

**BEND CODE
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PUBLIC PROTECTION/CRIMINAL CODE**

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CHAPTER V - PUBLIC PROTECTION**CRIMINAL CODE****(ORDINANCE NO. NS-1361)****GENERAL PROVISIONS**

5.000 Title. Sections 5.005 to 5.070 shall be referred to as the "City of Bend Criminal Code."

5.005 Application of the Oregon Criminal Procedures and Penalties. Provisions of the Oregon Criminal Code of 1971 as they now exist, relating to defenses, burden of proof, general principles of criminal liability, parties, general principles of justification, classification of offenses and penalties apply to offenses defined and made punishable by the City of Bend Criminal Code. Amendments to the above-mentioned provisions of the Oregon Criminal Code made by the 1983, 1985, 1987, 1989 and 1991 Oregon Legislatures shall be amendments to this section.

[Amended by ORD. No. NS-1423, passed October 16, 1985]

[Amended by ORD. No. NS-1463, passed September 16, 1987]

[Amended by ORD. No. NS-1504, passed January 17, 1990]

[Amended by ORD. No. NS-1546, passed August 21, 1991]

5.010 Definitions. Except where the context clearly indicates a different meaning, the definitions appearing in the definitional and other sections of particular chapters of the Oregon Criminal Code, as they now exist, are applicable to sections 5.020 to 5.070.

OFFENSES

5.020 Application of the Oregon Criminal Code. Violations of the Oregon Criminal Code for misdemeanors and violations set forth in ORS Chapters 162, 163, 164, 166 and 167 and those provisions relating to controlled substances in ORS Chapter 475 and alcohol in ORS 471 and 472 are municipal ordinance offenses against the City of Bend. Amendments to the chapters of ORS incorporated herein made by the 1983, 1985, 1987, 1989 and 1991 Oregon Legislatures shall be amendments this section.

[Amended by ORD. No. NS-1391, passed November 16 1983]

[Amended by ORD. No. NS-1423, passed October 16, 1985]

[Amended by ORD. No. NS-1463, passed September 16, 1987]

[Amended by ORD. No. NS-1504, passed January 17, 1990]

[Amended by ORD. No. NS-1546, passed August 21, 1991]

5.025 Discharge of Weapons.

- (1) No person other than an authorized peace officer shall fire or discharge any gun or other weapon, including spring or air-actuated pellet guns, or a weapon which propels a projectile by use of a bow or sling, explosives, or jet or rocket propulsion.
- (2) It shall be a defense to a prosecution brought for violation of subsection (1) that the person was acting in defense of life or property and under circumstances that would warrant the use of deadly force under Oregon law.
- (3) It shall be an affirmative defense to a prosecution for violation of subsection (1) that the person was test firing or discharging the weapon, as a necessary part of the person's lawful business operations, at a firing range or while utilizing a bullet trap, under circumstances that did not present an unreasonable risk of harm to any person.
- (4) A violation of this section is punishable as a Class A misdemeanor.

[Section 5.025 amended by ORD. No. NS-1513, passed 6-6-90]

5.030 Unlawful Assembly.

- (1) At an assembly of three or more persons, when there is reasonable cause to believe that a disturbance of the peace or a danger to public safety is imminent if the assembly continues, a peace officer may order persons present at the assembly to abandon any weapons or to disperse, if he finds that two or more persons present:
 - (a) Are threatening bodily harm to another or damage to property, with immediate power to carry out that threat, or
 - (b) Have committed an unlawful act of violence during the course of the assembly.
- (2) It is unlawful for any person present at the scene of an assembly of three or more persons to disobey an order of a peace officer authorized by this section.
- (3) A violation of this section is punishable as a Class C misdemeanor.

5.035 False Certification.

- (1) No person shall, in connection with the issuance of a civil infraction citation, or filing of a complaint as defined in the City of Bend Civil Infraction procedure, knowingly certify falsely to the matters set forth in the citation or complaint.
- (2) A violation of this section is punishable as a Class B misdemeanor.

5.040 Gambling.

- (1) Social games and gambling in the City of Bend are allowed and governed by Oregon law.

[Section 5.040 amended by Ord NS-1974, adopted June 1, 2005]

5.045 Failure to Appear in the Third Degree.

- (1) A person commits the crime of Failure to Appear in the Third Degree if he intentionally fails to appear at a scheduled court appearance subsequent to the date of arraignment if the defendant has been given prior notice that his appearance is required.
- (2) For the purposes of this section, notice of a scheduled court appearance is deemed given if the notice is mailed to the last known address of the defendant or if the defendant has been given actual notice of the scheduled proceeding.
- (3) A violation of this section is a Class B misdemeanor.
- (4) In addition to and not in lieu of the penalty imposed in subsection (3), the court may issue a warrant of arrest upon the person's failure to appear.

5.050 Watershed Protection Area.

- (1) Definitions.
 - (a) "Pollution" means such alteration of the physical, chemical or biological properties of any waters of the Bridge Creek water source, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into such waters, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof.
 - (b) "Wastes" means sewage, industrial wastes, and all other liquid, gaseous, solid, radioactive or other substances which will cause or tend to cause pollution of such waters.

(2) Pollution

- (a) It shall be unlawful for any person, firm or corporation to impair the purity of the City's Bridge Creek water source by:
 - (1) Causing pollution or causing any waste to be placed in a location where such wastes are likely to escape or be carried into the waters of Bridge Creek or the City's distribution system for these waters, or
 - (2) Discharging any wastes into the Bridge Creek waters or the City's distribution system for these waters if the discharge reduces the quality of such water below the water quality standards established by applicable law, rule or regulation.
- (b) It shall be unlawful for any person, firm or corporation to engage in any activity on the City's Bridge Creek watershed that will or may tend to cause pollution to the waters of Bridge Creek within the watershed.
- (c) The City's Bridge Creek watershed is described on the official watershed map which is on file at City Hall.

Violation of this section is a Class A misdemeanor. Each day within any continued violation shall constitute a separate offense.

Any violation of this section shall also constitute a public nuisance and may be abated as provided by law.

5.055 Deschutes River: Waterfowl Protection.

- (1) Except as authorized by the Bend Metropolitan Parks and Recreation District, it shall be unlawful for any person to kill, take, injure or molest any waterfowl or waterfowl nests along the banks of the Deschutes River within the city limits of Bend.
- (2) A violation of this section is a Class C misdemeanor.

5.060 Trespass to Vehicle.

- (1) Definitions as used in this section:
 - (a) "Tamper" means to manipulate or attempt to manipulate a part of the vehicle whether or not an instrument is used and whether or not actual damage is done.
 - (b) "Vehicle" means every vehicle including, but not limited to, automobiles, motor boats and boat trailers, motorcycles, mopeds, trucks, truck trailers, busses, motor homes, travel trailers, bicycles, and cargo carrying devices attached to such vehicles.
- (2) A person commits the crime of trespass to a vehicle if, without having a right to do so or reasonable ground to believe he has such right, he:

- (a) knowingly or intentionally climbs upon or enters the vehicle either bodily or with an instrument capable of damaging or removing property from the vehicle; or,
 - (b) knowingly or intentionally tampers with the locks, latch mechanisms, hood release, engine, body, trim, undercarriage, running gear, fuel tank or fuel intake, antenna, electric or electronic equipment, wheels, steering mechanism, brakes, or any part of any such equipment.
- (3) It is an affirmative defense to a prosecution under this section that the actor engaged in the conduct described in order to prevent imminent damage to the vehicle, persons, animals or other property.
- (4) A violation of the provisions of this section is punishable as a Class A misdemeanor.

[Section 5.060 added by Ord. NS-1386, passed 9-7-83.]

5.065 Acquisition and Retention of Articles Missing Serial Numbers.

- (1) Any person who knowingly buys, sells, receives, disposes of, conceals, or has in his possession a radio, tape deck, tape recorder, receiver, piano, sewing machine, washing machine, typewriter, adding machine, comptometer, bicycle, safe, vacuum cleaner, dictaphone, watch, watch movement, watch case, or any mechanical or electrical device, appliance, contrivance, material, piece of apparatus or equipment, or any integrated chip or panel, printed circuit, or any other part of a computer from which the manufacturer's nameplate, serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered or destroyed, is guilty of a Class A misdemeanor.
- (2) It shall be an affirmative defense to a criminal charge brought under Section 1 of this ordinance that the defendant is the true owner of the property that does not have a manufacturer's nameplate, serial number or any other distinguishing number or identification mark affixed to it.
- (3) Property subject to this ordinance shall be considered stolen property for purposes of disposition of the property by the Bend Police Department. Prior to being disposed of or being returned to the true owner of the property, said property shall have an identification mark embedded or engraved in or permanently affixed to it.
- (4) This ordinance does not apply to those cases or instances where any of the changes or alterations enumerated in Section 1 have been customarily made or done as an established practice in the ordinary and regular conduct of business by the original manufacturer or his duly appointed direct representatives or under specific authorization from the original manufacturer.

[Section 5.065 added by Ord. NS-1417 passed 8-7-85.]

5.070 Possession of a Throwing Star.

- (1) Definition: "Throwing Star" means any instrument, without handles, consisting of a metal plate having three or more radiation points with one or more sharp edges, and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.
- (2) A person commits the offense of possession of a throwing star if the person knowingly manufactures, causes to be manufactured, brings into the city, keeps for sale, offers for sale, exposes for sale, gives, lends or possesses a throwing star as defined in section 1 herein.
- (3) Possession of a throwing star is a Class A misdemeanor.

[Section 5.070 added by Ord. NS-1398, passed 6-20-84]

5.075 Interfering with a Police Officer.

- (1) For the purposes of this code section, the following definitions apply:
 - (a) "Arrest" means to place a person under actual or constructive restraint for the purpose of charging him or her with an offense.
 - (b) "Custody" means to place a person under actual or constructive restraint pursuant to a court order or other lawful purpose.
 - (c) "Emergency situation" means any situation in which the life or safety of any person is or may be threatened, including the life of the police officer.
 - (d) "Offense investigation" means an investigation by a police officer into the commission of an offense prohibited by federal, state or local law.
 - (e) "Police officer" means any sworn member of the Bend Police Department, including a reserve police officer on active duty.
 - (f) "Stop" means a temporary restraint of a person's liberty by a police officer lawfully present in any place,
 - (i) When such officer reasonably suspects that such person is committing, or has committed an offense, or
 - (ii) When such officer reasonably believes that such person is in need of attention pursuant to ORS 426.215 or ORS 426.460, or
 - (iii) When such officer reasonably believes that such person is the subject of service of a valid court order.
 - (g) "To leave the area of an arrest, custody, stop, offense investigation or emergency" means to physically move to a location not less than 20 feet away extending in a radius from where a police officer is engaged in effecting an arrest, taking a person into custody, stopping a person, investigating an offense or responding to or

attempting to resolve an emergency situation; the radius may be extended beyond 20 feet when a police officer reasonably believes that such extension is necessary because there exists a risk of physical injury to any person.

- (2) It is unlawful for any person who is interfering, or attempting to interfere with a police officer, to intentionally or knowingly refuse to leave the area of an arrest, custody, stop, citation, offense investigation or emergency, or having left that area, to reenter it, after being directed to leave that area by a police officer.
- (3) A violation of this section is a Class "A" misdemeanor.

[Section 5.075 added by Ord. NS-1568, passed 8-5-92]

5.077 Interfering with a Police Dog.

- (1) For purposes of this code section, the following definition applies:
 - (a) "Peace officer" means a municipal police officer, sheriff, constable, marshal, member of the Oregon State Police or investigator of the Criminal Justice Division of the Department of Justice and such other persons as may be designated by law.
 - (b) "Police dog" means a dog used in police work under the control of a peace officer.
- (2) A person commits the offense of interfering with a police dog if the person intentionally or knowingly kills, disables, tortures, injures, torments, kicks, strikes, chokes, throws an object at or in any other way tampers or interferes with any police dog, knowing the dog to be a police dog, while the dog is being caged, kenneled, transported, exhibited, exercised or used in discharging or attempting to discharge any lawful duty or function as a police dog.
- (3) A violation of this section is a Class A misdemeanor.

[Section 5.077 added by Ord. NS-1568, passed 8-5-92]

5.080 Prohibition of Possession of Fireworks by Persons Under the Age of 18.

- (1) “Fireworks” shall have the meaning provided in ORS 480.110(1).
- (2) It is unlawful for a person under the age of 18 years to sell, keep or offer for sale, expose for sale, possess, use, explode or have exploded any fireworks within the City, except as specified by ORS 480.120.
- (3) For the purpose of this Section, the Fire Chief of the City (or designee) is recognized as an ex-officio Deputy State Fire Marshal as provided by the Oregon Fireworks Law, ORS 480.160(2)
- (4) In addition to the enforcement provisions and penalties provided in the Bend Code and other provisions of law, the City may confiscate, remove, or have removed at the owner's expense, all stocks of fireworks or other combustibles exposed for sale or held in stock in violation of this Section, and may destroy same, when necessary for the preservation of the public safety.
- (5) Violation of this section is a Class A Civil Infraction.

[Section 5.080 added by Ord NS-1965, passed March 16, 2005]

CIVIL INFRACTIONS

5.100 Civil Infraction Procedure. Enforcement of sections 5.110 to 5.390 shall be in accordance with the Bend Civil Infraction Procedure.

