

**CHAPTER FIVE -- PUBLIC PROTECTION****GENERAL****5.005 DEFINITIONS**

When not otherwise defined, all words and phrases in this chapter shall have the same meaning ascribed to them by the Oregon Criminal Code.

**5.010 OFFENSES OUTSIDE THE 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.

**5.015 SOLICITING OR CONSPIRING TO VIOLATE CODE**

No person shall solicit, aid, abet, employ or engage another, or conspire with another, to violate a provision of this or any other Code chapter. Violation of this Section shall be

treated as a violation of the applicable chapter provision.

**5.020 ATTEMPT TO COMMIT OFFENSES**

A person who attempts to commit any of the offenses mentioned in this Code chapter, but who for any reason is prevented from consummating such act, shall be deemed guilty of the completed offense.

**5.025 ENFORCEMENT BY CITATION**

- (1) Any person charged by the City with the enforcement of a provision of [Section 5.200 to 5.692](#) may issue a citation pursuant to the provisions of [Sections 2.840 to 2.862](#).
- (2) Enforcement by citation pursuant to Subsection (1) shall be in addition to such other abatement or enforcement procedures contained in the Code.

**MAJOR OFFENSES****5.200 DEFINITIONS**

For Sections 5.209 to 5.290, the following words and phrases shall mean:

**Camp.** To set up or to remain in or at a campsite.

**Campsite.** Any place where any bedding, sleeping bag or other sleeping matter, or any stove or fire, is placed, established or maintained, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.

**Custody.** The imposition of actual or constructive restraint by a peace officer pursuant to an arrest or court order.

[Amended by Ordinance No. 6324, enacted Dec. 15, 1980; Amended by Ordinance No. 6402 enacted Aug. 16, 1982; Amended by Ordinance No. 6423, enacted July 5, 1983; Amended by Ordinance No. 6527, enacted April 6, 1987.]

**5.202 AGGRAVATED DISORDERLY CONDUCT [REPEALED]**

[Repealed by Ordinance No. 6616, enacted April 1, 1991.]

**5.204 - 5.205 HARASSMENT [REPEALED]**

[Repealed by Ordinance No. 6527, enacted April 6, 1987.]

**5.206 - 5.208 RIOT AND UNLAWFUL ASSEMBLY – RESISTING ARREST [REPEALED]**

[Repealed by Ordinance No. 6616, enacted April 1, 1991.]

**5.209 INTERFERENCE WITH PUBLIC OFFICERS**

No person shall intentionally resist, delay or obstruct any City public officer in the discharge or attempt to discharge any duty of his or her office. [Added by Ordinance No. 6324, enacted Dec. 15, 1980.]

**5.210 OBSCENE MATERIAL [REPEALED]**

[Repealed by Ordinance No. 6527, enacted April 6, 1987.]

**5.211 PROHIBITED USE OF TEAR GAS OR OLEORESIN CAPSICUM [REPEALED]**

[Repealed by Ordinance No. 95-12, enacted Nov. 2, 1995.]

**5.212 ESCAPE [REPEALED]**

[Repealed by Ordinance No. 6616, enacted April 1, 1991.]

**5.214 FAILURE TO APPEAR**

(1) No person shall, having by Municipal Court order been released from custody upon a release agreement or security release upon the condition that the person subsequently appear personally in connection with a charge against him/her, intentionally fail to appear.

(2) No person shall intentionally fail to appear before the Municipal Court pursuant to a citation issued and served under the authority of [Sections 2.840 to 2.862](#).

[Amended by Ordinance No. 6405, enacted Sept. 20, 1982.]

**5.216 ASSAULT [REPEALED]**

[Repealed by Ordinance No. 6527, enacted April 1, 1987.]

**5.217 DISORDERLY CONDUCT**

No person shall, with intent to cause public inconvenience, annoyance or alarm, or by recklessly creating a risk thereof;

- (1) Disturb any lawful assembly of persons without lawful authority;
- (2) Obstruct vehicular or pedestrian traffic on a public way; or
- (3) Initiate or circulate a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency. For purposes of this Subsection, initiation or circulation of a report include actuation of a fire or police alarm.
- (4) Create a hazardous or physically offensive condition by an act which he/she is not licensed or privileged to do.
- (5) Engages in fighting or in violent, tumultuous or threatening behavior.

[Amended by Ordinance No. 6324, enacted Dec. 15, 1980; Amended by Ordinance No. 6527,

enacted April 6, 1987; Renumbered from 5.320 to 5.217 by Ordinance No. 94-30, enacted Oct. 5, 1994; Amended by Ordinance No. 13-05, enacted August 19, 2013.]

**5.218 - 5.220 AGGRAVATED CRIMINAL MISCHIEF – RECKLESS BURNING [REPEALED]**

[Repealed by Ordinance No. 6616, enacted April 1, 1991.]

**5.222 CONCEALED WEAPONS [REPEALED]**

[Repealed by Ordinance No. 6578, enacted Sept. 18, 1989.]

**5.224 DISCHARGE OF FIREARMS [RENUMBERED TO SECTION 5.326]**

[Renumbered to [5.326](#) by Ordinance 6616, enacted April 1, 1991.]

**5.226 SAWED-OFF FIREARM [REPEALED]**

[Repealed by Ordinance No. 6527, enacted April 1, 1987.]

**5.228 - 5.230 EXCEPTIONS – SWITCHBLADE KNIVES [REPEALED]**

[Repealed by Ordinance No. 6616, enacted April 1, 1991.]

**5.232 BOWS AND CROSS-BOWS [RENUMBERED TO SECTION 5.328]**

[Renumbered to [5.328](#) by Ordinance 6616, enacted April 1, 1991.]

**5.234 SLINGSHOTS, SLIPPERS AND AIR GUNS [RENUMBERED TO SECTION 5.330]**

[Renumbered to [5.330](#) by Ordinance 6616, enacted April 1, 1991.]

**5.236 GAMBLING [REPEALED]**

[Repealed by Ordinance No. 6527, enacted April 1, 1987.]

**5.237 USE OF MARIJUANA AT MEDICAL MARIJUANA FACILITIES**

A person may not smoke, ingest, or otherwise use marijuana at medical marijuana facilities authorized by ORS 475.300 et seq.

[Added by Ordinance No. 14-02, enacted March 17, 2014.]

**5.238 REPEALED**

[Repealed by Ordinance No. 6578, enacted Sept. 18, 1989.]

**5.239 REPEALED**

[Added by Ordinance No. 14-02, enacted March 17, 2014; Repealed by Ordinance No. 15-09, enacted July 20, 2015.]

**5.240 PROHIBITED CAMPING**

No person shall camp in or upon any sidewalk, street, alley, lane, public right-of-way, or any other place to which the general public has access, or under any bridgeway, viaduct or overpass, unless otherwise specifically authorized by this Code or by declaration by the Mayor in emergency circumstances.

[Added by Ordinance No. 6423, enacted July 5, 1983.]

**5.242 BEGGING**

No person shall accost other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms.

[Renumbered from 5.312 by Ordinance No. 6616, enacted April 1, 1991.]

**5.290 PENALTY**

Any person who violates any of the provisions of [Sections 5.202](#) to 5.242 shall be punished by a fine not to exceed \$250, or by imprisonment for a period not to exceed 6 months, or by both such fine and imprisonment.

[Amended by Ordinance No. 6423, enacted July 5, 1983; Amended by Ordinance No. 6616, enacted April 1, 1991; Amended by Ordinance No. 94-30, enacted Oct. 5, 1994.]

**5.292 CONFISCATION AND DESTRUCTION  
[RENUMBERED TO SECTION 5.392]**

[Renumbered to [5.392](#) by Ordinance 6616, enacted April 1, 1991.]

## MINOR OFFENSES

### 5.300 DEFINITIONS

For the purpose of [Sections 5.300 to 5.390](#), the following words and phrases shall mean:

**Abusive Gesture.** Those gestures which, when addressed toward the ordinary citizen, are, as a matter of common knowledge, inherently likely to provoke a violent or disorderly reaction.

**Abusive Language.** Those personal epithets which, when addressed to the ordinary citizen, are, as a matter of common knowledge, inherently likely to provoke a violent or disorderly reaction.

Enter or Remain Unlawfully.

- (1) To enter or remain in or upon premises when the premises, at the time of such entry or remaining, are not open to the public or when the entrant is not otherwise licensed or privileged to do so; or
- (2) To fail to leave the premises that are open to the public after being lawfully directed to do so by the person in charge.

**Fireworks.** Shall have the meaning ascribed to it by ORS 480.110(1).

**Open to the Public.** Premises which by their nature, function, custom, usage, notice or lack thereof, or other circumstances at the time would cause a reasonable person to believe that no permission to enter or remain is required.

**Person in Charge.** A person who has lawful control of premises by ownership, tenancy, official position or other legal relationship. It includes, but is not limited to, the person or position-holder in charge by the Governor, board, commission or governing body of any political subdivision of this State.

**Premises.** Any building and any real property, whether privately or publicly owned.

**Public Property.** Real or personal property owned or under the control of a public body as defined in ORS 20.260.

[Amended by Ordinance No. 6324, enacted Dec. 15, 1980; Amended by Ordinance No. 6527, enacted April 6, 1987.]

### 5.302 TRESPASS

No person shall enter or remain unlawfully in or upon premises.

### 5.304 FIREWORKS

No person shall discharge, fire, or cause to be exploded within the City any fireworks; provided,

the Mayor and the Council may order a public display of fireworks under supervision of experts in handling fireworks; provided, such display is of such character and so located and conducted as in the opinion of the Fire Chief will not be hazardous to surrounding property or endanger any person.

### 5.306 UNINVITED SOLICITATIONS [REPEALED]

[Repealed by Ordinance No. 6578, enacted Sept. 18, 1989.]

### 5.308 PROHIBITION OF UNACCOMPANIED OR UNEMANCIPATED MINORS FROM BEING IN PUBLIC PLACES DURING CERTAIN HOURS.

- (1) No minor shall be in or upon any street, highway, park, alley, or other public place between the hours of midnight and 4:00 a.m. of the following morning, unless:
  - (a) The minor is accompanied by a parent, guardian or other person 18 years of age or over and authorized by the parent or by law to have care and custody of the minor;
  - (b) The minor is then engaged in a lawful pursuit or activity which requires his/her presence in such public places during the hours specified in this Section; or
  - (c) The minor is emancipated pursuant to ORS 109.550.
- (2) No parent, guardian or person having the care and custody of a minor under the age of 18 years shall allow such minor to be in or upon any street, highway, park, alley or other public place between the hours specified in Subsection (1).

