

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

131. MINORS

CHAPTER 130: GENERAL OFFENSES

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STATUTES ADOPTED

§ 130.001 ADOPTION OF STATE STATUTES.

The city hereby adopts by reference and incorporates as offenses against the city all the offenses contained and defined in the following sections of state law as they now exist or as hereafter amended: O.R.S. Chapters 131, 133, 135, 136, 137, 138, 142, 147, 151, 153, 156, 157, 161 through 169, inclusive, 471 and 475.

(1993 Code, Comp. No. 4-17) (Ord. 395, passed 11-17-1986; Ord. 417, passed 12-21-1987)

GENERAL OFFENSES

§ 130.015 DEFINITIONS.

The definitions contained in O.R.S. Chapters 161 through 169, inclusive, as now constituted or as hereafter amended, are adopted by reference and made a part of this chapter. Except where the context clearly indicates a different meaning, the general definitions and the definitions appearing in the definitional and other sections of particular articles of the code shall be applicable throughout this subchapter.

(1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975; Ord. 308, passed 2-1-1982; Ord. 415, passed 12-21-1987)

§ 130.016 DISORDERLY CONDUCT AND RELATED OFFENSES.

(A) *Disorderly conduct at fires.* No person at or near a fire shall obstruct or impede the fighting of the fire, interfere with Fire Department personnel or Fire Department apparatus, behave in a disorderly manner or refuse to observe promptly an order of a member of the Fire or Police Department.

(B) *Unnecessary noise.* No person shall create or assist in creating or permit the continuance of unreasonable noise in the city. The following enumeration of violations of this section is not exclusive, but is illustrative of some unreasonable noises:

(1) The keeping of an animal which by loud and frequent or continued noise disturbs the comfort and repose of a person in the vicinity;

(2) The use of an engine, thing or device which is so loaded, out or repair or operated in a manner as to create a loud or unnecessary grating, grinding, rattling or other noise;

(3) The use of a mechanical device operated by compressed air, steam or otherwise, unless the noise created thereby is effectively muffled;

(4) The construction, including excavation, demolition, alteration or repair of a building other than between the hours of 7:00 a.m. and 6:00 p.m., except upon special permit granted by the city; and

(5) The use or operation of an automatic or electric piano, phonograph, loudspeaker or sound-amplifying device so loudly as to disturb persons in the vicinity thereof, or in a manner that renders the same a public nuisance; provided, however, that upon application to the Council, permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches or general entertainment.

(1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975) Penalty, see § 130.999

§ 130.017 WEAPONS AND FIREWORKS.

The following sections of the State Fireworks Law, together with all acts and amendments applicable to cities which are now or hereafter enacted, are adopted by reference and made a part of this subchapter: O.R.S. 480.110, 480.120, 480.140(1) and 480.150.

(1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975; Ord. 308, passed 2-1-1982; Ord. 415, passed 12-21-1987)

§ 130.018 OFFENSES RELATING TO PROPERTY.

(A) *Theft.* O.R.S. 164.015 to 164.045, 164.065 and 164.085 to 164.125 and O.R.S. 131.655, as now constituted or as hereafter amended, are adopted by reference and made a part of this subchapter, save and except penalty provisions.

(B) *Trespass*. No person shall enter or remain unlawfully in or upon premises.

(C) *Violating privacy of another*. No person other than a public official performing a lawful duty shall enter upon land or into a building used in whole or in part as a dwelling not his or her own without permission of the owner or person entitled to possession thereof and while so trespassing look through or attempt to look through a window, door or transom of the dwelling or that part of the building used as a dwelling with the intent to violate the privacy of any other person.

(1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975; Ord. 308, passed 2-1-1982; Ord. 415, passed 12-21-1987) Penalty, see § 130.999

§ 130.019 SEXUAL AND RELATED OFFENSES; PUBLIC INDECENCY.

No person shall, while in or in view of a public place, perform:

(A) An act of sexual intercourse;

(B) An act of deviate sexual intercourse;

(C) An act of exposing his or her genitals with the intent of arousing the sexual desire of himself, herself or another person; or

(D) An act of urination or defecation, except in toilets provided for that purpose.