GENERAL INFRACTIONS**5.110 Children confined in Vehicles.**

- (1) No person, who has under his control or guidance a minor child, under eight years of age, shall at any time lock or confine, or permit to be locked or confined, or leave such child unattended in an automobile, coach, bus or other vehicle or place on the streets, alleys, roadways or premises open to the public for a period of time longer than 10 minutes. It is lawful and the duty of a policeman or other peace officer, finding a child confined a violation of the terms of this section, to enter the automobile, coach, bus or other vehicle and remove the child. The officer may, if necessary, break the doors or windows of the vehicle in order to save the life of the child or to save the child from great mental or physical suffering.
- (2) A violation of this section is a Class A Civil Infraction.

5.120 Obstructing Public Ways.

- (1) No unauthorized person shall obstruct, cause to be obstructed, assist in obstructing or interfere with a public way, including streets, alleys and sidewalks, by depositing or storing personal property or other material on public ways or by any other manner obstructing or interfering with public ways.
- (2) This section shall not apply to the delivery of merchandise or equipment, provided delivery is accomplished within a reasonable time.
- (3) An authorized obstruction of a public way between sunset and sunrise shall be illuminated by warning lights clearly visible 200 feet in all directions.
- (4) No person shall use a public way for display or sale of goods except as authorized by the City.
- (5) No unauthorized person shall deposit garbage, earth, debris or rubbish of any kind on a public way, in the Deschutes River or any irrigation canals within the City.
- (6) A violation of this section is a Class B Civil Infraction.

5.125 Sidewalks.

- (1) No person shall leave open a cellar door or a grating of any kind located in or on a sidewalk except when the door or grating is necessarily open during its immediate use. When being used, the opening shall be property guarded and protected.

- (2) Except in an authorized parade, no person shall lead, ride, tie, or fasten a goat, horse, cow, sheep, swine or similar animal in such a manner as to permit it to remain on or go along a parking strip, sidewalk area, or public pathway.
- (3) No person shall ride, drive or operate on a public sidewalk a motor vehicle within the City. However, this section shall not apply to baby carriages or perambulators on a sidewalk.
- (4) A violation of this section is a Class C Civil Infraction.

5.130 Public Urination or Defecation.

- (1) No person shall urinate or defecate in public by exposing his or her genitals in view of others except in urinals and washrooms provided for that purpose.
- (2) A violation of this section is a Class B Civil Infraction.

5.135 Curfew for Minors.

- (1) No minor under the age of 18 years shall be in or on a street, highway, park, alley, or other public place between the hours of 10:00 p.m. and 4:00 a.m. of the following morning if the following morning is that of a school day in the Bend public school system, and between the hours of 12:00 a.m. and 4 a.m. on other days.
- (2) No parent, guardian, or person having the care and custody of a minor under the age of 18 years shall allow the minor to be in or on any street, highway, park, alley or other public place in violation of subsection (1).
- (3) Enforcement. Peace officers and other law enforcement officers may take or send the minor to the minor's residence and notify the parents, guardian or person having care and custody of the minor concerning the violation.
- (4) Exceptions. This section shall not apply:
 - (a) If the minor is accompanied by a parent or legal guardian or other person 21 years of age or older and authorized by the parent or by law to have care and custody of the minor;
 - (b) If the minor is engaged in a lawful pursuit or activity which requires his presence in public places during the hours specified in this section;
 - (c) To minors in motor vehicles engaged in direct intrastate or interstate travel
- (5) A violation of this section is a Class B Civil Infraction.

AIRPORT**5.145 Airport Entry.**

- (1) No unauthorized person shall enter or be on a ramp, apron, runway, pad, taxiway, hangar, building or other improved area comprising the Bend Municipal Airport.
- (2) The City Manager, airport manager, the city commission or its designee, or a lessee or the lessee's agent may authorize persons to be upon the above mentioned premises for proper business only.

5.150 Regulations. Any person using the Bend Municipal Airport and its facilities shall do so in compliance with the City's Airport Regulations. For the purpose of this section, "Airport Regulations" includes any lawful order of the Bend Airport Manager or designee implementing a duly adopted regulation.

5.155 Violation. A violation of sections 5.145 or 5.150 is a Class B Civil Infraction.

CONTROLLED SUBSTANCE**5.160 Possession and Delivery of Controlled Substances.**

- (1) No person shall knowingly or intentionally possess less than one avoirdupois ounce of dried leaves, stems and flowers of the plant Cannabis family Moraceae.
- (2) No person shall deliver, for no consideration, less than five grams of the dried leaves, stems and flowers of the plant Cannabis family Moraceae.
- (3) A violation of this section is a Class C Civil Infraction.

[Section 5.160 added by Ord. NS-1365, passed 10-20-82]

ALCOHOLIC LIQUOR

5.165 Definitions. For purposes of sections 5.170 to 5.245, the following words and phrases mean:

Alcoholic liquor. Alcoholic beverages containing more than one-half of one percent alcohol by volume and every liquid or solid, patented or not, containing alcohol and consumed by a human being.

Commission. The Oregon Liquor Control Commission.

Licensee. A person who has an alcoholic liquor license from the commission authorizing such person to sell or dispense alcoholic liquor.

Licensed premises. The room or enclosure at the address for which a license has been issued by the commission for serving, mixing, handling or selling alcoholic liquor.

Liquor Control Act. The state law designated by ORS 471.027, and the Oregon Distilled Liquor Control Act as defined by ORS 472.020.

Minor. A person under the age of 21.

Other responsible relative:

- (1) An adult who is the spouse of a minor.
- (2) An adult, related to a minor, who has taken over the parental duty of governing the minor's action.
- (3) A duly appointed, qualified and acting guardian who has taken over the parental duties of governing a minor's action.

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

5.170 Drinking on Unlicensed Premises.

- (1) The following definitions shall apply to this section:
 - (a) Public Place. Those places defined as public by ORS 161.015(d).
 - (b) Premises open to the public. Those premises which are open to the general public, whether privately or publicly owned, irrespective of whether or not the premises are actually open at the time.
- (2) Except in public parks or on land owned and operated by the Bend Metropolitan Park and Recreation District, no person shall drink, or be in possession of an open container of alcoholic beverages in a public place or premises open to the public unless the place or premise has been licensed by the Oregon Liquor Control Commission to sell intoxicating liquor for consumption or on premises for which a permit has been issued by the City.
- (3) A violation of this section is a Class B Civil Infraction.

5.180 Intoxicated Person.

- (1) A person who is intoxicated in a public place may be taken or sent to his home or to a treatment facility by the police. However, if the intoxicated person is incapacitated, the person's health appears to be in immediate danger, or the police have reasonable cause to believe the person is dangerous to himself or herself or to any other person, the person shall be taken by the police to an appropriate treatment facility. A person shall be considered incapacitated when unable to make a rational decision as to the acceptance of assistance.
- (2) No person shall be in a public park while being under the influence of intoxicants. Any person who is under the influence may be required to leave the park. If the person fails to leave, the police may follow the provisions set forth in subsection one.
- (3) The director of the treatment facility shall determine whether a person shall be admitted as a patient, referred to another treatment facility, or denied referral or admission. If the person is incapacitated or the person's health appears to be in immediate danger, or if the director has reasonable cause to believe the person is dangerous to himself or herself or to any other person, the person must be admitted.
- (4) In the absence of a treatment facility or if refused entry into a treatment facility, an intoxicated person who would otherwise be taken by police to a treatment facility may be taken to the city jail and held until the person is no longer intoxicated or incapacitated.
- (5) A person shall be discharged unless the person has applied for voluntary admission to the treatment facility within 48 hours.
- (6) An intoxicated person taken into custody by the police for a violation of a city ordinance or code provisions shall immediately be taken to an available treatment facility, if any, when the conditions of intoxication require emergency medical treatment.
- (7) The records of a patient at a treatment facility shall be confidential and shall not be disclosed without the consent of the patient. A patient's request that no disclosure be made of his admission to a treatment facility shall be honored unless the patient is incapacitated or disclosure of admission is otherwise required by law.
- (8) No peace officer, treatment facility and staff, physician or judge shall be held criminally or civilly liable for actions pursuant to this section if the act was in good faith, with probable cause and without malice.
- (9) A violation of subsection two is a class B Civil Infraction.

5.185 Persons Not Allowed to Drink Alcoholic Liquor on Licensed Premises.

- (1) No person shall allow a person who is visibly intoxicated to drink or consume any alcoholic liquor on any licensed premises.
- (2) A violation of this section is a Class A Civil Infraction.

5.200 Minors.

- (1) Employment in certain places. A person who operates a cardroom, poolroom, billiard room or shooting gallery where intoxicating liquor is consumed shall not allow a minor in or about the premises.
- (2) A violation of this section is a Class B Civil Infraction.

5.205 Minors on Premises.

- (1) Except as authorized by the City Commission or as necessitated by an emergency, no person under the age of 21 years shall enter or attempt to enter any portion of a licensed premise that is posted or otherwise identified as being prohibited to the use of minors.
- (2) A violation of this Section is a Class C Civil Infraction.

5.210 Minors on Licensed Premises.

- (1) The provisions of sections 5.200 and 5.205 shall not be construed to prohibit:
 - (a) A minor from entering licensed premises for the transaction of business pursuant to the minor's duties in the regular course of lawful employment.
 - (b) A minor spouse from entering and remaining on licensed premises when the minor is in the immediate company of a spouse who is 21 years of age or older.
- (2) This section shall not be construed to authorize a minor spouse to consume alcoholic liquor on licensed premises.

5.215 Delivering or Selling Liquor by Minor.

- (1) Except as provided in subsection (3), no minor shall sell, offer to sell or deliver alcoholic liquor either for himself or herself or as agent or employe of another.
- (2) Except as provided in subsection (3), no employer shall employ, hire or engage a minor to sell, offer for sale or deliver alcoholic liquor.
- (3) An employe, 18 years of age or older, of a person who holds a package store license from the commission may sell alcoholic liquor authorized by the license on the licensed premises.

- (4) A violation of this section is a Class C Civil Infraction.

5.220 Consumption by Licensee.

- (1) No licensee or licensee's employe shall consume alcoholic liquor upon the premises where employed or to be under the influence of alcoholic liquor while on duty.
- (2) A violation of this section is a Class A Civil Infraction.

5.225 Bringing Alcoholic Liquor Upon Licensed Premises.

- (1) No licensee or agent or employe of a licensee, shall keep or knowingly permit to be kept, brought or consumed on the licensed premises alcoholic liquor not allowed to be sold or served upon the premises.
- (2) A violation of this section is a Class C Civil Infraction.

5.235 Lawful Hours of Sale.

- (1) No package store licensee shall sell, dispense, deliver or permit the removal of alcoholic liquor from the licensed premises between the hours of 2:30 a.m. and 7:00 a.m.
- (2) No retail malt, beverage, restaurant or dispenser licensee shall sell, dispense, deliver or allow the consumption of alcoholic liquor on licensed premises or permit the removal of alcoholic liquor from licensed premises between the hours of 2:30 a.m. and 7:00 a.m.
- (3) A violation of this section is a Class B Civil Infraction.

5.240 Statement of Age as Defense. If a written statement of age and the information pertaining to the evidence which was exhibited to the permittee or licensee at the time the statement was made that is entered in writing on the statement, are offered as evidence in any administrative or criminal prosecution for sale or service of alcoholic liquor to a person not having reached 21 years of age, the permittee or licensee shall be found to have committed no crime or other wrong unless it is demonstrated that a reasonable person would have determined that the identification exhibited was altered or did not accurately describe the person to whom the alcoholic liquor was sold or served.

5.245 Minor in Possession.

- (1) No person under the age of 21 years shall attempt to purchase or acquire alcoholic liquor. Except when the minor is in a private residence accompanied by a parent or legal guardian of the minor and with the parent's or guardian's consent, no person under the age of 21 years shall have personal possession of alcoholic liquor.

- (2) For the purpose of this section, personal possession of alcoholic liquor includes the acceptance or consumption of such liquor. However, this section does not prohibit the acceptance or consumption by any person of sacramental wine as part of a religious rite or service.
- (3) A violation of this section is a Class B Civil Infraction.

5.246 Prohibition of Possession or Consumption of Alcoholic Beverages on or in the Deschutes River

- (1) No person may possess or consume any alcoholic beverage while on or in the Deschutes River. This prohibition applies to both open and closed containers of alcoholic beverages.
- (2) Violation of this Section is a Class A Civil Infraction.

[Section 5.246 adopted with emergency clause by Ordinance NS-2011, passed June 7, 2006]

ANIMALS

5.250 Definitions. As used in sections 5.250 to 5.292:

- (1) "At Large" means off the premises of the owner while the dog or animal is not under the complete control of the owner by adequate leash or bridle. However, a dog in a duly recognized obedience school on field training exercise and under the direct supervision of a handler or a dog within a vehicle shall not be considered to be "at large" as defined in this section.
- (2) "Dangerous Animal" means any animal which:
 - (a) has, without provocation, placed a person in fear of imminent physical injury, said fear being reasonable under the circumstances; or
 - (b) has attacked a person or domestic animal without provocation; or
 - (c) is trained for or used in animal fighting.
- (3) "Keeper" means, in addition to its ordinary meaning, the parents or guardian of an animal owner when the owner is under the age of 18 years and when the owner resides with the parent or guardian on the date of the alleged violation of Bend Code 5.250 to 5.292.
- (4) "Owner" means a person, firm, association or corporation owning, in possession, in temporary control of, or who is responsible for the care of an animal.
- (5) "Physical injury" means impairment of physical condition or substantial pain.
- (6) "Unconfined" means not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner or keeper of a dangerous animal. Such pen or structure must be securely constructed and must be adequate to ensure the confinement of the dangerous animal.