### 5.310 LEAVING CERTAIN MINORS IN VEHICLES

- (1) No person having custody or control of a child under 10 years of age shall leave the child unattended in any motor vehicle on the streets, alleys or public places in the City for such period of time as may be likely to endanger the health or welfare of such child.
- (2) It shall be lawful and the duty of any policeman or other peace officer of the City, the State or County, finding a child or children confined in violation of the terms of

Subsection (1), to enter such motor vehicle and remove the child. Such officer shall have the right, if necessary, to break the doors or windows of the vehicle in order to save the life of the child, or save it from great mental or physical suffering.

**5.312 BEGGING [RENUMBERED TO SECTION 5.242]**

[Renumbered to [5.242](#) by Ordinance 6616, enacted April 1, 1991.]

**5.313 DAMAGE TO PUBLIC TREES [REPEALED]**

[Added by Ordinance No. 97-25, enacted Oct. 6, 1997; Repealed by Ordinance No. 02-01, enacted Jan. 22, 2002.]

**5.314 CRIMINAL MISCHIEF**

No person shall, having no right to do so nor reasonable grounds to believe that he/she has such right, intentionally or recklessly cause damage to public property in an amount not exceeding \$500.

[Amended by Ordinance No. 6527, enacted April 6, 1987; Amended by Ordinance No. 6616, enacted April 1, 1991.]

**5.315 SALE OF SPRAY PAINT TO AND POSSESSION BY MINORS**

(1) No one other than the minor's parent or guardian shall sell, give or otherwise make available any can or cans of spray paint to a person under the age of 18. An individual violates this Section who sells, gives or otherwise makes a can or cans of spray paint available to another with the knowledge that the person to whom the spray paint is made available will violate this Section.

(2) No person under the age of 18 shall carry or possess any can or cans of spray paint while upon or within the streets, sidewalks, parks or other public ways or public property.

[Added by Ordinance No. 94-4, enacted March 24, 1994; Amended by Ordinance No. 94-12, enacted April 19, 1994.]

**5.316 USE OF FICTITIOUS NAME IN SIGNING REGISTER [REPEALED]**

[Repealed by Ordinance No. 6527, enacted April 6, 1987.]

**5.318 UNREASONABLE NOISE**

No person shall create, assist in creating, permit, continue, or permit the continuance of any unreasonably loud, disturbing, or unnecessary noise in the City.

**5.320 DISORDERLY CONDUCT [RENUMBERED TO SECTION 5.217]**

[Renumbered to [5.217](#) by Ordinance 94-30, enacted Oct. 5, 1994.]

**5.321 ABUSIVE LANGUAGE OR GESTURE**

No person shall intentionally cause public annoyance or alarm by using abusive language or making an abusive gesture in a public place. [Added by Ordinance No. 6324, enacted Dec. 15, 1980.]

**5.322 FAILURE TO APPEAR [REPEALED]**

[Repealed by Ordinance No. 6405, enacted Sept. 20, 1982.]

**5.324 MESSAGE, TATTOO AND BODY-PAINTING PARLORS [REPEALED]**

[Repealed by Ordinance No. 6527, enacted April 6, 1987.]

**5.326 DISCHARGE OF FIREARMS**

(1) Except as provided in Subsection (2), no person shall discharge any revolver, pistol or other firearm in the City.

(2) Revolvers, pistols, and other firearms may be discharged at locations designated by the Council. No such location shall be approved by Council unless adequate provisions are made for public safety and noise containment. Council approval shall be in addition to any rifle range permit required by the Uniform Fire Code adopted in [Section 8.600](#).

(3) This Section shall not apply to peace officers, or to any person summoned by such officer to assist in making an arrest or in preserving the peace, while such person is engaged in assisting such officers.

[Amended by Ordinance No. 6376, enacted Feb. 1, 1982; Amended by Ordinance No. 6616, enacted April 1, 1991; Renumbered from 5.224 by Ordinance No. 6616; Amended by Ordinance No. 6616, enacted April 1, 1991.]

**5.328 BOWS AND CROSSBOWS**

No person shall carry any loaded bow or crossbow or discharge any bow or crossbow in the City. This Section shall not apply to toys or to areas designated by the City for the use of bows or crossbows.

[Amended by Ordinance No. 6356, enacted Sept. 15, 1981; Renumbered from 5.232 by Ordinance No. 6616, enacted April 1, 1991.]

**5.330 SLINGSHOTS, SLIPPERS AND AIR GUNS**

(1) Except as provided in Subsection (2), no person shall:

(a) Carry or possess any slingshot, slipper or air gun or similar device equipped to fire a missile without the use of black or smokeless power, between the hours of 6:00 p.m. and 6:00 a.m. while upon or within the streets, alleys, sidewalks, parks or other public property of the City.

(b) Shoot, discharge or in any way use any of the devices specified in Subsection (a) for the purpose of propelling or throwing any shot, stones or other missiles within the City.

(2) An air gun or pellet gun may be carried, possessed and discharged for the purpose of controlling vermin, rodents and other wild animals on private property within the City, provided, however, that the person shall obtain written authorization from the Chief of Police, or the designee of the Chief, prior to such carrying, possession or discharge.

[Amended by Ordinance No. 01-11, enacted June 25, 2001.]

**5.332 TRAPPING OF ANIMALS**

(1) Except as provided in Subsection (2), no person shall place, or cause to be placed, any trap within the City, except upon the person's own property. Further, no person shall use a trap designed to kill, maim, or injure any animal other than vermin, muskrat or beaver.

(2) The Oregon Department of Fish and Wildlife (ODF&W), including its successors and designees, is authorized in its sole discretion to permit persons to humanely remove

limited numbers and species of state-regulated wildlife from within the City; provided, however, that written authorization for removal shall be obtained from ODF&W prior to the commencement of wildlife removal activities, and such removal may only be accomplished through the use of approved box traps.

[Renumbered from 5.234 by Ordinance No. 6616, enacted April 1, 1991.]

[Amended by Ordinance No. 6446, enacted Feb. 21, 1984; Renumbered by Ordinance No. 6628 (enacted Aug. 5, 1991) from 5.508 to [5.326](#), but was editorially changed to [5.332](#) to avoid confusion with Ordinance No. 6616, enacted Apr. 1, 1991; Amended by Ordinance No. 03-15, enacted July 7, 2003.]

**5.334 CITY PARKS**

(1) Except as provided in this Section, no animal owner or animal handler shall bring or cause to be brought any animal into any City park or cemetery. This Section shall not apply to the following:

(a) persons participating in an animal show authorized and approved by the City Parks Division pursuant to guidelines and restrictions established by the Parks, Recreation and Cemeteries Advisory Board;

(b) persons requiring the services of a "dog guide" or "assistance animal," as those terms are defined in ORS Chapter 346;

(c) persons bringing domesticated house pets into City Parks, provided the pets are confined to a leash no longer than eight feet in length and are adequately controlled; such pets shall not be allowed in playgrounds, picnic areas and other restricted areas designated by the Parks, Recreation and Cemeteries Advisory Board; notwithstanding the leash requirements of the Klamath County Code, such pets may be allowed off leash only in specifically designated and signed areas as authorized pursuant to rules and regulations established by the Parks, Recreation and Cemeteries Advisory Board; the owner and/or handler of the pet is required to thoroughly remove—the solid waste of the pet from the park; or

(d) Federal, State, County or City law

enforcement personnel using an animal for law enforcement purposes.

- (2) No person shall injure, molest, harass or destroy any animal within or belonging to any City park or cemetery.
- (3) The owner and handler of any animal permitted within City parks or cemeteries pursuant to Subsection (1):
- (a) shall be jointly and severally responsible for the conduct of such animal while in the City park or cemetery; and
  - (b) shall not cause or allow such animal to injure, molest, harass, or destroy any animal or to damage or destroy the property of another while such animal is within a City park or cemetery; and
  - (c) shall be subject to removal, temporarily or permanently, from the City park or cemetery should they violate the restrictions imposed by this Section.
- (4) The City shall not be liable to any persons for any damage, loss or injury to person or property suffered or sustained by reason of any incident occurring as a result of any owner and/or handler bringing any animal into any City park or cemetery, or causing or allowing any animal to be brought into any City park or cemetery. Owners and handlers of any animals permitted with City parks or cemeteries pursuant to Subsection (1) shall be liable for any and all injuries or damage to persons or property arising as a result of their negligent or intentional failure to adequately control their animals or to comply with the provisions of this Section.

[Renumbered by Ordinance No. 6628 from 5.510 to [5.328](#), but was editorially changed to [5.334](#) to avoid confusion with No. 6616, enacted Sept. 4, 1991; Amended by Ordinance No. 94-11, enacted May 19, 1994; Amended by Ordinance No. 03-10, enacted April 7, 2003; Amended by Ordinance No. 07-05, enacted Feb. 20, 2007.]

### **5.336 SUMMARY DESTRUCTION OF DANGEROUS DOGS**

A dangerous dog running at large, which because of its disposition or diseased condition is too hazardous to apprehend, may be destroyed by a peace officer, dog control officer, or by a person acting in defense of himself, his family, or another person.

[Added by Ordinance No. 6513, enacted July 9, 1986; Renumbered by Ordinance No. 6628 from 5.588 to [5.330](#), but was editorially changed to [5.336](#) to avoid confusion with No. 6616, enacted Apr. 1, 1991.]

### **5.338 FEEDING OF WILD ANIMALS PROHIBITED**

No person shall set out feed for deer, raccoons, skunks or opossums in the City.

[Added by Ordinance No. 94-36, enacted Dec. 19, 1994.]

### **5.340 “NO SOLICITORS” SIGNS**

No person may enter onto a residential property for the purpose of sales or conduct sales thereon when entrance to the property has been clearly posted by a readable sign or placard stating “no solicitors,” or “no solicitation,” or similar language in English that is readily visible to a person attempting to enter the property from the nearest street or public sidewalk.

[Added by Ordinance No. 11-13, enacted Dec. 5, 2011.]

### **5.342 REMOVAL OF SIGNS**

No person other than the owner or person in charge of the property may remove, deface, destroy or otherwise interfere with the signs described under Section 5.340.

[Added by Ordinance No. 11-13, enacted Dec. 5, 2011.]

### **5.344 UNLAWFUL DEPOSIT OF HUMAN WASTE**

(1) It is unlawful for any person to knowingly or intentionally deposit, place or discharge any human biological waste on any street, sidewalk, alley, plaza, park, public building or public facility; at any place or property open to the public; or at any place or property exposed to public view. For purposes of this section, “human biological waste” shall mean human feces, human urine or any other human bodily discharge. The provisions of this section shall not apply to any discharge of human biological waste occurring in a lavatory or other convenience station designed and provided for that purpose.

[Added by Ordinance No. 18-08, enacted Sep. 18, 2018.]

### **5.390 PENALTY**

(1) Any person who violates any of the



provisions of [Sections 5.302 to 5.330 or 5.338](#) to 5.344 shall be punished by a fine not to exceed \$200.

(2) Violation of [Sections 5.332 or 5.334](#) is punishable by a fine of not more than \$200 for the first violation and not more than \$400 for each additional violation within 1 year.