(1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975) Penalty, see § 130.999

§ 130.020 OBSTRUCTING GOVERNMENTAL ADMINISTRATION; COMMUNICATIONS.

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

(1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975) Penalty, see § 130.999

§ 130.021 PHYSICAL OBSTRUCTIONS.

(A) *Obstruction of building entrances*. No person shall obstruct any entrance, stairway or hall leading to any building.

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

(C) *Vending goods on streets or sidewalks.* No person shall use or occupy any portion of a street or sidewalk for the purpose of vending goods, wares or merchandise by public outcry or otherwise, unless a license has first been obtained.

(1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975; Ord. 415, passed 12-21-1987) Penalty, see § 130.999

§ 130.022 MISCELLANEOUS.

(A) *Injury to fire apparatus.* No person shall lead, ride or drive any animal or operate any vehicle over or upon any fire hose or disturb or injure in any manner any hose, engine, appliance or apparatus belonging to or used by the Fire Department.

(B) *Posted notices.* No person shall affix a placard, bill or poster upon personal or real property, private or public, without first obtaining permission from the owner thereof or from the proper public authority.

(C) *Offensive littering.*

(1) No person shall create an objectionable stench or degrade the beauty or appearance of property or detract from the natural cleanliness or safety of property by intentionally:

(a) Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission;

(b) Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank, recreational or camping vehicle waste holding tank or other contaminated source, upon the land of another without permission of the owner, or upon any public way; or

(c) Permit any rubbish, trash garbage, debris or other refuse to be thrown from a vehicle which he or she is operating; except that this division (C)(1)(c) shall not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Interstate Commerce Commission or the State Public Utility Commissioner, or a person operating a school bus subject to O.R.S. 820.100 to 820.190.

(2) As used in this section, **PUBLIC WAY** includes but is not limited to roads, streets, alleys, lanes, trails, beaches, parks and all recreational facilities operated by the city, state or county for use by the general public.

(D) *Creating a hazard.* No person shall create a hazard by:

(1) Intentionally maintaining or leaving in a place accessible to children a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside; or

(2) Being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, excavation or other hole of a depth of four feet or more and a top width of 12 inches or more, intentionally fail or refuse to cover or fence it with a suitable protective construction.

(E) *Misconduct with emergency telephone calls.* O.R.S. 166.095, as now constituted, or hereafter amended, is adopted and made a part of this subchapter, save and except penally provisions. (1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975; Ord. 308, passed 2-1-1982; Ord. 415, passed 12-21-1987) Penalty, see § 130.999

§ 130.023 GENERAL PROVISIONS.

(A) *Offenses outside city limits.* Where permitted by state law, an act made unlawful by this subchapter shall constitute an offense when committed on any property owned or leased by the city, even though outside the corporate limits of the city.

(B) *Soliciting or confederating to violate ordinances.* No person shall solicit, aid, abet, employ or engage another, or confederate with another to violate a provision of this or any other ordinance of the city.

(C) *Attempt to commit offenses.* A person who shall attempt to commit any of the offenses mentioned in this subchapter or any ordinance of the city, but who for any reason is prevented from consummating the act, shall be deemed guilty of an offense.

(D) *Separate violations.* Whenever in this subchapter, or any ordinance of the city, an act is prohibited or is made or declared to be unlawful or an offense, or doing of an act is required or the failure to do an act is declared to be unlawful or an offense, each day a violation continues shall constitute a separate offense.

(E) *Nuisance abatement.* No provisions in this subchapter shall preclude the abatement of a nuisance as provided in the general nuisance ordinance of the city. (1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975) Penalty, see § 130.999

§ 130.024 APPLICATION OF STATE STATUTES.

Provisions of O.R.S. Chapters 161 through 169, as the same now exists, or as hereafter amended, relating to defenses and burden of proof, general principles of justification, shall apply to offenses defined and made punishable by this subchapter. (1993 Code, Comp. No. 4-11) (Ord. 203, passed 11-11-1975; Ord. 308, passed 2-1-1982; Ord. 415, passed 12-21-1987)

FLAMMABLE LIQUIDS**§ 130.035 DEFINITIONS.**

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

CLASS I FLAMMABLE LIQUIDS. Gasoline, white gas and lacquer thinners or other flammable liquids having a flash point of less than 100°F.

