

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: NUISANCES, ENVIRONMENT AND SANITATION

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GENERAL PROVISIONS

§ 90.001 DEFINITIONS.

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

BOARDED. Secured by means other than those intended in the original design.

CODE ENFORCEMENT OFFICIAL. The City Manager or his or her designee authorized to enforce this chapter. This shall include police officers.

NOXIOUS VEGETATION.

(1) This includes: poison oak, poison ivy, or blackberry vines; weeds, grass, or legumes above a height of 12 inches; or, any vegetation extending into a public way or onto adjacent properties.

- (a) Weeds, grass or legumes above a height of 12 inches;
- (b) Poison oak or poison ivy; and
- (c) Vegetation or blackberry vines that:
 1. Are a fire hazard because they are near other combustibles;
 2. Extend into a public way; or
 3. Are used for habitation by trespassers.

(2) **NOXIOUS VEGETATION** does not include agricultural crops that are not a fire hazard or a vision obstruction nor natural vegetation in areas designated to remain in their natural vegetative state and do not constitute a fire hazard as determined by the Fire Chief.

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

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

PERSON RESPONSIBLE. Each of the following, jointly and severally:

(1) The owner;

(2) The person in charge of property, as defined herein; and

(3) The person who caused to come into or continue in existence a nuisance, as defined in this chapter or another ordinance of this city.

PUBLIC PLACE. A building, way, place or accommodation, whether publicly or privately owned, open and available to the general public.

RODENT HABITAT. Any condition which attracts or is likely to attract, feed or harbor rats or mice; this applies to but is not limited in application to any building or other structure or part thereof, which is not rodent-proof and is used to store or keep any substance on which rats or mice feed, or rubbish or other loose material that might serve as a harbor for rats or mice.

RODENT-PROOF. Any building, structure or part thereof is **RODENT-PROOF** when it is constructed of concrete, metal or some equally impermeable material and in a manner that excludes rats and mice.

STRUCTURE. An edifice or building or any piece of work or portion thereof which is used or designed or intended to be used for human occupancy, or for storage, which is artificially constructed or composed of parts joined together in some manner and which requires location on or in the ground. This definition shall include, for the purposes of this chapter, a manufactured home, modular home or mobile home and accessories thereto.

UNOCCUPIED. Not being used for lawful occupancy.

UNSECURED. Lacking secure means of ingress and egress, thus allowing for occupancy or use by unauthorized persons.

VEGETATION. Plant life, including but not limited to trees, shrubs, flowers, weeds and grass. (Ord. 655, passed 6-4-2012)

§ 90.002 REMOVAL OF ANIMAL CARCASSES.

No person shall permit an animal carcass owned or controlled by him or her 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.

(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.003 SCOPE.

Where, in any specific case, there is a conflict between this chapter and state law, the state statutes shall govern.

(Ord. 655, passed 6-4-2012)

NUISANCES AFFECTING PUBLIC HEALTH**§ 90.015 NUISANCES AFFECTING PUBLIC HEALTH.**

(A) No person shall cause or permit, on property owned or controlled by him or her, a nuisance affecting public health.

(B) The following are nuisances affecting public health and may be abated as provided in this chapter.

CESSPOOLS. Cesspools, septic tanks and/or drain fields which are in an unsanitary condition or which cause an offensive odor.

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.

FOOD. Decayed or unwholesome food which is offered for human consumption.

ODOR. Premises which are in a state or condition as to cause an offensive odor, or which are in an unsanitary condition.

PRIVIES. An open vault or privy constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the Health Division regulations.

RODENT HABITAT. Any condition which attracts or is likely to attract, feed or harbor rats or part thereof, which is not rodent-proof and is used to store or keep any substance on which rats or mice feed, or rubbish or other loose material that might serve as a harbor for rats or mice.

SLAUGHTERHOUSE AND THE LIKE. A ***SLAUGHTERHOUSE***, tannery or pigsty.

STAGNANT WATER. *STAGNANT WATER* which affords a breeding place for mosquitoes and other insect pests.

SURFACE DRAINAGE. Drainage of liquid wastes from private premises.

WATER POLLUTION. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.

(Ord. 655, passed 6-4-2012)

NUISANCES AFFECTING PUBLIC SAFETY

§ 90.030 ATTRACTIVE NUISANCES.

(A) No owner or person in charge of property shall permit thereon:

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

(2) Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children;

(3) An open pit, quarry, cistern, swimming pool, hot tub, spa or other excavation without providing appropriate safeguards or barriers to prevent the places from being used by unsupervised children. Such safeguards shall be in accordance with the Uniform Building Code, as adopted by the city; or

(4) All open, vacant, unoccupied or unsecured building or structure which is attractive, dangerous and accessible to children or which is used for habitation by trespassers.

(B) This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.031 OBSTRUCTION OF A PUBLIC WAY.

(A) *Discharges and deposits.* No person shall cause any intentional or unintentional discharge, deposit or obstruction which renders the use of the public way or public property hazardous or unreasonably prevents its free and unobstructed use unless the discharge, deposit or obstruction is first authorized by the City Manager. Tracking or depositing earth, soil, mud or dirt onto an asphalt or concrete public way is deemed to unreasonably prevent the free and unobstructed use of the public way.

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(B) *Noxious vegetation.* No person responsible shall allow any vegetation on public or private property to be a hazard to pedestrian or vehicular use of a sidewalk or street by obstructing passage or vision. The hazards include but are not limited to:

(1) Vegetation that encroaches upon or overhangs a pedestrian way or adjacent strip lower than eight feet or encroaches upon or overhangs a street lower than ten feet;

(2) Vegetation which obstructs motorist or pedestrian view of traffic, traffic signs and signals, street lights and street signs or any other safety fixtures or markings placed in the public way;

(3) Vegetation which is an obstruction of access to, and use of, any public facilities placed with the public way;

(4) Vegetation which is an obstruction of drainage facilities in the public way, including but not limited to roadside ditches, street curbs and gutters, catch basins and culverts;

(5) Vegetation roots which have entered a sewer, lateral sewer or house connection and are stopping, restricting or retarding the flow of sewage therein;

(6) Any vegetation, structure, mounding of earth or other physical obstruction which is in violation of the clear vision requirements as set forth in the city's zoning ordinance; and

(7) Noxious vegetation does not include agricultural crops that are not a fire hazard or a vision obstruction. Nor does it include natural vegetation in areas designated to remain in their natural vegetative state, including, but not limited to, wetland or riparian areas.

(C) *Interfering with pedestrian or vehicular travel.* No person responsible shall place, cause to be placed or permit to remain on a street or sidewalk anything that interferes with the normal flow of pedestrian or vehicular traffic on a street or sidewalk. The provisions of this section do not apply to:

(1) Merchandise in the course of receipt of delivery, provided the merchandise does not remain upon a street or sidewalk for a period longer than one hour; or

(2) Activities conducted pursuant to a permit obtained from the City Manager.

(D) *Sidewalk accumulation.* No person responsible shall cause or allow an accumulation of leaves, snow, ice, rubbish and other litter or any obstruction upon a sidewalk.

(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.032 NOXIOUS VEGETATION.

No owner or person in charge of real property shall cause or allow to remain standing weeds, grass, legumes or other noxious vegetation above a height of 12 inches at any time; except for a person who grows and uses the grasses and legumes for food or agricultural purposes.

(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.033 SCATTERING RUBBISH.

No person shall deposit upon public or private property any kind of rubbish, 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, animal or vehicle traveling upon a public way.

(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.034 TREES.

No owner or person in charge of property shall allow to stand a dead or decaying tree that is a hazard to the public or to persons or property on or near the property. If it is taken down, it must be removed or otherwise handled to prevent it becoming an attractive nuisance by allowing noxious vegetation to grow around it, allow it to become a rodent habitat or allow any other nuisance to develop around the fallen trees.

(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.035 SURFACE WATERS; DRAINAGE.

(A) 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, or flow across the sidewalk or onto adjacent property.

(B) The owner or person in charge of property shall install and maintain in 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 or onto adjacent property.

(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.036 ODORS AND BURNING.

(A) *Generally.* No person responsible shall cause or allow any condition which causes an offensive odor or is unsanitary. No person responsible shall burn in wood stoves or fireplaces any household waste, garbage, plastic, Styro foam or other noxious material. Upon official notification, the person responsible shall remove the nuisance or a fine subject to § 90.999 may be immediately imposed.

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(B) *Outdoor burning restricted.* No person shall start or maintain any outdoor fire (except for outdoor cooking) for the purpose of burning any combustible material, except as allowed by this section. Nor shall any person responsible cause or knowingly allow any such fire to be started or maintained, including but not limited to barrel burning, burning of household waste, burning of garbage, plastic, Styro foam or other noxious materials.

(1) *Period when outdoor burning is restricted.* The restriction on outdoor burning shall be in effect for the entire year. The burning of residential yard waste during the months of April, May, October and November is permitted.

(2) *Exempt outdoor burning.* The following types of outdoor burning may be allowed on any day of the year:

(a) Burning of a structure or other use of the fire for training purposes by the Winston-Dillard Fire District.

(b) Any burning which has written approval of the Department of Environmental Quality.

(c) Field burning in agricultural areas and certain other burning when, because of topography, there is no other feasible way to remove debris. Any field burning must be completed in conjunction with a coordinated review and approval by Douglas Forest Protective Association.

(d) Outdoor burns to control agricultural diseases, such as blight, that must be destroyed immediately by fire to prevent the spread of disease. Any field burning must be completed in conjunction with a coordinated review and approval by Douglas Forest Protective Association.

(e) Burning bee hives and bee-keeping paraphernalia to prevent the spread of disease.

(f) Fires incidental to a special event.

(Ord. 655, passed 6-4-2012; Ord. 20-688, passed 7-20-2020) Penalty, see § 90.999

§ 90.037 POSTING OF SIGNS.