(3) Any person who violates Section 5.313 shall be punished by a fine not to exceed \$1,000.

[Amended by Ordinance No. 6616, enacted April 1, 1991; Amended by Ordinance No. 6628, Sections were editorially Renumbered to avoid confusion with Ordinance No. 6616, enacted Sept. 4, 1991; Amended by Ordinance No. 94-36, enacted Jan. 19, 1995; Amended by Ordinance 97-25, enacted Oct. 6, 1997, Amended by Ordinance No. 11-13, enacted Dec. 5, 2011.]

**5.392 CONFISCATION AND DESTRUCTION**

A weapon seized from any person pursuant to a violation of any of the provisions of [Sections 5.326 to 5.330](#), shall, upon conviction in Municipal Court for such violation and as part of the penalty, be forfeited by the person so convicted. Such weapons are hereby declared to be nuisances and shall be destroyed within 1 year of the conviction, unless preservation is necessary or proper to the ends of justice. If

such weapon has been stolen and is recovered from the thief or transferee, it shall not be destroyed, but shall be restored to its lawful owner as soon as its use as evidence has been served, upon identification of the weapon and proof of ownership.

[Renumbered from 5.292 to [5.392](#) by Ordinance No. 6616, and Amended by Ordinance No. 6616, enacted April 1, 1991.]

## ALCOHOL AND DRUGS

### 5.400 DEFINITIONS

For the purposes of [Sections 5.400 to 5.492](#), the following words and phrases shall mean:

Alcohol Liquor. Meaning as defined in ORS 471.001.

Commission. Meaning as defined in ORS 471.001.

Licensee. Meaning as defined in ORS 471.001.

Licensed Premises. The room or enclosure at the address within the City for which a license has been issued by the Commission for the serving, mixing, handling or selling of alcoholic liquor.

Liquor Control Act. The State law designated by ORS 471.027, as now or hereafter amended and supplemented; and including the Oregon Distilled Liquor Control Act as defined by ORS 472.020, as now or hereafter amended and supplemented.

Minor. Any person under the age of 21 years.

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 person. [Amended by Ordinance No. 6527, enacted April 6, 1987.]

### 5.402 PROVIDING LIQUOR TO PERSONS UNDER 21

- (1) No one other than the person's parent or guardian shall sell, give or otherwise make available any alcoholic liquor to a person under the age of 21 years. A person violates this Subsection who sells, gives or otherwise makes available alcoholic liquor to a person with the knowledge that the person to whom the liquor is made available will violate this Subsection.
- (2) No person who owns or is in control of premises shall knowingly allow a minor to consume alcoholic liquor on the premises except when such minor is in a private residence accompanied by the parent or guardian of the minor and with such parent's or guardian's consent.

[Amended by Ordinance No. 6527, enacted April 6, 1987; Amended by Ordinance No. 93-9, enacted June 21, 1993.]

### 5.404 PERSONS NOT ALLOWED TO DRINK ALCOHOLIC LIQUOR ON LICENSED PREMISES [REPEALED]

[Repealed by Ordinance No. 6527, enacted April 6, 1987.]

### 5.406 PURCHASE OR POSSESSION OF LIQUOR BY MINOR; ENTRY OF LICENSED PREMISES BY MINOR

- (1) No person under the age of 21 years shall attempt to purchase, purchase or acquire alcoholic liquor. Except when such minor is in a private residence accompanied by the parent or guardian of the minor and with such parent's or guardian's consent, no person under the age of 21 years shall have personal possession of alcoholic liquor.
- (2) For the purposes of this Section, personal possession of alcoholic liquor includes the acceptance or consumption of a bottle of such liquor, or any portion thereof, or a drink of such 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.
- (3) Except as authorized by Commission rule or as necessitated in an emergency, no person under the age of 21 years shall enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.

[Amended by Ordinance No. 6527, enacted April 6, 1987.]

### 5.408 - 5.426 REPEALED

[Repealed by Ordinance No. 6527, enacted April 6, 1987.]

### 5.428 DEFENSE OF WRITTEN AGE STATEMENT

If a licensee or employee or agent of a licensee is prosecuted in the Municipal Court under this Code for selling alcoholic liquor to a minor, or permitting a minor to consume alcoholic liquor or to enter or loiter upon the licensed premises, the licensee or employee or agent may offer in

defense any written statement made by or for such minor prior to the violation, which statement was made and taken pursuant to the laws of Oregon and the rules and regulations of the Commission; and such statement shall constitute a prima facie defense.

**5.430 - 5.436 LIQUOR IN PUBLIC DANCE HALL, NUISANCES, DISORDERLY ESTABLISHMENTS & RESPONSIBILITY OF LICENSEE FOR EMPLOYEES [REPEALED]**

[Repealed by Ordinance No. 6527, enacted April 6, 1987.]

**5.438 PUBLIC DRINKING**

No person shall drink any alcoholic liquor or possess on his/her person any bottle, can, or other receptacle containing any alcoholic liquor, which has been opened, or a seal broken, or the contents of which have been partially removed, inside the City limits while upon any street, City park, cemetery, sidewalk, alley or premises open to the general public for the use of motor vehicles, whether the premises are publicly or privately owned and whether or not a fee is charged for the use of the premises. Provided, however, nothing in this Section shall apply to the drinking of any alcoholic liquor at any activity for which a permit authorizing such drinking or possession has been obtained from the City, nor where such drinking or possession occurs within 250 feet of the residence of the person involved when such residence is in a residentially zoned area pursuant to the City's zoning Ordinances.

**5.440 NOXIOUS SUBSTANCES**

(1) No person shall deliberately smell or inhale any drug or any other noxious substance, vapor or chemical containing any ketones, aldehydes, organic acetates, ether, chlorinated hydrocarbons, or other substances containing solvents releasing vapors, in such excessive quantities as to cause conditions of intoxication, inebriation, stupefaction, hallucination, or dulling of the brain or nervous system. This applies with particularity, but is not limited to, model airplane glue, fingernail polish, gasoline, and/or any other substance or chemical which has the above-described effect upon the brain or nervous system.

(2) This Section does not pertain to any person who inhales, ingests or otherwise introduces into his/her circulatory or respiratory system such material or substance pursuant to the direction or prescription of any doctor, dentist or other persons authorized to so direct or prescribe.

**5.442 POSSESSION OF LESS THAN ONE OUNCE OF MARIJUANA [REPEALED]**

[Repealed by Ordinance No. 6578, enacted Sept. 18, 1989.]

**5.443 ATTEMPTED PURCHASE OF MARIJUANA BY PERSON UNDER 21; ENTRY OF LICENSED PREMISES BY PERSON UNDER 21**

- (1) A person under 21 years of age may not attempt to purchase marijuana items.
- (2) Except as authorized by rule or as necessitated in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.

[Added by Ordinance No. 15-09, enacted July 20, 2015.]

**5.444 USE OF MARIJUANA IN PUBLIC PLACE PROHIBITED**

It is unlawful for any person to engage in the use of marijuana items in a public place.

[Added by Ordinance No. 15-09, enacted July 20, 2015.]

**5.445 POSSESSION OF MARIJUANA IN CORRECTIONAL FACILITY PROHIBITED**

It is unlawful for any person to possess or engage in the use of marijuana items in a correctional facility as defined in ORS 162.135 or in a youth correction facility as defined in ORS 162.135.

[Added by Ordinance No. 15-09, enacted July 20, 2015.]

**5.446 HOMEGROWN MARIJUANA IN PUBLIC VIEW PROHIBITED**

No person may produce, process, keep, or store medical and recreational marijuana or medical and recreational cannabinoid products or cannabinoid concentrates if the medical and recreational marijuana or medical and recreational cannabinoid

products or cannabinoid concentrates can be readily seen by normal unaided vision from a public place.

[Added by Ordinance No. 15-09, enacted July 20, 2015; Amended by Ordinance No. 16-10, enacted Nov. 7, 2016.]

#### **5.447 USE OF MARIJUANA WHILE DRIVING**

A person commits the offense of use of marijuana while driving if the person uses any marijuana while driving a motor vehicle upon a highway.

[Added by Ordinance No. 15-09, enacted July 20, 2015]

#### **5.448 SMOKING AND TOBACCO USE IN CITY PARKS**

(1) It is unlawful for any person to smoke or use tobacco while in a City-owned park, marina, cemetery or natural area. To “smoke or use tobacco” shall mean any of the following:

(a) the inhalation, exhalation, burning, or ingestion of any type of cigarette, pipe, cigar, cigarillo, bidi; or

(b) the use of an electronic cigarette or a similar device intended to emulate smoking, which permits a person to inhale vapors or mists that may or may not include nicotine; or

(c) the lighting of a tobacco product or tobacco-like product, including but not limited to, any tobacco or cannabis product, or any other weed or plant capable of being smoked; or

(d) to “use tobacco” shall also mean to ingest or place within the mouth or nose any type of tobacco product, including chewing tobacco, snus, snuff, orbs, strips, dip or any similar tobacco substance.

(2) Exceptions: This section does not apply to the use of noncommercial tobacco for the ceremonial, cultural, religious, or medicinal activities that are in accordance with the American Indian Religious Freedom Act, 42 U.S.C. section 1996, or to the use of any product specifically approved by the United States Food and Drug Administration for sale as tobacco cessation product, if the product is marketed and sold solely for the approved purpose. “Noncommercial tobacco products” means unprocessed tobacco plants or tobacco by-products used for ceremonial or spiritual purposes by Native Americans.

[Added by Ordinance No. 18-05, enacted July 1, 2018]

## DRUG-FREE ZONE ACT

### 5.450 DRUG-FREE ZONES ACT

[Section 5.450 to 5.462](#) shall be known as the Drug-Free Zones Act. The Act provides for the use of 90 day exclusions in designated Drug-Free Zones in the City, it provides procedures for designation of zones and for the issuance of exclusion notice, and it authorizes variances and provides for appeal of an exclusion.

[Added by Ordinance No. 93-14, enacted July 14, 1993.]

### 5.452 DRUG-FREE ZONES

(1) The following are hereby designated as Drug-Free Zones:

- (a) All City parks and marinas; and
- (b) All of Mills Addition being that area bordered by the railroad tracks, South Sixth Street, Washburn Way, the Alameda By-Pass and Main Street.

(2) In addition, the City Council may designate additional Drug-Free Zones which are:

- (a) Not less than 6 City blocks nor more than 100 blocks; and
- (b) Areas where the number of arrests for conduct prohibited by ORS 475.912 and ORS 475.752 for the 12 month period preceding the original designation is significantly higher than that for other similarly sized areas of the City.

[Added by Ordinance No. 93-14, enacted July 14, 1993.]

### 5.454 DESIGNATION OF DRUG-FREE ZONES

(1) If the City Council designates an area meeting the criteria of [Section 5.452](#) of this Code to be a Drug-Free Zone, Council shall do so by Ordinance, said designation to be valid for an initial period of 2 years. Thereafter, the Council may extend the time of designation as it deems appropriate, but in no event shall the total be more than 10 years.

