

TITLE 6
CHAPTER 1

GENERAL OFFENSES

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6-1-1: ADOPTION OF STATE LAW:

- A. Definition/Application of the Oregon Criminal Code, procedures and Preliminary Provisions.

The provisions of Oregon Revised Statutes, Chapters 131, 133, 135, 136, 137, 142, 153 and 161 as they apply to misdemeanors, violations, and infractions are adopted by this reference as though fully set forth herein as part of the City of Florence Criminal Code.

- B. Statutory Offenses Adopted.

1. Violation of provisions of the Oregon Criminal Code setting forth misdemeanors, violations, and infractions contained in Oregon Revised Statutes, Chapters 162, 163, 164, 165, 166, and 167 are hereby adopted and incorporated by this reference as offenses against the City.
2. Violation of provisions of the Oregon Criminal Code relating to misdemeanors, violations, and infractions concerning alcohol and controlled substances as set forth in Oregon Revised Statutes, Chapters 471, 472, 473, 474, and 475 are hereby adopted and incorporated by this reference as offenses against the City.
3. Violation of provisions of the Oregon Motor Vehicle Code for misdemeanors, violations, and infractions set forth in Chapters 801, 802, 803, 805, 806, 807, 809, 810, 811, 813, 814, 815, 816, 818, 819, 820, 821, 822, and 823, are hereby adopted in and incorporated by this reference as offenses against the City.
4. Violations of provisions of the Oregon Small Watercraft Code for misdemeanors, violations, and infractions as set forth in Oregon Revised Statutes Chapter 830 are hereby adopted and incorporated by this reference as offenses against the City.
5. Violation of provisions of the Oregon Game Code in Oregon Revised Statutes Chapters 496 through and including Chapter 513 are hereby adopted, and incorporated by this reference as offenses against the City.

- C. Penalties Adopted:

The respective penalty provisions for violation of the Oregon Revised Statutes set forth in paragraphs 6-1-1:B.1. through B.5. are hereby adopted and incorporated by this reference.

6-1-2: DISORDERLY CONDUCT AND RELATED OFFENSES:

6-1-2-1: DISORDERLY CONDUCT AT FIRES:

- A. It shall be unlawful for any persons at or near a fire to obstruct or impede the fighting of the fire, interfere with Fire Department personnel or Fire Department apparatus, to behave in a disorderly manner, or refuse to observe promptly an order of a member of the Fire or Police Departments.
- B. For purposes of this Section, members of the Fire Department are endowed with the same powers of arrest as are conferred upon peace officers for violations of City ordinances.

6-1-2-2: PUBLIC INTOXICATION AND DRINKING: No person shall create, while in a state of intoxication, any disturbance of the public in any public or private business or place.

6-1-2-3: UNNECESSARY NOISE:

A. Definitions: As used in this subsection:

NOISE SENSITIVE UNIT	Means any building or portion thereof, vehicle, boat or other structure adapted or used for the overnight accommodation of persons.
PERSON	Means an individual, corporation, association, partnership or any other legally recognized public or private entity.
PLAINLY AUDIBLE SOUND	Any amplification or reproduction of the human voice sufficiently loud to be understood by a person with normal hearing, or; Any musical sound sufficiently loud to permit the melody or rhythm to be recognized by a person with normal hearing, or; Any other sound sufficiently loud to materially affect the ability of a person with normal hearing to understand a verbal communication made in a normal conversational voice from a distance of ten feet or less.
SOUND PRODUCING DEVICE	Loudspeaker, public address system, radio, tape recorder or tape player, phonograph, television set or stereo system, musical instrument, amplified or unamplified, siren or bell, vehicle engine or exhaust, when the vehicle is not on a public right-of-way open to vehicle use, vehicle tire, domestic tool, including electric drills, chain saws, lawn mowers, electric saws, hammers, and similar tools, heat pump, air conditioning unit or refrigeration unit, animals, tools and equipment commonly used in construction including hammers, saws, pile drivers, earth moving equipment, compressors and similar equipment, but only between the hours of 10:00 p.m. and 7:00 a.m.