No person shall paint, post, place, plant or attach in any way a sign on a parking strip, sidewalk or curb, utility pole, wall, hydrant, bridge or tree in the public right-of-way or on any building structure or property owned by the city without first obtaining permission from the City Manager.

(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.038 INOPERATIVE, WRECKED, DISMANTLED OR ABANDONED VEHICLES.

(A) *Storage.* No person shall cause or allow a neglected or discarded vehicle to remain upon public or private property outside of a permitted, enclosed building for more than 14 days unless the vehicle owner has applied for a storage permit from the city to store the vehicle, or unless it is stored by a

licensed business enterprise dealing in junked vehicles lawfully conducted within the city. **NEGLECTED OR DISCARDED VEHICLE** means a vehicle that is, or appears to be, inoperative, wrecked, dismantled or partially dismantled. **INOPERATIVE** means a vehicle that cannot be driven on a public right-of-way. It also means unassembled or partially assembled vehicle parts, including, but not limited to, tires, batteries, engines, transmissions, vehicle bodies and frames. **DISMANTLED** means inoperative without the addition or application of vital parts or mechanisms and the application of a substantial amount of labor to effect repairs. A vehicle that remains upon public or private property in violation of this subsection may be abated by the Enforcement Official using the procedures provided in this chapter as amended or at the option of the Enforcement Official may be abated or dealt with using the same procedures as are provided in state law applicable to abandoned vehicles.

(B) *Issuance.* The above mentioned storage permit for the specifically identified vehicle may be issued by the city to the vehicle owner for a period of one year beginning January 1 to December 31 of each year. The fee for said storage permit will be set by resolution and may be prorated. Upon removal of the inoperative vehicle from the subject property prior to the end of the storage permit term, the applicant may request a reimbursement of a portion of said storage permit fee. Upon expiration of an approved storage permit, the permit holder may reapply for an additional two-year period with no limit to the number of times the permit holder may reapply for the same permit. No more than one vehicle will be allowed under a single storage permit. Only one storage permit will be issued to a single physical address in the city. The following criteria must exist in order for a storage permit to be approved:

- (1) The vehicle must be stored in the side or rear yard of the subject property;
- (2) The property upon which the vehicle is stored shall be kept in a neat and orderly manner, complying with this chapter as amended;
- (3) Site-obscuring fencing of no less than six feet in height must buffer the storage area from adjacent properties as well as the street right-of-way; and
- (4) During the storage permit period, the subject property must also comply with all city ordinances. Inspection of the subject property will be required prior to the issuance of a storage permit to verify compliance with this chapter.

(C) *Abandoned vehicles.* No person shall cause or allow any vehicle to be abandoned upon public or private property within the city. This division (C) shall not apply to a vehicle that has been abandoned as defined by state law nor to a vehicle that constitutes a hazard as defined by state law. A vehicle that is abandoned or that constitutes a hazard shall be dealt with pursuant to the provisions of state law.

(D) *Abatement of neglected or discarded vehicles on private property.* In addition to the notice to the person responsible, if it is determined that the person responsible and owner of the vehicle constituting the nuisance are not the same person and if any indication of vehicle ownership is reasonably available, the notice shall also be sent to the owner of the vehicle.

(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.039 DANGEROUS BUILDINGS.

(A) No person responsible shall cause or allow a dangerous building to exist on property. Any building or structure which is structurally unsafe or not provided with adequate egress, or which constitutes a fire hazard or is otherwise dangerous to human life, is hereby declared to constitute a dangerous building. Any use of a building or structure constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment constitutes an unsafe use and shall render the building a dangerous building for purposes of this chapter. Any appendages or structural members which are supported by, attached to or a part of a building and which are in deteriorated condition or otherwise unable to sustain those design loads which are specified by the Building Official, are dangerous building appendages.

(B) Examples of the foregoing dangerous buildings, structures or appendages include but are in no way intended to be limited to the following conditions:

(1) Any door which is unsecured or any door, aisle, passageway, stairway or other means of exit not so arranged as to provide safe and adequate means of exit in case of fire or panic;

(2) Any walking surface of any aisle, passageway, stairway or other means of exit which is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic;

(3) Any stress in any materials, member or portion thereof, due to all dead and live loads, which is more than one and one-half times the working stress or stresses allowed in the State Building Code for new buildings of similar structure, purpose or location;

(4) Any damage by fire, earthquake, wind, flood or by any other cause, to the extent that the structural strength or stability is materially less than it was before the catastrophe and is less than the minimum requirements of the State Building Code for new buildings of similar structure, purpose or location;

(5) Any portion, member or appurtenance which is likely to fail, become detached or dislodged, or collapse and thereby injure persons or cause damage to property;

(6) Any portion, member, appurtenance or ornamentation on the exterior which is not of sufficient strength or stability, or which is not anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the State Building Code for new buildings of similar structure, purpose or location without exceeding the work stresses permitted in the State Building Code for those buildings;

(7) Any portion which has wracked, warped, buckled or settled to the extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;

(8) Any portion which is likely to partially or completely collapse because of any of the following conditions:

(a) Dilapidation, deterioration or decay;

(b) Faulty construction;

(c) The removal, movement or instability of any portion of the ground necessary for the purpose of supporting the building;

(d) The deterioration, decay or inadequacy of its foundation; or

(e) Any other cause.

(9) Anything that is manifestly unsafe for the purpose for which it is being used;

(10) Any exterior walls or other vertical structural members which list, lean or buckle to the extent that a plumb line passing through the center of gravity does not fall inside the middle or third of the structure or portion thereof;

(11) Any portion, exclusive of the foundation, which shows 33% or more damage or deterioration of its supporting member or members, or 50% or more damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings;

(12) Any damage by fire, wind, earthquake or flood or a dilapidation or deterioration which causes the structure to become an attractive nuisance to children, a harbor for trespassers or criminals, or available for use by persons for the purpose of committing unlawful acts;

(13) Anything which has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to the building or structure set forth by the building regulations of the city, as specified in the State Building Code or Housing Code, or of any law or ordinance of this state or the city relating to the condition, location or structure of buildings;

(14) Anything which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 50%, or in any supporting part, member or portion less than 66% of the strength or fire-resisting and weather-resisting qualities and characteristics which are required by law in the case of a newly constructed building of like area, height and occupancy in the same location;

(15) Inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or any other condition which has been determined by a health officer to be unsanitary, to cause the subject building to be unfit for human habitation or in a condition as is likely to cause sickness or disease;

(16) Any obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electrical wiring, gas connections or heating apparatus, or other cause, which is determined by the Fire Marshal to be a fire hazard;

(17) Any combustible or explosive material, wood, paper, trash, rubbish, rags, waste, oils, gasoline or flammable substance of any kind especially liable to cause fire or damage to the premises or human life, and which is not maintained in accordance with law;

(18) Any condition which constitutes a public nuisance known to the common law or in equity jurisprudence; or

(19) Any portion of a building or structure which remains after demolition or destruction of the building or structure or any building or structure which is abandoned for a period in excess of six months and constitutes an attractive nuisance or hazard to the public.

(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.040 DERELICT BUILDINGS.

No person responsible shall cause or allow a derelict building to exist. For purposes of this chapter, a *DERELICT BUILDING* shall be defined as any building which is unoccupied and boarded or which is unoccupied and unsecured. For purposes of this code, a *DERELICT BUILDING* shall also be defined as any building or structure which has faulty weather protection, which shall include but not be limited to the following: deteriorating, crumbling or loose plaster; deteriorating or ineffective water-proofing or exterior walls, roof, foundations or floors, and including broken windows or doors; defective or lack of weather protection for exterior wall coverings, including lack of paint or weathering due to lack of paint or other approved protective covering; or broken, rotten, split or buckled exterior wall covering or roof covering. If the person(s) responsible fail to correct the conditions which cause a building to be a derelict building within the time frames set forth in this chapter, the derelict building shall be declared a nuisance.

(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

NUISANCES AFFECTING PUBLIC PEACE

§ 90.055 RADIO AND TELEVISION INTERFERENCE.

(A) No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.

(B) This section does not apply to devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission.
(Ord. 655, passed 6-4-2012)

§ 90.056 JUNK.

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

(B) The term *JUNK*, as used in this section, includes old machinery, old machinery parts, old appliances or parts thereof, old iron or other metal, glass, paper, lumber, wood or other waste or discarded material.

(C) This section shall not apply to junk kept in a duly licensed junkyard or automobile wrecking house.
(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.057 UNENUMERATED NUISANCES.

(A) The acts, conditions or objects specifically enumerated and defined in §§ 90.030 through 90.040, 90.055 and 90.056 are declared public nuisances; and the acts, conditions or objects may be abated by any of the procedures set forth in §§ 90.070 through 90.077.

(B) In addition to the nuisances specifically enumerated within this chapter, 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 is declared a nuisance and may be abated as provided in this chapter.
(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

ABATEMENT

§ 90.070 NOTICE.

(A) Upon determination by the Enforcement Official that a nuisance exists, the Enforcement Official shall cause a notice to be posted on the premises or at the site of the nuisance, directing the person responsible to abate the nuisance.

(B) At the time of posting, the Enforcement Official shall cause a copy of the notice to be forwarded by certified mail, postage prepaid, or hand-delivered to the person responsible at his or her last known address with the following information:

- (1) A description of the real property, by street address or otherwise, on which the nuisance exists;
 - (2) A direction to abate the nuisance within ten days from the date of the notice;
 - (3) A description of the nuisance;
 - (4) A statement that, unless the nuisance is removed, the city may abate the nuisance, and the cost of abatement will be charged to the person responsible;
 - (5) A statement that failure to abate a nuisance may warrant imposition of a fine or jail sentence; and
 - (6) A statement that the person responsible may appeal the order to abate by filing a written statement to the City Recorder and paying the applicable appeal fee.
- (C) Upon completion of the posting and mailing or hand-delivery, the persons posting and mailing shall execute and file certificates stating the date and place of the mailing and posting, respectively.
- (D) An error in the name or address of the person responsible shall not make the notice void, and in that case the posted notice shall be sufficient.
- (E) In the case of noxious vegetation constituting a nuisance, the following notice shall be given in lieu of the notice above set out: upon determination by the City Manager or his/her designee that a nuisance exists, the City Recorder shall cause a notice to be mailed to the owner of record of the property on which the nuisance exists. The notice shall contain the information prescribed in division (B) of this section.
(Ord. 655, passed 6-4-2012)

§ 90.071 ABATEMENT BY THE PERSON RESPONSIBLE.