(2) The City Council may also remove the designation in the event it deems that appropriate. The removal of the designation shall be by Ordinance.

[Added by Ordinance No. 93-14, enacted July 14, 1993.]

### 5.456 CIVIL EXCLUSION

(1) A person is subject to exclusion for a period of 90 days from the public streets, sidewalks and other public ways in a designated Drug-Free Zone if that person has been arrested or otherwise taken into custody within the Drug-Free Zone for either the unlawful distribution of a controlled substance pursuant to ORS 475.7522 or for the unlawful delivery of an imitation controlled substance pursuant to ORS 475.912 within a Drug-Free Zone.

(2) If a person excluded from a Drug-Free Zone is found therein during the exclusion period, that person is subject to immediate arrest for criminal trespass in the second degree pursuant to ORS 164.245.

[Added by Ordinance No. 93-14, enacted July 14, 1993.]

### 5.458 ISSUANCE OF EXCLUSION NOTICES

The Police Chief is designated as the person in charge of the public streets, sidewalks and public ways in Drug-Free Zones for purposes of issuing exclusion notices in accordance with this Act. The Police Chief may authorize employees of the Police Department to issue exclusion notices in accordance with this Act.

[Added by Ordinance No. 93-14, enacted July 14, 1993.]

### 5.460 VARIANCES

The Police Chief may, on request, grant a variance with appropriate restrictions to allow an excluded person to be in a Drug Free-Zone under either of the following criteria:

- (1) To get a Residential Variance a person must show he/she was a bona fide resident of a Drug-Free Zone prior to the arrest for delivery of a controlled substance.
- (2) A Social Service Variance can only be for reasons pertaining to the excluded person's health or well being. In order to qualify for a Social Service Variance, the Social Services agency must have rules prohibiting the sale or use of drugs by its client.

[Added by Ordinance No. 93-14, enacted July 14, 1993.]

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[Added by Ordinance No. 93-14, enacted July 14, 1993.]

**5.462 APPEAL**

Any person receiving an exclusion notice or having a variance request denied may file an appeal pursuant to [Section 1.025](#).

**CHRONIC NUISANCE****5.470 CHRONIC NUISANCE**

- (1) It is a chronic nuisance for any person in charge of any residence, business, property or place (any of which is referred to in this Section as the "Premises") to permit, cause or allow to exist a pattern of illegal behavior involving the commission of three or more of the following offenses:
- (a) Alcoholic liquor offenses, ORS 471.410 or 471.30, or Klamath Falls Code [Sections 5.402](#) through [Section 5.438](#);
  - (b) Arson or reckless burning, ORS 164.305 through 164.342;
  - (c) Weapon and firearm offenses, ORS 166.190 through 166.255, ORS 166.270 through 166.272 or Klamath Falls Code [Section 5.326](#);
  - (d) Unreasonable noise, Klamath Falls Code [Section 5.318](#);
  - (e) Assault and menacing, ORS 163.160 through 163.185 and ORS 163.190;
  - (f) Sexual offenses, ORS 163.415 through 163.427 and ORS 163.355 through 163.411;
  - (g) Public indecency, ORS 163.465;
  - (h) Criminal trespass, ORS 164.245 through 164.265; or Klamath Falls Code [Section 5.302](#);
  - (i) Criminal mischief, ORS 164.345 through 164.365, or Klamath Falls Code [Section 5.314](#);
  - (j) Disorderly conduct, ORS 166.023 and 166.025;
  - (k) Harassment, ORS 166.065;
  - (l) Homicide offenses, ORS 163.115 through 163.125;
  - (m) Unlawful manufacture, delivery, or possession of a controlled substance or a related offense as defined in ORS 475.744 through 475.979;
  - (n) Prostitution and related offenses, ORS 167.007 through 167.017;
  - (o) Luring a minor, ORS 176.057;
  - (p) Illegal gambling, ORS 167.122 and 167.127;
  - (q) Endangering the welfare of a minor, ORS 163.575;
  - (r) Offenses involving child neglect or abandonment, ORS 163.535 through 163.547;
  - (s) Intimidation, ORS 166.155 and 166.165;
  - (t) Reckless endangering, ORS 163.195;

- (u) Offensive littering, ORS 164.805;
  - (v) Animal abuse, neglect, abandonment, or fighting, ORS 167.315 through 167.330, 167.340, 167.355, 167.365;
  - (w) Riot, ORS 166.015; or
  - (x) Theft offenses, ORS 164.043 through 164.057.
- (2) For purposes of this Section, "pattern of illegal behavior means one or more patrons, employees, residents, or occupants of the Premises having been arrested or issued a citation for violation of three (3) or more of any of the offenses specified in subsection (1) that occur over the course of any six (6) month period at the Premises or within 300 feet of the Premises.
- (3) It is unlawful for any Premises to be a chronic nuisance or to be used as such. If any Premises are found to be a chronic nuisance or to be used as such, it shall be subject to closure for 12 months.
- (4) Chronic nuisance closure will be subject to the abatement procedures provided in [Section 5.472](#).  
[Added by Ordinance No. 96-27, enacted Sept. 17, 1996; Amended by Ordinance No. 18-07, enacted Sept. 18, 2018.]

**5.472 ABATEMENT PROCEDURES**

The following abatement procedures apply to any Premises constituting or used as a chronic nuisance under [Section 5.470](#):

- (1) An abatement notice shall be posted on the Premises where the nuisance activities exist, directing the owner or person in charge of the property to abate the situation.
- (2) At the time of posting, the Chief of Police shall cause a copy of the abatement notice to be sent by certified mail to:
  - (a) The owner of the Premises at the current address listed with the County Tax Assessor's Office; and
  - (b) The person in charge of the property, if different from the owner.
- (3) If prior notice of abatement was sent to the owner or person in charge of the Premises within the preceding 12 months, and ownership or control of the Premises has not changed, and the prior notice was returned as undeliverable or if delivery was refused, then notice can be provided by publication as set forth in Subsection (5).
- (4) The abatement notice shall contain:
  - (a) A description of the real property, by street



- address or otherwise, on which the chronic nuisance activities exist;
- (b) A description of the chronic nuisance activities, which must be abated;
  - (c) A direction to abate the chronic nuisance activities within 10 days from the date of the notice;
  - (d) A statement that unless the chronic nuisance activities are abated, the City may abate the situation by causing the Premises to be closed for a 12-month period;
  - (e) A statement that the owner and/or person in charge of the Premises may protest the abatement by giving written notice to the Municipal Court within 10 days from the date of notice; and
  - (f) A statement that within 10 days after the posting and mailing of the notice, the owner and/or person in charge of the Premises shall provide the Chief of Police with a plan to abate the chronic nuisance activities and take such steps as may be necessary to assure the chronic nuisance activities do not continue.
- (5) If the abatement notice sent by certified mail is returned as undeliverable or delivery is refused, notice of the nuisance shall be published in a newspaper of general circulation at least 10 days before abatement action is taken.
  - (6) Upon completion of the posting and mailing, the person posting and mailing the notice shall file a certificate with the City Attorney stating the date and place of the mailing and posting.
  - (7) An error in the name or address of the owner or person in charge of the Premises, or the use of a name other than that of the owner or person in charge of the Premises, shall not make the notice void, and in such case the posted notice shall be sufficient.
  - (8) Within 10 days after the posting and mailing of the notice, the owner/or person in charge of the Premises shall provide the Chief of Police with a plan to abate the chronic nuisance activities and take such steps as may be necessary to assure the chronic nuisance activities do not continue.
  - (9) A person protesting that the chronic nuisance does not exist, shall file with the Municipal Court a written statement within 10 days after the posting and mailing of the abatement notice, which shall request a hearing and specify the basis for protesting.
  - (10) If, following hearing, Municipal Court determines the chronic nuisance does exist,

- the owner or person in charge of the Premises shall abate the chronic nuisance and provide written verification of the completed abatement to the Municipal Court within 10 days after the Court determination.
- (11) If the chronic nuisance has not been abated within the time allowed, or if the owner or person in charge of the Premises fails to timely provide written verification of the completed abatement to the Municipal Court, the Municipal Court shall cause the Premises to be closed for 12 months and shall cause a copy of the closure order to be sent by certified mail and first class mail to the owner or person in charge of the Premises. A person contesting whether the chronic nuisance has been timely abated may elect to file with the Municipal Court shall conduct a hearing on the appeal and the Court shall determine whether the nuisance has been timely abated may elect to file with the Municipal Court a written appeal within 10 days after mailing of the closure order. The Municipal Court shall conduct a hearing on the appeal and the Court shall determine whether the nuisance has been timely abated. The decision of the Municipal Court on the appeal shall be the final decision of the City.

[Added by Ordinance No. 96-27, enacted Sept. 17, 1996; Amended by Ordinance No. 18-07, enacted Sept. 18, 2018.]

## PENALTIES

### 5.490 PENALTY

- (1) Violation of any provision of [Sections 5.404 to 5.428, 5.440, 5.444, and 5.448](#) shall be punishable by a fine not to exceed \$250, unless a lesser fine is provided by State law for an identical offense.
- (2) Violation of [Section 5.402](#) shall be punishable by a fine not to exceed \$1,000 and one year imprisonment. Upon violation of Subsection (2) of [Section 5.402](#), the court shall impose at least a mandatory minimum sentence as follows:
  - (a) Upon a first conviction, a fine of \$350.
  - (b) Upon a second conviction, a fine of \$1,000.
  - (c) Upon a third or subsequent conviction, a fine of \$1,000 and not less than 30 days of imprisonment.
- (3) The court shall not waive or suspend imposition of the minimum mandatory sentence required by Subsection (2). In addition to the mandatory sentence the court may require the violator to make restitution for any damages to property where the alcoholic liquor was consumed or may require participation in volunteer service to a community service agency.
- (4) The penalty provisions of Subsection (2) shall not apply to persons licensed or appointed under the provisions of ORS Chapters 471 and 472.
- (5) Violation of [Section 5.438](#) shall be punished by a fine not to exceed \$250 or by imprisonment for a period not to exceed 6 months, or by both such fine and imprisonment.
- (6) Violations of [Sections 5.443 to 5.447](#) shall be a Class B violation.

[Amended by Ordinance No. 6487, enacted March 18, 1985; Amended by Ordinance No. 94-30, enacted Oct. 5, 1994; Amended by Ordinance No. 15-09, enacted July 20, 2015.]

### 5.492 ENFORCEMENT

- (1) When an officer arrests any person for violation of [Sections 5.402 to 5.442](#), the officer shall take into his possession all alcoholic liquor, drugs, noxious substances, marijuana and other property which the person arrested has in his/her possession or on his/her premises, which apparently is

being used or kept in violation of said Sections.