B. Sound Measurement.

1. If measurements are made, they shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. For purposes of this subsection, a sound level meter shall contain at least an A weighted scale, and both fast and slow meter response capability.
2. If measurements are made, personnel making those measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.

C. Prohibitions. It shall be unlawful for any person to produce or permit to be produced, with a sound producing device, sound which:

1. When measured at or within the boundary of the property on which a noise sensitive unit which is not the source of the sound is located, or, within a noise sensitive unit which is not the source of the sound, exceeds:
 - a. 50 dBA between the hours of 10 P.M. and 7 A.M.,
 - b. 60 dBA between the hours of 7 A.M. and 10P.M., or
2. Is plainly audible between the hours of 10 P.M. and 7 A.M. within a noise sensitive unit which is not the source of the sound.

D. Exceptions. Notwithstanding paragraph 6-1-2-9 E, the following exceptions from this subsection are permitted when conditions therefore are met:

1. Sounds caused by organized athletic or other group activities, when such activities are conducted on property generally used for such purposes, including stadiums, parks, schools, churches, athletic fields, race tracks, airports and waterways, provided, however that said exception shall not impair the Council's power to declare such event or activities otherwise to violate other laws, ordinances or regulations.
 2. Sound caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, whether or not such work is performed by a public or private agency, upon public or private property.
 3. Sounds caused by sources regulated as to sound production by federal law, including, but not limited to, sounds caused by railroad, aircraft or commercially licensed watercraft operations.
 4. Sound caused by bona fide use of emergency warning devices and alarm systems.
 5. Sounds caused by reasonable activity and conforming use of industrially and agriculturally zoned land.
 6. Sounds caused by a vehicle engine allowed to idle for less than 30 consecutive minutes between the hours of 10:00 p.m. and 7:00 a.m. in preparation for its operation.
- E. Variances. Any person who is planning the use of a sound producing device which may violate any provision of this subsection may apply to the City Manager for a variance from such provision.

Application. The application shall state the provision from which a variance is being sought, the period of time the variance is to apply the reason for which the variance is sought and any other supporting information which the Manager may reasonably require.

1. Review Considerations. The City Manager shall consider:
 - a. The nature and duration of the sound emitted.
 - b. Whether the public health, safety or welfare is endangered.
 - c. Whether compliance with the provision would produce no benefit to the public.
 - d. Whether previous permits have been issued and the applicant's record of compliance.
 2. Time Duration of Variance. A variance may be granted for a specific time interval only.
 3. The City Manager shall within ten days, deny the application, approve it, or approve it subject to conditions.
 4. The City Manager's decision may be appealed to the City Council. Notice of appeal should be delivered to the City Recorder. The Council shall review the application **de novo**, and within 15 days, deny the application, approve it, or approve it subject to conditions.
 5. The City Manager may at any time before or during the operation of a variance granted by the City Manager revoke the variance for good cause. The Council may at any time before or during the operation of any variance, revoke the variance for good cause.
- F. Ordinance Additional to Other Law. The provisions of this subsection shall be cumulative and non-exclusive and shall not affect any other claim, or remedy; nor, shall it be deemed to repeal, amend or modify and law, ordinance or regulation relating to noise or sound, but shall be deemed additional thereto.

G. Administration and Enforcement.

1. Upon citation or arrest of a person for a violation of this subsection by a police officer, the officer issuing the citation may seize the sound producing device which was the source of the sound as evidence. The sound producing device, if seized, shall be impounded subject to disposition of the charge and determination by the Court whether the sound producing device shall be returned or deemed contraband, subject to paragraph 6-1-2-9 G.2. of this subsection.
2. In addition to any other penalty, the Court may order any sound producing device found to have been used to violate this subsection seized, confiscated, and destroyed as contraband, or sold with the proceeds of sale to be deposited in the City's general fund.

6-1-2-4: PROHIBITED LODGING: No person shall lodge on private property in a vehicle, trailer, building, structure, tent or by any other means not approved for that purpose through the land use application and permitting processes prescribed in Florence City Code Title 10 Chapter 1.