CLASS II FLAMMABLE LIQUIDS. Kerosene, diesel, solvent or any other flammable liquids having a flash point between 100°F and 140°F.

CLASS III FLAMMABLE LIQUIDS. Heavy fuel oils such as lubricating oil, motor oil, mineral oil or other flammable liquids with a flash point in excess of 140°F.
(1993 Code, Comp. No. 4-4) (Ord. 171, passed 10-21-1974)

§ 130.036 APPROVAL REQUIRED.

An approval issued pursuant to this subchapter shall be obtained by any person, firm or corporation from the authority having jurisdiction for any of the following:

(A) Storage, handling or use of Class I or Class II flammable liquids in excess of one gallon in a dwelling or residence; or in excess of six gallons in any other building or garage; or in excess of ten gallons outside any building; except that no approval shall be required for the following:

(1) The storage or use of flammable liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant;

(2) For the storage or use of paints, oil, varnishes or similar flammable mixtures when these liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days; or

(3) For the storage or use of home heating oil in a tank of 300 gallons capacity or less when the tank and contents are actually connected to and in use by the heating system of a building or home.

(B) Storage, handling or use of Class III flammable liquids in excess of 25 gallons in a building; or in excess of 60 gallons outside a building;

(C) For the manufacture, processing, blending or refining of flammable liquids; or

(D) For the storage of flammable liquids in stationary tanks.
(1993 Code, Comp. No. 4-4) (Ord. 171, passed 10-21-1974)

§ 130.037 APPLICATION; INSPECTION.

Application for approval for the storage, handling or use of flammable liquids as herein required shall be made in writing to the authority having jurisdiction for the enforcement of this subchapter. The authority having jurisdiction shall then cause an inspection to be made of the premises and equipment proposed to be used. If they are found to be in compliance with this subchapter, a statement to that effect shall be noted upon the application and the application signed by the person making the inspection. The authority having jurisdiction shall thereupon grant approval as applied for, and on conditions as shall ensure the safety and welfare of the inhabitants of the city.
(1993 Code, Comp. No. 4-4) (Ord. 171, passed 10-21-1974)

§ 130.038 INSPECTION.

Before operating any equipment or storing any flammable liquid or covering any underground portions of any equipment for which an approval is required, notification shall be given to the authority having jurisdiction; and he or she shall, within two working days thereof, cause the premises or equipment to be inspected.
(1993 Code, Comp. No. 4-4) (Ord. 171, passed 10-21-1974)

§ 130.039 COMPLAINT OR NOTICE TO CORRECT VIOLATION.

The authority having jurisdiction may at any reasonable time inspect premises, buildings or installations for the storage, handling or use of flammable liquids. If a violation of this subchapter is found to exist, he or she shall either cause a complaint to be filed in the Municipal Court of the city for the violation or shall file with the owner, occupant or operator a notice citing the violation and ordering its correction.
(1993 Code, Comp. No. 4-4) (Ord. 171, passed 10-21-1974)

§ 130.040 CONTAINERS, TANKS AND EQUIPMENT.

Containers, tanks and equipment meeting the standards of nationally recognized inspection or testing laboratories shall be considered as meeting the requirements of this subchapter.
(1993 Code, Comp. No. 4-4) (Ord. 171, passed 10-21-1974)

§ 130.041 ENFORCEMENT.

The authority having jurisdiction to enforce this subchapter and to grant approvals thereunder shall be the Winston-Dillard Fire District and the police force of the city.
(1993 Code, Comp. No. 4-4) (Ord. 171, passed 10-21-1974)

FIREARMS AND WEAPONS

§ 130.055 DISCHARGE OF FIREARMS OR WEAPONS.

