the street right-of-way between the curb lines or the lateral lines of a roadway and the adjacent property lines and includes any culvert located in a part of the street.  
(Ord. 697, passed 10-3-85)

#### **§ 91.02 REPAIR OF SIDEWALKS.**

The owner of land abutting a sidewalk shall maintain it in good repair and safe condition.  
(Ord. 697, passed 10-3-85)

#### **§ 91.03 LIABILITY FOR SIDEWALK INJURIES.**

(A) The owner of real property abutting a sidewalk shall be liable to any person injured because of failure by the owner to maintain the sidewalk in good repair or safe condition.

(B) If the city is required to pay damages for an injury to any person caused by the failure of an owner to maintain a sidewalk in good repair or safe condition, the owner shall reimburse the city for the amount of the damages thus paid, and for the attorney fees and costs of defending against the claim for damages. The city may maintain an action in a court of competent jurisdiction to enforce the provisions of this section.

(Ord. 697, passed 10-3-85)

**§ 91.04 STANDARDS AND SPECIFICATIONS.**

Sidewalks shall be constructed, altered and repaired in accordance with standards and specifications determined by the Public Works Director.

(Ord. 697, passed 10-3-85)

**§ 91.05 SUBMISSION OF PLANS.**

(A) No person shall construct, alter or repair a sidewalk without first submitting the plans and specifications for the work and obtaining a permit.

(B) The application for a permit shall be made to the City Administrator. The City Administrator may issue a permit for the proposed work upon finding that the plan conforms with the applicable standards and specifications.

(Ord. 697, passed 10-3-85)

**§ 91.06 SUPERVISION OF WORK.**

The construction, alteration or repair of sidewalks shall be under the supervision of the Public Works Director. The Public Works Director may inspect any materials and construction details as in the Public Works Director's judgment may be necessary to ensure compliance with the plans and the applicable standards and specifications.

(Ord. 697, passed 10-3-85)

**§ 91.07 NOTICE TO CONSTRUCT, ALTER AND THE LIKE.**

(A) When the council determines that a sidewalk needs construction, alteration or repair, it shall, by resolution, direct the City Administrator to issue a notice.

(B) The notice shall require the owner of the property abutting the sidewalk to complete the work within 60 days after service of notice. The notice shall also state that if the work is not completed by the owner within the 60 days, the city may complete it and assess the cost against the property abutting the sidewalk.

(C) (1) The City Administrator shall cause a copy of the notice to be served personally upon the owner of the property abutting the sidewalk, or the notice may be served by registered or certified mail, return receipt requested.

(2) If, after diligent search, the owner is not discovered, the City Administrator shall cause a copy of the notice to be posted in a conspicuous place on the property and the posting shall be considered to have the same effect as personal service of notice upon the owner of the property.

(D) The person serving the notice shall file with the Administrator a return of service, reciting the time, place and manner of service.

(Ord. 697, passed 10-3-85)

**§ 91.08 WORK DONE BY CITY.**

(A) If the sidewalk alteration or repair is not completed within 60 days after service of the notice, the Public Works Director shall complete it if so directed by the Council. Upon completion of a project, the Public Works Director shall submit a report to the Council containing an itemized statement of costs.

(B) Upon receipt of the report, the Council, by ordinance, shall assess the cost of the work against the property adjacent to the sidewalk. The assessment shall be a lien against the property and may be levied and collected in the same manner as is provided for in

the city’s general ordinance regarding local improvement assessment procedures.

(C) If a property owner petitions the Council for an order to build a sidewalk on the part of the street abutting on his or her property, agrees to pay cash or to make application to pay the cost in installments as provided by the Bancroft Bonding Act, O.R.S. 223.205, waives the right of service and publication of notice of construction, and consents to the assessment of the property upon which the sidewalk abuts, the Council may order the construction of the sidewalk, if in its judgment the sidewalk should be built.  
(Ord. 697, passed 10-3-85)

***STREET REGULATIONS***

**§ 91.20 PUBLIC RIGHTS-OF-WAY.**

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***PERSON.*** Individual, corporation, association, firm, partnership, joint stock company and similar entities.

***PUBLIC RIGHTS-OF-WAY.*** Include, but are not limited to streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including subsurface and air space over these areas.

***WITHIN THE CITY.*** Territory over which the city now has or acquires jurisdiction for the exercise of its powers.

(B) The city has jurisdiction and exercises regulatory control over all public rights-of-way within the city under the authority of the City Charter and state law.

(C) The city has jurisdiction and exercises regulatory control over each public right-of-way whether the city has a fee, easement or other legal interest in the right-of-way. The city has jurisdiction and exercises regulatory control over each public right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

(D) No person may occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use the rights-of-way by franchises, licenses and permits.

(E) The exercise of jurisdiction and regulatory control over a public right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.  
(Ord. 818, passed 2-6-97) Penalty, see § 91.99

**§ 91.21 LICENSE PROCESS AND RATES.**

(A) (1) Except as provided in this section, no individual, partnership, corporation or other legal entity shall hang, install, lay, place, construct or locate or obtain ownership of any wire, cable, fiber cable, pipe, conduit or other material designed for the purpose of transmitting or transporting physical objects or electronic current or light signals in, upon, beneath, over or across any public right-of-way or public property within the corporate limits of the city without first obtaining a right-of-way license from the city.

(2) No person that holds a valid franchise granted by the city need apply for a right-of-way license to perform actions consistent with and authorized by the franchise granted by the city.

(3) The city and all city employees in the performance of their duties as city employees are

## Oakridge - General Regulations

exempted from the requirement to obtain a right-of-way license before taking any action in the public right-of-way or on city property.

(4) The county, state and country governments are exempted from the requirement to obtain a right-of-way license where the Public Works Director has been informed of the proposed activities to take place in the right-of-way and has approved the activities.

(5) A right-of-way license shall not be required for a person who proposes to use the right-of-way for city property for a temporary use, for a duration of continuous use of less than seven days, where the temporary use is authorized by law or has been otherwise approved by the city.

(B) (1) No right-of-way license shall be granted when, in the opinion of the City Manager, a grant of a right-of-way license would be detrimental to the public health, welfare or benefit of the city or the residents of the city.

(2) No right-of-way license shall be granted for an applicant who would otherwise be required to obtain a franchise from the city. This restriction shall apply, but is not otherwise limited to any person that seems to use the public right-of-way for the purpose of providing services to two or more persons residing within, or properties located within, the city.

(3) No right-of-way license shall be granted to a person who will not have and retain ownership of the facilities proposed to be located in the public right-of-way. No right-of-way license shall be granted to a person who is not authorized to transact business in the state.

(4) No right-of-way license shall be granted to a person who has submitted an application that is in any way determined by the City Manager to be incomplete unless the applicant is able to remedy the

incompleteness of the application within a reasonable time prior to the issuance of a right-of-way license and is not otherwise ineligible for a right-of-way license.

(5) The decision to grant a right-of-way license or to deny an application for a right-of-way license shall be a decision solely within the discretion of the City Manager, who may consult with any person deemed appropriate in the course of making a decision on an application.

(C) (1) An application for a right-of-way license shall be submitted to the city. The application shall be typed and shall contain the signature of a person authorized to make decisions for and bind the applicant. The application shall state the name of the applicant, the address of the applicant, the registered agent in the state of the applicant, if applicable, the nature of, and the intended purpose of, the proposed facilities and the name, address and phone number of an individual who may be contacted in the event of an emergency or when deemed necessary by the city.

(2) The application shall be accompanied by:

(a) Engineered drawings or plans showing the nature of the facilities proposed to be installed, including the dimensions of the facility or facilities, the composition of all materials to be used, the method of proposed installation, including the size of any trenching that might be required in the course of installation, the nature of the proposed use of the facilities and other information as determined to be necessary by the City Manager to make a determination concerning the appropriateness of granting a right-of-way license.

(b) A map or maps of the city showing the proposed location of the facilities in the public right-of-way and on, under or across other property within the city. The map or maps shall be of sufficient size and detail to allow the City Manager to

determine the exact place or places in the city where the facility is proposed to be located. The map shall include the location of any physical conditions of significance to the proposed location of the facilities, and shall include the location of any structure or building within 20 feet of any portion of the proposed location of the facility.

(c) The application fee shall be no less than \$10 and may hereafter be adjusted by adoption by the City Council of a resolutions adjusting the fee.

(D) A right-of-way license approved by the city shall become effective only upon fulfillment of the following terms and conditions and shall remain in effect only during the period that any of the terms and conditions containing a continuing obligation are met.

(1) Payment of an annual fee in the amount of no less than \$1 per lineal foot of public right-of-way or public property occupied by or traversed by the facility. The amount of the fee may be adjusted by a resolution adopted by the City Council.

(2) The city may waive all or a portion of the required fee in the event that the city and the person owning the facility enter into an agreement concerning in-kind services to be provided by the person owning the facility. The in-kind services may be of whatever form or type deemed by the city to be at least of equivalent value to the required license fee. Installation of any additional facility or provision of any service, whether for free or for a charge, in conformity with a written contract with the city concerning in-kind services shall not require an additional right-of-way license and shall not be considered to be services requiring a franchise from the city.

(3) A right-of-way license granted by the city shall cover and allow for only the uses and location described in the application for the license. Any additional installation or location of facilities or

modification of use shall require an additional application for a right-of-way license and shall not be allowed until approval of the application.

(4) The person holding a right-of-way license shall be responsible for all costs of installation of any facilities associated with the right-of-way license and shall be responsible for the repair of any portion of the right-of-way or property in the right-of-way disturbed or damaged by the installation of the facility. Repairs must return the right-of-way and all other property to a condition equivalent of the condition of the right-of-way or property before the initiation of installation of the facility. The city may require the posting of a bond or the provision of other securities in an amount to be determined by the city to guarantee the payment of any cost to the city for any work required to return the right-of-way and any property in the right-of-way to a condition equivalent to the condition before initiation of installation of the facility.

(5) Maintenance, repair or removal of the facility or any portion of the facility may be initiated only upon prior written approval of the city. All work done for the purposes of maintenance, repair or removal of the facility shall be subject to the same terms and conditions as apply to installation work.

(6) The city may require the owner of the facility to move, at the owner's expense, any portion of the facility when the movement is necessary for the completion of any work initiated by or under the authority of the city. The city shall not be responsible for any cost associated with damage or loss of business resulting from the required movement of the facility. Except in the event of an emergency, the city will provide an ample prior notice to the owner of the facility concerning any needed relocation of the facility.

