

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

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principles of justification, apply to offenses defined and made punishable by this chapter.
(Ord. 721, passed 6-5-86; Am. Ord. 873, passed 8-5-04)

§ 130.02 WEAPONS AND FIREWORKS.

(A) (1) Except at firing ranges approved by the Chief of Police, no person other than a peace officer or dog control officer shall fire or discharge a gun, including a spring or air actuated pellet gun, air gun or B.B. gun or other weapon which propels a projectile by use of gunpowder, other explosive or jet or rocket propulsion.

(2) The provisions of this section shall not be construed to prohibit the firing or discharge of any weapon as allowed in the defense stated in O.R.S. 161.190 to 161.275.

(B) The Oregon Fireworks Law, O.R.S. 480.110 to 480.160, as now enacted, is hereby adopted and violation thereof shall constitute an offense against the city.

(Ord. 721, passed 6-5-86) Penalty, see § 130.99

§ 130.03 PUBLIC EXCRETION.

No person shall, while in or in view of a public place, perform an act of urination or defecation, except in toilets provided for that purpose.

(Ord. 721, passed 6-5-86) Penalty, see § 130.99

§ 130.01 DEFINITIONS; STATE LAW APPLICATION.

(A) The definitions contained in O.R.S. Chapter 161 through 167 (the Oregon Criminal Code) in effect on the effective date of this chapter are adopted by reference and made a part of this chapter, except for any provision to the extent it describes, prohibits, or imposes penalties for felonies.

(B) Provisions of O.R.S. Chapter 161 to 167 relating to defenses and burden of proof, general principles of criminal liability, parties and general

§ 130.04 CHILDREN CONFINED IN VEHICLES.

(A) A person having custody or control of a child under ten years of age commits the crime of child neglect if, with criminal negligence, the person leaves the child unattended in a vehicle for a period of time longer than 30 minutes.

(B) Any peace officer, upon finding a child confined in violation of the terms of this section, may enter the vehicle and remove the child, using the force as is reasonably necessary to enter the vehicle where the child is confined, in order to remove the child.
(Ord. 721, passed 6-5-86) Penalty, see § 130.99

§ 130.05 FAILURE TO SUPERVISE A CHILD.

Failure to supervise a child shall be an offense. The following sections of the State of Oregon's parental responsibility legislation in effect on the effective date of this section are hereby adopted by reference and made a part of this section: O.R.S. 163.577, O.R.S. 419C.570, and O.R.S. 419C.573.
(Ord. 870, passed 4-15-04) Penalty, see § 130.99

§ 130.06 OBSTRUCTING GOVERNMENTAL ADMINISTRATION.

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

RESISTS. The use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person.

TO INTERFERE WITH. Any physical act, including a refusal to leave a particular area in response to a lawful order from a peace officer, that prevents or could reasonably be expected to prevent a peace officer from performing his or her duties.

(B) No person, intentionally or with reckless disregard, shall interfere with a peace officer in the officer's lawful performance of his or her duties.

(C) (1) No person shall commit the offense of refusing to assist a peace officer.

(2) A person commits the offense of refusing to assist a peace officer, if, upon command by a person known by him or her to be a peace officer, he or she unreasonably refuses or fails to assist in effecting an authorized arrest or preventing another from committing an offense.

(D) (1) No person shall commit the offense of resisting arrest.

(2) A person commits the offense of resisting arrest if he or she intentionally resists a person known by him or her to be a peace officer in making an arrest.

(3) It is no defense to a prosecution under this section that the peace officer lacked legal authority to make the arrest, provided the officer was acting under color of his or her official authority.

(E) No person shall operate any generator or electromagnetic wave, or cause a disturbance of the magnitude as to interfere with the proper functioning of any police or Fire Department radio communication system.

(Ord. 721, passed 6-5-86) Penalty, see § 130.99

§ 130.07 OBSTRUCTION OF FIRE HYDRANTS.