6-1-2-5: DRINKING IN PUBLIC

- A. It shall be unlawful for any person to drink alcoholic liquor upon any street, sidewalk, or other public right of way.
- B. It shall be unlawful for any person to have in his or her possession while upon any street, sidewalk, or other public right of way, any bottle, can, or other receptacle containing any alcoholic liquor which has been opened, or the seal broken, or the contents of which have been partially removed.
- C. The prohibitions of this section do not apply to the possession or consumption of alcoholic liquor in sidewalk cafes, which have been issued permits under Section 8-2-4-1-D of this code. (Amended by Ord. 12, 2009)

6-1-2-6: PROHIBITED NUDITY: It shall be unlawful for any person eight years of age or older to expose his or her genitalia while in a public place or place visible from a public place, if the public place is open or available to persons of the opposite sex. (Ordinance 11, Series 1998)

6-1-2-7: URINATING OR DEFECATING: No person shall urinate or defecate in, or in view of, a public place, except in a lavatory. (Ordinance 11, Series 1998)

6-1-3: WEAPONS AND FIREWORKS:

6-1-3-1: DISCHARGE OF WEAPONS: Except at firing ranges approved by the City Council, no person other than an authorized peace officer shall fire or discharge a gun or other weapon, including spring or air actuated pellet guns, B-B guns, bow and arrow, or any weapon which propels a projectile by use of gunpowder or other explosive, jet or rocket propulsion.

6-1-3-2: FIREWORKS: The following sections of the Oregon Fireworks Law, together with all acts and amendments applicable to cities which are now or hereafter enacted, are adopted by reference and made a part of this Chapter: ORS 480.110, 480.120, 480.130, 480.140(1), 480.150 and 480.170, provided, however, that it shall be unlawful for any person to ignite fireworks, or similar incendiary devices, of any kind anywhere on public and publicly owned property in the following three areas: (1) The area defined in Title 10, Chapter 17 of this Code as Old Town District, Area "A;" (2) The area defined in Title 10, Chapter 17 of this Code as Old Town District, Area "B;" (3) All of the Port property in the City which is adjacent to the Siuslaw River including, but not limited to, the Port dredge spoils area, the Port's docks and boat slips, the Port boat ramp, the Port RV park and facilities, the Port Boardwalk area, and all of the Port parking lots adjacent to the RV park and the Boardwalk area. The three areas in Old Town where all fireworks are banned, on public and publicly owned property are shown on an aerial photograph attached as Exhibit "A" which by this reference is made a part hereof as if set forth herein.

- A. Any peace officer who finds a person in violation of this ordinance may seize any fireworks in the offender's immediate possession to prevent a recurrence and the potential for future violations. Such confiscated fireworks shall be turned over to the local fire department for disposition.

- B. A violation of this section shall be a Class B Violation and the penalty shall be a fine as set forth in ORS 153.018 Schedule of Penalties.
- C. A second violation of this section that occurs within 72 hours of the first violation shall be a Class A Violation and the penalty shall be a fine as set forth in ORS 153.048 Schedule of Penalties.
- D. Any properly licensed and permitted commercial or community-wide display of fireworks is exempt from this ordinance. (Ord. No. 5, Series 2010)

6-1-3-3: B-B GUN SALES:

- A. No person shall sell an air gun to a person under seventeen (17) years of age.
- B. The definition of air guns or B-B guns as used herein, shall be all weapons that discharge a projectile by means of compressed air or carbon dioxide, or a compressed spring, or weapons of a similar nature. (Ord 591, 9-26-77)

6-1-4: OFFENSES RELATING TO PROPERTY:

6-1-4-1: VIOLATING PRIVACY OF ANOTHER: No person other than a peace officer performing a lawful duty shall enter upon land or into a building used in whole or in part as a dwelling not his own without permission of the owner or person entitled to possession thereof and while so trespassing look through or attempt to look through a window, door or transom of the dwelling or that part of the building used as a dwelling with the intent to violate the privacy of any other person.

6-1-4-2: SAND OR GRAVEL REMOVAL: No person shall take, carry away or remove from the ocean beach, any sand, gravel or rock; provided however, that this Section shall not apply to agates or other semiprecious stones.