5.252 Dog At Large. No dog shall run at large. The owner or keeper is responsible for a dog at large.

5.253 Dog Leash Exceptions Related to Specific Designated Areas

- (1) The Bend City Council may designate certain areas of public parks, owned and operated by the Bend Metro Parks and Recreation District, or other properties under the control or ownership of others, in the discretion of the City Council, as areas where dogs are not required to be leashed, subject to the other provisions of this section.

- (2) A designation of an area by the Bend City Council under Section 5.253(a) of the Bend Code shall not be effective unless the governing body of an organization, or other owner, of land where dogs will be allowed off-leash provides written consent to the Bend Chief of Police specifying the terms and conditions under which dogs will be allowed off-leash. The terms and conditions provided by the owner of the land, together with the terms and conditions established by the Bend City Council for the preservation of the health, safety and welfare of the public, shall be posted at the property where dogs are allowed off-leash. Any dog owner or person responsible for control of a dog shall be subject to a civil penalty under Bend Code 5.252 for violation of the terms and conditions for off-leash dogs as provided in this Section.
- (3) No dog is allowed off-leash unless its owner is within voice- control range of the dog at all times.
- (4) Dog owners must control their dogs at all times. Allowing a dog to engage in fighting with other dogs or allowing a dog to harass, bark at, threaten or injure a person or animal is not permitted.
- (5) Dog owners must clean up all dog waste promptly after it occurs.

[Section 5.253 added by Ord NS-1854, passed January 15, 2003]

[Section 5.253 re-enacted by Ord NS-2053, passed June 20, 2007]

[Section 5.253 amended by Ord NS-2083, passed December 19, 2007]

5.255 Dog Licensing.

- (1) Every dog within the city that has a set of permanent canine teeth shall be licensed. The license tag shall be attached to a collar worn by the dog. The owner and/or keeper of the dog shall be found in violation of this ordinance if the dog is not wearing its collar and tag or if the tag is not present on the dog's collar at any time.
- (2) A person owning or controlling a dog within the city shall license the dog not later than 30 days after the person becomes the owner or in control of the dog.
- (3) Licenses shall not be required for dogs owned by dealers, breeders or exhibitors if the dogs are kept in kennels exclusively for sale or exhibition purposes, or while such dogs are being transported by dealers, breeders, or exhibitors to and from a dog show or fair. Licenses are not required for dogs used by blind persons.

[Section 5.255 amended by Ord. No. NS-1492 6-7-89]

5.260 Animal Waste. It shall be unlawful for an owner or keeper to allow a dog or an animal listed in Bend Code 5.265 (1) to deposit solid waste matter on any property other than that of the person owning or keeping said animal, but it shall be a defense to this action if the owner promptly removes the solid waste deposited by his animal on any property other than his own.

5.265 Animals At Large. No owner or keeper having the care or control of horses, cattle, sheep, or goats shall permit such animals to run at large.

5.270 Animal Nuisances. A dog or other animal is a nuisance if it:

- (1) Disturbs any person by frequent or prolonged noises.
- (2) Bites, injures or attacks a person.
- (3) Places a person in fear of imminent physical injury, without provocation, said fear being reasonable under the circumstances;
- (4) Chases vehicles.
- (5) Chases people.
- (6) Damages property belonging to a person other than the owner or keeper of the animal.
- (7) Injures or kills an animal or fowl belonging to a person other than the owner or keeper of the animal.
- (8) Scatters garbage.
- (9) The owner or keeper of an animal committing any of the acts set forth in this section is responsible for the animal's acts and is subject to a civil infraction citation.

5.272 Dangerous Animals.

- (1) No owner or keeper of a dangerous animal shall suffer or permit such animal to go unconfined on the premises of the owner or keeper.
- (2) No owner or keeper of a dangerous animal shall suffer or permit such animal to go beyond the premises of such person unless such animal is securely leashed and humanely muzzled or otherwise securely restrained and humanely muzzled.

5.275 Impound.

- (1) An animal that has violated Bend Code 5.252, 5.265, 5.270 or 5.272 or is unlicensed as required by law may be seized and impounded. If a member of the Bend Police Department is unable to apprehend such animals without risking injury to the officer or other people, the officer may kill the animal.

- (2) An animal impounded pursuant to subsection (1) of this section shall be held at the Humane Society of Central Oregon, S.P.C.A.
- (3) Animals that have been impounded for violating Bend Code 5.270 (2), (3) or (7) or Bend Code 5.272 shall be held at the Humane Society until any citations issued to the animal's owner or keeper have been resolved by the court system or until the Society has received a court order directing the Society to release or humanely destroy the animal. If no citations have been issued to the impounded animal's owner or keeper within three days of the animal's impoundment or if the court has resolved the citations issued to the animal's owner or keeper and has not issued an order concerning the disposition of the animal, the animal may be humanely destroyed or handled according to Oregon law and Humane Society policies, rules and regulations.
- (4) Animals that have been impounded for any violation of this Code or any other law, other than Bend Code 5.270 (2), (3) or (7) or 5.272, may be humanely destroyed or handled according to Oregon law and Humane Society policies, rules and regulations.
- (5) If the owner or keeper of an impounded animal fails to appear in Bend Municipal Court to answer the charges filed against the owner which resulted in the animal's impoundment or if the owner later fails to appear as required by the Municipal Court, the court may issue an order terminating the rights of the owner to the animal. The court may also order that the animal be humanely destroyed. Prior to issuing a forfeiture order, the Court shall mail a notice to the owner advising the owner that their rights to the impounded animal will be forfeited unless they appear in court within five days of the date of the notice. The notice shall be mailed to the animal owner or keeper at the address shown on the citation to appear or at such address given to the court by the owner or keeper.

5.280 Seizing Certain Animals.

- (1) Any animal found biting, attacking or injuring or which has injured a person may be summarily seized by any person and promptly delivered to a member of the Bend Police Department.
- (2) Any member of the Bend Police Department, including community service officers, may apply to the Bend Municipal Court for a warrant authorizing the search for and seizure of any animal that has violated Bend Code 5.270 or Bend Code 5.272. The Bend Municipal Court shall have the authority to issue a warrant authorizing the search for and seizure of any animal found to be in violation of any order of the court then in effect.
- (3) Nothing in this section is intended to limit the search and seizure authority of City police officers otherwise provided by law.

5.285 Rabid Dogs.

Management and disposition of rabid animals shall be as prescribed by Oregon Law.

5.290 Vehicles Injuring Animals.

- (1) A person operating a vehicle who runs over, strikes, injures, maims or kills a domestic animal shall immediately stop and aid the animal if the animal is injured, or provide for the disposition of the carcass if the animal is killed. In either case, such person shall diligently inquire to determine the owner of the animal. If the owner is found, the person shall notify the owner of the occurrence and, if the owner is not found, the person shall report it to the Bend Police Department.

5.292 Penalties.

- (1) A violation of Bend Code 5.270, 5.272 or 5.285 is a Class A civil infraction.
- (2) A violation of Bend Code 5.252, 5.253, 5.255, 5.260, 5.265 and 5.290 is a Class B civil infraction.
- (3) The Bend Municipal Judge may order the owner or keeper of an animal that violates any provision of Bend Code 5.250 - 5.290 to pay a part of the court's fine to compensate any person for damages caused by the offending animal. Said damages shall be limited to those damages that could be recovered as special damages in a civil action based upon the animal's misconduct. The payment of compensation under this section is not intended to limit or impair the ability of an injured person to sue and recover damages from the defendant in a civil action.
- (4) The Bend Municipal Court Judge may order the owner or keeper of an animal that violates any provision of Bend Code 5.250 -5.290 to reimburse the City of Bend for any and all impound costs incurred by the City.
- (5) The Bend Municipal Court Judge shall enter an order requiring that an animal that has violated Bend Code 5.270 (2) be humanely destroyed, unless the animal owner can establish by a preponderance of the evidence that the animal was provoked into biting, injuring or attacking.
- (6) The Bend Municipal Court Judge shall enter an order requiring that an animal be humanely destroyed if the animal has committed a total of two violations, within a five year period, of any of the following: Bend Code 5.270 (3), 5.270 (7) or 5.272. If the animal owner establishes, by a preponderance of the evidence, that the animal was provoked into committing one of the two violations, the Municipal Court Judge may suspend said order.

- (7) If the Bend Municipal Court Judge determines that an animal should be humanely destroyed pursuant to Bend Code 5.292 (5) or (6) and the judge finds that the animal's violation of Bend Code 5.270 (2), (3) or (7) or Bend Code 5.272 was caused by the neglect, abuse or tormenting of the animal by its owner, the judge may enter an order terminating the animal owner's rights in the animal and prohibiting the owner from owning or possessing animals within the City of Bend. Further, the judge may allow such an abused animal to be placed with the Humane Society for possible adoption if the Court believes that the abuse was the primary cause of the animal's violation of Bend Code 5.270 (2), (3) or (7) or Bend Code 5.272. A person who violates an order entered pursuant to this subsection commits a Class A civil infraction.
- (8) The Bend Municipal Judge may stay the execution of his or her order to humanely destroy an animal which has been entered pursuant to Bend Code 5.292 (5) or (6) if the animal's owner or keeper can demonstrate by a preponderance of the evidence that the animal is unlikely to be a repeat offender of Bend Code 5.270 (2), (3) or (7) or 5.272. The stay of execution may last for up to five years upon such conditions as are reasonably related to the animal's violation of this code. Such conditions may include, but are not limited to the following:
- a) confinement of the animal in a securely enclosed and locked pen or structure upon the premises of the owner or keeper or within the residence of the animal owner;
 - b) muzzling the animal in a humane manner;
 - c) a requirement that the animal or owner commit no further violations of animal related laws;
 - d) a requirement that the animal owner post a bond of up to \$5,000 which may be used to pay for future injuries caused to people, animals or property;
 - e) a requirement that the animal owner pay Court ordered fines and restitution resulting from the animal's violation of this code.

[Section 5.292 amended by Ordinance No. NS-1492, passed June 7, 1989]

5.293 Appeals. The allowance of an appeal filed by the Defendant shall not stay the proceedings on the judgment unless the defendant:

- (1) Posts bail in the amount set by the Municipal Court bail schedule; and
- (2) For any offense that the animal has been impounded pending disposition of the infraction complaint, the animal owner must execute an undertaking with one or more sureties for the costs and disbursements that may be awarded against the appellant on appeal. Said costs shall include the cost incurred by the City for impounding the animal pending appeal and shall be set in an amount no less than the cost of impounding the animal for one year at the rate charged the City by the Humane Society of Central Oregon, S.P.C.A.

5.293

BEND CODE

5.293

[Section 5.250 to 5.293 amended by Ord. No. NS-1449, passed 9-3-86]

[Section 5.292 amended by Ord. No. NS-1492, passed 6-7-89]

[Section 5.292 amended by Ord. No. NS-1854, passed 1-15-03]

[Section 5.280 and 5.285 amended by Ord. No. NS-2015, passed 6-21-06]

FIRE REGULATIONS**5.295 Open Burning Prohibited.**

- (1) Except as authorized by this section, no person shall start or maintain an outdoor fire within the boundaries of the City of Bend for the following purposes:
 - A. The burning of any refuse, garbage, or other waste products as described in the City of Bend Fire Department Outdoor Burning Regulations;
 - B. The burning of any yard debris including but not limited to branches, leaves and pine needles;
 - C. The burning of any construction or demolition waste;
 - D. Field, ditch or weed burning.

- (2) Exception To Prohibition. The following open burning is allowed subject to compliance with the provisions in the most recent fire code as adopted by the City of Bend and the Fire Department's Outdoor Burning Regulations:
 - A. Fires initiated by the Fire Department for training purposes which are approved by the Oregon Department of Environmental Quality;
 - B. Campfires, warming fires, cooking fires, outdoor fireplaces, outdoor kiln fires and other approved similar type fires that are not more than 3 feet in diameter.
 - C. Cooking pits approved by the City of Bend Fire Department;
 - D. The Fire Chief will specify two days within the month of November for the burning of yard debris on lots of two acres or greater with a valid burning permit issued by the fire department. These days may either be during the same weekend or may be one day on two different weekends within the discretion of the Fire Chief.

- (3) A violation of this section is a Class B Civil Infraction.

[Section 5.295 (2) added by Ord. No. NS-1677 adopted 5/7/97]

[Section 5.295 amended by Ord. NS-2088, adopted 2/6/08]

5.300 Fire Control: Water Regulations.

- (1) If in the opinion of the Fire Chief or designee it is necessary for fire fighting purposes to require temporary termination for outdoor water usage, the city may order such use temporarily prohibited.

- (2) A violation of this section shall be a Class A Civil Infraction.

5.305 Fireworks.

- (1) Article 78 of the *Oregon Uniform Fire Code*, 1996 Edition and ORS 480.110, 480.120, 480.130, 480.140(1), 480.150 and 480.170 are hereby incorporated by reference and made a part of the Bend Code, and shall apply to the use of fireworks within the City.
- (2) No Fireworks shall be used in the City of Bend except as authorized by the City.
- (3) A violation of this section is a Class C Civil Infraction.