- (2) When a conviction is obtained against any licensee of the Commission, or a conviction is obtained against any person when the violation was committed on licensed premises, the Municipal Court shall notify the Commission of such conviction.

**ANIMAL CONTROL****GENERAL****5.500 KLAMATH COUNTY ENFORCEMENT**

The City of Klamath Falls hereby consents to the application of the Animal Control Code provisions of the Klamath County Code (enacted by Klamath County Ordinance No. 51-03 and currently codified in Chapter 403 of the Klamath County Code), as currently enacted and as hereafter modified by Klamath County Commissioners, within the City limits.

[Added by Ordinance No. 02-06, enacted April 2, 2002.]

**5.500 – 5.506 DEFINITIONS, CONTROL,  
CRUELTY TO ANIMALS, &  
POISONING OF ANIMALS  
[REPEALED]**

[Repealed by Ordinance No. 6618, enacted June 30, 1991.]

**5.508 – 5.510 TRAPPING OF ANIMALS –  
CITY PARKS [RENUMBERED TO  
SECTION 5.332]**

[Renumbered by Ordinance No. 6628 to 5.326 but was editorially changed to [5.332](#) to avoid confusion with Ordinance No. 6616, enacted April 1, 1991.]

**PERMITS FOR WILD AND EXOTIC ANIMALS**

**5.520 – 5.524 PERMITS REQUIRED, PERMIT  
FEE AND TIME & CONDITIONS AND  
REVOCAION [REPEALED]**

[Repealed by Ordinance No. 6618, enacted June 30, 1991.]

**DOG LICENSE**

**5.530 – 5.532 LICENSE REQUIRED –  
LICENSE TAG [REPEALED]**

[Repealed by Ordinance No. 6618, enacted June 30, 1991.]

**DOG CONTROL**

**5.534 – 5.44 REPEALED**

[Repealed by Ordinance No. 6618, enacted June 30, 1991.]

**RABIES CONTROL**

**5.550- 5.554 RABIES  
VACCINATION, REPORT OF ANIMAL  
BITES & QUARANTINE [REPEALED]**

[Repealed by Ordinance No. 6618, enacted June 30, 1991.]

**ADMINISTRATION**

**5.560 – 5.562 POUNDMASTER – POWERS AND AUTHORITY [REPEALED]**

[Repealed by Ordinance No. 6618, enacted June 30, 1991.]

**ENFORCEMENT**

**5.570 – 5.586 IMPOUNDMENT, NOTICE, REDEMPTION FEE, DISPOSITION IF ANIMAL UNCLAIMED, RECORDS, EXPENSE AND FEES, APPEALS, & FEES [REPEALED]**

[Repealed by Ordinance No. 6618, enacted June 30, 1991.]

**5.588 SUMMARY DESTRUCTION OF DANGEROUS DOGS [RENUMBERED TO SECTION 5.336]**

[Renumbered by Ordinance No. 6628 to 5.330 but was editorially changed to [5.336](#) to avoid confusion with Ordinance No. 6616, enacted April 1, 1991.]

**PENALTIES**

**5.590 PENALTIES [DELETED]**

[Editorially deleted by City Attorney, no longer needed without Animal Control.]

**5.591 REPEALED**

[Repealed by Ordinance No. 6618, enacted June 30, 1991.]

## NUISANCES

### GENERAL

#### 5.600 DEFINITIONS

For purposes of [Sections 5.600 to 5.692](#), the following words and phrases shall mean:

**Animal.** Any mammal, reptile, amphibian or insect.

**Exotic.** Foreign to the continental U.S., whether wild or domesticated.

**Graffiti.** Any unauthorized markings of paint, ink, chalk, dye, or other similar substances, and/or the unauthorized etching or scratching of property and the structures appurtenant thereto, including but not limited to, buildings, structures, fences, walls, and poles, where the markings are visible from premises open to the public such as the public right of way, sidewalks, or other publicly owned property.

**Junk.** Includes all old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste; or junked, dismantled, wrecked, scrapped or ruined motor vehicles or motor vehicles parts; iron, steel or other old scrap ferrous or nonferrous material; metal or nonmetal materials.

**Nuisance.** Where not otherwise specifically enumerated or described, "nuisance" shall mean anything that works or causes injury, damage, hurt, inconvenience, annoyance or discomfort to another in the legitimate enjoyment of his/her reasonable rights of person or property.

**Officer.** Any City employee charged with enforcement of [Sections 5.610 to 5.692](#) by the City Manager.

**Permit.** To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

**Person in Charge.** An agent, occupant, lessee, contract purchaser or other person having possession or control of property or the supervision of any construction project.

**Person Responsible.** The person responsible for abating a nuisance shall include:

- (1) The owner;
- (2) The person in charge of property, as defined in this Section; and/or
- (3) The person who caused to come into or continue in existence a nuisance as defined in this Code or any Ordinance of the City.

**Property.** Any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to, any business or residential premises, room, house, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent. For property consisting of more than one unit, property is limited to the unit or the portion of the property on which any nuisance abatement has occurred or is occurring, but includes areas of the property used in common by all units of property including without limitation other structures erected on the property and areas used for parking, loading and landscaping.

**Public Place.** A building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.

**Sewage.** Human excreta as well as kitchen, bath and laundry wastes.

**Wild animal.** A species of animal not usually domesticated, regardless of comparative docility or familiarity of the individual animal with man; a species which is *ferae naturae*.

[Amended by Ordinance 6522, enacted Dec. 17, 1986; Amended by Ordinance No. 94-31, enacted Oct. 5, 1994; Amended by Ordinance No. 09-02, enacted March 2, 2009.]

## NUISANCES AFFECTING PUBLIC HEALTH

### 5.610 NUISANCES AFFECTING PUBLIC HEALTH

No person shall cause or permit on property owned or controlled by him/her a nuisance affecting public health. The following are nuisances affecting public health and may be abated as provided in [Sections 5.664 to 5.676](#).

- (1) Privies. Open vaults or privies constructed and maintained within the City, except those constructed or maintained in connection with construction projects in accordance with the regulations of the Department of Environmental Quality.
- (2) Debris. Accumulations of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the City.
- (3) Stagnant Water. Stagnant water which affords a breeding place for mosquitoes and other insect pests.
- (4) Odor. Premises which are in such a state or condition as to cause an offensive odor or which are in an unsanitary condition.
- (5) Surface Drainage. Surface drainage of sewage of geothermal fluids, when authorized by the Public Works Department, from private premises.
- (6) Human Waste. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property, any human feces or urine.

[Amended by Ordinance No. 6522, enacted Dec. 17, 1986; Amended by Ordinance No. 13-05, enacted August 19, 2013.]

### 5.612 CARCASSES

No person shall permit an animal carcass owned or controlled by him to remain upon public property, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of the carcass.

### 5.614 SLAUGHTERING ANIMALS

- (1) No person shall slaughter or butcher any animal except when done in a completely enclosed structure and when authorized by the City Zoning Ordinance.
- (2) Any person who slaughters or butchers any animal pursuant to the exception set forth above, shall immediately dispose of the

remains of such animal in a manner which will neither create offensive odors, be visible to the public, nor adversely affect the City sewer system.

[Amended by Ordinance No. 6346, enacted July 20, 1981.]

### 5.616 NUISANCE ANIMALS PROHIBITED

- (1) No owner or person in charge of property shall keep or maintain animals in such a manner as to cause a nuisance to neighboring property owners.
- (2) As used in this Section "animal" shall include any mammal, reptile, amphibian, insect, or fowl but shall not include dogs.

[Added by Ordinance No. 95-14, enacted Nov. 16, 1995.]

### 5.618 OUTDOOR BURNING

Except as specified in this section open burning is prohibited.

- (1) The City Manager in consultation with the Klamath County Environmental Health Division Manager and Fire District No. 1 and No. 4 may declare two specific 15 day periods a year during which times the open burning of residential yard debris will be allowed. Open Burning Windows will occur in Spring and Fall. Each window will include 3 weekends.
  - (a) During the Open Burning Window, the City Manager may temporarily prohibit open burning should poor ventilation episodes occur, or be forecast.
  - (b) The City Manager in consultation with Klamath County Environmental Health Division Manager and Fire Districts No. 1 and No. 4 may extend the Open Burning Window one day for every day in which open burning has been prohibited during the Open Burning Window due to poor ventilation or weather conditions.
- (2) All agricultural open burning is prohibited at all times unless allowed by a Certificate of Variance.
- (3) The use of burn barrels and other outdoor burning devices is prohibited at all times.
- (4) A Certificate of Variance to allow Open Burning outside the Spring or Fall Open Burning Windows, may be issued on a case by case basis by the City Manager when an

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emergency, or substantial need, is documented.

- (5) Open Burning as used in this section shall mean: all open or outdoor fires intended for heating or the combustion of waste, and those included in the definition of "Open Burning" in Oregon Administrative Rule Chapter 340 Division 264. Outdoor cooking fire and recreational fire in deck, patio or campsite fire pits are not included.

[Added by Ordinance No.98-3, enacted Jan. 5, 1998; Amended by Ordinance No. 02-05, enacted March 19, 2002; Amended by Ordinance No.07-22, enacted Oct. 16, 2007.]

## **NUISANCES AFFECTING PUBLIC SAFETY**

### **5.620 CREATING A HAZARD**

No owner or person in charge of property shall create a hazard by:

- (1) Maintaining or leaving in a place accessible to children a container with a compartment of more than one and one-half cubic feet capacity and door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside; or
- (2) Maintaining property upon which there is a well, cistern, cesspool, excavation, or other hole of a depth of four feet or more and a top width of 10 inches or more and failing or refusing to cover or fence it with a suitable protective construction.
- (3) Allowing dry grass, dry weeds, dry brush or other dry vegetation, whether cut or uncut, to accumulate on property within 200 feet of any structure where such accumulation is susceptible to fire which could endanger structure.

[Added by Ordinance No. 6346, enacted July 20, 1981.]

### **5.622 ATTRACTIVE NUISANCES**

- (1) No owner or person in charge of property shall permit thereon:
  - (a) Unguarded machinery, equipment, buildings or other devices or structures which are attractive, dangerous and accessible to children.
  - (b) Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.
  - (c) An open pit, quarry, cistern or other excavation without safeguards or barriers to prevent such places from being used by children.
- (2) This Section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

### **5.624 OBSTRUCTIONS**

No owner or person in charge of property, improved or unimproved, abutting on a public sidewalk or alley shall permit boxes, wood or other encumbrances or obstructions on the sidewalk, planting strip, or alley; except, that such person, when receiving or shipping goods, may temporarily occupy such portion of the

sidewalk as is necessary for such purpose. In no event shall the sidewalk be blocked between the hours of 6:00 p.m. of one day and 7:00 a.m. of the following day. Merchandise may be displayed for sale upon sidewalks after first obtaining a permit to do so from the Police Chief.