(7) The owner of the facility retains all responsibility to notify other persons or entities of the

location of the facilities in the right-of-way, and to respond to inquiries concerning the location of facilities. The city shall have no responsibility to provide information, nor responsibility for any damage that might result from providing or failing to provide the information. The owner of any facility installed pursuant to a right-of-way license shall agree to indemnify and hold harmless the city from any and all claims concerning damages arising from the installation, maintenance, repair, relocation, operation of the facility and all other obligations created by this section.

(8) A right-of-way license does not allow the use of any private property within or outside the right-of-way.

(9) A right-of-way license shall be non-transferable.

(10) A right-of-way license may be terminated by the city 30 days after written notice of the termination is mailed to the last known address of the person to whom the license was granted. The city may terminate a right-of-way license for failure to abide by any of the terms and conditions of the license, for failure to abide by any contract entered into for in-kind services or upon discovery by the city that the conditions under which the license was granted no longer apply. The owner of the facilities must remove the facilities within 64 days of the notice of termination being mailed. Removal shall be at the owner's expense. Any facility or portion of a facility not removed within the time allowed may be removed by the city at the owner's expense or may become the property of the city. A choice will be based upon the sole discretion of the city.  
(Ord. 833, passed 1-21-99)

#### § 91.99 PENALTY.

(A) Any person violating any provisions of this chapter for which no specific penalty has been prescribed shall be subject to § 10.99.

(B) Any person violating §§ 91.01 through 91.08 shall be punished by a fine not to exceed \$500. Each day's violation of a provision shall constitute a separate punishable offense. (Ord. 697, passed 10-3-85)



## CHAPTER 92: FIRE PROTECTION

### Section

- 92.01 Definitions
- 92.02 Code adoption; applicability
- 92.03 Enforcement; advice and investigation
- 92.04 Permits; fees
- 92.05 Abatement of hazardous conditions
- 92.06 Department reports
- 92.07 Appeals
- 92.08 Solid fuel space heaters
  
- 92.99 Penalty

#### ***Cross-reference:***

*Burning garbage; accumulation, see § 130.10*

*Obstruction of fire hydrants, see § 130.07*

*Outdoor Burning, see §§ 93.45 through 93.46*

#### **§ 92.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***FIRE CHIEF.*** The Fire Chief of the city.

***FIRE MARSHAL.*** The Fire Chief or an officer of the Fire Department designated by the Fire Chief.

***OWNER.*** An owner, occupant or agent in charge of real property.

***PERSON.*** A natural person, firm, partnership, association or corporation.  
(Ord. 689, passed 6-27-85; Am. Ord. 748, passed 9-7-89; Am. Ord. 750, passed 2-15-90; Am. Ord. 771, passed 3-19-92)

#### **§ 92.02 CODE ADOPTION; APPLICABILITY.**

(A) (1) The Uniform Fire Code, published by the International Conference of Building Officials and the Western Fire Chiefs Association is adopted and incorporated herein by reference in its entirety, except as provided otherwise by this chapter. A copy of the code shall be kept on file in the City Recorder's office.

(2) The following words and terms used in the Uniform Fire Code shall mean:

***CORPORATE COUNSEL.*** The City Attorney.

***JURISDICTION.*** The City of Oakridge.

***MUNICIPALITY.*** The City of Oakridge.

(B) The provisions of this chapter shall apply equally to both public and private property and it shall apply to all structures and their occupancies, except as otherwise specified.

(Ord. 689, passed 6-27-85; Am. Ord. 750, passed 2-15-90; Am. Ord. 771, passed 3-19-92; Am. Ord. 849, passed 8-16-01)

#### **§ 92.03 ENFORCEMENT; ADVICE AND INVESTIGATION.**

(A) (1) The Fire Chief is responsible for the enforcement of this chapter. The Fire Chief may detail members of the Fire Department as inspectors.

**Oakridge - General Regulations**

(2) To assist in the performance of the responsibilities and duties placed upon the Fire Chief, the Bureau of Fire Prevention may be created.

(3) The Bureau of Fire Prevention shall operate under the supervision of the Fire Chief of the Fire Department. The Fire Chief shall designate a fire official of the Fire Department as Fire Marshal, who shall be the Administrator of the Bureau of Fire Prevention.

(B) The Fire Chief shall investigate and recommend to the City Administrator additional ordinances or amendments to existing ordinances that the Chief considers necessary for safeguarding life and property against fire.

(C) The Fire Department shall investigate the cause, origin and circumstances of every fire occurring in the city by which property has been destroyed or damaged and, so far as possible, shall determine whether the fire is the result of carelessness or design. The investigations shall begin immediately upon the occurrence of a fire. The Fire Chief shall immediately take charge of the physical evidence, shall notify the proper authorities designated by law to pursue the investigation of matters, and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case. Reports shall be in a form prescribed by the Fire Marshal of the state and shall contain a statement of all facts relating to the cause, origin and circumstances of the fire, the extent of the damage thereof, the insurance on the property and other information as may be required, including the injury, death or rescue of persons.

(D) This chapter is an exercise of the police powers of the city for the preservation and protection of the public health, peace, safety and welfare and its

provisions shall be liberally construed for that purpose.

(Ord. 689, passed 6-27-85; Am. Ord. 748, passed 9-7-89; Am. Ord. 750, passed 2-15-90; Am. Ord. 771, passed 3-19-92)

**§ 92.04 PERMITS; FEES.**

(A) (1) Burning permits authorized to be issued by the city shall be issued through the Office of the City Recorder or other office as designated by the City Administrator.

(2) Fees for permits shall be set by Council resolution. Permits for outdoor burning will only be valid during the months of October, March, April and May. No burning in burn barrels is permitted at any time.

(3) Outdoor burning must conform to all regulations of the County Regional Air Pollution Authority.

(B) (1) Fees for any permit issued or activity performed under this chapter shall be set by Council resolution and are payable through the Office of the City Recorder.

(2) The fee shall accompany each application for a permit, approval or certificate required by this chapter.

(Ord. 689, passed 6-27-85; Am. Ord. 748, passed 9-7-89; Am. Ord. 750, passed 2-15-90; Am. Ord. 771, passed 3-19-92)

**§ 92.05 ABATEMENT OF HAZARDOUS CONDITIONS.**

(A) (1) When any inspector finds in any building, or upon any premises or other place,

combustible or explosive matter, dangerous accumulations of rubbish or unnecessary accumulation of waste paper, boxes, shavings or any highly flammable materials especially liable to fire, and which are so situated as to endanger property; or finds obstructions to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with operations of the Fire Department or egress of occupants in case of fire, the inspector shall order the same to be removed or remedied.

(2) The order shall be complied with immediately by the owner or occupant of the premises or buildings, subject to the appeals procedure provided for by this chapter.

(B) An owner or occupant failing to comply with the order and its time limits, after service of the order, shall be liable to penalties provided by this chapter.

(C) The service of an order may be made on the occupant of the premises to whom it is directed, either by delivering a copy to the occupant personally or by delivering the same to and leaving it with any person in charge of the premises or, in case no person is found on the premises, by affixing a copy in a conspicuous place on the door of the entrance to the premises. Whenever it may be necessary to serve an order on the owner of premises, the order may be served either by delivering to and leaving with the said person a copy of the order, or, if the owner is absent from the jurisdiction of the officer giving the order, by mailing a copy by certified mail to the owner's last known post office address. (Ord. 689, passed 6-27-85; Am. Ord. 748, passed 9-7-89; Am. Ord. 750, passed 2-15-90; Am. Ord. 771, passed 3-19-92)

**§ 92.06 DEPARTMENT REPORTS.**

The Fire Chief shall make a monthly report of the activities of the Fire Department and shall transmit

this report to the City Administrator. The report shall contain all proceedings under this chapter. (Ord. 689, passed 6-27-85; Am. Ord. 748, passed 9-7-89; Am. Ord. 750, passed 2-15-90; Am. Ord. 771, passed 3-19-92)

**§ 92.07 APPEALS.**

(A) Except as provided herein, whenever the Fire Marshal disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of this chapter do not apply or that they have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Fire Marshal to the Council or its designee by filing a written notice of appeal with the City Administrator within 30 days from the date of the decision appealed. The notice shall set forth the objections of the appellant and the relief sought.

(B) (1) An appeal from an order issued pursuant hereto shall be in writing and filed with the City Administrator within the time set for compliance in the order. The appeal shall set forth the objections of the appellant and the relief sought.

(2) The City Administrator shall deliver the appeal to the Council at its next meeting. (Ord. 689, passed 6-27-85; Am. Ord. 748, passed 9-7-89; Am. Ord. 750, passed 2-15-90; Am. Ord. 771, passed 3-19-92)

**§ 92.08 SOLID FUEL SPACE HEATERS.**

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CITY ADMINISTRATOR.** The City Administrator or designee, including, if the city so designates, LRAPA.

**LRAPA.** Lane Regional Air Pollution Authority, a regional air quality control authority established under the provisions of, and with authority and powers derived from, O.R.S. 468A.100 *et seq.*

**PELLET STOVE.** An enclosed solid fuel space heating device designed and operated to burn manufactured solid fuel and having an air-to-fuel ratio greater than 35 to 1, as determined by the federal test method described in Title 40 C.F.R. Part 60.534.

**PERSON.** Any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character.

**PERSON IN CHARGE OF PROPERTY.** An agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of property.

**PM10.** Solid or liquid particulate matter, excluding uncombined water, with an aerodynamic diameter less than or equal to ten micrometers.

**RED ADVISORY.** A 24-hour period beginning at 4:00 p.m. when PM10 levels are forecast by LRAPA to be greater than or equal to 120 micrograms per cubic meter within the city's acknowledged general plan urban growth boundary.

**SOLE SOURCE OF HEAT.** A solid fuel space heating device which constitutes the only source of heating in a private residence. A solid fuel space heating device shall not be considered to be the **SOLE SOURCE OF HEAT** if the private residence is equipped with any permanently installed furnace or heating system utilizing oil, natural gas, electricity or propane.

**VISIBLE EMISSIONS.**

(1) The reduction in transmission of light or the obscuring of the view of an object in the

background caused by the air pollutants emitted by the heating device.

(2) This does not include the visual distortion caused by the heated air emitted by the heating device.

(B) No person in charge of property during a red advisory shall operate or allow to be operated a solid fuel space heating device which emits visible emissions into the air outside of the building housing the device, unless the person has been granted an exemption to use the device by the City Administrator.

(C) Notwithstanding division (B) above, a person in charge of property may operate a solid fuel space heating device during a red advisory if that person has previously obtained one of the following exemptions from the City Administrator:

(1) A person in charge of property who signs a sworn statement that their solid fuel space heating device is the sole source of heat for their residence. This exemption shall expire on July 1 of each year and must be renewed annually. This exemption shall not be allowed after three years after the effective date of this section;

(2) Persons in charge of property who satisfy criteria established under the Low Income Energy Assistance Program, as administered by the State Housing and Community Services Department and as established by the United States Department of Energy; and

(3) This exemption shall expire on July 1 of each year and must be renewed annually thereafter.