No person other than an authorized peace officer shall fire or discharge within the city any gun or weapon which acts by force of gunpowder or other explosive, or by the use of air, mechanical device, jet or rocket propulsion, including but not limited to bows and arrows, B.B. guns and sling shots.
(1993 Code, Comp. No. 4-6) (Ord. 175, passed 2-10-1975) Penalty, see § 130.999

§ 130.056 IMPOUNDMENT OR FORFEITURE OF WEAPONS.

It is further provided that when any person is convicted under this subchapter, the guns, weapons, explosive devices, rockets, bows and arrows, B.B. guns, sling shots or other weapons used to violate this subchapter shall be subject to impound or forfeiture of the city.
(1993 Code, Comp. No. 4-6) (Ord. 175, passed 2-10-1975)

§ 130.057 EXEMPTIONS.

(A) *Exemptions generally.* The City Council reserves the right to exempt individuals and organization from the provisions of this subchapter for good and sufficient reasons upon consultation with the Chief of Police.

(B) *Exemption from prohibition.* The provision of this division (B) shall be construed to prohibit the firing or discharge of a weapon or firearm as follows:

(1) By any person in the defense or protection of his or her home, person or family to the extent that the force is allowed by existing state statutes and case law; and

(2) At any place duly designated by the Chief of Police for target practice.
(1993 Code, Comp. No. 4-6) (Ord. 175, passed 2-10-1975; Ord. 507, passed 7-5-1994)

*DRINKING IN PUBLIC; CONDUCT IN TAVERNS***§ 130.070 DRINKING IN PUBLIC PROHIBITED.**

No person shall consume alcoholic beverages or possess an open alcoholic beverage container in or on a public way, public property or private property open to the general public, unless the premises or location's license has been endorsed by the City Council.

(1993 Code, Comp. No. 4-20) (Ord. 501, passed 6-6-1994) Penalty, see § 130.999

§ 130.071 LICENSE REQUIRED.

(A) An OLCC license application to dispense alcoholic beverages on a public way, public property or private property open to the general public must be presented to the City Council for its action at least 30 days prior to the event at which the alcoholic beverages will be dispensed.

(B) For the Council to endorse an application, the following criteria must be met:

(1) If the event is to be held in a city park, the event sponsor must be a nonprofit organization and the event must be open to the general public;

(2) If the event is to be held on or in a public way, the alcoholic beverage dispenser must be licensed by the State Liquor Control Commission to dispense the kind of alcoholic beverage to be dispensed and the event must be held in or on property or premises abutting, adjacent to or providing access to the property owned or controlled by the event sponsor or the OLCC licensee;

(3) The alcoholic beverage dispenser must have accepted responsibility to ensure the liquor consumption laws are observed at the event and must carry commercial general liability insurance in the amount of \$500,000, combined single limited per occurrence, for bodily injury, personal injury and property damage for risk arising from the dispensing of alcoholic beverages;

(4) The event and its location must comply with all applicable state and local regulations, including but not limited to obtaining and paying the fee(s) for use of public facilities permits, street closure permits and the like;

(5) During the 12 months preceding an event, the event sponsor has not held more than three events authorized under this subchapter; and

(6) Any other conditions deemed necessary by the Council to protect the public health, safety or welfare.

(1993 Code, Comp. No. 4-20) (Ord. 501, passed 6-6-1994)

§ 130.072 PUBLIC COMMENT.

Before making its decision, the Council shall provide the public an opportunity to testify concerning the application. The decision of the Council shall be final.
(1993 Code, Comp. No. 4-20) (Ord. 501, passed 6-6-1994)

§ 130.073 REVOCATION OF ENDORSEMENT.

Even though the city may have authorized the endorsement of multiple events under this subchapter, the Council may revoke the endorsement at a time after the city has given ten days' prior written notice to the applicant of the city's intention to revoke the endorsement for the applicant's remaining events.
(1993 Code, Comp. No. 4-20) (Ord. 501, passed 6-6-1994)

§ 130.074 EXCEPTIONS.

This subchapter does not apply to events sponsored by the city with City Council approval.
(1993 Code, Comp. No. 4-20) (Ord. 501, passed 6-6-1994)

§ 130.075 VIOLATIONS.