6-1-4-3: POSTED NOTICES: No person shall affix a placard, bill or poster upon personal or real property, private or public, without first obtaining permission from the owner thereof, or from the proper public authority. (Ord. 591, 9-26-77)

6-1-4-4: UNLAWFUL ENTRY; PENALTY: If any person shall, without authority or permission from the owner or legal custodian thereof, knowingly enter into or upon any public or private land, building, store, theater, drive-in theater, or any other premises or establishment within the City without first obtaining legal consent from the owner or legal custodian thereof either by actual consent or purchase of an admission ticket if one be required to enter said premises, such person shall, upon conviction thereof, be punished by a fine of not less than ten dollars (\$10.00) nor more than two hundred fifty dollars (\$250.00), or by imprisonment in the Municipal jail for a term of no more than sixty (60) days, or both. (Ord. 332, 7-22-59)

6-1-4-5: DEFINITION:

No person shall ignite, attempt to ignite, kindle, maintain or allow to be maintained the following fires: (Ord. 15, 2011)

- A. An outdoor fire.
- B. Bonfire
- C. Rubbish Fire
- D. Garbage Fire
- E. A fire for the purpose of burning grass, hay or straw, tree limbs and trimmings
- F. A fire for land clearing operations or commercial burning
- G. Any type of open burning with the following exceptions:

1. Outdoor recreation fire used for cooking with fire in a fireplace, barbecue set, outdoor fire pit fueled with cut and split firewood.
2. Recreation fire in an approved campsite in fire pits provided and fueled with cut and split firewood.
3. Fire set and maintained for fire fighting training or training fire protection personnel.
4. In cases of fire hazard that cannot, in the judgment of the Siuslaw Valley Fire and Rescue District, be removed or disposed of in any other practical manner, a fire may be allowed by written permit only. The permit is to be issued by the Siuslaw Valley Fire and Rescue District.
5. In cases of ceremonial fires, they may be allowed by written permit only. The permit is to be issued by the Siuslaw Valley Fire and Rescue District based upon their judgment that such ceremonial fire could be safely managed, controlled and extinguished.
6. The Siuslaw School District may have one annual "bonfire" on the district's property in the City of Florence allowed by written permit only. The permit is to be issued by the Siuslaw Valley Fire and Rescue District.

6-1-4-6: PENALTIES: Proceedings for violation of Florence City Code Section 4 Subsection 5 of this Chapter shall be civil in nature and a violation thereof shall be punishable by a fine not to exceed five hundred dollars (\$500) for each occurrence.

6-1-5: GRAFFITI REGULATIONS

6-1-5-1: DEFINITIONS: As used in this subsection, the following shall mean:

GRAFFITI	Any inscription, word, figure, design, writing, drawing, or carving that is marked, etched, scratched, drawn, painted, or otherwise applied to property or placement of stickers or appliques applied to property without the prior authorization of the owner of the property regardless to the graffiti content, or nature of the material used in the commission of the act, or the material of the property.
GRAFFITI NUISANCE PROPERTY	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.
GRAFFITI IMPLEMENT	Any paint, ink, chalk, dye, marker, aerosol spray paint container, or any other substance or instrument or article designed or adapted for spraying, marking, etching, carving a surface, or material used for applique.
ABATE	To remove graffiti from view
OWNER	Any person, agent, firm or corporation having a legal or equitable interest in a property.
RESPONSIBLE PARTY	Any owner, occupant, or an entity or person acting as an agent for an owner by agreement that has authority over the property or is responsible for the property's maintenance and management. There may be more than one party responsible for a particular property.

6-1-5-2: PROHIBITED GRAFFITI:

- A. It shall be unlawful for any person to apply graffiti.
- B. It shall be unlawful for any person to solicit or command another person to apply graffiti.

- C. It shall be unlawful for any person to aid and abet another person to apply graffiti.

6-1-5-3: PENALTY

- A. Impoundment: At the time any person is stopped and a citation is issued for a violation of Section 6-1-5-2, any graffiti implements in possession of such person may be immediately seized and impounded by the officer issuing the citation. The court, upon disposition of the issued citation, shall determine whether the graffiti implements shall be returned or deemed contraband and subject to forfeiture.
- B. Violation of Section 6-1-5-2 is subject to a fine not to exceed \$500.00; a mandatory minimum fine of \$100.00 shall be imposed upon conviction. In addition to any other penalty, a person found guilty of violating Section 6-1-5-2 shall be subject to an order to pay restitution to the injured property owner.