[Section 5.305 (1) amended by Ord. No. NS-1677 adopted 5/7/97]

DESCHUTES RIVER**5.310 Boating, Diving, and Ice Skating.**

- (1) No unauthorized person shall operate a motor propelled boat on the Deschutes River within the limits of the City of Bend; or operate any boat, whether propelled or not, within 100 feet of the islands located immediately below the Tumalo Bridge in the Deschutes River. This one hundred foot prohibition shall not apply to boats coming to or going from abutting properties, provided these boats do not unnecessarily disturb wildlife.
- (2) No person shall dive from any bridge across the Deschutes River nor ice skate on the Deschutes River.
- (3) No person shall place, leave or abandon a duck or goose along the banks of the Deschutes River or in any park along the Deschutes River.
- (4) No person shall engage in any commercial activity upon the Deschutes River within the City limits of Bend without permission from the Bend City Commission or a valid special event permit specifically authorizing such activity. Commercial activity includes, but is not limited to the following definitions:
 - (a) The providing of boat or raft rides for consideration, or
 - (b) The rental of property such as boats or other flotation devices for use exclusively upon the river within the City limits.
- (5) Violation of this section is a Class B Civil Infraction.

[Section 5.310 amended by Ord. No. NS-1384, passed 7-20-83]

[Section 5.310 amended by Ord. No. NS-1436, passed 6-4-86]

[Section 5.310 amended by Ord. No. NS-1742, passed 4-5-00]

PARKS

5.315 Definitions. For purposes of section 5.320, the following mean:

- (1) Public parks. All property owned or controlled by the City or by the Bend Metropolitan Park & Recreation District and operated for the public's recreational use.
- (2) City property. Other real property owned or controlled by the City either within or without the City limits; excluding maintained City streets.
- (3) Person. A person, firm or corporation, not including City or Bend Metropolitan Park & Recreation District personnel or those acting with the authority or permission of the commission or the Bend Metropolitan Park & Recreation District.

5.320 Violations.

- (1) Persons using public parks and other city property shall obey the following rules and regulations:
 - (a) No person shall cut, remove or damage flowers, trees or trails.
 - (b) No person shall build a fire except in a stove or fireplace provided. Fires shall not be left unattended and every fire must be extinguished before its user leaves the park. Portable gas, gasoline, charcoal and oil camp stoves may be used in the parks only if in safe operating condition and only if operated in a safe manner.
 - (c) No person shall camp except in areas designed for camping or in connection with activities authorized by the commission.
 - (d) No person shall damage or injure a building, installation, equipment or other property in public parks.
 - (e) No person shall sell merchandise or services, or operate a concession in public parks without permission of the Bend Metropolitan Park & Recreation District and shall possess, on their person, evidence of such approval as set forth in 5.320, subsection 3.
 - (f) No person shall litter in the parks. Garbage and refuse shall be deposited in proper receptacles provided for this purpose. Garbage and refuse shall not be brought to parks.
 - (g) No person shall operate or park a motor vehicle with a gross weight exceeding five tons in a public park, except buses carrying passengers to the park.
 - (h) No person shall operate or park a motor vehicle except on roads or designated parking areas.

- (i) Except as authorized by the City or Park District, no person shall ride or lead a horse in a public park except on a designated bridle path. Horses or other animals shall not be tied to a tree or shrub in such a manner as to cause damage to the tree or shrub.
- (j) No person shall use golf clubs, archery equipment, discus, javelin, shot put or model aircraft in parks except as permitted by the City or Park District.
- (k) Except as authorized by the Oregon State Fish and Game Commission or Park District, no person shall hunt, pursue, trap, kill, injure or disturb the habitat of a bird or animal.
- (l) Except those persons authorized to carry firearms under ORS 166.260, no person shall possess a loaded firearm in the park.
- (m) No person shall dig up, deface or remove dirt, stones, rock or other substances nor make any excavation.
- (n) No person shall erect signs, markers or instructions without city permission.
- (o) No person shall wash clothing or materials or clean fish in streams, springs, pools or wells.
- (p) Except as authorized by the City Commission or by the City Manager in accordance with the City policy on amplified sound, no person shall use any device that amplifies sound nor play a radio, tape recorder or record player in public parks or in vehicles parked on streets adjacent to public parks if the sound can be heard outside the vehicle. This regulation shall not apply to Vince Genna Stadium.
- (q) Persons operating bicycles in public parks shall walk their bicycles on sidewalks that are marked by the Bend Metropolitan Park & Recreation District, "Walk Your Bike."
- (r) All public parks and adjacent parking lots, with the exception of Brandis Square, shall be open from 5:00 a.m. until 10:00 p.m. and closed from 10:00 p.m. until 5:00 a.m. It shall be unlawful to enter or remain in said parks and parking lots when the park or lot is closed. A person may, however, enter and remain in a closed parking lot for up to five minutes when going to and retrieving a vehicle lawfully parked in the closed parking lot during those hours when the lot was open. Vehicles lawfully parked in a parking lot adjacent to a public park while the lot is open may be left in the lot after the lot has closed. Additionally, a pedestrian may travel upon park sidewalks to destinations outside of park premises. Further, governmental employees may enter closed areas in the course of executing their governmental functions. Nothing provided in this section shall preclude use of public parks for special events during hours when the parks are closed when allowed under the special events permit.
- (s) No person shall consume an alcoholic beverage or possess an open container of an alcoholic beverage in a public park without first obtaining an alcohol consumption permit or special events permit which specifically allows alcohol consumption from

the Bend Police Department. The fee for an alcohol consumption permit shall be set by resolution pursuant to Bend Code 1.800 - 1.806 and the permit shall be valid for a period of up to one day. The Chief of Police may prescribe the form of application required of applicants for permits and all applications shall be truthfully and completely filled out. No permit will be issued to a person who has previously violated any provision of Bend Code 5.320 within a period of one year preceding the date of the permit requested. Nothing provided in this section shall supersede the provisions of the City's special events ordinance.

- (2) A violation of this section is a Class B Civil Infraction.
- (3) Evidence of permission to engage in activities as required by Bend Code 5.320 (1) (e) shall include the name, address and phone number of the permittee, a specific description of the location where the activity is to be conducted, the date or period for which said activity is authorized and the signature of the authorizing Park & Recreation District official.

[Section 5.320 amended by Ord. No. NS-1400, passed 7-18-84]

[Section 5.320 amended by Ord. No. NS-1401, passed 8-15-85]

[Section 5.320 amended by Ord. No. NS-1471, passed 3-16-88]

[Section 5.320 amended by Ord. No. NS-1485, passed 12-21-88]

NUISANCES

5.325 Definitions. For the purposes of sections 5.330 to 5.425, the following mean:

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

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

- (1) The owner.
- (2) The person in charge of property as defined above.
- (3) The person who caused a nuisance to come into or continue in existence.

5.330 Nuisances Affecting the Public Health. No person shall cause or permit, on property owned or controlled by him, a nuisance affecting the public health. The following are nuisances affecting the public health and may be abated as provided in sections 5.400 to 5.425.

- (1) 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 State Health Division regulations.
- (2) An accumulation of debris, rubbish, manure and other refuse that is not removed within a reasonable time and that affects the health or liveability of adjacent residents.
- (3) Stagnant water that affords a breeding place for mosquitoes and other insect pests.
- (4) 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.
- (5) Decayed or unwholesome food that is offered for human consumption.
- (6) Maintaining premises or keeping animals in such a state or condition as to cause an offensive odor, or that are in an unsanitary condition.
- (7) Drainage of liquid wastes from private premises.
- (8) Cesspools or septic tanks that are in an unsanitary condition or that cause an offensive odor.
- (9) An abandoned icebox or refrigerator with an air-tight door. The City may remove any such icebox or refrigerator immediately.
- (10) The presence in the outdoor atmosphere of one or more air contaminants in quantities, of characteristics and of a duration that are injurious to human, plant or animal life or to property.

(11) A violation of this section is a Class A Civil Infraction.

5.335 Attractive Nuisances.

- (1) No owner or person in charge of property shall permit on the property:
 - (a) Unguarded machinery, equipment, or other devices that are attractive, dangerous and accessible to children.
 - (b) Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.
 - (c) An excavation to remain open for an unreasonable length of time without proper barriers.
- (2) This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.
- (3) A violation of this section is a Class A Civil Infraction.

5.340 Snow and Ice. No owner or person in charge of property improved or unimproved, abutting a public sidewalk shall permit:

- (1) Snow to remain on the sidewalk for a period longer than the first six hours of daylight after the snow has fallen in the commercial areas and one day in all other areas.
- (2) Ice to remain on the sidewalk for more than six hours of daylight in commercial areas and one day in all other areas after the ice has formed unless the ice is covered with sand, ashes or other suitable material to assure safe travel.
- (3) A violation of this section is a Class C Civil Infraction.

5.345 Flammable Vegetation Fuel Breaks.

- (1) It shall be the responsibility of every property owner and occupier of property within the City of Bend to reduce the fire hazard created by flammable weeds, grass, vines, brush and other combustible vegetation on their property by complying with the requirements of this ordinance.
- (2) Every property owner and occupier of property shall establish fuel breaks (also known as fire breaks) on their property in the following manner:
 - (a) A fuel break shall be created by removing or cutting all of the flammable weeds, grass, vines, brush and other combustible vegetation within the fuel break as close to the ground as is reasonably practicable given the nature of the terrain and the property.

- (b) The fuel break shall be a minimum of ten feet in width or depth, or three times the height of the tallest vegetation adjacent to the fuel break, if this would be more than ten feet.
 - (c) The fuel breaks shall be located along the boundaries of the property; and also around any structures, power poles, vehicles, trees or other improvements on the property that would be vulnerable to a fire hazard created by flammable weeds, grass, vines, brush and other combustible vegetation.
 - (d) The purpose of the fuel breaks shall be to protect the property from the spread of fire from other properties; as well as confining any fire on the property by preventing its spread to other properties. In addition to the fuel breaks described above, the Fire Chief or his representative may direct the creation of additional fuel breaks for any situations not adequately covered by the fuel breaks described above. The Fire Chief or his representative may also permit smaller properties to comply with the purpose of this ordinance by cutting all of the flammable weeds, grass, vines, brush and other combustible vegetation on those properties to a prescribed height that will create a defensible fire space and accomplish the purpose of this ordinance.
- (3) The requirements of this ordinance shall be interpreted and applied consistently with the Uniform Fire Code in effect within the City of Bend.
 - (4) A violation of this ordinance by any person, firm or corporation shall be a Class B Civil Infraction. In addition, any person, firm or corporation not complying with the provisions of this ordinance shall be subject to the abatement procedures provided in Bend Code Section 5.400 - 5.425.

[Section 5.345 amended by Ordinance No. NS-1722 passed June 2, 1999].

5.355 Trees.

- (1) No owner or person in charge of property that abuts a street or public sidewalk shall permit trees or bushes on the property to interfere with street or sidewalk traffic.
- (2) No person shall trim or cut any trees in the public right-of-way that are maintained by either the City of Bend or the Bend Metropolitan Park & Recreation District. For all other trees in nonresidential public rights-of-way, no person shall trim or cut said trees except as authorized by the City of Bend. This provision shall not apply to utility companies trimming trees within their easement area.
- (3) No owner or person in charge of property shall allow a dead or decaying tree to stand if it is a hazard to the public or to persons or property on or near the property.

- (4) A violation of this section is a Class B Civil Infraction.

5.365 Surface Waters, Drainage.

- (1) No owner or person in charge of a building or structure shall permit rainwater, ice or snow to fall from the building or structure onto a street or public sidewalk or to flow across the sidewalk.
- (2) The owner or person in charge of property shall install and maintain, in a proper state of repair, adequate drainpipes or a drainage system so that overflow water accumulating on the roof or about the building is not carried across or onto the sidewalk.
- (3) A violation of this section is a Class B Civil Infraction.

5.370 Radio and Television Interference.

- (1) 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.
- (2) This section does not apply to devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission.
- (3) A violation of this section is a Class C Civil Infraction.

5.375 Notices and Advertisements.

- (1) No person shall place or cause to be placed any advertising paper, handbill, circular, poster or any other form of commercial advertising on any real or personal property, whether public or private, without first securing permission from the owner, occupant or proper public authority. This section shall not be construed as an amendment to or a repeal of any regulation now or hereafter adopted by the City regulating the use of and the location of signs and advertising.
- (2) No person shall distribute, circulate or pass to or among persons on a public place or premises open to the public within the City, or place in or on any automobile or other vehicle on or along any public place in the City, any advertising paper, handbill, circular, poster or other form of commercial advertising.
- (3) Nothing in this section shall prohibit the distribution or delivery of any newspaper that is capable of being entered as second class matter under the provisions of the United States Postal Regulations, and nothing in this section shall be deemed to prohibit or otherwise regulate the delivery of any such matter by the United States Postal Service.
- (4) Nothing in this section shall be deemed to prohibit the delivery of any such matter on the porch or stoop of any occupied residence provided such matter is enclosed within an addressed envelope.

- (5) No person shall hand out or distribute any non-commercial handbill in any public place to any person unless such non-commercial handbill shall have printed on it the name and address of the following:
- (a) The person who printed, wrote, compiled or manufactures it.
 - (b) The person who caused it to be distributed; PROVIDED, that in the case of a fictitious name, the true names of the owners, managers or agents of the person sponsoring the handbill shall also appear on it.
- (6) A violation of this section is a Class C Civil Infraction.