Violation of this subchapter or any condition required by the City Council in endorsing the OLCC application for the dispensing of alcohol at an event approved under this subchapter constitutes a violation.
(1993 Code, Comp. No. 4-20) (Ord. 501, passed 6-6-1994) Penalty, see § 130.999

§ 130.076 DISORDERLY CONDUCT IN TAVERNS; COMPLAINT.

(A) *Disorderly conduct in taverns.* No owner, proprietor, employee or person in charge of any bar, tavern, lounge or other place where intoxicating liquor is regularly sold to the public shall permit or suffer any disorderly conduct to take place on the premises. The conduct of any person or persons which constitutes disorderly conduct shall be immediately reported by the proprietor, owner, employee or person in charge of the establishment to the Police Department of the city.

(B) *Complaint.* Whenever the owner or person in charge of a bar, tavern or lounge has requested the assistance of the City Police Department under this subchapter, that person shall, upon the request of the police officer at the scene, sign a complaint against anyone violating division (A) above. Any member of the Police Department additionally may, at its option, file a complaint in Municipal Court for violation of this subchapter based upon information and belief upon the report of the person in charge of the premises.
(1993 Code, Comp. No. 4-12) (Ord. 237, passed 3-6-1977; Ord. 341, passed 7-5-1983) Penalty, see § 130.999

DRUG PARAPHERNALIA AND CONTROLLED SUBSTANCES**§ 130.090 DEFINITIONS.**

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

CONTROLLED SUBSTANCE. O.R.S. 475.005(6) is adopted for the purpose of defining the term ***CONTROLLED SUBSTANCE*** as that term is used in this subchapter.

DRUG PARAPHERNALIA. All equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance as defined in the definition of controlled substance. It includes but is not limited to:

(a) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(c) Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance;

(d) Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(e) Scales and balances used or intended for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting controlled substances;

(g) Separation gins and sifters used or intended for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;

(h) Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances;

(i) Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled substances;

(j) Containers and other objects used or intended for use in storing or concealing controlled substances;

(k) Hypodermic syringes, needles and other objects used or intended for use in parenterally injected controlled substances into the human body; and

(l) Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
2. Water pipes;
3. Carburetion tubes and devices;
4. Smoking and carburetion masks;
5. Roach clips, meaning objects used to hold burning material, as a marijuana cigarette, that has become too small or too short to be held in the hand;
6. Miniature cocaine spoons and cocaine vials;
7. Chamber pipes;
8. Carburetor pipes;
9. Electric pipes;
10. Air-driven pipes;
11. Chillums;
12. Bongs; and
13. Ice pipes or chillers.

(B) In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) The proximity of the object, in time and space, to a direct violation of this subchapter;
- (3) The proximity of the object to a controlled substance;
- (4) The existence of any residue of controlled substances on the object;
- (5) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this subchapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this subchapter should not prevent a finding that the object is intended for use as drug paraphernalia;
- (6) Instructions, oral or written, provided with the object concerning its use;
- (7) Descriptive materials accompanying the object which explain or depict its use;
- (8) National and local advertising concerning its use;
- (9) The manner in which the object is displayed for sale;
- (10) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (11) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- (12) The existence and scope of legitimate uses for the object in the community; and
- (13) Expert testimony concerning its use.

(1993 Code, Comp. No. 4-15) (Ord. 370, passed 9-4-1984) Penalty, see § 130.999

§ 130.091 OFFENSES.

(A) *Possession of drug paraphernalia.* It is unlawful for any person to deliver, use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance except upon prescription of a licensed physician, dentist or other person authorized to prescribe the same under the laws of this state. Violations are subject to the provisions of § 130.999.

(B) *Manufacture or delivery of drug paraphernalia.* It is unlawful for any person to deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia, knowing, or under

circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this subchapter. Violations are subject to the provisions of § 130.999.

(C) *Delivery of drug paraphernalia to a minor.* Any person 18 years of age or over who violates division (B) above by delivering drug paraphernalia to a person under 18 years of age is at least three years his or her junior is guilty of a special offense and upon conviction may be subject to the provisions of § 130.999.