6-1-5-4: GRAFFITI NUISANCE PROPERTY:

- A. It is hereby found and declared that graffiti creates a visual blight and property damage. When graffiti is allowed to remain on property and is not promptly removed, it invites additional graffiti and criminal activity and constitutes a nuisance.
- B. Any property within the City which becomes a graffiti property is hereby declared a nuisance and is subject to abatement in accordance with this chapter.
- C. Any responsible person who permits property to be a graffiti nuisance property shall be in violation of this Chapter and subject to the remedies provided herein.

6-1-5-5: NOTICE PROCEDURE:

- A. When the Chief of Police or designee believes in good faith that a property within the City is a graffiti nuisance property, the Chief of Police or designee shall notify the responsible party of the property in writing that the property is a graffiti nuisance property. The notice shall contain the following information:
1. The street address of description sufficient for the identification of the property.
 2. That the Chief of Police has found the property to be graffiti nuisance property with concise descriptions of the conditions leading to his/her findings.
 3. A direction to abate graffiti, or show good cause why the responsible person cannot abate the graffiti, within five (5) business days from the date of the written notice.
 4. That if the graffiti is not abated and good cause for failure to abate is not shown, the City may order abatement, with appropriate conditions. The City may abate the graffiti at its own direction and charge the responsible person for the costs of the abatement. The City may also employ any other remedy deemed by it to be appropriate to abate the nuisance, including but not limited to authorizing a civil complaint in a court of competent jurisdiction.
 5. That permitting graffiti nuisance property is a violation of this Chapter.
 6. That the above remedies are in addition to those otherwise provided by law.
- B. Service of the notice is completed upon mailing the notice first class addressed to, or served in person to a responsible party at the address of the graffiti nuisance property, and to such other address as shown on the Lane County Tax Assessor's property tax rolls for the owner of the graffiti nuisance property, or such other address which is reasonably believed to give the responsible party actual notice of the determination of the Chief of Police or designee.
- C. If the responsible party is not personally served, the notice shall also be affixed to the graffiti nuisance property in a conspicuous location.

- D. A copy of the notice shall be served on occupants of the property, if different from the responsible party. Service shall be completed upon mailing the notice first class addressed to "occupant" of each unit believed to be a graffiti nuisance property, or by serving in person.
- E. The failure of any person to receive actual notice of the determination of the Chief of Police or designee shall not invalidate or otherwise affect the proceedings under this Chapter.

6-1-5-6: ABATEMENT PROCEDURES:

- A. Within five (5) business days of the mailing of the notice or upon being served in person, the responsible party shall abate the graffiti or show good cause why they cannot abate the graffiti within that time.
- B. Upon good cause shown, the Chief of Police or designee may grant an extension of up to ten additional business days.
- C. If the responsible party does not comply with subsection (A) or (B) of this section the responsible person is in violation of this Chapter for permitting a graffiti nuisance property. Permitting a graffiti nuisance property is subject to a fine up to \$100.00. Each day the graffiti remains after expiration of the abatement notice constitutes a separate offense.

6-1-5-7: ABATEMENT BY CITY: If the responsible party fails to abate the nuisance as ordered, the City may cause the nuisance to be abated and seek financial restitution for the actual cost of abatement from the responsible party.

6-1-5-8: NON-EXCLUSIVE REMEDIES: The provisions of this Chapter are not the exclusive means by which the City may remedy graffiti nuisance properties. In addition to the remedies allowed under this Chapter and other remedies allowed by Oregon law, graffiti nuisance properties are hereby declared a public nuisance under the provisions of 6-1-8-2 and may be remedied as public nuisances as provided in Section 6-1-8.

6-1-6: OFFENSES RELATING TO CHILDREN:

6-1-6-1: ABANDONED REFRIGERATORS: It shall be unlawful for any person, firm or corporation to leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his or its control, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or other container which has an air-tight door or lid, snaplock or other locking device which may not be released from the inside, without first removing said door or lid, snaplock or other locking device from said ice box, refrigerator or container. (Ord 14, Series 1986).