5.380 Discarded Vehicles.

- (1) For the purposes of this section, "discarded" means any vehicle that is in one or more of the following conditions:
- (a) Inoperative
 - (b) Wrecked.
 - (c) Dismantled.
 - (d) Partially dismantled.
 - (e) Abandoned.
 - (f) Junked.
- (2) Discarded vehicles may be considered to include major vehicle parts, including, but not limited to, bodies, engines, transmissions and rear ends.
- (3) No person shall store or permit the storing of a discarded vehicle on private property for more than 72 hours unless it is completely enclosed within a building or in a space entirely enclosed by a solid fence, hedge or screen not less than six feet in height, or unless it is in connection with a business enterprise dealing in junked vehicles lawfully conducted within the city.
- (4) A violation of this section is a Class B Civil Infraction.

5.381 OFFENSIVE DEBRIS AND UNCLEARED AND UNGRADED PROPERTY IN CB AND COMMERCIAL ZONING DISTRICTS

- (1) No person may place offensive debris or allow offensive debris to remain on public or private property in the Downtown CB zone or other commercial zoning districts more than 36 hours after the City Council makes a finding that the debris is substantially detrimental to commerce in that zoning district.
- (2) No person may allow public or private property in the CB or other commercial zoning districts to remain in a state of disrepair for more than 36 hours after the City Council determines that the property is in a state of disrepair. Property is in a “state of disrepair” when it is uncleaned or ungraded in such a manner that the City Council determines is substantially detrimental to commerce in that zoning district.
- (3) Following any finding by the City Council as provided in Subsections 1 or 2 of this Section, the City will provide notice to the property owner to repair the offensive condition, and may thereafter abate the offensive condition as a nuisance.

[Section 5.381 added by Ord NS-2054, passed on emergency clauses June 6, 2007]

5.385 Noise.

- (1) This section is adopted pursuant to the provisions of ORS 467.100
- (2) Definitions. As used in this section, the following mean:

Motorcycle. A motor vehicle having a seat for the use of a rider and designed to travel on not more than three wheels in contact with the ground, but excluding a trailer. This includes motorcycles suitable for use off a road or on dirt trails, regardless of whether it may also be used on public streets or highways under state law. It includes motorcycles sold or commonly described as dirt bikes, motocross bikes, trail bikes and enderro bikes.

Motor Vehicle. A vehicle that is self-propelled or designed for self-propulsion, except vehicles authorized by the City.

Unreasonably Loud or Raucous Noise:

- (a) Motor vehicles. Motor vehicle noise louder or heard for a longer period than that produced by reasonable use by motor vehicles with mufflers and that disturbs, injures, or endangers safety of persons 30 or more feet away, if the noise is not emitted in order to make the motor vehicle move up to the maximum speed limit on public streets, roads or highways for the purpose of direct transportation.
- (b) Motorcycles. Using a motorcycle outside of public rights-of-way where the use disturbs the sleep, peace, quiet, comfort or repose of persons 30 or more feet away. If the user has a permit issued under subsection (4) of this section allowing a person to operate a motorcycle outside of public rights-of-way within the terms of the permit.
- (c) Horns, signaling devices, etc. Sounding horn or signaling device on an automobile, motorcycle, bus, or other vehicle except as a reasonable signal required by the exigencies of vehicular or pedestrian traffic; creating by a signaling device a sound which disturbs the sleep, peace, quiet, comfort or repose of other persons; sounding such device for an unnecessary or unreasonable period of time.
- (d) Radios, phonographs, etc. Playing, using, or operating a radio musical instrument, phonograph, television set, tape recorder or other machine or device for producing or reproducing sound in a manner that disturbs the sleep, peace, quiet, comfort or repose of other persons, or using the machine or device with louder volume than is necessary for convenient hearing by the person or persons who are in the room, vehicle, or chamber in which the machine is operated and others who are voluntary listeners. The operation of a machine audible to a peace officer at a distance of 50 feet from the building, room, structure, or vehicle in which it is located shall be prima facie proof of a violation of this section.

- (e) Loud speakers, amplifiers, etc. Using, operating or permitting to be used or operated a mechanical or electrical loud speaker or sound amplifier, either stationary or mobile, for producing or reproducing sound that is cast on the public streets or other public property if it disturbs the sleep, peace, quiet, comfort or repose of persons more than 30 feet away. This subpart does not prohibit the reasonable use of mechanical loud speakers or sound amplifiers as authorized by the commission or emergency announcements required by public safety. However, repetitive mechanically or electrically amplified political advertising shall not be allowed in zoned residential neighborhoods between 10:00 p.m. and 7:00 a.m.
- (f) Yelling, shouting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place that disturbs the sleep, peace, comfort, or repose of persons more than 30 feet away. This section shall not apply to applause and cheering at public meetings, lectures, sports events and shows held at schools, stadiums, auditoriums, churches, meeting halls, public parks and public playgrounds.
- (g) Steam Whistles. Blowing a steam whistle attached to a stationary boiler, except to give notice of the time, to begin or stop work, as a warning of fire or danger, or on request of proper authorities.
- (h) Exhausts. Discharging into the open air the exhaust of a steam engine, stationary internal combustion engine, motor boat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises.
- (i) Defect in vehicle or load. Using an automobile, motorcycle or other vehicle so out of repair, so loaded or in such a manner as to disturb the sleep, peace, quiet, comfort or repose of persons more than 30 feet away.
- (j) Unloading, loading, opening boxes. Loading or unloading a vehicle, or opening, closing or destroying bales, boxes, crates and containers so as to disturb the sleep, peace, comfort or repose of persons more than 30 feet away.
- (k) Constructing or repairing buildings, streets, etc. Constructing (including excavating), demolishing, altering or repairing a building, street, sidewalk, driveway, sewer or utility line during the following time periods: Sunday evening through Friday morning between the hours of 10:00 p.m. and 7:00 a.m.; Friday evening through Saturday morning between 10:00 p.m. and 8:00 a.m.; and Saturday evening through Sunday morning between the hours of 10:00 p.m. and 9:00 a.m., except as provided in subsection (4).
- (l) Schools, courts, churches, hospitals. Creating a sound on a street adjacent to a school, institution of learning, church or court while in use, or an institution for the care of the sick or infirm, that would tend to unreasonably interfere

with the operations of the institution, or disturb the sleep, peace, quiet, comfort or repose of persons more than 30 feet away. "Adjacent" means within 500 feet of an institutional building.

- (m) Environmental Quality Standards. Noise that violates the standards of the Environmental Quality Commission adopted pursuant to ORS 467.030 and that is not exempt under ORS 467.035 or permitted by a variance issued under ORS 467.060.
- (n) Blowers and compressors. Operating a blower, power fan, internal combustion engine, electric motor or compressor, or the compression of air, unless the sound from each machine is sufficiently muffled so as not to disturb the sleep, peace, quiet, comfort or repose of persons more than 30 feet away.

[Section 5.385(2) amended by ORD. No. NS-1689, passed 9-17-97]

[Section 5.385 (2)(k) amended by Ord. NS-2020, passed July 19, 2006]

- (3) Acts Prohibited. Except as permitted by subsection (4), no person within the boundaries of the city shall make an unreasonably loud or raucous noise that disturbs, injures or endangers the comfort, repose, health, peace or safety of others. A violation of this section is a Class A Civil Infraction.

[Section 5.385(3) amended by ORD. No. NS-1365, passed 10-20-82]

- (4) Permits.
 - (a) In cases of emergency or other public necessity, the City Manager may issue a permit allowing activities described in subsection (2)(k) to take place at any hour. The permit may be for the duration of the permitted activity.
 - (b) The City Manager may also issue a permit for a concert or similar event allowing activities described in subsection (2)(e) provided such concert or event is permitted under the applicable provisions of this code.
 - (c) Denial of permits by the City Manager may be appealed to the commission within 15 days after denial. The date of a denial shall be the date a permit is orally denied or the date a written denial is made, whichever is later. Granting the permit may be appealed at any time by a person who resides or works within hearing of the noise generated as a result of the granting of the permit.
 - (d) Permits may include such restrictions or conditions necessary to safeguard the public peace.
 - (e) This subsection shall not apply to emergency work performed on public improvements and public utilities. Such activities may be conducted without restriction.

[Section 5.385 amended by ORD No. NS-1967, adopted 4/20/05]

5.386 Chronic Nuisance Property

- (1) For the purposes of this code section, the following definitions apply:
- (a) "Chronic Nuisance Property" means property upon which three or more of the below listed offenses occur during any 30 day period as a result of three separate factual incidents that have been independently investigated by any law enforcement agency:
 - (A) All felony drug offenses as enumerated in ORS 475.992.
 - (B) Assault as defined in ORS 163.160 through 163.185.
 - (C) Disorderly conduct as defined in ORS 166.025 excluding provision 1(b).
 - (D) Discharge of a firearm as defined in Bend Code Section 5.025.
 - (E) Unlawful furnishing or unlawful possession of alcoholic beverages to minors as defined in ORS 471.410(1) and (2) and ORS 471.430(1) and (2).
 - (F) Unreasonably loud or raucous noise as provided in Bend Code Section 5.385.
 - (b) "Control" means the ability to regulate, restrain, dominate, counteract or govern conduct that occurs on that property.
 - (c) "Owner" means any person, agent, firm or corporation having a legal or equitable interest in a property. Owner includes, but is not limited to:
 - (A) A mortgagee in possession in whom is vested:
 - (i) All or part of the legal title to the property; or
 - (ii) All or part of the beneficial ownership and a right to present use and enjoyment of the premises; or
 - (B) An occupant who can control what occurs on that property.
 - (d) "Permit" means to suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.
 - (e) "Person" means any natural person, association, partnership or corporation capable of owning or using property in the City of Bend.
 - (f) "Property" means any real property including land and that which is affixed, incidental or appurtenant to land, including but not limited to any premises,

room, house, building or structure or any separate part or portion thereof, whether permanent or not.

(2) Remedy.

- (a) In the event a court determines property to be chronic nuisance property, the court may order that the property be closed and secured against all use and occupancy for a period of not less than 30, but not more than 180 days, or the court may employ any other remedy deemed by it to be appropriate to abate the nuisance.
- (b) In addition to the remedies provided for in paragraph (a) above, the court may impose upon the owner of the property a civil penalty in any amount up to \$100 a day, payable to the City, for each day the owner had actual knowledge that the property was chronic nuisance property and permitted the property to remain chronic nuisance property.
- (c) In determining what remedy or remedies to employ, the court may consider evidence of other conduct which has occurred on the property including, but not limited to:
 - (A) Disturbing neighbors as defined by ORS 90.325(9).
 - (B) Loud noise as defined in Bend Code Section 5.385(2)(c-f).
 - (C) Consumption of alcohol as defined in ORS 471.620.

(3) Procedure. When any Division Commander of the Bend Police Department believes in good faith that the property within the City of Bend has become chronic nuisance property, he/she shall:

- (a) Notify the owner(s) of record in writing that the property has been determined to be chronic nuisance property. The notice shall contain the following information:
 - (A) The street address and a legal description sufficient for identification of the property.
 - (B) A statement that the Division Commander has found the property to be chronic nuisance property with a concise description of the conditions leading to his/her findings.
 - (C) A statement that the owner shall have the opportunity to respond to the notice, within 15 days from the date of the notice, describing what steps the owner has taken or will take to remedy the chronic nuisance on the property.
 - (D) If the owner's response to the notice is not satisfactory to the Chief of Police, or if the owner does not respond, then another copy of the

notice shall be served on the owner and their agent, if known, at least 10 days prior to the commencement of any judicial action by the City. Service shall be mailed certified mail, return receipt requested, postage prepaid, addressed to such person at the address of the property believed to be a chronic public nuisance property, and to such other address as shown on the tax rolls of the county in which the property is located or such other place which is believed to give the owner actual notice of the determination by the Division Commander.

- (E) A copy of the notice shall be served on the occupant of the property if that person is different than the owner and shall occur not less than 10 days prior to the commencement of any judicial proceedings and be made either personally or by mailing a copy of the notice by certified mail, return receipt requested, postage prepaid, to them at the property.
 - (F) A copy of the notice shall be posted at the property prior to the commencement of any judicial proceedings.
 - (G) The failure of any person or owner to receive actual notice of the determination by any Division Commander of the Police Department shall not invalidate or otherwise affect the proceedings under this Chapter.
- (b) Concurrent with the notification procedures set forth above, the Division Commander shall send a copy of the notice to the Chief of Police as well as any other documentation which he/she believes supports the closure of the property and the imposition of civil penalties. The Chief of Police may then authorize the City Attorney to commence civil proceedings in a court of competent jurisdiction seeking the closure of the structure as well as the imposition of civil penalties against any or all of the owners thereof, and any such other relief as may be deemed appropriate.
- (4) Commencement of Actions; Burdens of Proof; Defenses; Mitigation of Civil Penalty.
- (a) In an action seeking the closure of a chronic nuisance property, the City shall have the initial burden of proof to show by a preponderance of the evidence that the property is chronic nuisance property.
 - (b) It is a defense to an action seeking the closure of chronic nuisance property that the owner of property at the time in question could not, in the exercise of reasonable care or diligence, determine that the property had become chronic nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the finding that the property is chronic nuisance property.

- (c) In an action seeking civil penalties pursuant to subsection (2)(b) the City shall have the initial burden of proof to show by a preponderance of the evidence that the conditions of that subsection are satisfied.
- (d) In establishing the amount of any civil penalty requested, the court may consider any of the following factors, as they may be appropriate, and shall cite those found applicable:
 - (A) The actions taken by the owner(s) to mitigate or correct the problem at the property;
 - (B) Whether the problem at the property was repeated or continuous;
 - (C) The magnitude or gravity of the problem;
 - (D) The cooperativeness of the owner(s) with the City;
 - (E) The cost to the City of investigating and correcting or attempting to correct the condition;
 - (F) Any other factor deemed by the court to be relevant.