(D) In addition to, and not in lieu of any other enforcement mechanism authorized by law, the City Administrator is authorized to designate LRAPA to enforce and administer the provisions of this section,

including LRAPA's use of administrative and hearing procedures adopted by LRAPA in its duly promulgated regulations.  
(Ord. 815, passed 8-15-96)

**§ 92.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) A violation of any provision of §§ 92.01 through 92.05, including the code adopted, or failure to comply with any order or permit issued under the code or ordinance, is punishable by a fine of not more than \$500.

(2) The application of the above penalty shall not prevent the enforced removal of prohibited conditions.  
(Ord. 689, passed 6-27-85; Am. Ord. 748, passed 9-7-89; Am. Ord. 750, passed 2-15-90; Am. Ord. 771, passed 3-19-92)



## CHAPTER 93: NUISANCES

### Section

#### **General Provisions**

- 93.01 Definitions
- 93.02 Nuisances prohibited; responsibility
- 93.03 Nuisances affecting the public
- 93.04 Communicable diseases
- 93.05 Dangerous animals
- 93.06 Livestock and poultry
- 93.07 Removal of animal carcasses
- 93.08 Abandoned ice boxes
- 93.09 Attractive nuisances
- 93.10 Snow and ice removal
- 93.11 Scattering rubbish
- 93.12 Fences
- 93.13 Surface waters; drainage
- 93.14 Radio and television interference
- 93.15 Noise disturbance
- 93.16 Notices and advertisements
- 93.17 Abatement procedures

#### **Noxious Growth**

- 93.30 Definitions
- 93.31 Compliance; waiver
- 93.32 Noxious growths prohibited
- 93.33 Public notice
- 93.34 Abatement procedures

#### **Outdoor Burning**

- 93.45 Adoption of regulations
- 93.46 Citation

- 93.99 Penalty

#### **Cross-reference:**

- Abandoned Vehicles, see Chapter 94*
- Animals, see Chapter 90*
- Fire Protection, see Chapter 92*
- Nuisance abatement, see § 130.13*

### **GENERAL PROVISIONS**

#### **§ 93.01 DEFINITIONS.**

(A) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**LIQUID WASTE.** Any liquid contents, filth, poison or other polluting substance from a sink, sewer, cesspool, drain or private sewage disposal system or from any accumulation on real property.

**PERSON IN CHARGE OF PROPERTY.** An agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of the property or the supervision of a construction project on the property.

**PERSON.** Every natural person, firm, partnership, association or corporation.

***PERSON RESPONSIBLE.***

(1) The owner or person in charge of property on which the nuisance exists or which abuts a public way where a nuisance exists.

(2) The person who causes the nuisance to come into or continue in existence.

***PUBLIC PLACE.*** Any building, place of accommodation, whether publicly- or privately-owned, open and available to the general public.

(B) As used in this subchapter, the singular includes the plural and the masculine includes the feminine.

(Ord. 828, passed 8-5-98)

**§ 93.02 NUISANCES PROHIBITED; RESPONSIBILITY.**

(A) (1) No person responsible shall cause or permit a nuisance on public or private property.

(2) The person responsible shall be liable for injury, damage or loss to person or property caused by the negligent failure to abate any nuisance described in this subchapter.

(3) The city shall not be liable for injury, damage or loss to any person or property caused in whole or in part by the failure of the person responsible to comply with division (A)(1) above.

(4) Neither the duty of the person responsible to keep property free of nuisances nor his or her failure to do so is dependent upon notice from the city to abate the nuisance.

(5) The person responsible shall defend and hold harmless the city from all claims for loss or damage arising from the failure to comply with division (A)(1) above.

(B) (1) Any of the conditions or acts which constitute a violation of this subchapter is hereby declared to be a nuisance and is subject to abatement as provided in this subchapter.

(2) In addition to the nuisances enumerated in this subchapter, any condition, thing, substance or activity which is prohibited by state law or common law or which is determined by the City Council to be injurious or detrimental to the public health, safety or welfare of the city is declared to be a nuisance and is subject to abatement as provided in this subchapter.

(Ord. 828, passed 8-5-98) Penalty, see § 93.99

**§ 93.03 NUISANCES AFFECTING THE PUBLIC.**

The following are nuisances which may be abated as provided in this subchapter:

(A) A privy, vault, cesspool, septic tank, drain or other private sewage disposal system constructed or maintained within the city, except those constructed and operated in accordance with the State Health Division regulations and with the city ordinances.

(B) (1) No person shall keep junk outdoors on a street, lot or premises or in a building that is not wholly or entirely enclosed, except for doors used for ingress and egress.

(2) For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***JUNK.*** All unused old vehicles (not legally operable on state streets and highways), old vehicle parts, old appliances, mobile homes, boats and other watercraft and parts of all the above, old iron or other metal, glass, paper, old lumber, old wood, waste material, discarded material or abandoned personal property of any nature.



**OLD.** Dilapidated, worn out, antiquated and/or obsolete, and be subject to the limitations described herein.

**PERSON.** In addition to entities described herein, the following persons, to wit: the registered owner of any vehicle or junk as described in this ordinance; any person having any equity or beneficial right, title or interest in or to any vehicle or junk; any person having the right of temporary or permanent control of any vehicle or junk; any person who is the lessee or in possession of property upon which the vehicle or junk is situated. The term **PERSON**, as used herein shall not include persons, as described in division (A) above who are licensed by the appropriate local, state or federal government agencies to collect, store, recycle and/or sell junk.

(3) It is hereby determined and declared that the parking, storing, leaving, permitting the parking of or permitting the storing of a junk vehicle for a period of time in excess of 30 days, whether attended to or not, upon any public or private property within the city, is a nuisance and is unlawful, unless the same is either completely enclosed or visually obscured from view from a public right-of-way. Recreational vehicles, such as travel trailers, campers, motor homes, boats, all terrain vehicles and the like, which are properly licensed and maintained, will be exempt from the 30-day limitation.

(4) This section does not apply to junk kept in a licensed junk yard or automobile wrecking house.

(C) Any accumulation of stagnant or impure water which affords or might afford a breeding place for insect pests.

(D) The pollution of any body of water, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.

(E) All decayed or unwholesome food which is offered for human consumption.

(F) Any premise which causes an offensive odor or which is in an unsanitary condition.

(G) Any drainage of liquid waste from a private premise.

(H) Erection or placement of any metal structure, tower or antenna in a manner that may allow hazardous contact with any electrical transmission line.

(I) Any vegetation on public or private property that:

(1) Is a hazard to pedestrian or vehicular use of a sidewalk or street by obstructing passage or vision, including:

(a) Vegetation that encroaches upon or overhangs a pedestrian way or parking strip lower than nine feet or overhangs a street lower than 14 feet;

(b) Vegetation which obstructs motor or pedestrian view of traffic, traffic signs and signals, street lights and name signs or other safety fixtures or markings placed in the public way.

(2) Is a hazard to the public or to persons or property on or near the property where the vegetation is located; and/or

(3) Is an obstruction of access to and use of any public facilities placed within the public way.

(J) Any vegetation, structure, mounding of earth or other physical obstruction:

(1) Which encroaches upon the vision clearance area defined in the city's zoning regulations; or

(2) Which is higher than 18 inches above the crown of the adjacent roadway in that portion of the right-of-way between the property line and the curb line within 35 feet from the intersection of curb lines, if extended, at any street intersection or within 15 feet from the intersection of the curb line with an alley. If no curb exists, no use of the right-of-way shall be made within 25 feet of the corner of the private property closest to the street intersection.

(K) Any accumulation of leaves, rubbish and other litter or any obstruction upon a sidewalk.  
(Ord. 828, passed 8-5-98) Penalty, see § 93.99

#### **§ 93.04 COMMUNICABLE DISEASES.**

No person responsible shall permit any animal or bird to be at large within the city if an animal or bird is afflicted with a communicable disease.  
(Ord. 828, passed 8-5-98) Penalty, see § 93.99

#### **§ 93.05 DANGEROUS ANIMALS.**

No person responsible for any dangerous animal, wild or domesticated, shall permit the animal to be at large in the city.  
(Ord. 828, passed 8-5-98) Penalty, see § 93.99

#### **§ 93.06 LIVESTOCK AND POULTRY.**

(A) No person responsible shall maintain a slaughterhouse or tannery, keep or maintain livestock or poultry, except in locations properly zoned or permit livestock or poultry to be at large within the city.

(B) The provisions of this section shall not apply to persons keeping cats, dogs or other household pets.  
(Ord. 828, passed 8-5-98) Penalty, see § 93.99

#### **§ 93.07 REMOVAL OF ANIMAL CARCASSES.**

No person responsible shall permit any animal carcass to remain upon the public streets or places, or exposed on private property, for a period of time longer than is reasonably necessary to remove the carcass.

(Ord. 828, passed 8-5-98) Penalty, see § 93.99

#### **§ 93.08 ABANDONED ICE BOXES.**

No person shall leave in a place accessible to children any abandoned or unattended ice box, refrigerator or container which has an airtight door or lock or other mechanism which may not be released for opening from the inside, without first removing the lock or door from the ice box, refrigerator or container.

(Ord. 828, passed 8-5-98) Penalty, see § 93.99

#### **§ 93.09 ATTRACTIVE NUISANCES.**

(A) No person responsible for real property shall permit thereon:

(1) Any machinery, equipment or other devices which are attractive, dangerous and accessible to children; and/or

(2) Any lumber, logs or pilings placed or stored in a manner so as to be attractive, dangerous and accessible to children.

(B) This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.  
(Ord. 828, passed 8-5-98) Penalty, see § 93.99

**§ 93.10 SNOW AND ICE REMOVAL.**

(A) No person responsible for any real property abutting upon any public sidewalk shall permit:

(1) Any snow to remain on the sidewalk for a period longer than the first eight hours of daylight after the snow has fallen; or

(2) Any sidewalk to be covered with ice.

(B) It shall be the duty of any person within the first eight hours of daylight after the ice has formed to remove any ice accumulating on the sidewalk or to properly cover it with sand, ashes or other suitable material to assure safe travel.

(Ord. 828, passed 8-5-98) Penalty, see § 93.99

**§ 93.11 SCATTERING RUBBISH.**

No person shall throw, dump or deposit upon any street, alley or other public place, any injurious or offensive substance or any sort of rubbish, trash, debris or refuse or any substance which would mar the appearance, create a stench or detract from the cleanliness or safety of the public place, or would be likely to injure any animal, vehicle or person traveling upon the public way.