- (A) Within ten days after the posting and mailing of the notice, as provided in § 90.070, the person responsible shall remove the nuisance or show that no nuisance exists.
- (B) A person responsible, protesting that no nuisance exists, shall file with the City Recorder a written statement which shall specify the basis for so protesting and a \$100 appeal fee.
- (C) The statement shall be referred to the City 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; the Council shall determine whether or not a nuisance in fact exists; and the determination shall be entered in the official minutes of the Council. Council determination shall be required only in those cases where a written statement along with a \$100 appeal fee has been filed as required.

(D) If the Council determines that a nuisance does in fact exist, the person responsible shall, within ten days after the Council determination, abate the nuisance.
(Ord. 655, passed 6-4-2012)

§ 90.072 JOINT RESPONSIBILITY.

If more than one person is 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.
(Ord. 655, passed 6-4-2012)

§ 90.073 ABATEMENT BY THE CITY.

(A) If, within the time allowed, the nuisance has not been abated by the person responsible, the Enforcement Official may cause the nuisance to be abated.

(B) (1) The Enforcement Official, or contractors acting under the direction of the Official, shall have the right at reasonable times to enter into or upon property in accordance with law to abate the nuisance and remove and dispose of all items creating the nuisance. If the person in lawful control of the property or the subject part thereof refuses to give the city permission to enter upon the property to abate the nuisance, the Enforcement Official shall comply with legal requirements prior to entering the property.

(2) A warrant shall be obtained by bringing before the Municipal Court Judge, following the noticed allowable time for abatement by the responsible party, a list of properties with nuisances requiring abatement and having the Municipal Court Judge approve warrants for entry onto each property for the purpose of abating the nuisances as stated. If other nuisances are discovered on the property as the nuisance is being abated, a notice will be provided to the property owner concerning any additional nuisances and the process will be repeated.

(C) The City Recorder shall keep an accurate record of the expenses incurred by the city in physically abating the nuisance and shall include therein a charge of 5% of the total cost of the abatement or \$150, whichever is greater, for administrative overhead.
(Ord. 655, passed 6-4-2012)

§ 90.074 ASSESSMENT OF COSTS.

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

- (1) The total cost of abatement, including the administrative overhead;

(2) 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; and

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

(B) Upon the expiration of ten days after the date of the notice, the Council, in the regular course of business, shall hear and determine the objections to the costs assessed.

(C) 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 by resolution and shall thereupon be entered in the docket of city liens; and upon this entry being made, shall constitute a lien upon the property from which the nuisance was removed or abated.

(D) The lien shall be enforced in the same manner as liens for street improvements are enforced, and shall bear interest at the rate of 7% per annum. The interest shall commence to run from the date of the entry of the lien in the lien docket.

(E) An error in the name of the person responsible shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void; but it shall remain a valid lien against the property.

(Ord. 655, passed 6-4-2012)

§ 90.075 ABATEMENT OF DANGEROUS BUILDINGS AND REGISTRATION OF DERELICT BUILDINGS.

(A) Whenever the Building Official or Enforcement Official believes that a building or structure is a dangerous or derelict building, the Building Official or Enforcement Official shall cause an inspection to be done to determine if it complies with this chapter and all other applicable Health, Housing, Building and Safety Codes.

(B) In the event the Building Official or Enforcement Official determines from the inspection that a building or structure is either a dangerous or a derelict building, notice of that determination shall be given by the Building Official or Enforcement Officer posting a notice at the site and by personal service or by registered or certified mail on the person(s) responsible. Upon completion of the posting and serving or mailing, the Enforcement Officer shall execute and file certificates stating the date and place of the posting and serving or mailing respectively. An error in the name or address of the person(s) responsible shall not make the notice void, and in that case, the notice shall be sufficient.

(1) If the Building Official or Enforcement Official has determined that a building is a dangerous building, the Building Official's or Enforcement Official's notice shall include:

(a) The building's address and tax lot number or legal description of the property;

(b) A description of the dangerous condition;

(c) A direction to abate the nuisance within ten days from the date of the notice;

(d) A statement that if the person(s) responsible decide to repair an unoccupied dangerous building by boarding the building, it shall constitute a derelict building and shall be subject to registration and all other derelict building procedures and requirements as prescribed in this chapter;

(e) A statement that unless the nuisance is removed, the city may abate the nuisance and the cost of the abatement plus a penalty of 5% of the cost of abatement or \$150, whichever is greater, for administrative overhead, shall be charged to the person(s) responsible and assessed against the property;

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

(g) A statement that the person(s) responsible may appeal the order to abate by giving notice of the person's desire to appeal to the City Manager within ten days from the date of the notice.

(2) If the Building Official or Enforcement Official has determined that a building is a derelict building, the Building Official's or Enforcement Official's notice shall include:

(a) The building's address and tax lot number or legal description of the property;

(b) A description of the derelict condition;

(c) A direction to correct the conditions causing the building to be a derelict building within the time frame prescribed by this section;

(d) A statement that a derelict building must be registered with the city and fees paid as provided in this section;

(e) A statement that failure to correct the conditions causing the building to be a derelict building or to comply with the registration requirements may result in late payment penalties and assessments against the property and the building being declared a nuisance; and

(f) A statement that failure to correct the conditions causing the building to be a derelict building may result in a court prosecution, or the abatement of the nuisance with the costs thereof becoming a lien against the property, or both.

(3) The Building Official shall cause a derelict building notice to be recorded and made a permanent part of the deed records.

(C) Within ten days after the posting and serving or mailing of the notice required by this section, person(s) responsible shall remove the nuisance or show that no nuisance exists.

(D) The person(s) responsible, if protesting that no nuisance exists, shall file with the City Manager a written statement specifying the basis for protesting and shall pay an appeal fee set by Council resolution. No protest shall be heard unless the appeal fee is paid. If the Council or its designee determines that no nuisance exists, the appeal fee shall be refunded to the person who paid it.

(E) The City Council shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the City Manager deems appropriate. If the City Council decides to take oral argument or evidence at the hearing, the appellant may present testimony and oral argument personally or by counsel. The rules of evidence as used by courts of law do not apply. The appellant shall have the burden of proving error in the Building Official's or Enforcement Official's determination.

(F) The City Council shall issue a written decision. The decision of the Council shall be final.

(G) If the Council determines that a nuisance exists, the person(s) responsible shall, within ten days after the determination, or within a time set by Council, abate the nuisance.

(H) If within the time allowed the nuisance has not been abated, the City Manager may cause the nuisance to be abated and the costs thereof imposed as a lien as provided in this chapter.

(I) Except when allowed by this section, no person(s) responsible shall maintain a derelict building or allow the building to exist.

(J) Registration of a derelict building under the terms of this section shall be completed on an application form to be provided by the Building Official or Enforcement Official and shall be accompanied by a nonrefundable derelict building registration application fee as set by Council resolution. The application shall include information relating to the location and ownership of the building, the expected period of its vacancy or until its repair, a plan for regular maintenance and securing of the building during the period of vacancy or until repair, and a plan for reoccupancy and use, marketing or demolition. All of the information required under this division (J) shall be reviewed and approved by the Building Official or Enforcement Official. The Building Official or Enforcement Official shall maintain a list of all registered derelict buildings within the city and shall provide a copy of the list to the City Manager for monthly fee billing purposes.

(K) The following standards shall be followed by the Building Official or Enforcement Official with respect to the repair, marketing or demolition of any derelict building.

(1) Any building declared to be a derelict building under this chapter shall, within one year from the date of notice provided by the Building Official or Enforcement Official under this section, be made to comply with one of the following:

(a) The building shall be repaired in accordance with the current Building Code or other current code applicable to the type of substandard conditions requiring repair; or

(b) The building shall be demolished.

(2) If within the initial one-year time period and extension period, if any, the derelict building is not repaired or demolished by the person(s) responsible, the City Manager may declare the ongoing derelict building to be a nuisance which must be abated in accordance with the provisions of this section. Notwithstanding any other provision of this section, if the person(s) responsible has not properly registered the derelict building, the City Manager may declare a derelict building to be a nuisance upon the expiration of 90 days from the notification date.

(3) The Building Official or Enforcement Official may extend the derelict building repair, marketing or demolition period of one year for an additional period of time required by, and consistent with, approved plans of the person(s) responsible to repair, market or demolish the building. The following criteria shall be evaluated by the Building Official or Enforcement Official when considering the granting of an extension:

- (a) Whether all delinquent fees and penalties have been paid in full;
- (b) Whether a timetable for the repair, marketing or demolition of the structure has been submitted by the person(s) responsible and approved by the Building Official or Enforcement Official ;
- (c) The value of the building;
- (d) Whether all appropriate permits have been obtained for the repair or demolition of the structure; and
- (e) Whether the person(s) responsible will complete, or is the process of completing, the repairs or demolition of the structure in a timely fashion.

(L) Upon approval of the application for derelict building registration, the person(s) responsible shall immediately submit payment of the first monthly derelict building registration as set by Council resolution and thereafter be responsible for the following payment terms.

(1) The person(s) responsible of a registered derelict building shall be responsible for paying the monthly derelict building registration fee as set by Council resolution in advance by the tenth day of each month for each month, or portion thereof, during which the building remains registered as a derelict building. Any payment of the fee that is more than 30 days past due may be considered delinquent and subject to a penalty in an amount set by Council resolution for every delinquent monthly payment.