No owner of property adjacent to a street upon which a fire hydrant is located shall place or maintain, within eight feet of the hydrant, any bush, shrub, tree or other obstruction.

(Ord. 721, passed 6-5-86) Penalty, see § 130.99

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§ 130.08 VENDING GOODS ON STREETS OR SIDEWALKS.

No person shall use or occupy any portion of a street or sidewalk for the purpose of vending goods, wares or merchandise, by public outcry or otherwise, without a valid permit from the City Recorder.
(Ord. 721, passed 6-5-86) Penalty, see § 130.99

§ 130.09 POSTED NOTICES.

No person shall affix a placard, bill or poster upon personal or real property, private or public, without first obtaining permission from the owner thereof or from the proper public authority.
(Ord. 721, passed 6-5-86) Penalty, see § 130.99

§ 130.10 BURNING GARBAGE; ACCUMULATION.

(A) No person shall burn any garbage consisting of animal or putrescible material in the open air any time within the city.

(B) No person shall accumulate garbage for more than one week on any premises owned by or under the control of that person, and no person shall deposit garbage on the property of any other person or upon public property in the city.
(Ord. 721, passed 6-5-86) Penalty, see § 130.99

§ 130.11 OFFENSES OUTSIDE CITY LIMITS.

Where permitted by state law, an act made unlawful by this chapter shall constitute an offense when committed on any property owned or leased by the city, even though outside the corporate limits of the city.
(Ord. 721, passed 6-5-86)

§ 130.12 SOLICITATION OF VIOLATION; ATTEMPT.

(A) No person shall solicit, aid, abet, employ or engage another, or confederate with another, to violate a provision of this chapter or any other ordinance of the city.

(B) A person who attempts to commit any of the offenses mentioned in this section or any ordinance of the city, but who for any reason is prevented from consummating the act, shall be deemed guilty of an offense.
(Ord. 721, passed 6-5-86) Penalty, see § 130.99

§ 130.13 NUISANCE ABATEMENT.

No provision in this chapter precludes the abatement of a nuisance as provided in other city ordinances.
(Ord. 721, passed 6-5-86)

§ 130.14 CURFEW.

(A) (1) The City Council finds and declares that the provisions of this section are enacted for the following reasons:

(a) Crime statistics reveal juvenile crime correlates to non-supervised activity of juveniles, such as shoplifting, theft, criminal mischief and burglary.

(b) The community suffers when minors within our community loiter in public places late at night, in that the minors become susceptible to malicious influences, and are more likely to become engaged in criminal conduct, drug abuse and gang activity.

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(c) The restless nature of minors loitering in public places late at night leads to the commission of acts of burglary, drug abuse, petty theft and vandalism.

(d) There is substantial evidence that comprehensive programs established to reduce nighttime loitering of minors are effective in reducing juvenile crime, and increasing the education of minors, and represent a low cost alternative to the juvenile justice system.

(2) In order to encourage minors to maintain attendance in school, and to reduce the incidents of juvenile crime such as burglary, theft, vandalism and drug abuse, the City Council establishes the juvenile curfew regulations as an effective alternative to the juvenile justice system.

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

CHIEF OF POLICE. The Chief of Police of the city or any person designated by the Chief of Police. The Patrol Sergeant and Corporal will be the designated representatives of the Chief.

LAW ENFORCEMENT OFFICER. A police officer.

MINOR. Any unemancipated person under the age of 18.

PARENT. Any person having custody or control of a minor.

(1) As a natural or adoptive parent;

(2) As a legal guardian; or

(3) As a person to whom legal or physical custody has been awarded by court order.

PUBLIC PLACE. Any place to which the public, or a substantial group of persons have access and includes, but is not limited to common areas of arcades, bowling alleys, cafes, parks, parking lots, playgrounds, restaurants, schools, shops, shopping centers, taverns and all other similar areas that are open to the public.

PUBLIC STREET. Any premises open to the general public for the use of motor vehicles, whether the premises is publicly or privately owned. It is included to mean the curb, the sidewalks, whether paved or unpaved, any grass plots or other grounds found within the legal right-of-way of a street.