(Ord. 828, passed 8-5-98) Penalty, see § 93.99

**§ 93.12 FENCES.**

(A) No person shall construct or maintain any barbed wire fence or allow barbed wire to remain as part of any fence along a sidewalk or public way, unless the wire is placed not less than six inches above the top of a board or picket fence which is not less than six feet high.

(B) No person shall install, maintain or operate any electric fence along a street or sidewalk or along adjoining property of another person.

(Ord. 828, passed 8-5-98) Penalty, see § 93.99

**§ 93.13 SURFACE WATERS; DRAINAGE.**

No person responsible for property shall permit rain water, ice or snow to fall from any building or structure thereon onto any street or sidewalk or to flow across any abutting sidewalk and shall at all times keep and maintain in a proper state of repair adequate drainpipes or a drainage system so that any overflow water accumulating on the property will not be carried across or upon any abutting sidewalk.

(Ord. 828, passed 8-5-98) Penalty, see § 93.99

**§ 93.14 RADIO AND TELEVISION INTERFERENCE.**

Operation or use by any person of any electrical, mechanical or other device, apparatus, instrument or machine that causes interference with radio or television reception is prohibited, provided that the radio or television reception receiver interfered with is of good engineering design and operating condition. This section shall not apply to electrical and radio devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission; nor shall this section be construed to prohibit the use or operation of any device when necessary for the protection of life or property, for the care or treatment of sick or injured persons or for the operation of a public utility.

(Ord. 828, passed 8-5-98) Penalty, see § 93.99

**§ 93.15 NOISE DISTURBANCE.**

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**NOISE DISTURBANCE.** Any sound which:

- (1) Injures or endangers the safety or health of a human;
- (2) Annoys or disturbs a reasonable person of normal sensitivities; or
- (3) Endangers or injures personal or real property.

**PLAINLY AUDIBLE.** Where the listener clearly can hear the contents of the sound produced by the noise source. Sounds which may be clearly audible include, but are not limited to musical rhythms, spoken words, vocal sounds and engine noises.

(B) It shall be unlawful for any person to intentionally or recklessly create or continue any noise disturbance.

(C) The following acts are declared to be noise disturbances in violation of this section but the enumeration shall not be construed to be exclusive:

- (1) Keeping of any animal which frequently or for a long duration makes vocal or other sounds which create a noise disturbance;
- (2) The using or operating of a vehicle or engine, either stationary or moving, so as to create a loud or unnecessary grating, grinding, rattling or other noise;
- (3) Except for emergency vehicles, the idling of a parked vehicle's engine between the hours of 10:00 p.m. and 7:00 a.m.;
- (4) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work, as a warning of danger or upon request of proper city authorities;

(5) The using of any mechanical device operated by compressed air, steam or otherwise, unless effectively muffled;

(6) The erecting, which includes excavation, demolition, alteration or repair, of any premises in residential districts, other than between the hours of 7:00 a.m. and 10:00 p.m., except in cases of urgent necessity in the interest of the public welfare and safety, and then only with a permit granted by the City Administrator for a period not to exceed ten days; (The permits may be renewed for periods of five days while the emergency continues to exist. If the City Administrator shall determine that the public health, safety and welfare will not be impaired by the erection of any premises between the hours of 10:00 p.m. and 7:00 a.m. and if he or she shall further determine that loss or inconvenience would result to any person unless the work were permitted within those hours he or she may grant permission for the work to be done within the hours of 10:00 p.m. and 7:00 a.m. upon application therefore being made at the time the permit for the work is awarded or during the progress of the work.)

(7) The using of any gong or siren upon any vehicle, other than police, fire or other emergency vehicle;

(8) The creating of a noise disturbance on any street adjacent to any school, institution of learning, church or court of justice while the same are in use, or adjacent to any hospital or institution for the care of the sick or infirm, which is plainly audible within the hospital or institution;

(9) The discharging in open air of the exhaust of any steam engine, internal combustion engine, motor boat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises and the emission of annoying smoke;

(10) The operating of or permitting the use or operation of any device designed for sound production, amplification or reproduction, including but not limited to radio, musical instrument, phonograph, television set, tape recorder, loud speaker or similar device which creates a noise disturbance or any sound amplifying device; and (Upon application to the Council, permits may be granted to responsible persons or organizations for the broadcast or amplification of programs of music, news, speeches or general entertainment as part of a national, state or city event, public festivals or outstanding events of a noncommercial nature, provided that the broadcast or amplification shall not be audible for a distance of more than 500 feet from the instrument, speaker or amplifier, and in no event shall a permit be granted where the obstruction to the free and uninterrupted traffic, both vehicular and pedestrian will result.)

(11) The conducting, operating or maintaining of any garage within 100 feet of any private residence, apartment, rooming house or hotel in a manner as to cause a noise disturbance between the hours of 10:00 p.m. and 7:00 a.m. (Ord. 828, passed 8-5-98) Penalty, see § 93.99

**§ 93.16 NOTICES AND ADVERTISEMENTS.**

(A) No person shall affix or cause to be distributed any placard, bill, advertisement or poster upon any real or personal property, public or private, without first securing permission from the owner or person in charge of 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 location of signs and advertising.

(B) This section shall not be construed to prohibit the distribution of advertising material during any parade or public gathering. (Ord. 828, passed 8-5-98) Penalty, see § 93.99

**§ 93.17 ABATEMENT PROCEDURES.**

(A) (1) If the City Administrator or the Administrator’s designee is satisfied that a nuisance exists, he or she shall cause a notice to be posted either on the premises or at the site of the nuisance directing a person responsible to abate the nuisance.

(2) At the time of posting, the enforcing officer shall cause a copy of the notice to be personally served upon or to be forwarded by registered or certified mail to any person responsible at the person’s last known address, and to the owner of the property if the owner is not the person responsible.

(3) The notice to abate shall contain:

(a) A description of the real property, by street address or otherwise, on which the nuisance exists;

(b) A direction to abate the nuisance within 30 days from the date of the notice;

(c) A description of the nuisance;

(d) A statement that unless the nuisance is removed, the city may abate the nuisance and the cost of abatement shall be charged to the person responsible and/or assessed against the property;

(e) A statement that failure to abate a nuisance may result in a court prosecution; and

(f) A statement that the person responsible may appeal the order to abate by giving notice to the enforcing officer within ten days from the date of the notice.

(4) Upon completion of the posting and mailing, the enforcing officer shall execute and file

certificates stating the date and place of the posting, mailing or serving respectively.

(5) An error in the name or address of a person responsible shall not make the notice void and in the case, the notice shall be sufficient.

(B) (1) Within 30 days after the posting and mailing of the notice, as provided in division (A) above, a person responsible shall remove the nuisance or show that no nuisance exists.

(2) A person responsible appealing the order to abate, shall file with the enforcing officer a written statement specifying the basis for appealing.

(3) The statement shall be referred to the Council or its designee for consideration. The appellant shall be given at least five days prior written notice of the time set to consider the abatement. The Council or its designee shall take oral or written testimony at the time and place specified in the notice. If the testimony is taken by the Council's designee, the designee may request additional information from the appellant or the enforcing officer before making the designee's recommendation to the Council. The Council shall determine whether a nuisance, in fact, exists and the 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 herein.

(4) If the Council determines that a nuisance does in fact exist, a person responsible shall, within 30 days after the Council's determination, or within the time as the Council determines, abate the nuisance.

(C) (1) If within the time allowed the nuisance has not been abated by a person responsible, the City Administrator or the Administrator's designee may cause the nuisance to be abated.

(2) The officer charged with abatement of the nuisance, or contractors acting under the direction of the officer shall have the right at reasonable times to enter into or upon property in accordance with law to investigate or cause the removal of the nuisance.

(3) The City Recorder shall keep an accurate record of the expense incurred by the city in physically abating the nuisance and shall include therein a reasonable charge for administrative overhead.

(D) If more than one person is responsible, they shall be jointly and severally liable for abating the nuisance.

(E) (1) The City Recorder, by registered or certified mail, postage prepaid, shall forward to a person responsible a notice stating:

(a) The total cost of abatement including the administrative overhead;

(b) The cost as indicated will be assessed to and become a lien against the property unless paid within 60 days from the date of the notice;

(c) That if the person responsible objects to the cost of the abatement as indicated, he or she may file a written notice of objection with the City Recorder not more than ten days from the date of the notice.

(2) Upon the expiration of ten days after the date of the notice, the Council or its designee, in the regular course of business, shall hear any written objections to the costs assessed and the Council shall determine the costs of abatement by resolution. The resolution shall provide that if the costs of abatement are not paid within ten days from the date of the resolution, the costs shall be entered in the docket of city liens and upon the entry shall constitute a lien upon the property from which the nuisance was

removed or abated or upon the abutting property when the nuisance was removed or abated from the public way.

(3) If no objection is filed and the costs of the abatement are not paid within ten days from the date of the notice, an assessment of the costs as stated shall be made by resolution and shall thereupon be entered in the docket of city liens. Upon entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated or upon the abutting property when the nuisance was removed or abated from the adjoining public way.

(4) The lien shall be enforced in the same manner as liens for street improvement and shall bear a reasonable rate of interest. The interest shall commence from the date of the entry of the lien in the lien docket.

(5) An error in the name of a person responsible 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.

(F)The requirement to abate a nuisance is not a penalty for violating this chapter, but is an additional remedy. The imposition of a penalty does not relieve a person responsible of the duty to abate the nuisance; however, abatement by a person responsible of a nuisance within 30 days of the date of notice to abate, or if a written protest has been filed, then abatement within 30 days of the Council’s determination that a nuisance exists will excuse the person responsible from prosecution.

(G) (1) The procedure provided hereby is not exclusive, but is in addition to procedures provided by other laws. The City Administrator or the Administrator’s designee may proceed to summarily abate a nuisance which unmistakably exists and which imminently endangers human life, health or property.

The cost of the abatement may be assessed as provided in division (E) above.

(2) The abatement of a nuisance under this section and the assessment of the costs therefor are not a penalty for violating this code, but are additional remedies.  
(Ord. 828, passed 8-5-98)

***NOXIOUS GROWTH***

**§ 93.30 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***CITY ADMINISTRATOR.*** The Administrator of the city or the Administrator’s designee.