(2) In the event that the fees due under the terms of this section become delinquent for more than 90 days, the Building Official or Enforcement Official shall file a statement of the amount due with the City Manager. The City Manager shall thereafter mail a notice of the city's intent to assess the subject property for the delinquent amount plus applicable penalty and an additional 10%. In the event the amount set forth in the notice is not paid in full within 30 days of the date of the notice, it shall become a lien against the property and thereupon be entered in the city's lien docket. The lien shall be enforced as outlined in § 90.074.

(3) In addition to the lien described above, the person(s) responsible for the derelict building receiving notice under this chapter shall be personally liable for the amount of the lien including all interest, civil penalties and other charges.

(4) All fees imposed under the terms of this section are to be paid prior to any purported or actual transfer of an ownership interest in a derelict building as well as prior to the issuance of any permit required for the demolition, alteration or repair of a derelict building subject to the terms of this section.

(5) The Building Official or Enforcement Official may waive fees imposed under this section. The following criteria shall be evaluated by the Building Official or Enforcement Officer when considering waiver of the fees:

(a) Whether all delinquent fees and penalties have been paid in full;

(b) Whether a timetable for the repair, marketing or demolition of the structure has been submitted by the person(s) responsible and approved by the Building Official or Enforcement Official;

(c) The value of the building;

(d) Whether all appropriate permits have been obtained for the repair or demolition of the structure; and

(e) Whether the person(s) responsible will complete, or is in the process of completing, the repairs or demolition of the structure in a timely fashion.

(M) Any change in the information provided pursuant to this section shall be given to the Building Official or Enforcement Official within 30 days, except where changes in an approval plan are contemplated, in which case, approval of the Building Official is required prior to their effectiveness.

(N) When all violations have been corrected, the person(s) responsible shall contact the Building Official or Enforcement Official and request an inspection to determine compliance and removal of the dangerous or derelict building designation.

(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

§ 90.076 SUMMARY ABATEMENT.

The procedure provided by this chapter is not exclusive, but is in addition to procedures provided by other ordinances; and the Chief of the Fire Department, the Chief of Police 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.

(Ord. 655, passed 6-4-2012)

§ 90.077 SEPARATE VIOLATIONS.

(A) Each day's violation of a provision of this chapter constitutes a separate offense.

(B) The abatement of a nuisance is not a penalty for violating this chapter, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within ten days of the date of notice to abate, or if a written protest has been filed, the abatement within ten days of Council determination that a nuisance exists, will relieve the person responsible from the imposition of any fine or imprisonment under § 90.999.

(Ord. 655, passed 6-4-2012) Penalty, see § 90.999

CAMPING ON PUBLIC AND COMMERCIAL PROPERTY**§ 90.090 DEFINITIONS.**

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

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 erected or maintained for shelter, or any vehicle or part thereof.

RECREATIONAL VEHICLE or TRAILER COACH. Any vehicle used or maintained for use as a conveyance upon highways or city streets, so designed and so constructed as to permit occupancy thereof as a temporary dwelling or sleeping place for one or more person, having no foundation other than wheels or jacks.

TO CAMP. To set up or to remain in or at a campsite.

(Ord. 665, passed 11-3-2014)

§ 90.091 REGULATIONS.

(A) Except by permit issued by the city for camping in a city park, it is unlawful to 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 bridge way or viaduct.

(B) No RV, trailer coach or campsite shall be used or occupied on any tract of ground not designated for such use within the corporate limits of the city.

(Ord. 665, passed 11-3-2014) Penalty, see § 90.999

§ 90.999 PENALTY.

(A) (1) *Generally.* A person responsible for violating a provision of §§ 90.001 through 90.003, 90.030 through 90.040, 90.055 through 90.057, and 90.070 through 90.077 or an order issued under authority of §§ 90.001 through 90.003, 90.030 through 90.040, 90.055 through 90.057, and 90.070 through 90.077 shall, upon conviction, be punished by a fine not to exceed \$250 for each offense. In addition to a fine, the Municipal Court Judge may direct the city to immediately abate the nuisance with no further notification to person responsible.

(a) A violation of §§ 90.001 through 90.003, 90.030 through 90.040, 90.055 through 90.057, and 90.070 through 90.077 shall be considered a separate offense for each day the violation continues.

(b) The abatement of a nuisance is not a penalty for violating §§ 90.001 through 90.003, 90.030 through 90.040, 90.055 through 90.057, and 90.070 through 90.077, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within 30 days of the date of notice to abate, or if a written protest has been filed, the abatement within ten days of Council determination that a nuisance exists, will relieve the person responsible from the imposition of any fine or imprisonment under this section.

(2) *Alternative remedy.* In case a structure or building is, or is proposed to be, located, constructed, maintained, repaired, altered, or used, or land is, or is proposed to be, used in violation of §§ 90.001 through 90.003, 90.030 through 90.040, 90.055 through 90.057, and 90.070 through 90.077, the structure or land thus in violation shall constitute a nuisance. The city may as an alternative to other remedies that are legally available for enforcing this chapter, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, join, temporarily or permanently, abate, or remove the unlawful location, construction, maintenance repair, alteration or use.

(3) *Conviction.* Conviction of a violation does not give rise to any disability or legal disadvantages based on conviction of a crime.

(B) *Camping violations.* Any person who is found in violation of §§ 90.090 and 90.091 shall be subject to citation with a fine of \$75 for the first offense and \$250 for each additional violation. Each day may be considered an additional offense.

(Ord. 655, passed 6-4-2012; Ord. 665, passed 11-3-2014)

CHAPTER 91: ANIMALS

Section

Animal Control

- 91.01 Short title
- 91.02 Purpose
- 91.03 Definitions
- 91.04 Limitations
- 91.05 Containment
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Dogs and Dangerous Animals

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- 91.29 Nuisance
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Cross-reference:

Abatement of chronic disorderly properties, see Ch. 94

ANIMAL CONTROL

§ 91.01 SHORT TITLE.

This subchapter shall be known as the City Animal Ordinance.
(1993 Code, Comp. No. 4-7) (Ord. 572, passed 10-18-1999)

§ 91.02 PURPOSE.

The purpose of this subchapter is to:

- (A) Prohibit animals from running at large;
- (B) Place limits on the kinds and number of animals that may be kept;
- (C) Provide for the licensing of certain animals; and

(D) Provide penalties for the violation of this subchapter.
(1993 Code, Comp. No. 4-7) (Ord. 572, passed 10-18-1999)

§ 91.03 DEFINITIONS.

(A) As used in this subchapter the singular includes the plural and vice versa and the masculine includes the feminine.

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

HOUSEHOLD PET. An animal normally considered as a ***PET*** kept in the home or yard of the owner or keeper. These include but are not limited to dogs, cats, white mice, rats, hamsters, gerbils, guinea pigs, goldfish, guppies and other fish kept for noncommercial purposes, canaries and parakeets.

KEEP. To own, possess, control or otherwise have charge of an animal.

LIVESTOCK. Includes but is not limited to any of the following: horses, cattle, sheep, goats, swine and rabbits.

POULTRY. Includes but is not limited to any of the following: turkeys, chickens, geese and ducks.

RUNNING AT LARGE. An animal off or outside of the premises occupied by the owner or keeper of the animal, or not in the company of and under the control of the owner or keeper.

WILD ANIMAL. An animal that is not normally domesticated, including but not limited to animals such as deer, raccoons, foxes, opossums, squirrels, quail, pheasants, owls, bees and wildlife indigenous to the city.

(1993 Code, Comp. No. 4-7) (Ord. 572, passed 10-18-1999)

§ 91.04 LIMITATIONS.

Ownership or keeping of animals is subject to the limitations described in this section. Use of land allotments for more than one type of animal is prohibited.

(A) Horses.

- (1) No person shall own or keep a horse within the city without a permit pursuant to § 91.06.
- (2) No person shall own or keep a horse on less than 5,000 square feet of land.
- (3) Each additional horse shall require an additional 5,000 square feet of land.

(4) No person shall own or keep more than three horses within the city, except that an excess of a single foal may be kept for not more than six months when caused by incidental reproduction.

(5) No person shall own or keep a horse within 100 feet of a residence or dwelling, occupied or not, except the dwelling of the owner or keeper of the horse.

(B) Cattle.

(1) No person shall own or keep a head of cattle within the city without a permit pursuant to § 91.06.

- (2) No person shall own or keep a head of cattle on less than 5,000 square feet of land.
- (3) Each additional head of cattle shall require an additional 5,000 square feet of land.

(4) No person shall own or keep more than three head of cattle within the city, except that an excess of a single calf may be kept for not more than six months when caused by incidental reproduction.

(5) No person shall own or keep any cattle within 100 feet of a residence or dwelling, occupied or not, except the dwelling of the owner or keeper of the cattle.

(C) Other livestock and poultry.

(1) No person shall own or keep a head of livestock, other than cattle, horses or poultry, without a permit pursuant to § 91.06.

(2) No person shall own or keep a head of livestock, other than cattle or horses, or one to ten poultry, or one to six rabbits, on less than 5,000 square feet of land.

(3) Each additional head of livestock, or additional poultry over ten, or additional rabbits over six, shall be provided an additional 5,000 square feet of land by the owner or keeper of the animal(s).

(4) No person shall own or keep more than three head of other livestock described in this section, other than cattle, horses or poultry, except that an excess may be kept for not more than two months when caused by incidental reproduction.

(5) No person shall own or keep livestock, poultry or rabbits within 100 feet of a residence or dwelling, occupied or not, except the dwelling of the owner or keeper of the livestock.

(D) *Dogs and cats.* No person shall own or keep within the city more than three dogs nor more than three cats, except that an excess consisting of a single litter may be kept for not more than six months when caused by incidental reproduction.