(C) (1) It shall be unlawful for any minor to be in or upon the public streets, or any other public place between the hours of 10:00 p.m. and 4:00 a.m. when school is in session the following morning. It shall be unlawful for any minor to be in or upon the public streets, or any other public place between the hours of 12:00 midnight and 4:00 a.m. the following morning on any day there is not school the following morning.

(2) The prohibition herein shall not apply whenever:

(a) The minor is accompanied by his or her parent;

(b) The minor is accompanied by an adult authorized by his or her parent for the period of time and the purpose within a specified area;

(c) The minor is on specific business or activity directed by his or her parent;

(d) The minor is traveling directly to or from a medical appointment or place of gainful employment;

(e) The minor is at his or her residence including the sidewalk thereof, provided the minor's

parent or the adult owner or resident thereof has given permission for the minor to be there;

(f) The minor is, with parental consent, engaged in normal interstate travel through the city or which originates or terminates in the city;

(g) The minor is returning home by direct route, without any unnecessary delay, detour or stop from and within one hour of termination of a community service, religious or school activity, or place of public entertainment such as a movie, play or sporting event; and

(h) The minor is exercising a First Amendment right protected by the United States Constitution, such as free exercise of religion, freedom of speech and the right of assembly, provided the minor first has given notice to the Mayor by delivering to the Chief of Police at the Police Department a written communication signed by the minor and countersigned if practicable by a parent of the minor which specifies when, where, in what manner, and for what first amendment purpose the minor will be on the public streets or any other public place during the curfew time period.

(D) It shall be unlawful for a parent having custody of a minor to permit, or to allow by inefficient control or other circumstances, a minor to remain in any public street or any place in violation of this section. It is the intent of the City Council to impose strict liability on parents for the consequences of their failure to maintain their minor children.

(E) Law enforcement officers are authorized to temporarily detain any minor upon a reasonable suspicion, based on explainable facts, that the minor is in violation of this section and to transport any minor in violation of this section to his or her place of residence or to the custody of his or her parent. (Ord. 823, passed 11-20-97) Penalty, see § 130.99

§ 130.15 AIR POLLUTION.

(A) *Definitions.* 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 Administrator so designates, LRAPA.

EPA METHOD. 40 CFR Part 60, Subpart AAA, Sections 60.531, 60.534, and 60.535.

FIREPLACE. A solid fuel burning device with an air/fuel ratio of greater than 30 which is a permanent structural feature of a building. A fireplace is made up of a concealed masonry or metal flue, and a masonry or metal firebox enclosed in decorative masonry or other building materials.

GREEN ADVISORY. A 24-hour period beginning at 4:00 p.m. when PM 10 levels are forecast by LRAPA to be less than 100 micrograms per cubic meter and PM 2.5 levels are forecast to be less than 41 micrograms per cubic meter.

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. 468.500 et seq.

OPACITY. The degree to which an emission reduces transmission of light or obscures the view of an object in the background.

OREGON METHOD. Oregon Department of Environmental Quality "Standard Method for Measuring the Emissions and Efficiencies of Woodstoves", Sections 1 through 8 and O.A.R. Chapter 340, Division 21 Sections 100, 130, 140, 145, 160, 161, 163, 164, 165.

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PELLET STOVE. An enclosed solid fuel burning 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 40 CFR Part 60.534.

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

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

PM 2.5. Solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 2.5 micrometers.

PM 10. Solid or liquid particulate matter (excluding uncombined water) with an aerodynamic diameter less than or equal to 10 micrometers.

SOLE SOURCE OF HEAT. One or more solid fuel burning devices that:

- (1) Constitutes the only source of heat in a private residence for purpose of space heating, or
- (2) Constitutes the main source of heat in a private residence where the residence is equipped with a heating system that is only minimally sufficient to keep the plumbing from freezing.