(D) *Advertisement of drug paraphernalia.* It is unlawful for any person to place in any newspaper, magazine, handbill or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects intended for use as drug paraphernalia. Any person who violates this division (D) is guilty of a crime and upon conviction may be subject to the provisions of § 130.999.
(1993 Code, Comp. No. 4-15) (Ord. 370, passed 9-4-1984) Penalty, see § 130.999

§ 130.092 CIVIL FORFEITURE.

Any violation of the preceding sections of this subchapter shall result in the civil seizure and forfeiture of all drug paraphernalia as defined by § 130.090 in the possession of any person convicted of any offense described in § 130.091.
(1993 Code, Comp. No. 4-15) (Ord. 370, passed 9-4-1984) Penalty, see § 130.999

§ 130.093 UNLAWFUL RECEIPT OR PURCHASE OF IMITATION CONTROLLED SUBSTANCE.

(A) No person shall knowingly pay for or offer or agree to pay for, receive or purchase a substance that is not a controlled substance upon the express or implied representation that the substance is a controlled substance. This section does not apply to the lawful dispensing or administering of substances.

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

ADMINISTER, CONTROLLED SUBSTANCE and DISPENSE. As defined in O.R.S. 475.005.

PURCHASE. The actual or constructive transfer, or offer or agreement to transfer, from one person to another, whether or not there is an agency relationship.

RECEIVING. Acquiring possession, control or title.
(1993 Code, Comp. No. 4-18) (Ord. 455, passed 2-5-1990) Penalty, see § 130.999

§ 130.999 PENALTY.

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

(B) (1) Violation of any provision of §§ 130.015 through 130.024 is punishable by a fine not to exceed \$1,000, or imprisonment not to exceed 365 days, or by both fine and imprisonment; provided, however, if there is a violation of any provision identical to a state statute with a lesser penalty attaching, punishment shall be limited to the lesser penalty prescribed in the state law.

(2) If a person has gained money or property through the commission of a violation of a provision of §§ 130.015 through 130.024, then upon conviction thereof the court, instead of imposing the fine authorized for the violation under division (B)(1) of this section, may sentence the person to pay an amount fixed by the court, not exceeding double the amount of the person's gain from the commission of the violation. In that event, O.R.S. 161.625(4) and (5) apply, the provisions of which are incorporated herein by this reference.

(3) Conviction of a violation does not give rise to any disability or legal disadvantages based on conviction of a crime.
(1993 Code, Comp. No. 4-11)

(C) (1) Any person, firm or corporation who shall violate any provision of §§ 130.035 through 130.041 shall be punished, upon conviction, by a fine of not more than \$250 for each day the violation continues.

(2) If a person has gained money or property through the commission of a violation of a provision of §§ 130.035 through 130.041, then upon conviction thereof the court, instead of imposing the fine authorized for the violation under division (C)(1) of this section, may sentence the person to pay an amount fixed by the court, not exceeding double the amount of the person's gain from the commission of the violation. In that event, O.R.S. 161.625(4) and (5) apply, the provisions of which are incorporated herein by this reference.

(3) Conviction of a violation does not give rise to any disability or legal disadvantages based on conviction of a crime.
(1993 Code, Comp. No. 4-4)

(D) (1) Any person violating §§ 130.055 through 130.057 shall, on conviction thereof, be fined not more than \$250 for each offense.

(2) Conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime.
(1993 Code, Comp. No. 4-6)

(E) Any person who violates any provision of § 130.076 shall, upon conviction, be fined not more than \$300, or committed to the city jail for not more than 30 days, or both the fine and imprisonment. (1993 Code, Comp. No. 4-12)

(F) Violations of § 130.091 shall be fined as follows.

(1) *Possession of drug paraphernalia.* Any violation of § 130.091(A) which consists solely of possession of drug paraphernalia or delivery for no monetary consideration of drug paraphernalia shall be a violation punishable by a fine not to exceed \$500 for each violation. Any person who violates any other portion of § 130.091(A) shall be guilty of a crime and upon conviction may be imprisoned for not more than six months or fined not more than \$500, or both.