(E) *Household pets.* No person shall own or keep within the city household pets in numbers as to create unsanitary conditions or a danger to the health or safety of the owner or keeper or the public.

(F) *Animals for educational purposes.* Educational organizations that raise animals for educational purposes or the purpose of instructing students in animal husbandry may apply for exemption from this subchapter if all animals so raised are contained in a manner consistent with § 91.05 and are not kept in numbers as to create unsanitary conditions or a danger to the health or safety of the public. These requests for exemption shall be approved by the City Council and may be denied if the Council determines that the educational organization is a commercial enterprise or if the essential conditions of this subchapter are not met.

(G) *Diseased animals.* No person shall own or keep within the city an animal with a contagious or communicable disease.

(H) *Wild animals.* No person shall own or keep a wild animal within the city.
(1993 Code, Comp. No. 4-7) (Ord. 572, passed 10-18-1999) Penalty, see § 91.99

§ 91.05 CONTAINMENT.

No person owning or keeping animals shall permit them to run at large. All land areas housing livestock or poultry shall be surrounded by a fence sufficient to ensure the containment of all livestock and poultry to those areas. Property owners are strictly liable for damages suffered by any person from physical or other injury caused by contact with a fence used for the containment of livestock or poultry. This liability does not apply to persons injured while committing an illegal act.
(1993 Code, Comp. No. 4-7) (Ord. 572, passed 10-18-1999) Penalty, see § 91.99

§ 91.06 PERMITS.

(A) No animal, except a household pet other than a dog, shall be kept within the city except under permit issued by the city.

(B) No permit for an animal shall be issued under this subchapter unless the requirements set forth in this subchapter are met.

(C) Applications for permits shall be submitted to the City Manager along with the required filing fee of \$15. Permits shall be issued by the City Manager after approval by the City Council.

(1) As a condition of all permits, the owner and keeper of the animals shall:

(a) Keep the premises in a sanitary condition, including but not limited to the removal of all manure at least once a week;

(b) Prevent the animals from disturbing any person by frequent or prolonged noises; and

(c) Prevent the animals from causing conditions resulting in offensive odors or areas where flies or other undesirable insects may breed.

(2) Property owners within a 250-foot radius of the property for which a permit is requested shall receive notice by regular mail of the time scheduled by the City Council for consideration of the request.

(D) An application for a permit may be denied or a permit revoked by the City Council at a time as any requirements as set forth in § 91.05 and this section are no longer met. Thirty days' written notice shall be given to the owner of the animals after a decision is made to revoke a permit. (1993 Code, Comp. No. 4-7) (Ord. 572, passed 10-18-1999; Ord. 651, passed 12-20-2010)

§ 91.07 PERMIT FOR ANNEXED PROPERTIES.

If any real property where livestock or poultry is kept has been heretofore annexed to the city, or is hereafter annexed to the city, provided that all other requirements of this subchapter are met, the owner or keeper of the animals shall be entitled to a permit for the existing number of animals until the property is sold, or until further development occurs on the property, whichever occurs first. After this period of exemption, the person owning or keeping the animals shall be required to comply with the limitations on number of animals provided herein.

(1993 Code, Comp. No. 4-7) (Ord. 572, passed 10-18-1999)

§ 91.08 NUISANCE.

Any condition violating a provision of this subchapter is declared to be a public nuisance and the condition may be abated using the same procedure provided in the city's nuisance ordinance, as amended.

(1993 Code, Comp. No. 4-7) (Ord. 572, passed 10-18-1999)

DOGS AND DANGEROUS ANIMALS**§ 91.20 DEFINITIONS.**

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

AT LARGE. A dog or animal off or outside of the premises occupied by the keeper of the dog or animal, or not in the company of and under the control of the keeper. ***AT LARGE*** does not include a dog that is within any part of a vehicle.

DANGEROUS ANIMAL. An exotic animal or other animal capable of biting or attacking any person or animal.

EXOTIC ANIMAL. Has the meaning set forth in O.R.S. 609.305.

KEEP. Synonymous with ***MAINTAIN*** and means to own, possess, control or otherwise have charge of a dog or animal.

OWNER. A person, firm or association owning, keeping or harboring an animal.
(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983; Ord. 573A, passed 10-18-1999)

§ 91.21 PROHIBITED ACTION.

It shall be unlawful to do any of the following:

- (A) To permit or allow a dog or dangerous animal to run at large within the city limits;
- (B) To keep a dog which is or would constitute a public nuisance under O.R.S. 609.095;
- (C) To abandon a dog;

(D) To permit or allow a dog to deposit its feces anywhere other than on the property of the owner or keeper of the dog. It shall be a defense to prosecution under to this division (D) if the dog owner or keeper immediately removes the feces; or

(E) To own or keep a dog within the city which is not licensed as required by this subchapter.
(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983; Ord. 376, passed 2-15-1985; Ord. 573A, passed 10-18-1999) Penalty, see § 91.99

§ 91.22 LICENSES.

(A) The Mayor and City Manager are hereby authorized and directed to negotiate with the County Board of Commissioners to arrange for sale by the city of dog licenses.

(B) Any person who owns or maintains a dog that has reached the age of six months or has canine teeth, must purchase a dog license, valid for one year from date of purchase and renewable yearly. Dog licensing records shall be available for the city staff and the county upon their request.

(C) Dog license fees shall be set by resolution from time to time. Initially dog license fees shall be:

<i>Dog Status</i>	<i>Fee</i>
(1) Unspayed female	\$10
(2) Spayed female	\$6
(3) Unneutered male	\$10
(4) Neutered male	\$6
(5) Kennel dog	\$5

(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983; Ord. 651, passed 12-20-2010)

§ 91.23 DOG POLICE; IMPOUNDMENT OF DOGS.

(A) There is hereby created the office of dog police for the city and the police officer or officers shall be appointed by the Chief of Police with the consent of the Council and shall be paid sums as the Council shall fix for their services.

(B) It shall be the duty of the City Police to enforce this subchapter by impounding dogs found violating this subchapter and/or issuing citations to the owners of dogs found violating this subchapter.

(C) The dog police shall keep an accurate record of all dogs impounded, giving the description of the dog and the date of impounding and redemption or sale or disposal thereof and the amount of fees and charges upon the same. The records shall be available to the City Manager upon request.

(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983; Ord. 651, passed 12-20-2010)

§ 91.24 NOTIFICATION.

It shall be the duty of the officer impounding or releasing the dog from impoundment to make a reasonable effort to obtain the name of the owner by determining if the dog has a license or identification

tags. Unless claimed by its owner or keeper, a dog shall be impounded for at least three days if the dog is without a license and for at least five if it has a license or identification tag. A reasonable effort shall be made to notify the keeper of the dog. If the owner or keeper of the dog shall fail to claim the dog, the officer shall dispose of the dog by releasing the dog to a responsible person or organization upon receiving assurance that the person or organization will either kill the dog in a humane manner, or will properly care for the dog and only release the dog to another responsible person or organization that will not allow the dog to become a nuisance.

(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983; Ord. 573A, passed 10-18-1999)

§ 91.25 REDEMPTION.

Cost of redeeming any dog impounded under this subchapter shall be set by resolution by the City Council plus \$3.50 per day for each day impounded or any part thereof. The sums so paid shall go the Law Enforcement Fund of the city. A condition of redemption shall be the purchase of a valid license for any unlicensed dog.

(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983; Ord. 573A, passed 10-18-1999)

§ 91.26 EFFECT OF REDEMPTION.

No redemption shall authorize further violation of this subchapter or relieve the owner from penalties for violation of this subchapter.

(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983)

§ 91.27 HEARING.

Any person believing himself or herself aggrieved by the seizure and impoundment of an animal may file a request with the Municipal Judge for a hearing, if the request is filed prior to the expiration of the time provided for disposal of the animal. Upon filing this notice the police shall abate procedure to dispose of the dog until the hearing is held. The person filing the demand shall be entitled to a summary hearing before the Municipal Judge on the question of the rightful impoundment of the animal. The hearing shall be before the Court, without a jury, and upon completion of the hearing the Court shall enter a judgment, either sustaining the impoundment or directing release of any impounded dog.

(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983)

§ 91.28 IMPOUNDING FACILITY.

The Chief of Police shall select, arrange and maintain a suitable place for impoundment of dogs under this subchapter.

(1993 Code, Comp. No. 4-14) (Ord. 342, passed 7-5-1983)

§ 91.29 NUISANCE.

Any condition violating a provision of this subchapter is declared to be a public nuisance and the condition may be abated using the same procedure provided in the city's nuisance ordinance codified in Chapter 90, as amended.

(Ord. 573A, passed 10-18-1999)

§ 91.30 STATE STATUTES ADOPTED.

The provisions of O.R.S. 609.015 through 609.190 as now enacted or hereafter amended are hereby adopted and violation thereof shall constitute an offense against the city. In the event of any conflict between state law and this subchapter, state law shall apply and govern.

(Ord. 573A, passed 10-18-1999) Penalty, see § 91.99

§ 91.99 PENALTY.

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

(B) A person responsible for violating a provision of this subchapter or an order issued under authority of this subchapter shall, upon conviction, be punished by a fine not to exceed \$250 for each offense and for each day any violation continues. In addition to a fine, the Municipal Court Judge may direct the city to immediately abate any condition constituting a nuisance with no further notification to any person. Conviction of a violation does not give rise to any disability or legal disadvantages based on conviction of a crime.

(1993 Code, Comp. No. 4-7)

(C) A person responsible for violating a provision of §§ 91.20 through 91.30 or an order issued under authority of that subchapter shall, upon conviction, be punished by a fine not to exceed \$250 for each offense and for each day any violation continues. In addition to a fine, the Municipal Court Judge may direct the city to immediately abate any condition constituting a nuisance with no further notification to any person. Conviction of a violation does not give rise to any disability or legal disadvantages based on conviction of a crime.