6-1-6-2: CUSTODIAL INTERFERENCE OF MINORS IN THE SECOND DEGREE: The City of Florence finds it necessary to prosecute adults who have enticed minors away from their parental custody for purposes of exploitation. This offense would carry a misdemeanor charge in the second degree as follows:

- A. A person commits the crime of custodial interference in the second degree if, knowing or having reason to know that the person has no legal right to do so, the person takes, entices or keeps another person from the other person's lawful custodian or in violation of a valid joint custody order with intent to hold the other person permanently or for a protracted period.
- B. Violation of this ordinance is a Class A misdemeanor, punishable by fine not to exceed \$2,500 and/or a jail sentence not to exceed one year.

6-1-7: STREET AND SIDEWALK OFFENSES:

6-1-7-1: OBSTRUCTION OF STREETS: No person shall obstruct any street, alley, sidewalk or public grounds with any animal, vehicle engine, car, boxes, lumber, wood or other material or thing, or place thereon any earth, dirt, filth, rubbish or substance of any kind, except in such manner and at such time as may be permitted by other ordinances of the City.

6-1-7-2: OBSTRUCTION OF SIDEWALKS: No owner or person in charge of property shall permit a cellar door or grate located in or upon a sidewalk or public pathway to remain open except when such entrance is being used, and when being used, there are adequate safeguards for pedestrians using the sidewalk.

6-1-7-3: VENDING GOODS ON STREETS OR SIDEWALKS: No person shall use or occupy any portion of a street or sidewalk for the purpose of vending goods, wares or merchandise by public outcry or otherwise, unless a license has first been obtained.

6-1-7-4: OBSTRUCTION OF FIRE HYDRANTS: It shall be unlawful for the owner of property adjacent to a street upon which is located a fire hydrant to place or maintain within eight feet (8') of such fire hydrant, any bush, shrub or tree or other obstruction.

6-1-7-5: PROJECTIONS: No portion of any building or structure shall be allowed to project over or into any street, sidewalk or thoroughfare; provided, that this Section shall not apply to the bases or ante of columns projecting not to exceed six inches (6") beyond the property line or to cornices or projections placed at least ten feet (10') above the top to the sidewalk, where such projections or cornices do not extend more than three feet (3') over the sidewalk of the property.

6-1-7-6: PREMISES BELOW GRADE: Any person owning or having control of any premises fronting a public street and below the grade thereof shall, within five (5) days after notice from the City Manager requiring him to do so, erect a suitable barricade upon the inner line of the sidewalk in front of such premises at his own expense.

6-1-7-7: HAZARDOUS CONDITIONS: It shall be the duty of any person who shall suffer, permit or cause any street or portion thereof to be or become unduly hazardous or dangerous to persons or property, to erect and maintain, during the existence of such dangerous and hazardous conditions, a good and sufficient barrier, adequately protected with yellow lights at night for the protection of life and property.

6-1-7-8: CAVE-INS: In any case where a bank has caved or fallen down upon any sidewalk, and the abutting property was above the bank in question, the owner or occupant of the abutting ground or premises shall forthwith remove the dirt. If the property was below the bank, the property owner shall immediately notify the City of the cave-in and place an appropriate warning sign or device to warn passers-by until the City police or City Maintenance Department arrives.

6-1-7-9: HAULING SUBSTANCES: No person shall haul sand, gravel, rock, wood or other substance in any vehicle or conveyance that is so constructed as to allow the sand, gravel, rock, wood or other substance to fall and litter the public streets of the City.

6-1-7-10: DANGEROUS EXCAVATIONS:

- A. No owner or person in charge of property shall allow an excavation to remain unguarded by suitable barriers.
- B. In addition to the barriers required by subsection A above, excavations shall be marked by yellow warning lights during the hours of darkness.
- C. An obstruction on a street, sidewalk, public way or pathway commonly used by the public shall be marked by yellow warning lights during the hours of darkness. It shall be the responsibility of the person creating, maintaining or in charge of such obstruction to insure the installation and operation of the warning lights.