[Amended by Ordinance No. 6522, enacted Dec. 17, 1986]

### **5.626 SCATTERING AND STORING RUBBISH**

- (1) No person shall deposit, store or keep upon public or private property any kind of rubbish, junk, trash, debris, refuse or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property or would be likely to injure a person or vehicle traveling upon a public way.
- (2) Those substances enumerated in Subsection (1) may be temporarily stored in containers which are substantially fly and rodent proof and are covered in such a manner as to prevent said substances from being carried away by the elements. No garbage container shall be allowed to remain on or adjacent to the planting strip except for those days in which the garbage is to be collected.
- (3) No person shall drive or move a truck, trailer or other vehicle transporting solid waste to a disposal site if said truck, trailer or other vehicle contains litter, other solid waste material or refuse of any sort, unless such person shall have secured the load in such a manner that a protective cover is provided or that the load is sufficiently bound with rope or other suitable material so that refuse or other solid waste shall not drop or be scattered from the trailer or vehicle.
- (4) No person shall deposit or cause to be deposited any kind of rubbish, junk, trash, debris, refuse, or other garbage in any garbage container owned or controlled by another person without that person's express or implied consent.

[Added by Ordinance No. 6434, enacted October 3, 1983; Amended by Ordinance No. 6595, enacted April 2, 1990.]



**5.628 DEFECTIVE SIDEWALKS**

- (1) No owner of property, improved or unimproved, abutting a public sidewalk shall permit such sidewalk to deteriorate to such a condition that, because of cracks, chipping, weeds, settling, covering by dirt, sand, cinders, or other similar occurrences, the sidewalk becomes a hazard to persons using it.
- (2) The City's notices of intent to abate defective or hazardous sidewalk conditions as provided for in [Section 5.664](#), and any actions taken by the City to abate such conditions do not relieve the property owner or the person in charge of the property of these responsibilities, duties and liabilities under Section 4.642 to maintain adjacent sidewalks free from the described conditions and do not constitute an assumption by the City of those duties, responsibilities or liabilities.
- (3) In order to address pedestrian safety issues in a timely manner following winter snow events, between Nov. 1 and March 31 of each winter season, the City may cause to be advertised in a manner reasonably calculated to give notice to all owners and persons in charge of property of their duty to keep the sidewalk(s) adjacent to their property free from ice and snow. If the published notice is used, it shall be in lieu of the notice required by [Section 5.664](#).

[Amended by Ordinance No. 08-16, enacted Dec. 1, 2008; Amended by Ordinance No. 11-11, enacted Nov. 21, 2011; Amended by Ordinance No. 15-01, enacted Feb. 2, 2015.]

**5.629 SNOW AND ICE REMOVAL**

- (1) No owner or person in charge of property, improved or unimproved, vacant or occupied, abutting a public sidewalk, shall permit:
- (a) Snow to remain on such sidewalk and ADA ramps later than noon. This provision is intended to require snow removal at least once a day, no later than noon;
- (b) Ice to remain on such sidewalk and ADA ramps for a period longer than the noon after the ice has formed, unless the ice is covered with sand, cinders, or other

suitable material, to assure safe travel. This provision is intended to require ice mitigation at least once a day, no later than noon;

- (c) Sand, cinders, or other material to remain on such sidewalk and ADA ramps for a period longer than 48 hours after the ice is melted, if the sand, cinders, or other material was placed on the sidewalk by such owner or person in charge.
- (2) The owner or person in charge of property, improved or unimproved, vacant or occupied, abutting a public sidewalk, shall clear the snow and ice on sidewalks and ADA ramps, as required in Subsection (1) to a minimum path of 48 inches wide for safe pedestrian travel. If the sidewalk is less than 48 inches in width, the entire width shall be cleared.
- (3) No owner or person in charge of property, improved or unimproved, vacant or occupied, abutting a fire hydrant, shall permit snow or ice to remain within a radius of three feet from the fire hydrant later than noon. This provision is intended to require snow removal and ice mitigation at least once a day, no later than noon.
- (4) No person shall place or deposit snow or ice into the street or gutter.
- (5) No local transit service provider with shelters or benches within the public right-of-way shall permit:
- (a) Snow to remain within a 48 inch wide path of travel to and around the shelter or bench later than noon;
- (b) Ice to remain within a 48 inch wide path of travel to and around the shelter or bench later than noon, unless the ice is covered with sand, cinder, or other suitable material to assure safe travel and access.
- (c) These provisions are intended to require snow removal and ice mitigation at least once a day, no later than noon.
- (6) To address pedestrian safety issues in a timely manner following winter snow events, between November 1 and March 31 of each winter season, the Officer shall give notice to all owners and persons in charge of property of their duties to keep the sidewalk(s) adjacent to their property free from ice and snow. The notice shall be given in a manner most reasonably calculated to

notify owners and persons in charge of property of their duties. The notice shall state that after the date designated, the City intends to abate all such nuisances 48 hours or more after the violation occurred and to charge the cost of doing so as to any particular parcel of property to the owner thereof, the person in charge thereof, or the property itself. This general notice shall be in lieu of the notice required by Section 5.664. In addition to, and in conjunction with the notices, the Officer shall provide all electronic media in the area, with copies of the notice for their use, as they deem appropriate.

- (7) Prior to the first abatement of a violation of Subsection (1), the Officer shall send an individual notice of violation via first class mail to the owner and, if the property is occupied, the person(s) in charge of the property. The individual notice need only be sent once per snow season and shall inform the recipient that, within five days of the notice, and at any time 48 hours or more from the date of subsequent violation(s) for the rest of the winter season, the City may abate any violation of this Section on any property owned and/or occupied by the intended recipients of the individual notice, with the cost to be charged against the property, or the owner or person in charge.
- (8) The City's general and individual notices as provided for by this Section, and any actions taken by the City to abate such conditions:
- (a) do not relieve the property owner or the person in charge of the property of the duties, responsibilities and liabilities under Section 5.642; and
  - (b) do not constitute an assumption by the City of those duties, responsibilities or liabilities.

[Added by Ordinance No. 11-11, enacted No. 21, 2011.]

### 5.630 NOXIOUS VEGETATION

- (1) The term "noxious vegetation" does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard or a traffic hazard within the meaning of Subsection (2).
- (2) The term "noxious vegetation" does include:
  - (a) Canada thistle, whitetop, puncture vine, blue flowering lettuce, toadflax, spiny

cocklebur, wild morning glory, Russian knapweed, tansy ragwort, leafy spurge, water hemlock, poison hemlock, mattgrass, Mediterranean sage, yellow star, musk, and Scotch thistle.

- (b) Rosebushes or other thorn-bearing shrubs or trees that extend into a public thoroughfare or across a property line.
  - (c) Vegetation that is:
    - (i) A health or safety hazard; or
    - (ii) A traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous.
- (3) Between May 15 and Oct. 30 of any year, the term "noxious vegetation" also includes:
- (a) Weeds more than 8 inches high.
  - (b) Grass more than 8 inches high and not within the exception stated in Subsection (1).
- (4) No owner or person in charge of property may allow noxious vegetation to be on said property or in the right-of-way of a public thoroughfare abutting on the property. It shall be the duty of the owner or person in charge of property to cut down and remove or to destroy noxious vegetation as often as needed, to prevent it from becoming unsightly, or from becoming a health, safety, or traffic hazard.
- (5) Between May 1 and June 15 of each year, the Officer may cause to be published three times in a newspaper of general circulation in the City a copy of Subsection (4) as a notice to all owners and persons in charge of property of their duty to keep their property free from noxious vegetation. The notice shall state that the City intends to abate all such nuisances 10 or more days after 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. In addition to and in conjunction with published notices, the Officer shall provide all electronic media in the area with copies of the notice for their use as they deem appropriate.
- (6) If the published notice provided for in Subsection (5) is used, it shall be in lieu of the notice required by [Section 5.664](#). Provided, however, that prior to abatement of any such noxious vegetation by the City, the Officer shall cause a seasonal notice of

violation to be sent via first class mail to the owner of the property, and to the person in charge of such property, if the property is occupied. The seasonal notice need only be sent once per noxious vegetation growing season and shall inform the owner and, if applicable, the person in charge, that at any time 10 or more days from the date of the notice, and for the rest of that growing season, the City may cause the noxious vegetation on any property they own to be abated, with the cost to be charged against the property, or the owner or person in charge thereof.

- (7) Where strict compliance with the requirements of Subsection (3) above would be impractical as they apply to a certain type of vegetation or to a certain parcel of property, the Officer may, after inspecting the property, waive the requirements as they so apply and require perimeter cutting that will meet the basic intent of this Section.

[Amended by Ordinance No. 6346, enacted July 20, 1981; Amended by Ordinance No. 6522, enacted Dec. 17, 1986; Amended by Ordinance No. 08-16, enacted Dec. 1, 2008]

### 5.632 TREES AND SHRUBS

- (1) No owner or person in charge of property that abuts upon a street, alley or public sidewalk shall permit trees or bushes on the property to interfere with street or sidewalk traffic.
- (2) It shall be the duty of an owner or person in charge of property that abuts upon a street, alley or public sidewalk to keep all trees and bushes on the premises, including the adjoining planting strip, trimmed to a height of not less than seven feet above the sidewalk and not less than 13 feet above the roadway.
- (3) No owner or person in charge of property shall allow to stand a dead or decaying tree that is a hazard to the public.
- (4) No owner or person in charge of property shall permit a tree limb to remain broken or growing in a manner as so to be a hazard to the public.
- (5) All trees, shrubs, plants and vegetation in any planting strip may be trimmed, pruned or removed at any time by the City; or the City may require any property owner or person in charge of property to trim, prune or remove

any trees, shrubs, plants or vegetation in a planting strip abutting upon the property.

- (6) No person shall plant any variety of poplar or willow trees within the City, except for Quaking Aspen and willow species whose mature height does not exceed 30 feet, all of which shall be planted a minimum of 50 feet from any right-of-way or utility easement.
- (7) When the roots of a tree or shrub of any kind close, clog or retard the free and natural flow of sewage or storm water through the pipes of the sewer system of the City, the City Manager shall proceed to have such obstruction removed. If the City Manager determines that the tree or shrub causing such obstruction will be a nuisance by causing frequent recurrence of such trouble and that it should be destroyed, he/she shall, after removal of the obstruction, proceed to have the tree or shrub removed as provided in this chapter for the abatement of nuisances.
- (8) When the roots of a tree or shrub of any kind grow in a manner so as to damage, or it is evident that such roots will damage, any sidewalk, curb or street pavement or a portion thereof, the City Manager shall proceed to have that portion of the tree or shrub causing such damage removed. If the City Manager determines that the tree or shrub will be a nuisance by causing a recurrence of such trouble and that it should be destroyed, he/she shall, after removing that portion causing the damage, proceed to have the tree or shrub removed as provided in this chapter for the abatement of nuisances.