***NOXIOUS GROWTHS.***

- (1) Weeds more than 12 inches high;
- (2) Grass more than 12 inches high;
- (3) Poison Oak;
- (4) Poison Ivy;
- (5) Vegetation that is:
  - (a) A health hazard;
  - (b) A fire hazard; and/or
  - (c) A traffic hazard, because it impairs the view of the public thoroughfare or otherwise makes the use of the thoroughfare hazardous;

(6) Blackberry bushes that extend into a public way, a pathway frequented by children, cross a property line or that are used for a habitation for trespassers; and/or

(7) **NOXIOUS GROWTH** does not include vegetation that constitutes an agricultural crop unless that vegetation is a health hazard, a fire hazard or a traffic hazard.

**PERSON IN CHARGE.** Any agent, occupant, lessee, contract purchaser or person other than the owner, having the possession or control of property. (Ord. 788, passed 6-9-94)

### § 93.31 COMPLIANCE; WAIVER.

Where strict compliance with the requirements of this subchapter is impracticable as they apply to the height or type of weeds or grass or as to part of a parcel of property, the Chief of the Fire Department may waive those requirements as they so apply. (Ord. 788, passed 6-9-94)

### § 93.32 NOXIOUS GROWTHS PROHIBITED.

(A)*Noxious growths.* No owner or person in charge of real property shall allow noxious growth on the property. Noxious growths are hereby declared a nuisance.

(B)*Abatement.* It shall be the duty of any owner or person in charge of real property to abate noxious growths from property. The owner and the person in charge shall be jointly and severally liable for the cost of abatement as provided in this subchapter.

(C)*Clearance of brush and vegetative growth from electrical transmission lines.*

(1) Clearance of brush and vegetative growth from electrical transmission lines shall be

according to this section. This section does not authorize persons not having legal right of entry to enter upon or damage the property of others without consent of the owner.

(2) Persons owning, controlling, operating or maintaining electrical transmission lines upon hazardous fire areas shall, at all times, maintain around and adjacent to poles supporting a switch, fuse transformer, lightning arrester, lime junction, dead end, corner pole, towers or other poles or towers at which power company employees are likely to work most frequently, an effective firebreak consisting of a clearing of not less than ten feet at each direction from the outer circumference of the pole or tower. Lines used exclusively as telephone, telegraph, messenger calls, alarm transmissions or other lines, classed as communication circuits by the public utility.

(3) Persons owning, controlling, operating or maintaining electrical transmission lines upon hazardous fire areas shall maintain the clearance specified in this division in all directions between vegetation and conductors carrying electrical current:

(a) For lines operating at 2,400 volts and less than 68,000 volts: four feet.

(b) For lines operating at 68,000 volts and less than 110,000 volts: six feet.

(c) For lines operating at 110,000 volts and over: ten feet. The distance shall be sufficiently great to furnish the required clearance from the particular wire or conductor to positions of the wire or conductor at temperatures of 120°F or less. Forked, dead, old, decadent and rotten trees; trees weakened by catfaces, decay or disease; and trees leaning toward the line, which could contact the line from the side or fall on the line, shall be felled, cut or trimmed to remove the hazard.

(4) Line clearance is not required for self-supporting aerial cable, except those forked trees,



leaning trees and other growth that could fall across the cable and break it shall be removed.

(D)*Clearance of brush or vegetative growth from structures.* Persons owning, leasing, controlling, operating or maintaining buildings or structures in, upon or adjoining hazardous fire areas, and persons owning, leasing or controlling land adjacent to the buildings or structures, shall always:

(1) Maintain an effective firebreak by removing and clearing away flammable vegetation and combustible growth from areas under their control within 30 feet of the buildings or structures; (An exception is single specimens of trees, ornamental shrubbery or similar plants used as ground covers, provided that they do not form a means of rapidly transmitting fire from the growth to any structure.)

(2) Maintain additional fire protection or firebreak by removing brush, flammable vegetation and combustible growth located from areas under their control within 30 feet to 100 feet from the buildings or structures, when required by the Chief because of extra hazardous conditions causing a firebreak of only 30 feet to be insufficient to provide reasonable fire safety; (An exception is grass and other vegetation located more than 30 feet from buildings or structures and less than 12 inches in height above the ground need not be removed where necessary to stabilize the soil and prevent erosion.)

(3) Remove portions of trees that extend within ten feet of the outlet of a chimney;

(4) Maintain trees adjacent to or overhanging a building free of deadwood; and

(5) Maintain the roof of a structure free of leaves, needles or other dead vegetative growth.

(E)*Clearance of brush or vegetative growth from roadways.*

(1) The Chief is authorized to cause areas within ten feet on each side of portions of highways and private streets that are improved, designed or ordinarily used for vehicular traffic to be cleared of flammable vegetation and other combustible growth.

(2) The Chief or designee is authorized to enter upon private property to do so. An exception is single specimens of tree, ornamental shrubbery or cultivated ground covers such as green grass, ivy, succulents or similar plants used as ground covers, provided that they do not form a means of readily transmitting fire.

(F)*Unusual circumstances.* If the Chief determines that difficult terrain, danger of erosion or other unusual circumstances make strict compliance with the clearance of vegetation provisions hereof undesirable or impractical, enforcement thereof may be suspended and reasonable alternative measures shall be provided.

(Ord. 788, passed 6-9-94) Penalty, see § 93.99

### § 93.33 PUBLIC NOTICE.

(A)Between April 15 and May 15 of each year, the Chief of the Fire Department shall cause to be published not less than three times in a newspaper of general circulation in the city the requirements of this subchapter, as notice to all owners and persons in charge of property to abate their property of noxious growths. The notice shall also state that the city intends to abate all noxious growths ten or more days after the final publication of the notice and to charge the cost of doing so on any particular parcel of property to the owner thereof, the person in charge thereof or the property itself.

(B)In addition to the public notice required in division (A) above and before the initiation of abatement activity, the City Administrator shall attempt to notify the property owner of the

requirements of this subchapter and the city's intention to abate the noxious growths. The City Administrator may initiate abatement no sooner than ten days after mailing of the required notice by certified mail, return receipt requested.

(1) Notice shall be mailed to the property owner shown on the most recent tax roll available to the city.

(2) Personal notice to the property owner or person in charge shall not be required. (Ord. 788, passed 6-9-94)

#### **§ 93.34 ABATEMENT PROCEDURES.**

(A) (1) If the noxious growths have not been privately abated as ordered, the city shall cause them to be abated.

(2) The City Administrator or designee may enter upon the property at reasonable times for the purposes of investigating and abating conditions prohibited by this subchapter.

(B) (1) The City Administrator shall cause the owner or person in charge of the property or both to be billed for the abatement. In addition to the cost of abatement, an administrative charge of \$125 shall be included for each parcel to cover the expenses of administering this subchapter. An additional \$50 will be charged if the bill is not paid within 30 days of mailing.

(2) The bill shall state that it may be protested in writing within ten days after its date to the City Council. If it is so protested, the Council shall consider the protest, determine the proper amount of the bill and notify the person protesting of that amount. That determination shall be final.

(3) Within ten days after receiving the bill, if it is not protested or if it is protested, within ten days after the Council's determination, the owner or person in charge shall pay the bill.

(4) If the bill is not paid within 30 days after expiration of the ten days, the City Recorder may cause legal action to be brought in court for the amount of the bill.

(5) If the bill is not paid within the 30 days, the City Recorder may also proceed to cause a lien to be established against the property for the amount of the bill by recording the amount of the bill, the property description and the owner, if known, in the city's lien docket.

(C) The procedure provided by this subchapter is not exclusive, but in addition to any procedure provided by any other ordinances and the City Administrator may proceed summarily to abate noxious growths that are an imminent danger to human life or property. The cost of the abatement shall be assessed and collected as provided herein.

(D) (1) Each day's violation of a provision of this subchapter shall constitute a separate offense.

(2) The abatement of a nuisance as herein provided shall not constitute a penalty for a violation of this subchapter, but shall be in addition to any penalty imposed for a violation of this subchapter. (Ord. 788, passed 6-9-94)

### ***OUTDOOR BURNING***

#### **§ 93.45 ADOPTION OF REGULATIONS.**

The city hereby adopts Title 47 of the rules of the County Regional Air Pollution Authority, in effect as

of the date this subchapter is enacted. Three copies of the rules shall be kept in the City Recorder's office.

(Ord. 759, passed 12-20-90)

**§ 93.46 CITATION.**

(A)The City Fire Marshal may issue and serve a citation to any person who violates any provision adopted by § 93.45 or any provision concerning open outdoor burning contained in the Uniform Fire Code. The citation shall require the person to appear in Municipal Court and the person shall appear at the date and time specified in the citation.

(B)The Fire Marshal shall serve one copy of the citation to the person cited and shall, as soon as practicable, file a duplicate copy with the Municipal Court along with proof of service.

(C)Each copy of the citation shall be headed "In the Municipal Court for the City of Oakridge, Lane County, Oregon," and shall contain:

- (1) The name of the person cited;
- (2) The date on which the citation was issued;
- (3) The time, date and place at which the person is charged and the date, time and place at which the offense occurred;
- (4) A brief description of the offense of which the person is charged and the date, time and place at which the offense occurred;
- (5) A notice to the person cited that a complaint will be filed with the court based on the offense;
- (6) The amount of bail, if any, fixed for the offense;

(7) The name of the Fire Marshal who issued the citation; and

(8) A certification by the Fire Marshal who issued the citation that, under the penalties for false swearing, the Fire Marshal has reasonable grounds to believe, and does believe, that the person cited committed the offense contrary to law.

(Ord. 759, passed 12-20-90)

**§ 93.99 PENALTY.**

(A)Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B)A violation of §§ 93.01 through 93.16 is punishable by fine not to exceed \$1,000. (Ord. 828, passed 8-5-98)

(C)Any person violating any of the provisions of §§ 93.30 through 93.33 shall, upon conviction thereof, be punished by a fine not to exceed \$500. (Ord. 788, passed 6-9-94)

(D) (1) A person who violates any provision adopted by § 93.45, upon conviction thereof in Municipal Court, shall be subject to a civil penalty of not more than \$500. In the case of a continuing violation, every day's continuance of the violation is a separate violation.

(2) The civil penalties imposed by §§ 93.45 and 93.46 are in addition to any other penalty or fee assessed by the code. Prosecution under this section shall not prevent any other enforcement action authorized by law. (Ord. 759, passed 12-20-90)



## CHAPTER 94: ABANDONED VEHICLES

### Section

- 94.01 Definitions
- 94.02 Declaration of public nuisance
- 94.03 Prohibited action
- 94.04 Removal
- 94.05 Lien for towing and storage
- 94.06 Notice; method and content
- 94.07 Rights and liabilities of owner
- 94.08 Hearing
- 94.09 Exemption
- 94.10 Disposal of vehicles
- 94.11 Low value vehicles
- 94.12 Public sale; notice
- 94.13 Nuisance abatement

94.99 Penalty

#### **Cross-reference:**

*Inventory of impounded vehicles, see § 35.03*

### § 94.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CITY ADMINISTRATOR.** The Administrator of the city or the Administrator's designee.