(1993 Code, Comp. No. 4-14)

(Ord. 342, passed 7-5-1983; Ord. 409, passed 12-21-1987; Ord. 572, passed 10-18-1999; Ord. 573A, passed 10-18-1999)

CHAPTER 92: STREETS AND SIDEWALKS

Section

Driveway Construction and Repair

- 92.01 Definitions
- 92.02 Permits
- 92.03 Standard plans and specifications
- 92.04 Driveways; abandonment and revocation
- 92.05 Driveways; area restoration
- 92.06 Variances

Cross-reference:

Camping on public and commercial property, see §§ 90.090 and 90.091

DRIVEWAY CONSTRUCTION AND REPAIR

§ 92.01 DEFINITIONS.

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

CULVERT. The drainage pipe under a driveway on a street which has an open ditch storm drain along the roadway.

CURB CUT. The entire width of the driveway from full curb to full curb.

DRIVEWAY. The portion of a street providing access to private property from the edge of the roadway or traveled portion of the street to the property line intended and used for ingress and egress of vehicles to a public street from private property.

IMPROVED STREET. A public street on which the roadway has been improved by the construction of concrete or asphaltic surface with curbs and gutters.

STANDARD CITY SPECIFICATIONS. Plans, specifications and standards adopted by the City Council pursuant to § 92.03.

UNIMPROVED STREET. A street other than an improved street.
(1993 Code, Comp. No. 2-6) (Ord. 448, passed 11-6-1989)

§ 92.02 PERMITS.

(A) *Permit required.* No person shall remove, alter, construct or reconstruct any curb, sidewalk, driveway, gutter, pavement or other improvements on or in any public street, alley or other property owned by or dedicated to the city and over which it has jurisdiction without first obtaining a permit.

(B) *Application for permit.* An application for a permit shall be filed with the Superintendent of Public Works on a form prescribed by the city, and shall contain any information as may be required by the Superintendent. After determining that the proposed improvement is to be constructed in accordance with standard city specifications, the Superintendent shall issue a permit for the work to be done.

(C) *Fees for permits.* Before any permit is issued on an improved street the applicant shall pay to the city a permit fee of \$10 plus:

- (1) Ten cents per square foot of sidewalk to be removed or altered; and
- (2) Twenty cents per lineal foot of curb and gutter to be removed or altered.

(D) *Culvert.* When laying a culvert under a driveway on an unimproved street the permit fee shall be the actual cost of construction when the construction is performed by the city. Before the permit shall be issued, the applicant must deposit with the city a sum of money equal to the estimated cost of the work. Upon completion of the installation, the actual costs thereof shall be determined; the deposited funds shall be applied toward payment thereof; any surplus of deposited funds shall be returned to the applicant; and any deficiency between actual costs and deposited funds shall be paid by the applicant to the city. If the applicant chooses to install a culvert under a driveway on an unimproved street at his or her own expense, the permit fee shall be \$10.

(1993 Code, Comp. No. 2-6) (Ord. 448, passed 11-6-1989)

§ 92.03 STANDARD PLANS AND SPECIFICATIONS.

(A) The Superintendent of Public Works shall formulate standard plans and specifications for the construction of sidewalks, curbs, gutters, driveways and driveway culverts, and from time to time shall recommend amendments thereto deemed by him or her to be in the best interests of the city. The plans and specifications and proposed amendments shall be submitted to the Council for adoption by resolution. All these improvements shall be constructed in accordance with the standard plans and specifications so adopted and in effect at the time.

(B) Separate standard plans and specifications may be proposed and adopted applicable to different use classifications of properties, such as industrial, commercial, residential or other uses. They shall also

include designations of sidewalk widths, driveway widths, the spacing of driveways and the location of driveways relative to intersections and other improvements.
(1993 Code, Comp. No. 2-6) (Ord. 448, passed 11-6-1989)

§ 92.04 DRIVEWAYS; ABANDONMENT AND REVOCATION.

(A) Any permissive use for driveway purposes of any area within a public street of the city, whether granted by permit under this subchapter or any other ordinance of the city, or any driveway established without permit, may be revoked by the City Council after notice and public hearing if the City Council shall find that:

- (1) No need exists for vehicular access to the private property to which the driveway extends, considering the use being made of the property at the time;
- (2) The driveway has been abandoned;
- (3) The private property to which the driveway extends is accessible by vehicles from some other location or in some other manner;
- (4) The location of the driveway and its use constitutes a hazard to vehicular or pedestrian traffic using any adjacent street or streets; or
- (5) The driveway is not being maintained so as to keep it in a good state of repair and free from hazards.

(B) Notice of intent to revoke a permit shall be given in writing to the owners of the property personally or sent to the owners by certified or registered mail at the address last shown on the tax rolls of this county. The notice shall specify the intent; state the time and place at which a hearing on the matter will be held; and advise the owner that he or she may be heard thereon at that time and place. The notice shall be given at least ten days before the date of the hearing. Failure to give the notice in any one or more of the manners herein provided shall not invalidate the proceedings; provided the owner shall have received actual notice in any other manner or if he or she appears personally or by agent at the hearing.
(1993 Code, Comp. No. 2-6) (Ord. 448, passed 11-6-1989)

§ 92.05 DRIVEWAYS; AREA RESTORATION.

(A) Upon the termination of any driveway whether by revocation of permit or expiration of term, or abandonment or otherwise, the authority, rights and privileges granted shall cease and the owner of the property to which the driveway leads shall, within a period of 60 days thereafter, remove or modify the driveway area, including the sidewalk, parkway, curb, gutter and other areas where the driveway is located, and shall reconstruct the sidewalk, parkway, curb, gutter and other improvements which were used for the driveway to the end that they shall be restored to the same condition as the adjacent

sidewalk, parkway, curb, gutter and other improvements. The restoration work shall be done by the property owner at his or her own expense.

(B) In the event of the failure, neglect or refusal on the part of any property owners to remove driveways and restore the sidewalk, parkway, curb, gutter and other improvements to the restoration conditions prescribed in division (A) of this section, the city may proceed to restore the same and charge the expense thereof to the property or properties to which the driveway leads, and the cost thereof shall become liens upon the properties and shall be entered as liens upon the same in the lien docket of the city.

(1993 Code, Comp. No. 2-6) (Ord. 448, passed 11-6-1989)

§ 92.06 VARIANCES.

(A) Upon written application, and subsequent to a hearing, the City Council may grant variances for the requirements of this chapter if it determines that either of the following conditions exist:

(1) Strict compliance with the requirements will constitute a taking of property without due process of law; or

(2) Strict compliance with the requirements will create an unreasonable hardship in the use of the property to be served by the improvement, but will not be contrary to the public interest and will not unreasonably or adversely affect other properties or persons.

(B) Before granting any variance the Council shall afford all interested persons the opportunity to be heard on the matter and shall give notice of the hearing by publication in a newspaper of general circulation in the city at least ten days prior to the date of the hearing.

(1993 Code, Comp. No. 2-6) (Ord. 448, passed 11-6-1989)

CHAPTER 93: PARKS AND RECREATION

Section

Park Board; Membership

- 93.01 Establishment
- 93.02 Membership
- 93.03 Terms
- 93.04 Quorum; rules, regulations and procedures
- 93.05 Compensation
- 93.06 Powers and duties
- 93.07 Reports
- 93.08 Life of Board

Rules and Regulations

- 93.20 Rules and regulations

PARK BOARD; MEMBERSHIP

§ 93.01 ESTABLISHMENT.

There is hereby created and established a Park Board.
(Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007)

§ 93.02 MEMBERSHIP.

(A) *Members, generally.* The Park Board shall consist of six voting members and a generally non-voting Chair, who may vote only in the event of a tie and is selected by the voting members. A City Councilor shall be selected by the City Council to serve as a non-voting liaison to the Board. The Mayor shall appoint the members, with confirmation by the City Council. One voting member may be appointed, who need not live within the corporate limits of the city. The remainder of the voting members shall live within the corporate limits of the city unless a Board position remains vacant for 90 days. The vacant position can then be filled from outside the corporate limits of the city. One member, selected by the Board, shall serve as Secretary to the Board and shall prepare minutes of each meeting.

(B) *Unexcused absences.* In the event of three consecutive unexcused absences from the regularly scheduled meetings of the City Park Board, the Mayor shall declare that position vacant and may fill the position as per division (A) of this section.

(Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007; Ord. 643, passed - -; Ord. 21-694, passed 3-15-2021)

§ 93.03 TERMS.

The initial terms of the members shall be as follows: Chair for two years, beginning with the first meeting in January of even-numbered years; three members for one year; two members for two years; and two members for three years. Thereafter, all terms shall be for three years. All terms, except the Chair, shall expire on January 31 of the appropriate year.

(Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007)

§ 93.04 QUORUM; RULES, REGULATIONS AND PROCEDURES.

Three voting members of the Park Board shall constitute a quorum. The Board shall make rules, regulations and procedures as it deems necessary, but all the rules, regulations and procedures shall be consistent with the laws of the state, the City Charter and city ordinances. The Board shall meet at least once every three months.

(Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007; Ord. 20-687, passed 7-20-2020)

§ 93.05 COMPENSATION.

Members of the Board shall receive no compensation for services rendered, but may be reimbursed for any incidental expenditures approved by the Mayor and City Council.

(Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007)

§ 93.06 POWERS AND DUTIES.

In general, the Board shall act in an advisory capacity to the City Council and the City Manager in the creation, development and implementation of park rules, regulations, activities and development, including structures located with the park system. In addition, the Board shall have the authority to grant or deny permission for certain activities not allowed or not addressed in the park rules and regulations in place at the time of request. If the Park Board recommends a special events contract, there may be a fee passed for the promise of year-to-year reservations. Decisions of the Park Board concerning usage can be appealed to the City Council at its next regular meeting upon written request of the applicant or any member of the Park Board. All decisions of the City Council in these matters shall be final.

(Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007)

§ 93.07 REPORTS.

The Board shall submit copies of its minutes to the City Council and shall, in February of each year, make and file an annual report of its activities to the City Council; and any other reports as from time to time may be requested of it by the City Council.

(Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007)

§ 93.08 LIFE OF BOARD.

The Park Board shall continue in existence so long as directed to do so by the Mayor and City Council.

(Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007)

RULES AND REGULATIONS

§ 93.20 RULE AND REGULATIONS.

(A) Fires in the park areas shall be confined to:

(1) Park camp stoves or fireplaces provided for that purpose;

(2) Portable stoves in established campsites and picnic areas where fires are permitted; and

(3) No fire shall be left unattended, and every fire shall be fully and completely extinguished before its user leaves the park area.

(B) No person shall:

(1) Hunt, pursue, trap, kill, injure or molest any birds or animals or disturb their habitats;

(2) Discharge any firearm, pellet gun, bow and arrow, slingshot or other weapon capable of injuring any person, bird or animal; or

(3) Possess any loaded firearm in any park area except under agreement or special regulation of this city.

(C) Flowers, shrubs, foliage, tree or plant life or products of any type shall not be planted, picked, cut, mutilated or removed from any park area without written permission from the Park Board.

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(D) No person shall mutilate, deface, damage or remove any table, bench, building, sign, marker, monument, fence, barrier, fountain, faucet, traffic recorder or other structure or facility of any kind in a park area. This proscription does not include ordinary control or maintenance of park areas or park property by park employees.

(E) No person shall, except under special regulation of the Park Board, dig up, deface or remove any dirt, stones, rock or other substances whatever, make any excavation, quarry any stone, lay or set off any blast, roll any stones or other objects, or cause or assist in doing any of the things within a park area.

(F) No person shall erect signs, markers or inscriptions of any type within a park area without the permission of the Park Board.

(G) Without prior approval of the Park Board no person in a park area may:

(1) Operate a concession, either fixed or mobile;

(2) Solicit, sell or offer for sale, peddle, hawk or vend any goods, wares, merchandise, food, liquids or services; or

(3) Advertise any goods or services by any means whatsoever.

(H) Motor vehicles shall be operated only on roads and in parking areas constructed or designated for motor vehicle use. No motor vehicle shall be operated on any trail or in any part of a park not constructed or designated for motor vehicle use, or on any road or trail posted as closed to public. Automobiles, trailer or other vehicles shall be parked only in designated parking areas. This division (H) shall not apply to control and maintenance of park areas or park property by city employees.

(I) No bottles, cans, ashes, waste, paper, garbage, sewage or refuse shall be left in the park area without the permission of the Park Board.

(J) No person shall set up or use a public address system in the park area without the permission of the Park Board.

(K) No person shall ride, drive, lead or keep a saddle horse or other animal in any park area except on roads, trails or areas designated for that purpose. No horse shall be hitched to any tree or shrub in a manner that may cause damage to the tree or shrub.

(L) No person shall operate or use any noise-producing machine, vehicle, device or instrument in a manner that is disturbing to other park area visitors.

(M) No person shall operate any motor vehicle within a park area at a speed in excess of 15 mph unless the roadway is posted otherwise.

(N) (1) Except for authorized overnight camping in accordance with these Council rules and regulations, no person other than law enforcement officers or authorized personnel shall enter or remain in any park area between the daily closing time and the daily opening time as established by the Park Board and posted at the entrance to the park area.

(2) Authorized camping is limited to that needed by vendors or security for special events, or by special provisions of a contract with the city. All camping must be in self-contained units and parked only in designated parking areas.

(O) No child under the age of five shall be allowed in any park area unless attended by a person responsible as an adult under the circumstances.

(P) The use or possession of fireworks on park property is not allowed.

(Q) Any security that will be provided must be state certified and approved by the City Police Chief.

(R) Rental fees must be paid for all days of use, including setup.

(S) No alcohol is permitted on park property unless approved by the Park Board and City Council.

(T) Parking is only allowed in areas designated for parking on the River Bend park map.

(U) Park hours of use shall be posted as daylight to dark. (Only scheduled events with special permission are allowed to conduct activities outside these hours.)
(1993 Code, Comp. No. 4-9) (Ord. 197, passed 10-1-1975; Ord. 413, passed 12-21-1987; Ord. 614, passed 4-17-2006; Ord. 633, passed 6-4-2007)

CHAPTER 94: ABATEMENT OF CHRONIC DISORDERLY PROPERTIES

Section

- 94.01 Purpose
- 94.02 Definitions
- 94.03 Violation
- 94.04 Procedure
- 94.05 Burden of proof; defenses; mitigation of civil penalty
- 94.06 Closure during pendency of action; emergency closures
- 94.07 Commencement of action; remedies
- 94.08 Enforcement
- 94.09 Attorney fees
- 94.10 Enforcement procedures for violations
- 94.11 Exclusion from public land
- 94.12 Appeal of exclusion notice
- 94.13 Appeal of temporary waiver decision

§ 94.01 PURPOSE.

The purpose of this chapter is to provide a method for the city to hold persons who allow criminal activity to occur on their property responsible for their actions while protecting their property rights. (Ord. 18-678, passed 4-2-2018)

§ 94.02 DEFINITIONS.

When not clearly otherwise indicated by the context, the following words and phrases as used in this chapter shall have the following meanings:

CHRONIC DISORDERLY PROPERTY.

(1) Property in the city limits on which three or more prohibited activities have occurred during any 60-day period.

(2) Property in the city limits on which or within 200 feet of which any person associated with the property has engaged in three or more prohibited activities during any 60-day period.

CONTROL. The ability to regulate, restrain, dominate, counteract or govern conduct that occurs on a property.

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

PERSON ASSOCIATED WITH. Any person who, on the occasion of a prohibited activity, has entered, patronized, or visited, or attempted to enter, patronize or visit a property or person present on a property, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a property, person in charge, or owner thereof.

PERSON IN CHARGE. An agent, occupant, lessee, contract purchaser or other person having possession or control of property or supervision of a construction project.

PROHIBITED ACTIVITIES.

- (1) Harassment as defined in O.R.S. 166.065(1)(a) or within the city code.
- (2) Intimidation as provided in O.R.S. 166.155 to 166.165.
- (3) Disorderly conduct as provided in O.R.S. 166.025 or within the city code.
- (4) Assault or menacing as provided in O.R.S. 163.160, 163.165, 163.175, 163.185, or 163.190.
- (5) Sexual abuse, contributing to the delinquency of a minor, or sexual misconduct as provided in O.R.S. 163.415, 163.425, 163.427, 163.435, or 163.445.
- (6) Public indecency as provided in O.R.S. 163.465.
- (7) Prostitution or related offenses as provided in O.R.S. 167.007, 167.012, and 167.017.
- (8) Alcoholic liquor violations as provided in O.R.S. 471.105 to 471.482.
- (9) Offensive littering as provided in O.R.S. 164.805.
- (10) Criminal trespass as provided in O.R.S. 164.243, 164.245, 164.255, or 164.265.
- (11) Theft as provided in O.R.S. 164.015 to 164.140.
- (12) Possession, manufacture, or delivery of a controlled substance or related offenses as provided in O.R.S. 167.203, 475.005 to 475.285, or 475.940 to 475.995.
- (13) Illegal gambling as provided in O.R.S. 167.117, 167.122, or 167.127.
- (14) Criminal mischief as provided in O.R.S. 164.345 to 164.365.

(15) Property which in addition to or in combination with the prescribed number and duration of prohibited activities, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause that possession, manufacture, or delivery of a controlled substance or related offenses as defined in O.R.S. 167.203, 475.005 to 475.285 and/or 475.940 to 475.995 have occurred.

(16) Violating city code (1): keeping an animal that, by loud and frequent continued noise, disturbs the comfort and repose of a person in the vicinity.

(17) Discharge of firearms in violation of the city code.

(18) Frequenting a place where controlled substances are used as provided in O.R.S. 167.222.

PROPERTY. Any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any 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 prohibited activity 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. (Ord. 18-678, passed 4-2-2018)

§ 94.03 VIOLATION.

(A) Property within the city that is a chronic disorderly property is in violation of §§ 94.01 to 94.09 and subject to their remedies.

(B) Any person in charge of such property who permits the property to be a chronic disorderly property is in violation of §§ 94.01 to 94.09 and subject to their remedies. (Ord. 18-678, passed 4-2-2018)

§ 94.04 PROCEDURE.

(A) When the Chief of Police or his or her designee receives two or more reports documenting the occurrence of prohibited activity on or within 200 feet of a property within the city limits, the Chief of Police or his or her designee shall independently review the reports to determine whether they describe prohibited activities enumerated in this code under this chapter. Upon such a finding the Chief of Police or his or her designee may:

(1) Notify the person in charge and property owner in writing that the property is in danger of becoming chronic disorderly property. The notice shall contain the following information:

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(a) The street address or legal description sufficient for identification of the property.

(b) A statement that the Chief of Police has information that the property may be chronic disorderly property, with a concise description of the prohibited activities that may exist, or that have occurred. The Chief of Police shall offer the person in charge an opportunity to propose a course of action that the Chief of Police agrees will abate the prohibited activities giving rise to the violation.

(c) Demand that the person in charge respond to the Chief of Police within ten days to discuss the prohibited activities.

(2) When the Chief of Police receives a report documenting the occurrence of a fourth prohibited activity at or within 200 feet of a property in a residential neighborhood within a 60-day period and determines that the property has become chronic disorderly property, the Chief of Police shall:

(a) Notify the person in charge in writing that the property is a chronic disorderly property. The notice shall contain the following information:

1. The street address or legal description sufficient for identification of the property.

2. A statement that the Chief of Police has determined the property to be chronic disorderly property with a concise description of the prohibited activities leading to the findings.