(2) *Manufacture or delivery of drug paraphernalia.* Any violation of § 130.091(B) which consists solely of possession of drug paraphernalia or delivery of drug paraphernalia for no monetary consideration, shall be a violation punishable by a fine not to exceed \$500 for each violation. Any person who violates any other portion of § 130.091(B) is guilty of a crime and upon conviction may be imprisoned for not more than one year, fined for not more than \$750, or both.

(3) *Delivery of drug paraphernalia to a minor.* Any person violating § 130.091(C) is guilty of a special offense and upon conviction may be imprisoned for not more than one year, fined not more than \$1,000, or both.

(4) *Advertisement of drug paraphernalia.* Any person who violates § 130.091(D) is guilty of a crime and upon conviction may be imprisoned for not more than 90 days, fined not more than \$250, or both.
(1993 Code, Comp. No. 4-15)

(G) (1) Any person who violates § 130.093 shall be punished, upon conviction, by a fine of not more than \$250 for each violation.

(2) Conviction of a violation does not give rise to any disability or legal disadvantages based on conviction of a crime.
(1993 Code, Comp. No. 4-18)
(Ord. 171, passed 10-21-1974; Ord. 175, passed 2-10-1975; Ord. 203, passed 11-11-1975; Ord. 237, passed 3-6-1977; Ord. 370, passed 9-4-1984; Ord. 408, passed 12-21-1987; Ord. 415, passed 12-21-1987; Ord. 455, passed 2-5-1990; Ord. 507, passed 7-5-1994)

CHAPTER 131: MINORS

Section

General Provisions

131.01 Responsibility

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Sale of Weapons to Minors

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GENERAL PROVISIONS

§ 131.01 RESPONSIBILITY.

The city hereby adopts by reference and incorporates as offenses against the city all the offenses contained and defined in the following sections of state law as they now exist or are hereafter amended: O.R.S. Chapter 339.
(Ord. 607, passed 7-5-2005)

CURFEW FOR MINORS

§ 131.15 PROHIBITION.

No minor shall be in or upon any street, highway, park, alley or other public place between the hours of 10:30 p.m. and 5:00 a.m., between Sunday evening and Friday morning, and 12:00 midnight and 5:00 a.m. on Friday and Saturday, unless:

- (A) Accompanied by the minor's parent or guardian;
- (B) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (C) In a motor vehicle involved in interstate travel;
- (D) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (E) Involved in an emergency;
- (F) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;
- (G) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;
- (H) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
- (I) Married or had been married or had disabilities of minority removed in accordance with state law.
(1993 Code, Comp. No. 4-16) (Ord. 387, passed 3-17-1986) Penalty, see § 131.99

§ 131.16 VIOLATIONS.

Any minor who violates this subchapter may be taken into custody, and if it is determined that the lack of parental supervision is the reason, the responsible parent will be cited into Municipal Court citing this subchapter and section, and shall be fined \$25 or one day of community service. Any minor found to be uncontrollable by the responsible parent or guardian will be processed through the County Juvenile Department.
(1993 Code, Comp. No. 4-16) (Ord. 387, passed 3-17-1986) Penalty, see § 131.99

SALE OF WEAPONS TO MINORS**§ 131.30 UNLAWFUL SALE OF CERTAIN WEAPONS TO MINORS; EXCEPTION.**

(A) It shall be unlawful to sell, or offer or agree to sell, to any person under 18 years of age, any instrument or weapon of the type described in O.R.S. 166.240(1) which is capable of being concealed upon the person, if the instrument or weapon also constitutes a “deadly weapon” as defined in O.R.S. 161.015(2).

(B) It shall not be a violation of this section to sell or offer or agree to sell any item which is designed for a use other than to cause death or serious physical injury.

(C) *SALE* means the actual or constructive transfer, or offer or agreement to transfer, from one person to another, whether or not there is an agency relationship.
(1993 Code, Comp. No. 4-19) (Ord. 473, passed 5-4-1987) Penalty, see § 131.99

§ 131.99 PENALTY.

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

(B) (1) Any person who violates § 131.30 shall be punished, upon conviction, by a fine of not more than \$250 for each violation.

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

(1993 Code, Comp. No. 4-19) (Ord. 473, passed 5-4-1987)