**COSTS.** The expense of removing, storing or selling a disabled or discarded vehicle.

**DISABLED VEHICLE.** A vehicle that is temporarily inoperative due to mechanical failure or lack of fuel.

#### **DISCARDED VEHICLE.**

(1) A vehicle that does not have an unexpired license plate lawfully affixed to it or is in one or more of the following conditions:

- (a) Inoperative, not legal on state streets and highways;
- (b) Wrecked;
- (c) Dismantled;
- (d) Partially dismantled;
- (e) Abandoned; and
- (f) Junked.

(2) **DISCARDED VEHICLES** include major parts of vehicles, including but not limited to bodies, engines, transmissions and rear ends.

**LAW ENFORCEMENT OFFICER.** Any authorized law enforcement officer of the city.

**PERSON IN CHARGE OF PROPERTY.** An agent, occupant, lessee, tenant, contract purchaser, owner or person having possession, control or title to real property where a vehicle is located.

**PUBLIC WAY.** Any highway, street, road, alley, right-of-way, pedestrian or bicycle easement for public use.

**VEHICLE.** Every device in, upon or by which a person or property is or may be transported or drawn on a public way, except devices moved by human power or used exclusively upon stationary rails or tracks.

**VEHICLE OWNER.** An individual, firm, corporation or unincorporated association with a claim, either individually or jointly, or ownership or an interest, legal or equitable, in a vehicle.  
(Ord. 829, passed 8-5-98)

#### **§ 94.02 DECLARATION OF PUBLIC NUISANCE.**

(A)The open accumulation and storage of a discarded vehicle is found to create a condition tending to reduce the value of private property; to promote blight, deterioration and unsightliness; to invite plundering; to create fire hazards; to constitute an attractive nuisance causing a hazard to the health and safety of minors; to create a harborage for rodents and insects; and to be injurious to the health, safety and general welfare.

(B)Therefore, the presence of a discarded vehicle on private or public property is declared to constitute a public nuisance which may be abated as provided in this chapter.  
(Ord. 829, passed 8-5-98)

#### **§ 94.03 PROHIBITED ACTION.**

No person shall store or permit the storing of a discarded vehicle upon public property for more than 72 hours and may not store or permit the storing of a discarded vehicle upon private property for more than 30 days unless the vehicle is either completely enclosed or is visually obscured from view from a public right-of-way, or unless it is in connection with

a lawfully conducted business enterprise dealing in junked vehicles.

(Ord. 829, passed 8-5-98) Penalty, see § 94.99

#### **§ 94.04 REMOVAL.**

(A) (1) Except as authorized herein, after providing notice required under § 94.06, and, if requested, after a hearing under § 94.08, a law enforcement officer may take a discarded vehicle located upon a public way into custody and remove the vehicle.

(2) The law enforcement officer shall cause the vehicle to be appraised within a reasonable time by a person authorized to perform the appraisals by the state. Vehicles removed and taken into custody under this section are subject to sale under §§ 94.10 through 94.12 if not reclaimed, as provided by § 94.07(A).

(B) (1) A law enforcement officer may immediately take custody of a disabled vehicle that is on the public way and in a location as to constitute a hazard or obstruction to vehicular or pedestrian traffic using the public way.

(2) After taking a vehicle into custody under this section, the law enforcement officer shall give the notice described in § 94.06, and, if requested by the vehicle owner, the city shall provide that a hearing, as provided in § 94.08, shall be given.

(3) The authority granted in this section to remove and take vehicles into custody is in addition to any authority to remove and take a vehicle into custody granted in this chapter or other ordinances of the city.

(4) Under this section, the Police Department shall cause the vehicle to be appraised within a reasonable time by a person authorized to perform appraisals by the state.

(5) Vehicles removed and taken into custody under this section are subject to sale under §§ 94.10 through 94.12 if not reclaimed as provided by § 94.07(A).

(C) (1) A law enforcement officer may take custody of and remove a disabled vehicle that is on private property or on public property other than a public way if:

(a) The person in charge of the property requests removal; and

(b) The vehicle is parked or left standing upon the property without the express consent of the person in charge of the property.

(2) The law enforcement officer taking custody of a vehicle under this section is not required to give notice and the city is not required to provide a hearing for the vehicle owner.

(3) The authority in this section to remove and take vehicles into custody is in addition to the authority to remove and take vehicles into custody under this chapter or any other ordinances of the city.

(4) The Police Department, acting under this section shall cause the vehicle to be appraised within a reasonable time by a person authorized to perform appraisals by the state.

(5) Vehicles removed and taken into custody under this section are subject to sale and disposition under §§ 94.10 through 94.12 if not reclaimed as provided by § 94.07(A).  
(Ord. 829, passed 8-5-98)

**§ 94.05 LIEN FOR TOWING AND STORAGE.**

(A) Except as otherwise provided by this section, a person shall have a lien on the vehicle and its

contents if the person, at the request of a law enforcement officer tows or stores a vehicle under this chapter.

(B) (1) A lien established under this section shall be on the vehicles and its contents for the just and reasonable charges for the towing, service performed and any storage provided. The lien shall be subject to the provisions for liens under O.R.S. 98.812(3).

(2) The person holding the lien may retain possession of the vehicle and its contents until the charges on which the lien is based are paid. A lien described under this section shall not attach to the contents of any vehicle taken from the public way until 15 days after the taking of the vehicle into custody.

(3) A lien under this section which includes charges for storage provided shall not exceed storage for a period in excess of 60 days.

(C) (1) A person who tows any vehicle at the request of a law enforcement officer under this chapter shall provide written notice, approved by the Chief of Police, containing information on procedures necessary to obtain a hearing under § 94.08.

(2) The notice shall be provided to each person who seeks to redeem the vehicle.  
(Ord. 829, passed 8-5-98)

**§ 94.06 NOTICE; METHOD AND CONTENT.**

(A) Except when expressly authorized to the contrary, the law enforcement officer removing and taking custody of a vehicle under this chapter shall provide notice before the proposed removal and custody and shall provide an explanation of procedures available for obtaining a hearing under § 94.08. The notice shall be given by mailing a

notice, at least ten days before taking the vehicle into custody, with the required information to the vehicle owner and to any lessors or security interest holders at the address of each as shown by the records of the State Motor Vehicles Division. The ten-day period under this section does not include holidays, Saturdays or Sundays.

(B)The notice required by this section shall state all of the following:

(1) The vehicle will be subject to being taken into custody and removed if the vehicle is not removed before the time set in the notice;

(2) The statute, ordinance or rule violated by the vehicle under which the vehicle will be removed;

(3) The place where the vehicle will be held in custody, if known, and the telephone number and address of the Police Department;

(4) The vehicle, if taken into custody and removed, will be subject to towing and storage charges and that a lien will attach to the vehicle and its contents, pursuant to § 94.05;

(5) The vehicle will be sold to satisfy the costs of towing, storage, bail required or fines imposed, if such are not paid;

(6) The person receiving notice is entitled to a hearing before the vehicle is impounded to contest the proposed custody and removal if a hearing is requested within 72 hours of receipt of notice;

(7) The vehicle owner may also challenge the reasonableness of any towing and storage charges at the hearing; and

(8) The time within which a hearing must be requested and the method for requesting the hearing.

(C) (1) If a law enforcement officer takes custody of a vehicle under § 94.04(B), the officer shall provide, by mail, within 48 hours of the removal, notice to the vehicle owner and any lessors or security interest holders as shown on the records of the State Motor Vehicle Division.

(2) The notice shall state that the vehicle has been taken into custody, the location of the vehicle, a description of procedures for the release of the vehicle and any other information identified herein. The 48-hour period under this section does not include holidays, Saturdays or Sundays. (Ord. 829, passed 8-5-98)

#### **§ 94.07 RIGHTS AND LIABILITIES OF OWNER.**

(A)The vehicle owner, a person entitled to possession or any person with an interest shown on the certificate of title of the vehicle taken into custody under this chapter:

(1) Is liable for all costs and expenses incurred in the removal, preservation and custody of the vehicle and its contents and for the posting of any bail or unpaid fine imposed by the Municipal Court for the operation of the vehicle, except that a security interest holder is not liable under this division unless the security interest holder reclaims the vehicle;

(2) May reclaim the vehicle at any time after it is taken into custody and before the vehicle is sold or disposed of under this chapter upon presentation to the Chief of Police of satisfactory proof of ownership or right to possession and upon payment of the costs and expenses for which the person is liable under this section;

(3) If the vehicle is taken into custody under § 94.04(A) and (B), has a right to request and have a hearing under § 94.08;



(4) If the vehicle is sold or disposed of under this chapter, has no further right, title or claim to or interest in the vehicle or the contents of the vehicle;

(5) If the vehicle is sold under this chapter, has a right to claim the balance of the proceeds from the sale or disposition as provided in O.R.S. 87.206(2); and

(6) Has no right to a hearing if the vehicle is taken into custody under § 94.04(C).

(B) Nothing in this chapter shall be construed to limit or abridge any right a person in charge of property has to dispose of discarded vehicles on the person's real property.  
(Ord. 829, passed 8-5-98)

#### § 94.08 HEARING.

(A) A person provided notice under § 94.06 or any other person who reasonably appears to have an interest in the vehicle may request a hearing under this section to contest the validity of the removal and custody under § 94.04(B) or proposed removal and custody of a vehicle under § 94.04(A) by submitting a request for a hearing to the Municipal Court not later than five days from the mailing date of the notice.

(B) The five-day period in this section does not include holidays, Saturdays or Sundays. The hearing under this section shall comply with the following:

(1) Unless the vehicle proposed for removal violates § 94.04(B), upon receiving a request for a hearing the vehicle shall not be removed until directed by the Municipal Judge.

(2) A request for a hearing shall be in writing and shall state the grounds upon which the

person requesting the hearing believes the custody and removal of the vehicle is not justified.

(3) Upon receipt of a request for a hearing under this section, the Municipal Court shall conduct the hearing within 72 hours of the receipt of the request and shall provide notice of the hearing to the person requesting the hearing and to the vehicle owners and any lessors or security interest holders shown in the records of the State Motor Vehicle Division, if not the same as the person requesting the hearing. The 72-hour period in this subsection does not include holidays, Saturdays or Sundays.