3. Demand that the person in charge respond within 14 days to the Chief of Police and propose a course of action that the Chief of Police agrees will abate the prohibited activities giving rise to the violation.

4. Service shall be made either personally or by first class mail, postage prepaid, return receipt requested, addressed to the person in charge at the address of the property believed to be a chronic disorderly property, or any other place which is likely to give the person in charge notice of the determination by the Chief of Police.

5. A copy of the notice shall be served on the owner at the address shown on the tax rolls of the county in which the property is located, the occupant, at the address of the property, if these persons are different from the person in charge, and shall be made either personally or by first class mail, postage prepaid.

6. A copy of the notice shall be posted at the property.

7. The failure of any person to receive notice that the property may be a chronic disorderly property shall not invalidate or otherwise affect the proceedings under §§ 94.01 to 94.09.

(b) Chronic disorderly property, as defined by § 94.02, shall be subject to the notification requirements of division (A)(1) and (2) of this section.

(c) If, after the notification, but prior to the commencement of legal proceedings by the city pursuant to §§ 94.01 to 94.09, a person in charge stipulates to the Chief of Police that the person in charge will pursue a course of action the parties agree will abate the prohibited activities giving rise to the violation, the Chief of Police may agree to postpone legal proceedings for a period of not less than ten nor more than 30 days. If the agreed course of action does not result in the abatement of the prohibited activity or if no agreement concerning abatement is reached within 30 days, the Chief of Police may refer the matter to the City Manager for review.

(d) Concurrent with the notification procedures set forth in division (A)(1) and (2) of this section, the Chief of Police shall send copies of the notice, as well as any other documentation which supports legal proceedings against the property, to the City Manager.

(3) When a person in charge makes a response to the Chief of Police as required by division (A)(2)(c) of this section, any conduct or statements made in connection with the furnishing of that response shall not constitute an admission that any prohibited activities have or are occurring. This division (A)(3) does not require the exclusion of any evidence that is otherwise admissible or offered for any other purpose.

(Ord. 18-678, passed 4-2-2018)

§ 94.05 BURDEN OF PROOF; DEFENSES; MITIGATION OF CIVIL PENALTY.

(A) In an action for chronic disorderly property, the city shall have the initial burden of proof to show by a preponderance of the evidence that the property is chronic disorderly property.

(B) It is a defense to an action for chronic disorderly property that the person in charge at all material times could not, in the exercise of reasonable care or diligence, determine that the property had become chronic disorderly property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the determination that the property is chronic disorderly property.

(C) In establishing the amount of any civil penalty requested, the court may consider any of the following factors and shall cite those found applicable:

(1) The actions taken by the person in charge to mitigate or correct the prohibited activities at the property;

(2) The length of time that the prohibited activity has been going on and whether the problem at the property was repeated or continuous;

(3) The magnitude or gravity of the problem;

(4) The cost to the city of investigating and correcting or attempting to correct the prohibited activities;

(5) Any other factor deemed by the court to be relevant.
(Ord. 18-678, passed 4-2-2018)

§ 94.06 CLOSURE DURING PENDENCY OF ACTION; EMERGENCY CLOSURES.

Any emergency closure proceeding initiated under this provision shall be based on evidence showing that prohibited activities have occurred on the property and that emergency action is necessary to avoid an immediate threat to public welfare and safety. Proceedings to obtain an order of emergency closure shall be governed by the provisions of ORCP 79 for obtaining temporary restraining orders. In such an event the notice procedures set forth in § 94.04(B) need not be complied with.

(Ord. 18-678, passed 4-2-2018)

§ 94.07 COMMENCEMENT OF ACTION; REMEDIES.

(A) The City Manager may authorize the City Attorney to commence legal proceedings to enjoin or abate chronic disorderly property and to seek closure, the imposition of civil penalties against any or all of the persons in charge of the property, and any other relief deemed appropriate.

(B) If, after the commencement but prior to the trial of an action or suit brought by the city pursuant to §§ 94.01 to 94.09, a person in charge of chronic disorderly property stipulates to the city that he or she will pursue a course of action the parties agree will abate the prohibited activities giving rise to the violation, the city may agree to stay proceedings for a period of not less than ten nor more than 60 days. The person in charge or the city may thereafter petition the court for additional like periods of time as may be necessary to complete the action to abate the prohibited activities. However, if the city reasonably believes the person in charge of a property is not diligently pursuing the action necessary to abate the prohibited activities, the city may apply to the court for release from the stay and may seek relief deemed appropriate.

(C) If a court determines property to be chronic disorderly property, the court shall order that the property be closed and secured against all access, use and occupancy for a period of not less than three months, nor more than one year. The court shall retain jurisdiction during any period of closure. The person in charge may petition the court for an order reducing the period of closure if the person in charge and the city stipulate that the nuisance has been and will continue to be abated.

(D) If a property is found to be chronic disorderly property in violation of § 94.03, the person in charge of the chronic disorderly property is subject to a civil penalty of up to \$100 per day for each day prohibited activities occur on the property, following notice pursuant to § 94.04(B).

(E) Nothing in these provisions shall require any conviction for criminal activities prior to the commencement of any action provided herein.

(Ord. 18-678, passed 4-2-2018)

§ 94.08 ENFORCEMENT.

(A) The court may authorize the city to physically secure the property against all access, use or occupancy if the person in charge fails to do so within the time specified by the court. If the city is authorized to secure the property, all costs reasonably incurred by the city to physically secure the property shall be paid to the city by the person in charge and may be included in the city's money judgment. As used in this division (A), *COSTS* means those costs actually incurred by the city for physically securing the property, as well as tenant relocation costs pursuant to division (E) below.

(B) The city shall prepare a statement of the costs expended for physically securing the property and submit that statement to the court for its review. If no objection to the statement is made within the period prescribed by ORCP 68, the statement of costs shall be included in the city's money judgment.

(C) Judgments imposed by §§ 94.03 to 94.09 shall bear interest at the rate of 9% per year from the date the judgment is entered.

(D) Any person who is assessed the costs of physically securing the property by the court shall be personally liable for the payment of costs to the city.

(E) The person in charge shall pay reasonable relocation costs of a tenant, as defined by O.R.S. 90.100(16), if, without actual notice, the tenant moved into the property after either:

(1) A person in charge received notice from the Chief of Police of the determination pursuant to § 94.04(B); or

(2) A person in charge received notice of an action brought pursuant to § 94.07.
(Ord. 18-678, passed 4-2-2018)

§ 94.09 ATTORNEY FEES.

In any action pursuant to §§ 94.01 to 94.09, the court may award attorney's fees to the prevailing party.

(Ord. 18-678, passed 4-2-2018)

§ 94.10 ENFORCEMENT PROCEDURES FOR VIOLATIONS.

The city adopts and incorporates by reference herein the Oregon Revised Statutes regarding procedures for processing violations as described in O.R.S. 153.005 to 153.161. Therefore, the Winston Municipal Code hereby authorizes city employees to process violations pursuant to state law per the above listed sections.

(Ord. 18-678, passed 4-2-2018)

§ 94.11 EXCLUSION FROM PUBLIC LAND.

(A) In addition to any other remedy or penalty provided by law, a peace officer or other person specifically authorized by the City Manager may exclude a person who violates a provision of the state or local law or rule from that public land for a period of up to 90 days.

(B) A person excluded pursuant to this division (A) of this section may not enter or remain upon that public land during the exclusion period except a person excluded from the City Hall building may enter upon or remain at the City Hall building to the extent necessary to file documents required to be filed with a city official or appear in a municipal court proceeding.

(C) A person will be given a warning and an opportunity to comply with the law or rule before an exclusion notice is issued unless the exclusion is based on:

- (1) Conduct punishable as a felony;
- (2) Controlled substances or alcoholic beverages;
- (3) Actions actually or likely to result in personal injury or property damage; or

(4) The person having been previously warned or excluded for the same conduct in a separate situation.

(D) An exclusion notice will not be issued if the person promptly complies with the warning under division (C) above.

(E) An exclusion notice will be written and include:

- (1) The signature of the issuing party and date of issuance;
- (2) The effective dates of the exclusion period;
- (3) The places from which the person is excluded;
- (4) The provisions of law violated;
- (5) A brief description of the offending conduct;
- (6) A statement of the consequences for failure to comply; and
- (7) The appropriate municipal court procedures.

(F) This chapter does not authorize exclusion of a person lawfully exercising free speech rights or other rights protected by state and federal law.

(G) At any time during an exclusion, a person receiving an exclusion notice may petition in writing to the City Manager or designee, for a temporary waiver of the exclusion for good reason.
(Ord. 18-680, passed 6-18-2018)

§ 94.12 APPEAL OF EXCLUSION NOTICE.

(A) Any person receiving an exclusion notice may appeal to the municipal court and seek to have the exclusion reversed or the exclusion period shortened.

(B) An appeal of an exclusion notice must be filed with the city within ten calendar days of receipt of the notice, unless extended by the municipal court.

(C) An appeal of an exclusion notice automatically stays the exclusion period until a decision on appeal is issued by the municipal court.

(D) The municipal court will conduct a de nova hearing and decide all appeals within ten days of their filing unless the hearing date is extended by court order or the hearing requirement is waived by the petitioner.

(Ord. 18-680, passed 6-18-2018)

§ 94.13 APPEAL OF TEMPORARY WAIVER DECISION.

(A) Any person who has requested a temporary waiver of an exclusion pursuant to § 94.11(G) may appeal to the municipal court and seek to have the decision of the City Manager or the Manager's designee reversed or modified.

(B) An appeal brought under this section must be filed with the city within ten calendar days of receipt of the notice of the decision of the City Manager or the Manager's designee, unless extended by the municipal court.

(C) The municipal court will conduct a de nova hearing and decide all appeals within ten days of their filing unless the hearing date is extended by court order or the hearing requirement is waived by the petitioner.

(Ord. 18-680, passed 6-18-2018)