SOLID FUEL BURNING DEVICE. Any device designed or operated to burn solid fuel for the heating of the interior of a building, including, but not limited to, solid fuel burning stove, fireplaces or wood stoves of any nature, combination fuel furnaces or boilers used for space heating which can burn solid fuel, and solid fuel burning cooking stoves. **SOLID FUEL BURNING DEVICE** does not include natural gas fired artificial fireplaces.

STAGE I RED ADVISORY. A 24-hour period beginning at 4:00 p.m. when PM 10 levels are forecast by LRAPA to be greater than or equal to 125 micrograms per cubic meter but less than 150 micrograms per cubic meter, or when PM 2.5 levels are forecast by LRAPA to be greater than or equal to 55 micrograms per cubic meter but less than 65 micrograms per cubic meter, within the Oakridge Area General Plan Urban Growth Boundary.

STAGE II RED ADVISORY. A 24-hour period beginning at 4:00 p.m. when PM 10 levels are forecast by LRAPA to be greater than or equal to 150 micrograms per cubic meter, or when PM 2.5 levels are forecast by LRAPA to be greater than or equal to 65 micrograms per cubic meter, within the Eugene-Springfield Metropolitan Area General Growth Boundary.

VISIBLE EMISSIONS. 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. This does not include the visual distortion caused by the heated air emitted by the heating device.

YELLOW ADVISORY. A 24-hour period beginning at 4:00 p.m. when PM 10 levels are forecast by LRAPA to be greater than or equal to 100 micrograms per cubic meter but less than 125 micrograms per cubic meter, or when PM 2.5 levels are forecast to be greater than or equal to 41 micrograms per cubic meter but less than 55 micrograms per cubic meter.

(B) *Solid fuel burning devices; prohibitions.*

(1) No person in charge of property during a Stage I Red Advisory shall operate or allow to be operated a solid fuel burning 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.

(2) No person in charge of property during a Stage II Red Advisory shall operate or allow to be operated a solid fuel burning device unless:

(a) The person has been granted an exemption to use the device by the City Administrator; or

(b) The person is operating a pellet stove which emits no visible emissions into the air outside of the building housing the device.

(3) Within the city, no person in charge of property shall at any time allow to be initiated or maintained in a solid fuel burning device the burning of any plastics, wire insulation, petroleum by-products, petroleum-treated materials, rubber products, animal remains or animal or vegetable matter resulting from the handling, preparation, cooking or service of food, or of any other material which normally emits dense smoke, noxious odors, or hazardous air contaminants.

(4) During a Green or Yellow Advisory, no person in charge of property shall operate or allow to be operated a solid-fuel burning device which discharges emissions that are of an opacity greater than 40%. This provision does not apply to the emissions during the building of a new fire, for a period or periods aggregating no more than ten minutes in any four-hour period.

(C) *Solid fuel burning devices upon sale of the property.*

(1) After June 30, 2003, all uncertified solid fuel burning devices contained on property to be sold or rented must be removed from the property or rendered permanently inoperable unless otherwise

exempted by this section or the person in charge of the property is granted an exemption by the City Administrator.

(2) The following solid fuel burning devices may remain on a property to be sold:

(a) Woodstoves if the emissions do not exceed:

1. 6.0 grams per hour weighted average when tested in conformance with the Oregon Method; or

2. 5.5 grams per hour weighted average when tested in conformance with the EPA Method.

(b) Commercially manufactured pellet stoves that have not been tested, but were installed prior to June 30, 2003.

(c) Fireplaces operated in accordance with division (B) of this section.

(d) Wood-fired, forced-air combustion furnaces that primarily heat living space, through indirect heat transfer using forced air duct work or pressurized water systems.

(3) Within the city, it is unlawful for any person to complete, or allow the completion of the sale, transfer or conveyance of any real property unless a Certificate of Compliance is filed with the City Recorder's Office.

(4) Once a Certificate of Compliance has been filed for a property, another certificate is not needed if the number and type of stoves on the real property matches what is on file at the city. The city shall list properties with Certificates of Compliance on the internet. A copy of the list must be available at the city for inspection.