(5) Closure During Pendency of Action; Emergency Closures. In the event that it is determined that the property is an immediate threat to the public safety and welfare, the City may apply to the court for such interim relief that is deemed by the City Attorney to be appropriate. In such an event the notification procedures set forth in subsection (3)(a) need not be complied with.

(6) Enforcement of Closure Order; Costs; Civil Penalty.

- (a) In the event that a court finds that property constitutes chronic nuisance property as defined in this Chapter, the court may order the remedies set out in subsection (2)(a). In addition, in the event that it also finds that the owner had knowledge of activities or conditions at the property constituting a violation of this Chapter and nonetheless permitted the activities to occur, the court may utilize the penalties provided for in subsection (2)(b).
- (b) The court may authorize the City to physically secure the property against use or occupancy in the event that the owner(s) fail to do so within the time specified by the Court. In the event that the City is authorized to secure the property, all costs reasonably incurred by the City to effect a closure shall be made an assessment lien upon the property.
 - (A) The City Department(s) effecting the closure shall prepare a statement of costs and the City shall thereafter submit that statement to the court for its review. If no objection to the statement is made within the period prescribed by Oregon Rules of Civil Procedure 68, a certified copy of the statement, including a legal description of the property, shall be entered in the City's lien docket.

- (B) Liens imposed by this Chapter shall be collected in all respects as provided for street improvement liens, and shall bear interest at the rate of 9% per year from 10 days after the entry in the lien docket.
- (C) Any person who is assessed the costs of closure and/or a civil penalty by the court shall be personally liable for the payment thereof to the City.

(7) Severability. If any provisions of this Chapter, or its application to any person, or circumstances is held to be invalid for any reason, the remainder of the Chapter, or the application of its provisions to other persons or circumstances shall not in any way be affected.

[Section 5.386 added by ORD No. NS-1634 passed May 17, 1995]

5.387 Graffiti Nuisance Property**(1) Definitions:**

- (a) Abate means to remove Graffiti from public view.
- (b) Graffiti means any unauthorized markings of paint, ink, chalk, dye or other similar substance which is visible from premises open to the public, and that have been placed upon any real or personal property such as buildings, fences, structures, or the unauthorized etching or scratching of such described surfaces where the markings are visible from premises open to the public, such as public rights of way or other publicly owned property.
- (c) Graffiti Nuisance Property means property to which graffiti has been applied, if the graffiti is visible from any public right of way, from any other public or private property or from any premises open to the public, and if the graffiti has not been abated within 14 days of written notification of its existence.
- (d) Occupant means any person, tenant, sub-lessee, successor, or assignee that has control of the property.
- (e) Owner means any person, agent, firm, or corporation having a legal or equitable interest in a property. Owner includes, but is not limited to:
 - i. A mortgagee in possession in whom is vested;
 - 1. All or part of the legal title to the property; or
 - 2. All or part of the beneficial ownership and a right to present use and enjoyment of the premises: or
 - ii. An occupant who can control what occurs on that property.
- (f) Property means any real property including land and that which is affixed, incidental or appurtenant to land, including but not limited to any premises, house, building, fence, or items of machinery, drop boxes, waste containers, utility poles and vaults, and post office collection boxes.
- (g) Unauthorized means without consent of the owner, occupant or responsible party.

(2) Procedure:

- (a) The Bend Police Department shall maintain a system for members of the public to report incidence of graffiti they observe on public and private property.
- (b) The owner or occupant of any property in the City shall remove any graffiti from such property within 14 days of the graffiti's appearance.

- (c) When the Chief of Police or Designee believes in good faith that property within the City of Bend has become graffiti nuisance property, he/she shall:
- i. Notify the owner(s) of record and/or occupant in writing, via first class mail service, that the property has been determined to be graffiti nuisance property.
 - ii. The notice shall contain the following information:
 1. The street address and a legal description sufficient for identification of the property.
 2. A statement that the Chief of Police or Designee has found the property to be graffiti nuisance property with a concise description of the conditions leading to his/her findings.
 3. An information sheet identifying any graffiti removal assistance programs available through the City or private contactors.
 4. A statement that the owner and/or occupant shall have the opportunity to respond to the notice, within 15 days from the date of the notice, describing what steps the owner has taken or will take to remedy the graffiti nuisance on the property.
- (d) If the graffiti can not be removed due to inclement weather then a waiver of the time restrictions may be authorized by the Chief of Police or Designee.
- (e) If the owner or person in control of the property fails to remove the graffiti from their property as provided in this ordinance, such person, firm, corporation or other entity shall be in violation of this ordinance.
- (f) Violation of this ordinance is a class "B" civil infraction. Each day after the initial citation is issued may be considered a separate violation. In addition, any person, firm, corporation or other entity not complying with this ordinance shall be subject to the abatement procedures provided in Bend Code section 5.400 - 5.425.

[Section 5.387 added by Ordinance NS-2070, adopted September 5, 2007]

5.388 **Derelict Structures.**

- (1) Definitions. Words stated in the present tense include the future; the singular number includes the plural and the plural the singular. Where terms are not defined in this chapter or other code sections and are defined in the state building, plumbing or mechanical codes, such terms shall have the meanings ascribed to them as in those codes. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies. Whenever the words "dwelling unit," "dwelling," "premises," or "building" are stated in this chapter, they shall be construed as though they were followed by the words "or any part thereof." Unless otherwise expressly stated, the following terms shall, for the purposes of this chapter, have the following meanings:
- (a) Abandoned Structure: A vacant structure, or portion thereof, that is an attractive nuisance to children at play that is used for unlawful activity.
 - (b) Boarded building: An unoccupied building that has been secured against entry by material such as plywood, boards, or other similar material placed over openings that are designed for and/or are required for windows and doors, and which is visible off the premises and is not both lawful and customary to install on an occupied structure.
 - (c) Building: Any structure occupied or intended for any occupancy.
 - (f) Building Code: Bend Code Chapter 9.200 et seq.
 - (g) Building Official: The administrator of the building and safety division of the City of Bend department of community development, or the administrator's designee.
 - (h) Deterioration: A lowering in quality of the condition or appearance of a building, structure or parts thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay or neglect or excessive use or lack of maintenance.
 - (i) Manager: The City Manager of the City of Bend or his/her designee.
 - (j) Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
 - (k) Imminent Hazard: A condition that places a person's life, health, or property in high risk of peril when such condition is immediate, impending, or on the point of happening.
 - (l) Legal Owner. Any person recorded in the official records of the state, county or municipality as holding title to the premises.

- (m) Let for occupancy or let: To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.
 - (n) Occupancy: The purpose for which a building or portion thereof is used or intended to be used.
 - (o) Occupant: Any person living or sleeping in a building; or having possession of a space within a building or premises.
 - (p) Owner: Any legal owner or any person having charge, care or control of a premises.
 - (q) Partially Constructed: An occupied or vacant structure, or portion thereof, that has been left in a state of partial construction for more than six months or after the expiration of any building permit, or that has not had a required permit inspection within any six month period.
 - (r) Person: An individual, corporation, partnership or any other group acting as a unit.
 - (s) Pests: Animals detrimental to humans or human concerns including but not limited to insects, rodents, rats or vermin.
 - (t) Premises: A lot, plot or parcel of land including any structures thereon.
 - (u) Skilled Manner: Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged, without marring adjacent work and completed in conformance with generally accepted construction and maintenance practices.
 - (v) Structure: That which is built or constructed or a portion thereof.
 - (w) Unfit for Human Habitation: A structure is unfit for human habitation as specified in this chapter whenever the manager finds that such structure is in such disrepair or lack of maintenance, is unsanitary, is pest infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities to the extent that habitation would be injurious to the health and safety of the occupants.
 - (x) Unoccupied: Not being used for a lawful occupancy.
- (2) Derelict Structures Prohibited. No structure shall be:
- (a) boarded, unoccupied and unsecured, or
 - (b) partially constructed and abandoned, or

- (c) maintained in a condition that is unfit for human habitation, or
 - (d) maintained in a condition that is an imminent hazard.
- (3) Closing of Structures.
 - (a) If the manager finds a structure in violation of this section, the manager is authorized to order that a placard be posted on the structure, to order the structure or portion thereof vacated.
 - (b) The placard shall contain the information required in Bend Code Section 5.400 and this section.
- (4) Prohibited Habitation. No person shall occupy, and no owner shall allow another to occupy, a placarded structure or a structure or portion thereof ordered vacated by the manager.
- (5) Removal of Placard Prohibited.
 - (c) The manager shall authorize removal of the placard whenever the violation(s) upon which the placarding action were based have been eliminated.
 - (d) No person shall deface or remove a placard without the approval of the manager.
- (6) Temporary Safeguards. Notwithstanding other provisions of this chapter, whenever, in the opinion of the manager, there is imminent hazard due to an unsafe condition, the manager may order the necessary work to be done, including the boarding-up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the manager deems necessary to meet such emergency.
- (7) Derelict Structure Registration. In the event the manager determines that a structure violates this section, the legal owner of the structure shall be required to register the structure within 10 days of the manager's order to register. Registration under the terms of this chapter shall be completed on forms to be provided by the manager, and shall include information relating to the location and ownership of the structure, the expected period of its vacancy, a plan for regular maintenance during the period of vacancy, and a plan for its re-occupancy and use, or its demolition. Any change in the information provided pursuant to this subsection shall be given to the manager within 30 days. When all code violations have been corrected the owner shall contact the manager and request an inspection to determine compliance.
- (8) Derelict Structure Fees.
 - (a) Every legal owner who keeps a structure within the city in violation of this

section shall pay a non-refundable quarterly fee as prescribed by resolution of the council for each derelict structure. Payment of the fee is due on the fifteenth day of April, July, October and January. Any payment of the fee that is more than 30 days past due may be considered delinquent and subject to a penalty of \$100 for every delinquent quarterly payment.

- (b) In the event that the fees due under the terms of this section become delinquent for more than 90 days, or in the event the legal owner fails to register the structure as required, the city attorney, on request of the manager, may file an action in the circuit court of the appropriate county for the recovery of any and all delinquent fees and penalties due under this section. Where the legal owner has failed to register the structure, the delinquent amount shall be the total yearly fee plus delinquent penalties.
 - (c) All fees imposed under the terms of this section are to be paid prior to the issuance of any permit required for the demolition, alteration or repair of a structure.
- (9) Waiver of Derelict Structure Fees. The manager may waive all or a portion of the fees imposed under this chapter, if the following conditions are met:
- (a) all delinquent fees and penalties have been paid in full;
 - (b) a timetable for the repair or demolition of the structure has been submitted by the legal owner and approved by the manager;
 - (c) all appropriate permits have been obtained for the repair or demolition of the structure;
 - (d) the manager is satisfied that the repairs or demolition of the structure are being undertaken and will be prosecuted to completion in a timely fashion; and
 - (e) the legal owner provides written authorization for the city to enforce all applicable trespass and illegal camping ordinances and laws.
- (10) Abatement by Demolition.
- (a) In addition to and not in lieu of the abatement remedies provided for in Section 5.400 through 5.420, the manager may request a public hearing before Municipal Court for the purpose of seeking authority to order the demolition of a derelict structure.
 - (b) Upon receipt of such a request from the manager, the Municipal Court Clerk shall set the matter for prompt public hearing before the Municipal Court and give the owner(s) and occupant(s) notice by certified mail of the date and time set for hearing. Notice shall also be posted on or near the derelict structure and copies delivered to the affected neighborhood

association. Failure of the owner(s) or occupant(s) to receive such notice or an error in the name or address of a owner(s) or occupant(s) shall not render the notice void and in such case the notice shall be sufficient.

- (c) At the hearing, the manager shall present whatever information, evidence or testimony he may deem relevant in support of the manager's determination, and the owner(s) and occupant(s) shall be afforded a like opportunity to rebut the determination. Any information, opinion, testimony, or evidence may be received which the Municipal Court deems material, relevant, and probative of the matters in issue. The owner(s) and occupant(s) may represent themselves or be represented by counsel of their choice provided that such counsel is admitted to the practice of law in the State of Oregon.
 - (d) The Municipal Court may authorize the manager to order the structure demolished if the manager shows, by a preponderance of the evidence, that demolition would be in the public interest. The burden of proof shall be upon the manager.
 - (e) In determining whether a structure is so derelict as to require its owner to demolish the structure, the Municipal Court may consider the number and extent of the following factors: 1. Dilapidation; 2. Disrepair; 3. Structural defects noted by the Building Official or designee; 4. Defects increasing the hazards of fire, accident or other calamity, such as parts standing or attached in such manner as to be likely to fall and cause damage or injury; 5. Uncleanliness; 6. Sanitary facilities; 7. The presence of a public nuisance; and 8. The history of unlawful activity in or around the derelict structure.
- (11) Failure to Follow Order to Demolish.
- (a) Whenever a demolition is not commenced within 30 days after an order to demolish, the manager may file with the Municipal Court a request to authorize the manager to have the demolition performed and the cost thereof assessed as a lien against the property upon which the structure is located.
 - (b) Upon filing of such a request, the Municipal Court Clerk shall set the request for prompt hearing, and cause notice thereof to be served via certified mail to the owner(s) and occupant(s). Failure of the owner(s) or occupant(s) to receive such notice or an error in the name or address of a owner(s) or occupant(s) shall not render the notice void and in such case the notice shall be sufficient.
 - (c) At the hearing, the owner(s) and occupant(s) shall be accorded an opportunity to show cause why the demolition should not be performed and the cost thereof assessed as a lien against the property. No issue heard and decided pursuant to this section shall be reintroduced or considered at the hearing provided in this section unless the Municipal

Court, for good cause shown, determines that the interest of justice and fundamental fairness would best be served thereby.