[Amended by Ordinance No. 6522, enacted Dec. 17, 1986; Amended by Ordinance No. 98-24, enacted Nov. 3, 1998; Amended by Ordinance No. 03-24, enacted Dec. 1, 2003.]

### 5.634 FIRES

No person shall cause any fire to be kindled on any asphalt or similar pavement, or to heat any roofing or other material on or above such pavement; or burn anywhere in the City any offal, refuse, garbage or other matter causing noxious odors; or burn on any streets or alleys or private property in the City without first obtaining permission from the Fire Chief and under such precautions as he/she may direct, any paper, straw, vegetable matter, leaves,

wood or other substance emitting sparks, flying ashes or cinders during combustion, or dangerous to adjacent property.

### 5.636 EXPLOSIVES

No person shall keep or store, for sale or use, within the City any larger quantity than 50 pounds of gunpowder, blasting powder, dynamite or other explosive substance, except at a place authorized by the Police Chief.

### 5.638 FENCES

(1) No owner or person in charge of property shall construct or maintain or cause to be constructed or maintained on any lot or parcel of land within the City an electric fence, or to charge with electricity, or cause to be charged with electricity, a fence already constructed, or wires or other structure that could be termed a fence or used as a fence.

(2)(a) No owner or person in charge of property shall construct or cause to be constructed within the City a barbed-wire fence. Barbed-wire fences now in existence, upon need of repair, shall be removed and not replaced, but fences of material other than barbed-wire may be constructed in place thereof.

(b) Barbed-wire shall be allowed as top stranding material on fences constructed of chain link or similar non-barbed material, provided that such fences are locked, are in commercial or industrial zones, and are 6 feet or more in height, not including the top strand barbed-wire portion.

(3)(a) Fences shall be constructed of materials that are structurally sound.

(b) Before construction work on any fence is started, the owner or contractor shall apply to the Planning Director, or his/her designee for a fence permit. The Planning Department shall issue the permit after he/she is satisfied that the fence height and material type meet the requirements of this Section and any other applicable Code sections and the applicable fence permit fee has been paid.

[Amended by Ordinance No. 6605, enacted July 2, 1990; Amended by Ordinance No. 03-04, enacted January 23, 2003.]

### 5.640 SURFACE WATERS, DRAINAGE

(1) No owner or person in charge of a building or structure shall suffer or permit rainwater, ice or snow to fall from the building or structure onto a street or public sidewalk.

(2) The owner or person in charge of property shall install and maintain in a proper state of repair adequate drainpipes or a drainage system, so that any overflow water accumulating on the roof or about the building is not carried across or upon the sidewalk.

[Amended by Ordinance No. 6522, enacted Dec. 17, 1986.]

### 5.642 SIDEWALK LIABILITY

The City shall not be liable to any person for any loss or injury to a person or property suffered or sustained by reason of any accident on sidewalks caused by ice, snow, encumbrances, obstructions, cracks, chipping, weeds, settling, holes covered by dirt or other similar conditions on or off the sidewalk. Adjacent property owners shall maintain sidewalks free from such conditions and shall be liable for any and all injuries to persons or property arising as a result of their negligent or intentional failure to so maintain the sidewalks. The duty imposed on property owners by this Section shall supersede and take precedence over any other Code provisions which may appear, for enforcement purposes, to establish a less restrictive duty.

[Added by Ordinance No. 6425, enacted July 18, 1983; Amended by Ordinance No. 6522, enacted December 17, 1986.]

**PERMITS FOR WILD AND EXOTIC ANIMALS****5.646 PERMIT REQUIRED**

- (1) No person shall keep or maintain a wild or exotic animal without first having obtained a permit from the City Manager or his/her designee.
- (2) Permits shall be valid for 1 year from the date of issuance unless sooner revoked. Permit applications shall be made on forms to be supplied by the City Manager.

[Added by Ordinance No. 94-31, enacted October 5, 1994.]

**5.648 CONDITIONS AND REVOCATION**

- (1) Pursuant to the issuance of a permit, the City Manager may impose conditions on the keeping and maintaining of an animal necessary for the welfare of the animal, safety of the owner, and the protection of the general public. Failure of the owner to abide by such conditions shall be grounds for revocation of the permit by the City Manager.  
In the event that sufficient conditions cannot be imposed, the City Manager shall not issue a permit. Denial may be appealed to the City Council.
- (2) If, from facts coming to the attention of the City Manager, it is determined that the conditions of the permit have been or are being violated, the City Manager shall notify the owner, by either certified mail or personal service, to remove the animal from the City within 10 days of such service.
- (3) The owner shall cause the animal to be removed, unless within the 10 day period the owner appeals the order to the City Council, which shall then determine whether the animal should be removed.
- (4) Revocation of the permit shall not be the exclusive remedy for the violation of the conditions of the permit.

[Added by Ordinance No. 94-31, enacted Oct. 5, 1994.]

**NUISANCES AFFECTING PUBLIC WELFARE****5.650 JUNK**

- (1) No owner or person in charge of property shall keep any junk outdoors on any street, lot or premises; or in a building that is not wholly or entirely enclosed except for doors used for ingress and egress.
- (2) This Section shall not apply to junk kept in a duly licensed junk yard or automobile wrecking house.

**5.652 RADIO AND TELEVISION INTERFERENCE [REPEALED]**

[Repealed by Ordinance No. 6522, enacted Dec. 17, 1986.]

**5.654 UNSIGHTLY PROPERTY**

- (1) No owner or person in charge of property shall permit such property or any structure or building located thereon to reach such a condition of dilapidation or neglect as to become unsightly and an eyesore in the City.
- (2) Conditions of the property affecting its appearance shall include but are not limited to the following:
  - (a) Missing or broken windows or exterior doors.
  - (b) Chipped or peeling exterior paint or the lack of State Structural Specialty Code-approved exterior protective siding.
  - (c) Broken, rotted, split or buckled exterior wall coverings or roof coverings.
  - (d) Noxious vegetation, untended shrubs or bushes, or dead or diseased trees or shrubs.
  - (e) Sagging, broken, split or rotted porches, steps, stairs or fences.
  - (f) Lack of adequate garbage or rubbish storage facilities.
- (3) On the signed complaint of three separate householders or property owners made to the Officer within any 120-day period, the Officer shall investigate the complaints and, if

a nuisance exists, proceed either to have the nuisance abated as provided in [Sections 5.664 to 5.676](#) or, when appropriate, under the provisions of the code for abatement of dangerous buildings, or cite the person responsible as provided in [Section 5.682](#).

[Added by Ordinance No. 94-13, enacted April 29, 1994.]

#### **5.656 UNLAWFUL GRAFFITI NUISANCE ON PRIVATE PROPERTY**

- (1) No owner or person in charge of property may permit graffiti, as defined in Klamath Falls Code [Section 5.600](#), to remain on said property for a period in excess of 10 days.
- (2) This section shall not apply to markings which:
  - (a) are a part of the general color scheme of the building or structure; and
  - (b) do not contain words or symbols; and
  - (c) were applied by the owner or person in charge, or an agent thereof; or
  - (d) are a part of a sign, which has been previously approved by the City, with the painting or marking reviewed by the City Planning Division or Commission, pursuant to Klamath Falls Community Development Ordinance Sections 14.300 through 14.368.
- (3) Graffiti is found to be a nuisance and shall be abated pursuant to the provisions of Klamath Falls Code [Sections 5.664 through 5.692](#).

[Added by Ordinance No. 09-02, enacted March 2, 2009.]

#### **5.658 PARKING OF MOTOR VEHICLE IN FRONT YARDS**

- (1) No person shall park or store, or allow to be parked or stored on property owned by or their control, any motor vehicle in the front yard of a residential property except upon an improved surface.
- (2) As used in this Section "front yard" shall have the meaning ascribed to it in CDO Section 10.010, and improved surfaces shall mean a surface improved with either concrete, asphalt or gravel and access to the street without going over a curb.
- (3) This section shall not apply to the temporary parking of a motor vehicle in a front yard for the purposes of loading, unloading or washing, nor shall it be construed to allow parking on the park strip in violation of [Section 6.605\(3\)](#).

**UNENUMERATED NUISANCE****5.660 UNENUMERATED NUISANCES**

(1) The acts, conditions or objects specifically enumerated and defined in [Sections 5.600 to 5.654](#) are declared public nuisances. Such acts, conditions or objects may be abated by the procedures set forth in [Section 5.664 to 5.676](#) and are subject to the enforcement provisions of [Section 5.682](#).

(2) In addition to the nuisances specifically enumerated within [Sections 5.600 to 5.654](#), every other thing, substance or act which is determined by the Council to be injurious or detrimental to the public health, safety or welfare of the City or its citizens is declared a nuisance and may be abated as provided in Sections 5.644 to [5.676](#).

**ABATEMENT PROCEDURE****5.664 NOTICE**

- (1) Upon determination by the Officer that a nuisance exists, the Officer may cause a notice to be posted on the premises or at the site of the nuisance, directing any person responsible to abate the nuisance, or the Officer may issue a citation pursuant to [Section 5.682](#). Where the premises are unoccupied or posting a notice upon the premises is not practical, the Officer shall mail a notice letter to the premises by first class mail.
- (2) As soon as practical after the time of posting or mailing of the notice as provided in Subsection (1), the Officer shall cause a copy of the notice or letter to be forwarded by first class mail, postage prepaid, to the owner of the premises at his/her last known address according to the records of the Klamath County Assessor, or as personally changed by the Owner via written notification to the Code Enforcement office.
- (3) The posted notice and the notice letter directing abatement 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 a time period not less than the time period provided by [Section 5.670](#), said time period to run from the date of posting or mailing the notice, as applicable.
  - (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 the abatement will be charged to the person responsible.
  - (e) A statement that failure to abate a nuisance may warrant imposition of a fine.
  - (f) A statement that the person responsible may protest the order to abate by giving notice to the City Manager within 5 days from the date of the notice.
- (4) Upon completion of the posting and mailing(s):
  - (a) The Officer posting a notice shall note the time, date and location of the posting; and
  - (b) The person(s) mailing notices shall note the date and address of all mailings; and
  - (c) The Officer shall schedule, or cause to be scheduled, a follow-up inspection to verify whether the nuisance has been abated.
- (5) An error in the name or address of the person responsible shall not make the notice void, and in such case the posted notice shall be sufficient.
- (6) In lieu of the posting and mailing(s) required by this Section, personal service of the notice to abate upon the person responsible shall be sufficient.

[Amended by Ordinance No. 08-16, enacted December 1, 2008.]

**5.666 ABATEMENT BY THE PERSON RESPONSIBLE**

- (1) Within the appropriate time period provided in [Section 5.670](#), and after the posting of such notice as provided in [Section 5.664](#), the person responsible shall remove the nuisance or show that no nuisance exists.
- (2) A person responsible, protesting that no nuisance exists, shall file with the City Manager a written statement which shall specify the basis for so protesting.
- (3) The statement shall be referred to the Council as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the Council and the Council shall determine whether or not a nuisance in fact exists. 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.
- (4) If the Council determines that a nuisance does, in fact, exist, the person responsible shall, within the relevant abatement period after the Council determination, abate the nuisance.