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(5) The Certificate of Compliance must state that either:

(a) There are no solid fuel burning devices on the property; or

(b) Any solid fuel burning devices on the property meet the requirements of this section.

(6) The Certificate of Compliance must be in a format specified by the city and must be signed by the seller(s), the buyer(s), the real estate agent(s) of the seller(s), and, if any solid fuel burning devices will remain on the property, a certified city inspector.

(7) The Certificate of Compliance does not constitute a warranty or guarantee by the city or its agents that the solid fuel burning device on the property meets any other standards of operation, efficiency or safety, except the emission standards contained in this section.

(D) *Solid fuel burning devices prohibited.* After December 31, 2008, a person or persons may not install or use any solid fuel burning device in any structure within the city except for certified wood stoves, certified pellet stoves with emissions that do not exceed 1.0 gram per hour, weighted average when tested in conformance with the EPA Method, or a fireplace which is not a sole source of heat, operated in accordance with division (B) of this section.

(E) *Solid fuel burning devices; exemptions.* Notwithstanding the prohibitions set forth in this section, a person in charge of property may retain in their home or operate a solid fuel burning device during a Green, Yellow or Stage I or Stage II Red Advisory, if that person has previously obtained one of the following exemptions from the City Administrator:

(1) Sole source of heat exemption. Persons in charge of property who sign a sworn statement that their solid fuel burning device is the sole source of heat for their residence are eligible for a sole source of heat exemption. The city may inspect to verify this fact, in its discretion. This exemption shall expire on July 1 of each year and must be renewed annually thereafter.

(2) Economic need exemption. Persons in charge of property who demonstrate an economic need to burn solid fuel for space-heating purposes by qualifying for energy assistance according to economic guidelines established by the U.S. Office of Management and Budget under the low-income energy assistance program, as administered in Oakridge by the CDC, are eligible for an economic need permit. This exemption shall expire on July 1 of each year and must be renewed annually thereafter.

(F) *Enforcement.*

(1) In addition to, and not in lieu of any other enforcement mechanism authorized by the City Code, upon a determination that a person has violated this section, the City Administrator may impose upon the violator and any other person in charge of the property an administrative penalty not greater than \$500.

(2) Each day's violation of a provision of this section constitutes a separate offense punishable by the penalty set forth above.

(3) The City Administrator is also hereby authorized to designate LRAPA to enforce and administer the provisions of this code, including LRAPA's use of administrative and hearing procedures adopted by LRAPA in its duly promulgated regulations.
(Ord. 864, passed 2-20-03)

§ 130.99 PENALTY.

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

(B) (1) Violation of any provision of this chapter which incorporates a state statute which is a misdemeanor shall be punishable by a fine not to exceed \$1,000.

(2) Except for other penalties that are specifically provided, the penalty for a violation of any provision of this chapter which incorporates the state statute which is a violation shall be identical to the penalties for those state statutes.

(3) Where any section of this chapter is substantially similar to a state statute but does not adopt the state statute by reference, the maximum/minimum penalties shall be limited to the maximum/minimum fines provided for in the substantially similar state statute. The provisions of this section shall not be construed to affect penalties provided by any section of this chapter which are less severe than the penalties provided for in a substantially similar state statute. For purposes of this chapter, the state statute is substantially similar to a city ordinance if the same conduct is prescribed and the elements of the offense are the same.

(4) A person violating a provision of this chapter for which no specific penalty has been prescribed shall be subject to a fine not to exceed \$500.

(5) Whether or not a state statute incorporated by this chapter or substantially similar to any section of this chapter provides for imprisonment, no imprisonment shall be allowed under any section of this chapter.

(Ord. 721, passed 6-5-86; Am. Ord. 873, passed 8-5-04)

(C) (1) Each violation of § 130.14 is a separate offense.

(2) Any person convicted of violating § 130.14 is guilty of an infraction punishable by a fine up to \$1,000.

(Ord. 823, passed 11-20-97)