- (d) The cost of demolition and 20 percent charge for administrative overhead will be assessed in the manner provided in Bend Code Section 5.420.

12. Violation of this section is a Class A Civil Infraction.

[Section 5.387 added by ORD No. NS-1792, passed August 1, 2001]

5.390 Unenumerated Nuisances.

- (1) The acts, conditions or objects specifically enumerated and defined in sections 5.330 to 5.385 are declared public nuisances, and such acts, conditions or objects may be abated by any of the procedures set forth in sections 5.400 to 5.425.
- (2) In addition to the nuisances specifically enumerated in this code, every other thing, substance or act which is determined by the City Commission 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 code.

5.395 Continuing Violation. Each day that a nuisance defined in Bend Code Sections 5.330 (Nuisances Affecting the Public Health), 5.335 (Attractive Nuisances), 5.340 (Snow and Ice), 5.345 (Flammable Vegetation Fuel Breaks), 5.355 (Trees), 5.365 (Surface Waters, Drainage), 5.370 (Radio and Television Interference), 5.375 (Notices and Advertisements), 5.380 (Discarded Vehicles) or 5.385 (Noise) continues to exist constitutes a separate violation, and a separate penalty may be assessed for each day the violation continues.

[Section 5.395 added by Ord. NS-1932, passed July 21, 2004]

ABATEMENT PROCEDURE**5.400 Notice.**

- (1) If the City Manager or his designee is satisfied that a nuisance exists, the City Manager 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.
- (2) At the time of posting, the City Manager shall cause a copy of the notice to be forwarded by registered or certified mail, postage prepaid, to the person responsible at the last known address of such person.
- (3) The notice to abate shall contain:
 - (a) A description of the real property, by street address or otherwise, on which the nuisance exists.
 - (b) A direction to abate the nuisance within 10 days from the date of the notice.
 - (c) A description of the nuisance.
 - (d) A statement that unless the nuisance is removed, the City may abate the nuisance and the cost of abatement will be charged to the person responsible.
 - (e) A statement that failure to abate a nuisance may warrant imposition of a fine.

- (f) A statement that the person responsible may protest the order to abate by giving notice to the City of Bend Municipal Court within 10 days from the date of the notice.
- (4) If the person responsible is not the owner, an additional notice shall be sent to the owner stating that the cost of abatement not paid by the person responsible may be assessed to and become a lien on the property.
- (5) On completion of the posting and mailing, the persons posting and mailing shall execute and file certificates stating the date and place of the mailing and posting.
- (6) An error in the name or address of the person responsible shall not make the notice void, and in such case the posted notice shall be sufficient.

5.405 Abatement by the Person Responsible.

- (1) Within 10 days after posting and mailing the notice, as provided in section 5.400, the person responsible shall remove the nuisance or show that no nuisance exists.
- (2) A person responsible, protesting that no nuisance exists, shall request a trial with the City of Bend Municipal Court.
- (3) The Trial on the question of whether a nuisance exists shall be heard by City of Bend Municipal Court at the first available time following the person's request for a trial before the Municipal Court.
- (4) If the City of Bend Municipal Court determines that a nuisance in fact exists, the person responsible shall abate the nuisance within 10 days after the City of Bend Municipal Court determination.

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

5.415 Abatement by the City.

- (1) If the nuisance has not been abated by the person responsible within the time allowed after the trial in the Municipal Court, the City Manager or his/her designee may cause the nuisance to be abated without further order of the Municipal Court.
- (2) The officer charged with abatement of the nuisance shall have the right to enter into or on the property at reasonable times to investigate or cause the removal of the nuisance, provided that 24 hours advance notice is posted at the site of the nuisance. The 24-hour advance notice requirement in this sub-section shall not apply in the case of an emergency.

- (3) The City Manager or his/her designee shall keep an accurate record of the expense incurred by the City in physically abating the nuisance and shall include in the record a charge of \$75 or 15 percent of those expenses (whichever is greater) for administrative overhead.

5.420 Assessment of Costs.

- (1) The City Manager or designee, by registered or certified mail, shall send to the person responsible a notice stating:
 - (a) The total cost of abatement, including the administrative overhead.
 - (b) That the cost as indicated will be assessed to and become a lien against the property, unless paid within 30 days from the date of the notice.
 - (c) That if the owner or person responsible objects to the cost of the abatement as indicated, a notice of objection may be filed with the administrator no more than 10 days from the date of the notice.
- (2) On the expiration of 10 days after the date of the notice, the City of Bend Municipal Court, at the next regular scheduled court date shall hear and make a decision on the objections to the costs assessed.
- (3) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs shall be entered as a judgment of the Municipal Court and shall be entered in the docket of city liens. When the entry is made, it shall constitute a lien on the property from which the nuisance was removed or abated.
- (4) The lien shall be enforced in the same manner as liens for street improvements are enforced and interest shall begin to run from the date of entry of the lien in the lien docket.
- (5) An error in the name of the owner or 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.

[Section 5.400 to 5.420 amended by ORD. NS-1793, August 1, 2001]

5.425 Summary Abatement. The procedure provided by sections 5.400 to 5.420 is not exclusive, but is in addition to procedures provided by other sections of the code. The health officer, the chief of the Fire Department, the fire marshal, the police chief or the City Manager may proceed summarily to abate a health or other nuisance which unmistakably exists, and which imminently endangers health or property.

5.430 Administrative Warrants Authorized.

The Bend Municipal Court shall have the authority to issue warrants authorizing any Bend Police Officer, or city official authorized by the City Manager to enforce provisions of the Bend Code, to make searches and seizures reasonably necessary to enforce any provision of the Bend Code pertaining to nuisances. Every warrant authorized by this section shall be supported by affidavit or sworn testimony establishing probable cause to believe that a nuisance violation has occurred. Searches and seizures authorized by this section may be executed by any city official authorized to apply for a warrant under this section. All searches and seizures authorized by this section shall be conducted according to requirements of Oregon Law relating to search warrants.

[5.430 added by Ordinance NS-2014, passed June 21, 2006]

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CIVIL EMERGENCIES

[Sections 5.450 through 5.460 added by Ordinance No. NS-1361, passed August 4, 1982]

[Sections 5.450 through 5.460 repealed by Ordinance No. NS-1725, passed July 21, 1999]

SAFE KID ZONES

5.475 Title. This ordinance shall be known as the Safe Kid Zones Ordinance.

5.480 Purpose.

- (1) Safe Kid Zones are designated to insulate youth in those public places where youth congregate from those whose illegal conduct poses a threat to safety and welfare.
- (2) Safe Kid Zones in the City are all public parks.
- (3) Safe Kid Zones include, but are not limited to the following list of places:

Public Places:

The Breezeway between the western terminus of Minnesota Street to and through the Riverfront Plaza; and all publicly owned property from the eastern side of Brooks Alley to Drake Park between Franklin Avenue and Oregon Avenues.

Public Parks

Al Moody Park Site - Daggett Lane
Alpine Park Site - SW Swarens Ave./Century Drive
Awbrey Village Park - 3015 SW Merchant Way
Blakely Park - 1155 SW Blakely
Brandis Square
Brooks Park - 35 NW Drake Road
Columbia Park - 264 SW Columbia Street
Compass Park Site - NW Crossing Drive
Davis Park Site
Deschutes River Trail
Dohema River Access
Drake Park - 777 NW Riverside
Farewell Bend Park - Southern Crossing
First Street Rapids Park - NW First Street
Foxborough Park - 61308 Sunflower Lane
Genna Stadium
Harmon Park - 1100 NW Harmon Road
Harvest Park - 20220 Morgan Loop
Hillside Park - 2050 NW 12th Street/1116 NW Trenton Ave
Hixon Park Block - 125 SW Crowell Way
Hollinshead Park - 1235 NE Jones Road
Hollygrape Park - Hollygrape Street
Jaycee Park - 478 Railroad Street

Juniper Swim & Fitness Center
Juniper Park - 800 NE 6th
Kiwanis Park - 800 SE Centennial Street
Larkspur Park & Bend Senior Center - 1700 SE Reed Market Road
Larkspur Trail - 1700 SE Reed Market Road
Lewis & Clark Park - 2520 NW Lemhi Pass Drive
McKay Park - 166 SW Shevlin Hixon Drive
Mt. View Park - 1975 NE Providence Drive
Orchard Park Site - 4th Street/ Seward Avenue
Overturf Park Site - 17th Street
Pacific Park (Administration Office) - 200 NW Pacific Park Lane
Pageant Park - 691 Drake Road
Park Services Center - 1675 SW Simpson
Pine Nursery Park - East of Purcell Street at Empire Ave Intersection
Pine Ridge Park Site - Intersection of Columbine Lane and Porcupine Dr
Pine Tree Park Site - Intersection of Purcell Street and Empire Ave.
Pioneer Park - 1525 Hill Street
Ponderosa Park - 225 SE 15th Street
Providence Park - 1055 NE Providence Drive
Quail Park - Regency Street
Riverbend Park - Columbia Street and Shevlin Hixon Drive
River Canyon Natural Area

5.485 Civil Exclusion.

- (1) A person is subject to exclusion for a period of 90 days from entering or remaining in the area within 500 feet of a Safe Kid Zone if that person has been cited to appear, arrested or otherwise taken into custody within a Safe Kid Zone for:
 - (a) Any Assault, as defined by ORS 163.160 - 185 and 163.208,
 - (b) Menacing, as defined by ORS 163.190,
 - (c) Harassment, as defined by ORS 166.025,
 - (d) Disorderly Conduct, as defined by ORS 166.025,
 - (e) Recklessly Endangering, as defined by ORS 163.195,
 - (f) Coercion, as defined by ORS 163.275,
 - (g) Any sexual offense, as defined by ORS 163.355 - 465,
 - (h) Endangering the Welfare of a Minor, as defined by ORS 163.575,
 - (i) Any offense under State law governing the possession, distribution, sale or manufacture of controlled substances,
 - (j) Any offense under State law governing the possession, distribution or sale of alcoholic beverages,
 - (k) Possession or using a weapon in violation of ORS 166.180, 166.190, 166.220, 166,240, 166.250 or 166.272 or City Ordinance NS-1361, Section 5.025,
 - (l) Being under the influence of intoxicating liquor or controlled substances, as defined by ORS 426,460.
 - (m) Any degree of criminal mischief, as defined by ORS 164.305 through 164.365.
 - (n) Possession of tobacco by a minor in violation of ORS 167.400.

- (2) If a person excluded from a Safe Kid Zone is found within the perimeter of the Safe Kid Zone and its 500 foot protective buffer zone during the exclusion period, that person may be arrested for trespass in the second degree, as defined by ORS 164.245.

5.490 Issuance of Exclusion Notices.

The Chief of Police is designated as the person in charge of Safe Kid Zones for the purpose of issuing exclusion notices in accordance with this ordinance. The Chief of Police may authorize employees of the Police Department to issue exclusion notices in accordance with this ordinance.

5.495 Procedure.

- (1) At the time a person is cited to appear, arrested or otherwise taken into custody within a Safe kid Zone for any of the offenses specified herein, the officer making such arrest may deliver to that person a written notice excluding that person from the Safe Kid Zone and the area within 500 feet of the Safe Kid Zone.
- (2) The notice shall specify the area from which the person is excluded, the length of the exclusion, the penalty for entering the excluded area and contain information concerning the right to appeal the exclusion to the Judge of the Municipal Court.
- (3) The person to whom the exclusion is issued shall sign a written acknowledgement of receipt of the notice. If that person refuses to sign the acknowledgement, the arresting officer shall make a written record of the refusal.

5.500 Appeal and Variance.

- (1) The person to whom an exclusion notice is issued shall have the right to an appeal from the issuance of the notice. The exclusion notice will notify the person of the right to appeal and process for appeal.
 - (a) An appeal of the exclusion must be filed, in writing, within 5 calendar days of the issuance of the notice. Such appeal must be filed with the Municipal Court. A hearing on the appeal shall be held before the Judge of the Municipal Court within 20 calendar days of the appeal. The exclusion shall be stayed during the pendency of the appeal.
 - (b) The City shall have the burden to show by a preponderance of evidence that the exclusion was based upon the conduct proscribed by Section 5.485 of this ordinance. Copies of documents in its control and which are intended to be used by the City at the hearing shall be made available to the appellant at least 2 days prior to the hearing.
 - (c) A determination by a court having jurisdiction of the matter, that the officer who issued the exclusion notice, at the time had probable cause to arrest the person to whom the exclusion notice was issued for the conduct described in Section 5.485, shall be prima facie evidence that the exclusion was based on conduct proscribed by those statutes.

(2) Variances.