**5.668 JOINT RESPONSIBILITY**

If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the City in abating the nuisance.

**5.670 ABATEMENT PERIODS**

- (1) The person responsible shall abate nuisances within the following time periods:



- (a) 30 days for nuisances specified in [Sections 5.628 and 5.664](#).
- (b) 10 days for nuisances specified in [Section 5.656](#).
- (c) 5 days for all other nuisances for which the abatement period is not otherwise provided.

[Amended by Ordinance No. 09-02, enacted March 2, 2009.]

#### **5.672 ABATEMENT BY THE CITY**

- (1) If, within the time allowed, the nuisance has not been abated by the person responsible, the City Manager or his/her designee may cause the nuisance to be abated.
- (2) The City shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance.
- (3) The City Manager or his/her designee shall keep an accurate record of the expense incurred by the City in physically abating the nuisance and shall include therein a charge of \$35 or 25% of those expenses, whichever is greater, for administrative overhead.

[Amended by Ordinance No. 6522, enacted Dec. 17, 1986; Amended by Ordinance No. 6619, enacted June 19, 1991.]

#### **5.674 ASSESSMENT OF COSTS**

- (1) The City Manager or his/her designee, by certified mail, postage prepaid, shall forward to the person responsible, if the owner, a notice stating:
  - (a) The total cost of abatement, including the administrative overhead.
  - (b) That the cost as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice.
  - (c) That if the person responsible objects to the cost of the abatement as indicated, he/she may file a notice of objection with the City Manager not more than 10 days from the date of the notice.
- (2) Upon the expiration of 10 days after the date of the notice, the Council, in the regular course of business, shall hear and determine, pursuant to 1.025(5), the objections to the costs assessed.
- (3) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs, as stated or as

determined by the Council, shall be made and shall thereupon be entered in the docket of City liens. Upon such entries being made, it shall constitute a lien upon the property from which the nuisance was removed or abated.

- (4) The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of 12% per annum. The interest shall commence to run from the date of the entry of the lien in the lien docket.
- (5) An error in the name of the person responsible shall not void the assessment, nor shall a failure to receive the notice of the proposed assessment render the assessment void; but it shall remain a valid lien against the property.

[Amended by Ordinance No. 6410, enacted December 20, 1982; Amended by Ordinance No. 6619, enacted June 19, 1991; Amended by Ordinance No. 13-05, enacted August 19, 2013.]

#### **5.676 SUMMARY ABATEMENT**

The procedure provided in [Sections 5.664 to 5.674](#) is not exclusive, but is in addition to procedure provided by other Code sections. The Officer, the Fire Chief, the Police Chief, or any other City official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.

## ADMINISTRATION AND ENFORCEMENT

### 5.680 ADMINISTRATION

- (1) For purposes of administering the provisions of [Sections 5.600 to 5.676](#), the City Manager shall appoint a Health and Safety Officer for the City. Such Officer shall have full power and authority to do any and all things necessary, incidental or proper in the enforcement of said Sections, excluding the power to arrest.
- (2) No person shall hinder or attempt to prevent the Officer, or anyone working under the authority of the Officer or the City Manager, from enforcing the provisions of these Sections.
- (3) The provisions of [Sections 5.600 to 5.676](#) shall also be enforced by the City police officers and such other City employees as may be so designated by the City Manager.

### 5.682 ENFORCEMENT BY CITATION

In addition to the abatement procedures set forth in [Sections 5.664 to 5.676](#), the Officer may issue a citation to a person responsible for a nuisance violation in lieu of a formal complaint.

### 5.683 ENFORCEMENT FEES

- (1) In order to defray the costs of enforcement of [Sections 5.600 to 5.660](#) (the Nuisance Code), the Public Safety Officer or his/her designee (the Officer) shall impose fees on those properties and owners of those properties which are found not to be in compliance with the Nuisance Code in those instances where the owner is the person responsible.
- (2) The City shall charge a monthly enforcement fee for each property that meets the following conditions:
  - (a) The property is subject of a written notice of violation, as described in [Section 5.685](#);
  - (b) A response period of 30 days has passed since the effective date of the initial notice of violation; and
  - (c) The property remains out of compliance with the initial notice of violation or any subsequent notice of violation.
- (3) The amount of the monthly enforcement fee shall be \$50 per month for the first 3 months. Thereafter the monthly fee shall be doubled every 3 months until paid in full.
- (4) Whenever the owner believes that all violations listed in the first or any subsequent

notice of violation have been corrected, they shall so notify the Officer. Upon receipt of such notice, the Officer shall promptly schedule an inspection of the property and shall notify the owner if any violations remain uncorrected. If compliance occurs after the 30 day notice period has run, a \$25 inspection fee shall be paid by the owner.

- (5) Once monthly enforcement fees begin, they shall continue until all violations listed in the first or any subsequent notice of violation have been corrected.
- (6) When a property meets the conditions for charging an enforcement fee as described in (2) above, the City shall then:
  - (a) Notify the occupant(s) and the property owner(s) of the assessment of enforcement fees;
  - (b) Record a property lien in the City Lien Docket and record a Notice of Pending Lien with Klamath County;
  - (c) Bill the property owner(s) monthly for the full amount of enforcement fees owing, plus an additional 10% to cover administrative costs together with interest at 12% per annum; and
  - (d) Maintain lien records until
    - (i) The lien and all associated interest, penalties, and costs are paid in full; and
    - (ii) The Officer certifies that all violations listed in the original or any subsequent notice of violation have been corrected.
- (7) Each person who has a legal or equitable interest in the property on or after the effective date of a notice of violation shall be personally liable for fees imposed pursuant to this section, including all interest, civil penalties, and other charges.

[Added by Ordinance No. 96-29, enacted Sep. 17, 1996; amended by Ordinance No. 96-37; enacted Dec. 3, 1996.]

### 5.685 NOTICE OF VIOLATION

If the Officer finds one or more violations of the provisions of the Nuisance Code, the Officer shall in writing notify the owner or the owner's local agent and the occupant of the existence of the violations. The method of serving the notice to the owner shall be one or more of those described in (3) below. Failure to comply with the notice shall be a violation of these Acts.

- (1) The notice of violation shall:

- (a) Give the street address and a legal description sufficient for identification of the property;
  - (b) Describe the violation at the property;
  - (c) Disclosure that fees, charges, and liens as described in [Section 5.683](#) may result from a failure to remedy the violations;
  - (d) Specify a response period during which the property may be brought into compliance with this Title before fees, charges, or liens will be assessed; and
  - (e) Disclose the owner's right to appeal the findings of the notice of violation.
- (2) The effective date of a notice of violation shall be the date of service of the notice to the owner. The date of service shall be the day on which the notice is:
- (a) Mailed first class to the property owner at the address shown on the last available assessment roll in the office of the County Assessor;
  - (b) Mailed first class to any local agent for the property; or
  - (c) Delivered personally to the property owner or any local agent for the property.
- (3) The Officer shall monitor compliance with the notice of violation through periodic tracking and inspection. Once a notice of violation has been sent, the owner shall be responsible for all enforcement fees associated with the property, as described in [Section 5.683](#), until the violations are corrected.
- (4) The Officer may set time limits in which the violations are to be corrected. Failure to comply with the time limits shall be a violation of these Acts.

[Added by Ordinance No. 96-29, enacted September 17, 1996.]

#### **5.686 EXCEPTIONS TO ENFORCEMENT FEES**

- (1) When all outstanding violations on a property, except those requiring exterior repair, have been corrected, the Officer may, at the request of the owner, temporarily suspend enforcement fees due to inclement weather until the following May 1st. Suspension of fees shall not in any case extend more than 1 year beyond the effective date of the initial notice of violation.
- (2) If the owner fails to correct violations within the stated period of suspension, the City shall immediately charge the full value of all suspended fees.

[Added by Ordinance No. 96-29, enacted Sep. 17, 1996.]

#### **5.687 HARDSHIPS**

- (1) When the literal application of the requirements of these Acts would cause undue hardship to the owner or occupants of the affected structure, an exception may be granted by the Officer upon application. The application shall state the reasons for the requested exception, and shall be in writing. However, regardless of hardship, an exception may only be granted when all safety and sanitary conditions are met. This Section shall not be construed so as to evade the provisions of these Acts.
- (2) Any exception granted by the Officer shall be in writing and shall state the reasons for granting that exception. A copy of the Officer's decision shall be kept in the files of the Planning Department.

[Added by Ordinance No. 96-29, enacted Sep. 17, 1996; Amended by Ordinance No. 14-11, enacted Nov. 17, 2014.]

#### **5.688 APPEALS**

Whenever a responsible party has been given an order pursuant to these Acts and has been directed to make any correction, to perform any act, or to incur any expensive, the party may have the order reviewed by the Code Enforcement Supervisor. If a review is sought, the party shall submit a written request to the Code Enforcement Supervisor within 15 days of the date of the order. Pending determination by the Supervisor, the order will be stayed. Following the review, the Supervisor shall issue a written determination.

[Added by Ordinance No. 96-29, enacted Sep. 17, 1996; Amended by Ordinance No. 14-01, enacted March 3, 2014.]

#### **5.690 PENALTIES**

Violation of any of the provisions of [Sections 5.600 to 5.660](#) is punishable by fine of not less than \$50, nor more than \$500.

[Amended by Ordinance No. 6522, enacted December 17, 1986; Amended by Ordinance No. 6619, enacted June 19, 1991.]

#### **5.692 ABATEMENT IN LIEU OF FINE**

The abatement of a nuisance is not a penalty for violating any provision in [Sections 5.600 to 5.660](#), but is an additional remedy. The

imposition of a penalty does not relieve a person of the duty to abate a nuisance. However, abatement of a nuisance within the time provided from the date of notice to abate, or, if a written protest has been filed, then from the date of Council determination that a nuisance exists, shall relieve the person responsible from the imposition of any fine under [Section 5.690](#) for that nuisance.

#### **5.695 RECOVERY OF COSTS**

Municipal Court Judge may award costs expended by the City to abate any of the nuisances listed in Sections 5.600 to 5.676. This recovery of costs is in addition to any penalty fine imposed by the Municipal Court Judge. [Added by Ordinance No. 14-10, enacted Nov. 4, 2014.]

#### **5.700 RECEIVERSHIPS**

In addition to, and not in lieu of any other provisions, when residential property is found to violate the City Code, Community Development Ordinance, Building Codes or Fire Codes and the violation is a threat to the public health and safety, the City may apply to a court of competent jurisdiction for the appointment of a receiver to perform an abatement pursuant to the Oregon Housing Receivership Act (ORS 105.420 to 105.455). [Added by Ord. No. 16-07, enacted July 18, 2016.]