(4) If the Municipal Court Judge finds, after hearing and by substantial evidence on the record, that the custody and removal of the vehicle was:

(a) Invalid, the Judge shall order the immediate release of the vehicle to the owner or person with right of possession. If the vehicle is released under this section, the person to whom the vehicle is released is not liable for any towing or storage charges. If the person has already paid the towing and storage charges on the vehicle, the city shall see that the person is reimbursed for the charges. New storage charges on the vehicle will not start to accrue, however, until more than 24 hours after the time the vehicle is officially released to the person under this division; or

(b) Valid, the Municipal Court Judge shall order the vehicle to be held in custody until the costs of the hearing, any fines and all towing and storage costs are paid by the party claiming the vehicle. If the vehicle has not been removed, the Municipal Judge shall order its removal.

(5) A person who fails to appear at a hearing under this section is not entitled to another hearing unless the person provides reasons satisfactory to the Judge for the person's failure to appear.

## Oakridge - General Regulations

(6) The Municipal Court Judge is only required to provide one hearing under this section for each time a vehicle is taken into custody or removed by the city or the city proposes to do so.

(7) A hearing under this section may be used to determine the reasonableness of the charges for towing and storage of the vehicle. Towing and storage charges set by law, ordinance or rule or that comply with the law, ordinance or rule are reasonable for purposes of this section.

(8) The Municipal Court Judge shall provide a written statement of the results of the hearing held under this section to the person requesting the hearing.

(9) Hearings held under this section may be informal in nature, but the presentation of evidence at a hearing shall be consistent with the practices of the Municipal Court.

(10) The Municipal Court Judge shall not have participated in any determination or investigation related to taking into custody and removing the vehicle that is the subject of the hearing.

(11) The determination of the Municipal Court Judge is final and is not subject to appeal. (Ord. 829, passed 8-5-98)

### § 94.09 EXEMPTION.

A vehicle being held as part of any criminal investigation is not subject to the requirements of §§ 94.05 through 94.08, except that upon written notice to the vehicle owner that the vehicle is no longer being held as part of a criminal investigation and a failure of the owner to claim the vehicle within five days, not including holidays, Saturdays or Sundays, storage costs on the vehicle shall begin to

accrue and shall constitute a lien against the vehicle and its contents until the charges upon which the lien are based are paid. A lien may be foreclosed in the manner provided by O.R.S. 87.152 *et seq.* (Ord. 829, passed 8-5-98)

### § 94.10 DISPOSAL OF VEHICLES.

By general administrative order or within two days after a vehicle has been taken into custody under this chapter, the City Administrator shall determine if the city will retain custody of the vehicle and sell it as provided in §§ 94.11 and 94.12(A) or if the city will release its interest in the vehicle to the person performing towing and storage services. The release of the vehicle to the person performing towing and storage services may be conditioned upon no vehicle being released to its owner without first obtaining the written permission of the Municipal Court Judge or the Chief of Police and upon any net proceeds from the sale of the vehicle first coming to the city for deposit with the Municipal Court to satisfy any unpaid bail or fines for municipal offenses involving the vehicle and then the remaining amount thereafter being paid to the Finance Manager, as provided in O.R.S. 87.206(2). At the time the net proceeds from the sale are deposited with the city, the lien claimant shall also deliver to the city the documents required by O.R.S. 87.206(2). (Ord. 829, passed 8-5-98)

### § 94.11 LOW VALUE VEHICLES.

(A) (1) If the vehicle to be or taken into custody is appraised at \$500 or less, 15 days after the notice is mailed under § 94.06, if the vehicle remains unclaimed or if released by the owner and any other person having a security interest therein, the law enforcement officer shall file an affidavit with the State Motor Vehicles Division describing the vehicle,

including the license plates, if any, stating the location and appraised value of the vehicle and stating that the vehicle will be junked or dismantled.

(2) The City Administrator may dispose of the vehicle and execute a certificate of sale without notice and public auction.

(B) The certificate of sale shall be on a form provided by the City Administrator.  
(Ord. 829, passed 8-5-98)

**§ 94.12 PUBLIC SALE; NOTICE.**

(A) (1) If the vehicle to be taken into custody is appraised over \$500, 30 days after the notice is mailed under § 94.06, if the vehicle remains unclaimed or if released by the owner and any other person having a security interest therein, the law enforcement officer shall publish a notice of sale in a newspaper of general circulation within the city. The notice of sale shall state:

(a) The sale is of a discarded vehicle in possession by the city;

(b) A description of the vehicle, including the make, model, license number, vehicle identification number and any other information that will aid in accurately identifying the vehicle;

(c) The terms of the sale; and

(d) The date, time and place of the sale.

(2) The notice of sale shall be published two times in a newspaper of general circulation within the city. The first publication shall be made not less than 15 days before the date of the proposed sale, and the second shall be made not less than seven days before the date of the proposed sale.

(B) (1) If a vehicle is appraised over \$500, the City Administrator shall hold a sale at the time and place appointed, within view of the vehicle to be sold.

(2) (a) The vehicle shall be sold to the highest and best bidder.

(b) However, if no bids entered are less than the costs incurred by the city, the city administrator may enter a bid in an amount equal to the costs on behalf of the city.

(3) At the time of payment of the purchase price, the City Administrator shall execute a certificate of sale in duplicate. The original shall be delivered to the purchaser and a copy filled with the City Recorder.

(4) The certificate of sale shall be on a form provided by the City Administrator.

(5) The notice for the sale and the sale required by this section may be given and conducted in connection with any other sale or solicitation of bids conducted by the city.  
(Ord. 829, passed 8-5-98)

**§ 94.13 NUISANCE ABATEMENT.**

In addition to the provisions of this chapter, the nuisance declared by this chapter may be abated as provided herein.  
(Ord. 829, passed 8-5-98)

**§ 94.99 PENALTY.**

A violation of any provision of this chapter is punishable by a fine of not more than \$500.  
(Ord. 829, passed 8-5-98)





## CHAPTER 95: ALCOHOLIC BEVERAGES

### Section

- 95.01 Definitions
- 95.02 Provision of liquor to certain persons
- 95.03 Purchase and consumption by minors
- 95.04 Sale by unlicensed persons
- 95.05 Intoxicated persons
- 95.06 Bringing liquor onto certain premises
- 95.07 Disposal of containers
- 95.08 Hours for sale
- 95.09 Defense of written age statement
- 95.10 Liquor in public dance halls
- 95.11 Nuisances
- 95.12 Seizure of property
- 95.13 Responsibility of licensee for employees
- 95.14 Notification to Liquor Commission
- 95.15 Consumption or possession in unlicensed public places prohibited
  
- 95.99 Penalty

### ***Cross-reference:***

*Controlled substances, see Ch. 96*

### **§ 95.01 DEFINITIONS.**

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ALCOHOLIC LIQUOR.*** Any alcoholic beverage containing more than 0.5% alcohol by volume, and every liquid or solid, patented or not, containing alcohol and capable of being consumed by a human being.

***COMMISSION.*** The State Liquor Control Commission.

***DISTILLED SPIRITS*** or ***DISTILLED LIQUOR.*** Any alcoholic beverage containing more than 14% of alcohol by volume, including sweet wines and all spirituous liquor.

***LICENSED PREMISES.*** The room or enclosure at the address within the corporate limits of the city for which a license has been issued by the commission for the serving, mixing, handling or selling of alcoholic liquor.

***LICENSEE.*** A person who has an alcoholic liquor license from the Commission authorizing the person to sell or dispense alcoholic liquor.

***LIQUOR CONTROL ACT.*** The state law so designated by O.R.S. 471.027, as now or hereafter amended and supplemented, and including the State Distilled Liquor Control Act, as defined by O.R.S. 472.020, as now or hereafter amended and supplemented.

***MALT BEVERAGE.*** Beer, ale, porter, stout and similar beverages made of barley malt, hops and water, containing more than 0.5% of alcohol by volume and not more than 14% of alcohol by volume.

***MINOR.*** Any person under the age of 21 years.

***OPEN ALCOHOLIC BEVERAGE CONTAINER.*** A container which contains an

2005 S-1

alcoholic liquor, hard liquor, or malt beverage including, but not limited to, bottles, cans, glasses, cups or other containers capable of holding any such beverage which is not sealed or resealed.

***OTHER RESPONSIBLE RELATIVE.***

(a) An adult who is the spouse of a minor;

(b) An adult, related to the minor, who has taken over the parental acting guardian duties of governing the minor's actions; or

(c) A duly appointed, qualified and acting guardian who has taken over the parental duties of governing the minor's actions.

***PERSON.*** An individual, partnership, corporation, association or club.

***POSSESS.*** To have physical possession or otherwise to exercise dominion or control.

***PUBLIC PLACE.*** A place to which the general public has access and includes, but is not limited to, highways, streets, schools, playgrounds, parks, city-owned facilities and property, and premises used in connection with public passenger transportation.

***SELL.*** To solicit or receive an order; to keep or expose for sale; to deliver for value or in any way other than purely gratuitously; to peddle; to keep with intent to sell; to traffic in; or for any consideration, promised or obtained, directly or indirectly, or under any pretext or by any means, to procure or allow to be procured for any other person.

(B) As used in this chapter, the singular includes the plural and the masculine includes the feminine.  
(Ord. 562, passed 9-21-78; Am. Ord. 865, passed 3-6-03)

**§ 95.02 PROVISION OF LIQUOR TO CERTAIN PERSONS.**

(A) No person shall sell, give, furnish, serve or otherwise make available any alcoholic liquor to:

(1) Any minor, except as provided in § 95.03(B); and

(2) Any person visibly intoxicated.

(B) (1) No person shall allow or permit any person who is visibly intoxicated to drink or consume any alcoholic liquor upon any licensed premises.

(2) No bartender shall drink or consume any alcoholic liquor, or be under the influence of alcoholic liquor, while on duty in a licensed premises. (Ord. 562, passed 9-21-78) Penalty, see § 95.99

**§ 95.03 PURCHASE AND CONSUMPTION BY MINORS.**

(A) (1) Except as provided in division (B) below, no minor shall attempt to purchase, acquire or have in his or her possession any alcoholic liquor.

(2) For the purposes of this section, possession of alcoholic liquor includes the acceptance or consumption of a bottle of liquor, any portion thereof or a drink of liquor. However, this section does not prohibit the acceptance or consumption by any person of sacramental wine as part of a religious rite or service.

(B) Nothing in this chapter contained shall be construed as prohibiting a parent or other responsible relative of a minor from giving a minor alcoholic liquor and permitting him or her to consume the same within the home of the parent or other responsible relative of the minor, or at other private place not in view of the public where the parent or other responsible relative is present.



2005 S-1

(C) Except as provided in division (E) below, no minor, whether or not he or she is accompanied by a parent or other responsible relative, shall enter, loiter or remain on any licensed premises, or any portion thereof, which has been posted by the Commission to prohibit the use thereof by minors.