- (a) Variances from the exclusion may be granted at any time during the exclusion period by the Chief of Police or his designate, or by the Municipal Court.
- (b) The Chief of Police or the Municipal Court shall grant a variance to any person who can establish that he or she was a bona fide resident of the zone of exclusion prior to receipt of the exclusion notice. A variance may also be granted when, in the discretion of the Chief of Police or the Municipal Court, the exclusion order is no longer necessary to preserve public safety.
- (c) All variances shall be in writing, for a specific period of time and only to accommodate a specific purpose, all of which shall be stated on the variance.
- (d) The person shall keep the variance on his or her person at all times the person is within the zone of exclusion.
- (e) In the event a person is found to be outside the scope of the terms of the variance, the variance shall immediately become void and that person is thereupon subject to arrest for trespass.
- (f) In the event a person holding a variance is arrested for trespass or any conduct proscribed by Section 5.485 of this ordinance, while in the zone of exclusion, that person shall be ineligible for any new variances for a period of one year from the date of arrest.

[Section 5.475 through 5.500 added by ORD No. NS-1591 passed June 2, 1993]

[Section 5.480 through 5.550 amended by Ord No. NS-2018, passed July 5, 2006]

[Sections 5.480 and 5.485 amended by Ord. No. NS-2030, passed November 15, 2006]

UNIFORM PROCEDURE FOR CONDUCTING INVENTORY SEARCHES.**5.575 Definition.**

Inventory searches are those searches done for the purpose of safeguarding and itemizing property and not for the purpose of discovering evidence.

5.580 Vehicle Inventories.

- (1) All vehicles seized as evidence, impounded or recovered shall be inventoried.
- (2) Glove boxes, trunks and similar kinds of storage compartments shall be searched for items of value and for information as to ownership when they are open or unlocked, or if the keys are readily accessible.
- (3) Closed containers shall not be searched unless it is obvious that a hazardous material is present.

5.585 Booking Inventories.

- (1) Booking inventories of prisoner property shall be done as soon as the prisoner is safely inside the booking room. This applies to all bookings, including "cite and release" and "en-route" to another agency.
- (2) Complete prisoner searches shall be done by a member of the same sex.
- (3) All personal property, except a single layer of outer clothing shall be collected and stored in an appropriate prisoner property locker. All weapons, contraband and other property shall be removed and placed in the property room until lawful disposition is determined.
- (4) Bookings initially done at another jail facility shall be accomplished according to that facility's written procedures. If that facility has no written procedures, then the booking shall be done as closely as possible to Section 3 of this ordinance.

5.590 Found Property Inventories.

- (1) All "found" property (property received by Bend Police Department for safekeeping or storage, other than motor vehicle and booking inventories) shall be inventoried.
- (2) Found property inventories shall be limited to a general inventory of the item(s) and its content(s).
- (3) Found property inventories shall, however, be thorough enough to determine:
 - (a) Any evidence of the identity of the owner, and
 - (b) That no hazardous, dangerous or noxious material is stored in the property room.

[Section 5.575 - 5.590 added by Ordinance No. NS-1621 passed September 21, 1994].

5.600 Purpose

To require that users of alarms that summon City Police and Fire Department responses take responsibility for maintaining the reliability of their alarm systems in order to prevent unnecessary and expensive responses to false alarms.

5.610 Definitions

"Alarm"	Any electronic or other signal that requests, causes or is intended to cause a response by police, fire or emergency medical personnel; or Any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which police, fire or medical personnel are expected to respond.
"False alarm"	Any alarm eliciting a response by Police, Fire or emergency medical personnel when a situation requiring a response does not in fact exist.
"Owner"	A person, firm, association, or corporation owning, in possession or control of any property that an alarm originates from.
"Chief of Police"	The Chief of the Bend Police Department or his designee.
"Fire Chief"	The Chief of the Bend Fire Department or his designee.
"Audible alarm"	Any audible sound produced to signal activation of the alarm.

5.620 False Alarm Procedure

- (1) When a determination has been made by either the Police Chief or Fire Chief that a false alarm has happened, and has caused an unnecessary response by the City, the following procedure shall be followed:
 - (a) First False Alarm within a 12 month calendar period: A written notice shall be issued to the alarm user informing user of the false alarm, and the procedures in this ordinance for dealing with false alarms.
 - (b) Second False Alarm within a 12 month calendar period: A written notice shall be issued to the alarm user informing user of the false alarm, and notifying user that any subsequent false alarm will result in a fine. The City of Bend may, in its discretion, offer training to the alarm user and may make suggestions for preventing further false alarms.

- (c) Third False Alarm within a 12 month calendar period: A response fee shall be charged to the alarm user and billed to the alarm user in the amount established by the City of Bend Fees Resolution for a third false alarm within a 12 month period. In the case of a false hold up alarm, the alarm user must make all employees who are responsible for operation of the alarm system available for training by the City of Bend Police Department.
- (d) Fourth False Alarm within a 12 month calendar period: A response fee shall be charged to the alarm user and billed to the alarm user in the amount established by the City of Bend Fees Resolution for a fourth false alarm within a 12 month calendar period.
- (e) Fifth False Alarm within a 12 month calendar period: A response fee shall be charged to the alarm user and billed to the alarm user in the amount established by the City of Bend Fees Resolution for a fifth false alarm within a 12 month calendar period.
- (f) Sixth False Alarm within a 12 month calendar period: A response fee shall be charged to the alarm user and billed to the alarm user in the amount established by the City of Bend Fees Resolution for a sixth false alarm within a 12 month calendar period. In addition, the alarm user, with the exception of Fire Alarm Users, must demonstrate to the Chief of Police that the alarm is in proper working order and that all employees responsible for operation of the alarm have received appropriate training for operation and maintenance of the alarm system. If the alarm user is unable to demonstrate that the alarm system is in proper working order, or that the employees responsible for the operation of the alarm have not received appropriate training for the operation and maintenance of the alarm system, then the City of Bend, in its discretion, may notify the alarm user that the City will not respond to subsequent alarms from that alarm user.
- (g) In the event that a seventh or subsequent false alarms are received by the City of Bend within the same 12 month calendar period, the City of Bend may, in its discretion, stop responding to alarms from that alarm user. If the City does respond to the false alarm, a response fee shall be charged to the alarm user and billed to the alarm user in the amount established by the City of Bend Fees Resolution for seventh and higher numbers of false alarms within a 12 month calendar period.

[Section 5.620(1)(c) and (d) amended by Ord. NS-1734 passed October 20, 1999]

5.630 Silencing Audible Alarms

The audible feature of any alarm must automatically silence within five minutes of continuous sound from the alarm. If the audible portion is not silent after five minutes then City personnel responding to the alarm may take whatever measures are required by the situation including but not limited to dismantling or disconnecting the alarm.

This section shall not apply to Fire Alarms

5.640 Nothing in this Code shall be interpreted to require any department of the City of Bend to respond to any alarm when other priorities are more pressing.

[Section 5.630 amended by Ord. NS-1734 passed October 20, 1999]

[Section 5.600 – 5.635 added by Ord. No. NS-1704, passed December 7, 1998.]

[Section 5.600 – 5.640 amended by Ord., NS-1911, passed February 18, 2004]

5.700 Short Title.

Bend Code Sections 5.700-5.750 shall be known and may be cited as the “Equal Rights Ordinance” and may also be referred to herein as "this ordinance."

5.705 Policy and Intent.

It is the policy of the City of Bend to eliminate discrimination based on race, religion, color, sex, marital status, national origin, age (if the individual is 18 or over), disability, sexual orientation and gender identity. Such discrimination threatens not only the rights and privileges of Bend citizens, but menaces the institutions and foundation of our community.

Furthermore, the City Council finds that state law does not clearly prohibit such discrimination based on sexual orientation and gender identity. It is the intent of the City Council, in the exercise of its powers for the protection of the public health, safety, and general welfare and for the maintenance of peace and good government, that every individual shall have an equal opportunity to participate fully in the life of the City and that discriminatory barriers to equal participation in employment, housing, and public accommodation be removed.

5.710 Definitions.

1. **Employer** –means any person who directly or through an agent, engages or uses the personal service of one or more employees, within the City of Bend, reserving the right to control the means by which such service is or will be performed.
2. **Gender Identity** - A person’s actual or perceived sex, including a person’s identity, appearance, expression, or behavior with respect to actual or perceived sex, whether or not that identity, appearance, expression or behavior is different from that traditionally associated with the person’s sex at birth.
3. **Sexual Orientation** - Actual or perceived heterosexuality, homosexuality, or bisexuality.

Any terms used but not defined in Chapter 5.710 are to be defined as in Oregon Revised Statutes, Chapter 659A.

5.715 Discrimination in Employment Prohibited.

1. It shall be unlawful to discriminate in employment on the basis of an individual’s race, religion, color, sex, national origin, marital status, age (if the individual is 18 years of age or older), or physical or mental impairment by committing any of the acts made unlawful under the provisions of ORS 659A.030 and 659A.112.
2. In addition, it shall be unlawful to discriminate in employment on the basis of an individual’s sexual orientation or gender identity by committing against any such

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individual any of the acts already made unlawful under ORS 659A.030 when committed against the categories of persons listed therein.

5.720 Discrimination in Selling, Renting or Leasing Real Property Prohibited.

It shall be an unlawful real property transaction practice for any person to discriminate on the basis of race, religion, color, sex, marital status, familial status, domestic partnership, national origin, age, mental or physical disability, sexual orientation or gender identity by committing against any such individual any of the acts made unlawful under ORS 659A.145 or 659A.421.

5.725 Discrimination in Places of Public Accommodation Prohibited.

It shall be an unlawful public accommodation practice for a person to discriminate on the basis of an individual's race, religion, color, sex, marital status, familial status, domestic partnership, national origin, age, mental or physical disability, sexual orientation or gender identity by committing against any such individual any of the acts made unlawful under ORS 659A.142 or ORS 659A.400 to 659A.409.

5.730 Exceptions:

1. The prohibitions in this ordinance do not apply to an organization whose primary purpose and function is religious.
2. The housing prohibitions in this ordinance (contained in section 5.720) do not apply to renting space in a single housing unit or to renting of space in a building which is owner occupied and which has fewer than four units.
3. Nothing herein shall be construed to prevent an employer from enforcing an otherwise valid dress code.

5.735 Enforcement.

- (1) Any person claiming to be aggrieved by an unlawful discriminatory act under the provisions of the equal rights ordinance may file a complaint with the Commissioner of the Bureau of Labor and Industries under procedures established in ORS 659A.820. The Commissioner shall have the same power to enforce the provisions of this equal rights ordinance as the Commissioner has to enforce alleged violations within the Commissioner's statutory authority.
- (2) Any person claiming to be aggrieved by an unlawful discriminatory act under the provisions of the equal rights ordinance shall have a cause of action in any court of competent. Election of remedies and other procedural issues relating to the interplay between administrative proceedings and private rights of action shall be handled as provided for in ORS 659A.870 through 659A.880. The court may grant such relief as is provided in ORS 659A.885.

5.740 Severability.

The provisions of this ordinance are severable. If any portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

5.745 Effective Date.

This ordinance shall take effect thirty days after its passage.

[Section 5.700 through 5.745 added by ORD NS-1926, June 16, 2004]

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Purpose

The City of Bend recognizes the need for a well-defined and enforceable tobacco-free public campus ordinance. The purpose of this ordinance is to protect the public health, safety and welfare by prohibiting tobacco use on City owned campuses.

In 1993, the Environmental Protection Agency (EPA) classified environmental tobacco smoke as a Group A carcinogen, that is, a substance known to cause cancer in humans. The EPA recognizes no safe level of exposure for Group A carcinogens.

Smokeless tobacco, commonly referred to as 'spit' tobacco also poses a sanitation and health risk due to the tobacco product's mix with human saliva and the unsanitary habit of product disposal (in open containers or directly onto walking surfaces).

In light of these findings, all City of Bend campuses shall be tobacco-free.

5.805

Definitions

City Campuses – Any City or BURA owned/leased facility where official business is conducted. This includes the interior and exterior of City/BURA buildings including but not limited to City Hall, Public Works/Police, Fire Departments, Municipal Airport, and Hawthorne Station site and as to the exterior of buildings from the edge of the building to the public sidewalk including parking lots. City Campuses do not include the public sidewalk within the public right of way.

Tobacco product – Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco, or any other form of tobacco which may be utilized for smoking, chewing, inhalation, or other means of ingestion.

5.810

Tobacco-use prohibited on City Campuses

The City of Bend prohibits the use of tobacco products of any form throughout all City campuses.

“Tobacco Free Campus” signs will be posted at all City campus entrances.

Tobacco receptacles will be placed at the “Tobacco Free Campus” sign locations at entrances to City Campuses as a receptacle for tobacco products.

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Removal from Premises

Any City Police Officer, City Code Enforcement Officer, City Manager or his/her designated representative shall have the authority to request that City employees or members of the public discontinue use of tobacco products on City Campuses. Any person who fails to discontinue use of their tobacco products immediately upon request is required to immediately leave the City Campus. Any person who continues to use tobacco products on a City Campus after being requested to cease such use shall be in violation of Criminal Trespass in the Second Degree as provided by ORS 164.245.

5.820

Complaints

The City Manager or his/her designee shall have the authority to investigate and any all complaints alleging violation of this Chapter or administrative rules adopted hereunder.

5.825

Severability.

If any provision of this ordinance, or its application to any person or circumstance is declared invalid or unenforceable, the remainder of the Ordinance and its application to other persons and circumstances, other than that which has been held invalid or unenforceable, shall not be affected, and the affected provision of the ordinance shall be severed.

[Section 5.800 to 5.825 adopted by Ord NS-2033, December 6, 2006 (effective 3/1/070)]