(D) (1) No licensee or his or her employee or agent shall permit any minor to:

(a) Consume any alcoholic liquor upon any licensed premises, whether or not alcoholic liquor is given to the minor by a parent or other responsible relative;

(b) Loiter on the licensed premises which have been posted by the Commission to prohibit the use thereof by minors, except as provided in division (E) below; or

(c) Remain upon such premises or any portion thereof, except as provided in division (E) below.

(2) The fact that a parent or other responsible relative has accompanied a minor upon any licensed premises shall not constitute a defense to any charge brought for violation of this section, except as provided in division (E) below.

(E) (1) The provisions of divisions (C) and (D) shall not be construed to prohibit:

(a) Any minor from entering any licensed premises, or portion thereof, for the transaction of any business pursuant to his or her duties in the regular course of lawful employment; or

(b) A minor spouse from entering and remaining on licensed premises, or any portion thereof, when he or she is in the immediate company of his or her spouse who is 21 years of age or older.

(2) This section shall not be construed to authorize a minor spouse to consume alcoholic liquor on any licensed premises.

(F) (1) Except as provided in division (F)(3) below, no minor, either for himself, herself or as agent or employee of another, shall sell, offer for sale or deliver any alcoholic liquor.

(2) Except as provided in division (F)(3) below, no person shall employ, hire or engage any minor to sell, offer for sale or deliver any alcoholic liquor.

(3) Any employee 18 years of age or older of a person who holds any package store license from the Commission may sell any alcoholic liquor authorized by the license on the licensed premises. (Ord. 562, passed 9-21-78)

***Cross-reference:***

*Purchase or possession of alcohol by minor, see also § 96.03*

**§ 95.04 SALE BY UNLICENSED PERSONS.**

No person shall sell alcoholic liquor unless he or she has a license from the Commission to sell alcoholic liquor. Sales by a licensee or his or her employee shall be only sales as are authorized by the license issued for the premises. (Ord. 562, passed 9-21-78) Penalty, see § 95.99

**§ 95.05 INTOXICATED PERSONS.**

No licensee or his or her employee or agent shall permit a visibly intoxicated person to enter upon the licensed premises which the licensee controls. (Ord. 562, passed 9-21-78) Penalty, see § 95.99

**§ 95.06 BRINGING LIQUOR ONTO CERTAIN PREMISES.**

No licensee of the Commission, nor any agent or employee of a licensee, shall keep or knowingly permit to be kept, brought or consumed upon the licensed premises any alcoholic liquor not allowed to be sold or served upon the premises.

(Ord. 562, passed 9-21-78) Penalty, see § 95.99

**§ 95.07 DISPOSAL OF CONTAINERS.**

(A) No licensee or his or her employee or agent shall permit any empty or discarded containers of alcoholic liquor to be in the public view on the exterior of his or her licensed premises or in parking areas maintained in connection with the premises.

(B) No person shall discard, throw away or dispose of any container of alcoholic liquor, whether broken or not, upon any street, alley, public grounds or public place.

(Ord. 562, passed 9-21-78) Penalty, see § 95.99

**§ 95.08 HOURS FOR SALE.**

(A) No package store licensee shall sell, dispense, deliver or permit the removal of any alcoholic liquor from the licensed premises between the hours of 1:00 a.m. and 7:00 a.m.

(B) No retail malt beverage restaurant or dispenser licensee shall sell, dispense, deliver or allow the consumption of any alcoholic liquor on any licensed premises or permit the removal of any alcoholic liquor from any licensed premises between the hours of 2:30 a.m. and 7:00 a.m.

(Ord. 562, passed 9-21-78) Penalty, see § 95.99

**§ 95.09 DEFENSE OF WRITTEN AGE STATEMENT.**

If a licensee or his or her employee or his or her agent is prosecuted in the Municipal Court under this chapter for selling alcoholic liquor to a minor or permitting a minor to consume alcoholic liquor or to enter or loiter upon the premises, the licensee or his or her employee or agent may offer in his or her defense any written statement made by or for the minor prior to the violation. The statement shall have been made and taken pursuant to the laws of the state and the rules and regulations of the Commission.

(Ord. 562, passed 9-21-78)

**§ 95.10 LIQUOR IN PUBLIC DANCE HALLS.**

No person shall possess, keep, sell, give away or otherwise dispose of or consume alcoholic liquor in any public dance hall or in any room or building used for public dancing that is not licensed under the Liquor Control Act.

(Ord. 562, passed 9-21-78) Penalty, see § 95.99

**§ 95.11 NUISANCES.**

Any room, house, building, boat, structure or place of any kind where alcoholic liquor is sold, manufactured, bartered or given away in violation of the law; or where persons are permitted to resort for the purpose of drinking alcoholic liquors in violation of the law; or any place where alcoholic liquors are kept for sale, barter or gift in violation of the law; and all alcoholic liquor, whether purchased from or through the Commission or purchased or acquired from any source; and all property, including bars, glasses, mixers, lockers, chairs, tables, cash registers, music devices and all furniture, furnishings and equipment; and all facilities for the mixing, storing, serving or drinking of alcoholic liquor kept and used in such place, hereby are declared to be a common

nuisance; and any person who maintains or assists in maintaining the common nuisance is guilty of a violation of this chapter.

(Ord. 562, passed 9-21-78) Penalty, see § 95.99

### **§ 95.12 SEIZURE OF PROPERTY.**

When an officer arrests any person for violation of this chapter, the officer shall take into his or her possession all alcoholic liquor and other property included under § 95.11 which the person arrested has in his or her possession or on his or her premises, which apparently is being used or kept in violation of this chapter. If the person arrested is convicted and the Court finds that the alcoholic liquor and other property have been used in violation of this chapter, the forfeiture proceedings as are authorized by O.R.S. 471.605 and 471.610 may be instituted.

(Ord. 562, passed 9-21-78)

### **§ 95.13 RESPONSIBILITY OF LICENSEE FOR EMPLOYEES.**

Each licensee is responsible and liable to prosecution for any violation of any provision of this chapter pertaining to his or her licensed premises and for any act or omission of any servant, agent or employee of the licensee in violation of any provision of this chapter.

(Ord. 562, passed 9-21-78)

### **§ 95.14 NOTIFICATION TO LIQUOR COMMISSION.**

When a conviction is obtained against any licensee of the Commission, or a conviction is obtained against any person where the violation was committed on a licensed premises, the Municipal Court shall notify the Commission of the conviction.

(Ord. 562, passed 9-21-78)

### **§ 95.15 CONSUMPTION OR POSSESSION IN UNLICENSED PUBLIC PLACES PROHIBITED.**

(A) Except as provided in divisions (B) and (C) of this section, consumption of alcoholic liquor or possession of an open alcoholic beverage container is prohibited in a public place and on private property extended to the public for use, and no person shall drink, consume alcoholic liquor, or possess an open alcoholic beverage container in such a place or on such property, unless authorized by the Oregon Liquor Control Commission or other provisions of this code.

(B) Alcoholic liquor may be drunk or consumed in any place licensed, in advance, for that purpose by the Commission.

(C) Malt beverages and alcoholic liquor other than distilled spirits or distilled liquor may be drunk or consumed within city parks or county parks within the city limits, or within public places for scheduled events with prior authorization from the City Council, in its discretion, provided such drinking or consumption takes place only in accordance with all otherwise applicable city ordinances and rules, and so long as, if required by state law, the activity has been licensed, in advance, for drinking or consumption purposes by the Commission.

(Ord. 562, passed 9-21-78; Am. Ord. 865, passed 3-6-03) Penalty, see § 95.99

### **§ 95.99 PENALTY.**

Violation of any provision of this chapter is punishable by a fine not exceeding \$500, or by imprisonment not to exceed 60 days, or both.

(Ord. 562, passed 9-21-78)



## CHAPTER 96: CONTROLLED SUBSTANCES

### Section

- 96.01 Purpose
- 96.02 Definitions
- 96.03 Purchase or possession of liquor by minor
- 96.04 Use or possession of less than one ounce of marijuana
  
- 96.99 Penalty

### **Cross-reference:**

*Alcoholic beverages, see Ch. 95*

**HARD LIQUOR.** An alcoholic beverage, including sweet wines and all spiritus liquors, containing 14% or more of alcohol by volume.

**MALT BEVERAGE.** Beer, ale, porter, stout and similar beverages made of barley malt, hops and water, containing more than 0.5% of alcohol by volume and not more than 14% of alcohol by volume.

**MARIJUANA.** All parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacturer, salt, derivative, mixture, or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

### **§ 96.01 PURPOSE.**

The purpose of this chapter is to protect the health, safety and welfare of citizens within the corporate boundaries of the city from the illegal use of marijuana and alcoholic beverages.  
(Ord. 866, passed 6-15-03)

### **§ 96.02 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ALCOHOLIC LIQUOR.** An alcoholic beverage containing more than 0.5% of alcohol by volume.

**COMMISSION.** The Oregon Liquor Control Commission as provided for by the Oregon Liquor Control Act.

**MINOR.** A person under the age of 21 years unless otherwise stated.

**POSSESS.** To have physical possession or otherwise to exercise dominion and control.  
(Ord. 866, passed 6-15-03)

### **§ 96.03 PURCHASE OR POSSESSION OF LIQUOR BY MINOR.**

(A) No person under the age of 21 years shall attempt to purchase, acquire, or have in their

possession any alcoholic liquor. Possession of alcoholic liquor includes consumption of such liquor in any amount. The physical act of consuming alcohol need not occur within the corporate limits of the city.

(B) Notwithstanding division (A) above, a minor may have personal possession of alcoholic liquor in a private residence when accompanied by the minor's parent or guardian, with such parent's or guardian's consent.

(C) This section does not prohibit the acceptance or consumption by any person of sacramental wine as part of a religious rite or service. (Ord. 866, passed 6-15-03) Penalty, see § 96.99

***Cross-reference:***

*Purchase and consumption of alcohol by minors,  
see also § 95.03*

**§ 96.04 USE OR POSSESSION OF LESS THAN ONE OUNCE OF MARIJUANA.**

No person shall knowingly or intentionally and unlawfully use or possess less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant marijuana unless used or possessed pursuant to a prescription valid within the State of Oregon. (Ord. 866, passed 6-15-03) Penalty, see § 96.99

**§ 96.99 PENALTY.**

(A) Failure to comply with § 96.03 constitutes a violation, which, upon conviction, is punishable by a maximum fine of \$300.

(B) Failure to comply with § 96.04 constitutes a violation, which, upon conviction, is punishable by a fine of not less than \$600 nor more than \$1,000. (Ord. 866, passed 6-15-03)