6-1-7-11: SNOW AND ICE REMOVAL:

- A. No owner or person in charge of abutting property shall allow snow or ice to remain on the sidewalk abutting his property for a period longer than the first two (2) hours of daylight after the snow has fallen.
- B. No owner or person in charge of abutting property shall allow ice to remain on the sidewalk for more than two (2) hours of daylight after the ice has formed unless covered with ash, sand or other suitable materials.

- C. No person shall place or deposit snow, except snow removed from public sidewalks or on any parking strip or street.

6-1-7-12: TREES:

- A. No owner or person in charge of abutting property shall allow any brush, bushes, trees, limbs, shrubs, flowers or other growth, whether grown for food, fuel shade or ornamentation, to project over a sidewalk at an elevation of less than eight feet (8') above the level of the sidewalk or over a street at an elevation of less than thirteen feet seven inches (13'7") above the level of the street.
- B. No owner or person in charge of property shall allow to stand a dead or decaying tree that is a hazard to the public or to persons or property on or near the property.

6-1-7-13: NOXIOUS VEGETATION:

- A. No owner or person in charge of property shall permit weeds or other noxious vegetation to grow upon his property. It shall be the duty of an owner or person in charge of property to cut down or to destroy grass, shrubbery, brush, bushes or weeds or other noxious vegetation as often as needed to prevent the grass, shrubbery, brush, bushes, weeds or other noxious vegetation from becoming unsightly, from becoming a fire hazard, or, in the case of weeds or other vegetation, from maturing or from going to seed.
- B. The existence of grass, bushes, weeds or other noxious vegetation to a height over twelve inches (12") from the ground shall be prima facie evidence of a fire hazard.

6-1-7-14: FENCES:

- A. Electric or razor wire fences are not permitted on any property within city boundaries. No owner or person in charge of residential property shall construct or maintain an electric or barbed wire fence, or permit any such fence on property under his or her control. Barbed wire fencing may be permitted on commercial, industrial, or public property at the discretion of the Planning Commission/Design Review Board only if the following criteria are met: (Ord. 591, 9-26-77) (Amend. Ord. 12, 2002)
 - 1. Additional security is warranted for health and safety reasons that cannot be addressed by standard fencing or other security measures.
 - 2. The fencing is constructed in a way to cause the least hazard to employees and citizens in its non-deterrent mode.
 - 3. The potential risk of injury from the fencing is less than the risk contained within the business site.
 - 4. There is no other feasible alternative.

6-1-7-15: OPERATION OF A VEHICLE IN PROHIBITED OR RESTRICTED AREA:

- A. No person shall operate a motor vehicle on a street, alley or other area which has been posted as a prohibited area, as follows: "No Motor Vehicles Allowed".
- B. All emergency vehicles are exempt from subsection A above. (Ord. 591-A, 5-14-79)

6-1-7-16: HELICOPTER TAKEOFFS AND LANDINGS WITHIN THE CITY LIMITS:

- A. Except at the Florence Municipal Airport, as authorized under Chapter 8-6 of this Code, or except in an emergency, no person shall cause a helicopter to take off or land within the City limits, without written permission of the City Council. Permission shall not be granted for commercial activities. Permissions shall not be granted for non-commercial activities unless all applicable safety requirements are met and such landings are not deemed a nuisance to the neighborhood. (Ord. No. 7, Series 1999)

6-1-8: NUISANCES:

6-1-8-1: DEFINITION:

- A. A public nuisance shall be deemed to mean and include the unlawful doing of any act, or omitting to perform a duty which causes annoyance or injury to, or endangers the comfort, health, repose and safety of citizens of the City generally, or which unlawfully interferes with or tends to obstruct, or in any way renders unsafe and insecure, other persons in the enjoyment of life or in the use of property.
- B. As used in Section 6-1-8 of this Code, "Chief of Police" means the Chief of Police or designee.
- C. As used in Section 6-1-8 of this Code, "trash, rubbish, debris or refuse" includes but is not limited to: decomposed animal or vegetable matter; garbage; manure; offal; ashes; discarded containers; waste; paper; hay; grass; straw; weeds; litter; or rags.
- D. As used in Section 6-1-8 of this Code, "person responsible" includes any or all of the following:
 - 1. The owner of the property on which the public nuisance exists or the owner of property which abuts a public way where a public nuisance exists.
 - 2. The person in charge of the property on which a public nuisance exists or of property which abuts a public way where a public nuisance exists.
 - 3. The person who causes the public nuisance to come into or continue in existence.
- E. As used in Section 6-1-8 of this Code, "public way" includes public streets, sidewalks, alleys, bicycle lanes, bicycle paths, and other public rights-of-way.
- F. As used in Section 6-1-8 of this Code, "owner" and "person" include individuals, Indian tribes, tribal corporations, governmental entities, corporations, partnerships, other business entities and any other person or entity capable of owning, leasing or renting property.

6-1-8-2: PUBLIC NUISANCES: No person responsible shall cause or permit, any public nuisance. The following are public nuisances and may be abated as provided in this Chapter.

- A. Stagnant Water: An accumulation of stagnant or impure water, which affords or might afford a breeding place for mosquitoes or other insects.
- B. Water Pollution: The deposition of an animal carcass or part thereof, or any excrement or sewage or industrial waste, or putrid, nauseous, decaying, deleterious, offensive or dangerous substance in a stream, well, spring, brook, ditch, pond, river or other inland waters within the City, or the placing of such substances in such position that high water or natural seepage will carry the same into such waters.
- C. Privies: An open vault or privy, except those constructed or maintained in connection with construction projects in accordance with the Oregon State Board of Health regulations.
- D. Surface Drainage: Drainage of liquid wastes from private premises.
- E. Cesspools: Cesspools or septic tanks which are in an unsanitary condition which cause an offensive odor or which were installed without the consent of the City after January 1, 2009. (Ord 25, 2008)
- F. Food: Decayed or unwholesome food, which is offered for human consumption.
- G. Odors: Premises which are in such a state or condition as to cause an offensive odor, or which are in an unsanitary condition.
- H. Slaughterhouses: A pigsty, slaughterhouse or tannery.
- I. A barn, stable, corral, pen, chicken coop, rabbit hutch or other place where animals are caged or housed, which is in an unsanitary condition, or creates noise or an offensive odor.

- J. Water: The sufferance or allowance by the owner or person in charge of property that water from a ditch, canal, flume, reservoir, pipe line or conduit above or below ground, should lead, seep, flow, overflow, run back or through, or escape, or run upon, over or under any premises, public way or other public property, which would endanger the public health, safety, welfare or convenience.
- K. Obstruction of Drains: The obstruction or interference with the flow of water in any ditch, drain or catch basin constructed in a public way in connection with the improvement of the public way.
- L. Debris: Any trash, rubbish, debris or refuse deposited upon private property, public ways, or other public property, including property owned or occupied by the person depositing the trash, rubbish, debris or refuse, when the trash, rubbish, debris or refuse by itself or in conjunction with other substances is deleterious to public health or comfort, or is unsightly, or creates an offensive odor. No person shall deposit into public trash receptacles in City parks, any trash, rubbish, debris, or refuse which was generated from a residence or business.
- M. Animal Attractants: Food or other attractants scattered or deposited on private property, public ways, or other public property, including property owned or occupied by the person, with the intent of attracting and/or feeding wild animals, including but not limited to bears, raccoons, feral cats, wild rabbits, rodents, coyotes and deer. This section shall not apply to birdseed held in receptacles which are reasonably designed to avoid access by wild animals such as bears, raccoons, deer, rabbits and rodents. This section shall not apply to the feeding of caged animals such as domestic rabbits, guinea pigs, or various rodents that are commonly kept as pets, so long as the cage is reasonably designed to avoid access by wild animals such as bears, raccoons, deer, rabbits and rodents. This section shall not apply to food provided during daytime hours in live traps being used to capture feral cats for spaying and/or neutering.
- N. The accumulation of one or more junked vehicles as defined in FCC 6-7-1, on private property, public ways, or other public property, shall also be considered debris as defined in 6-1-8-2-L of this section.
- O. Allowing noxious vegetation as defined in 6-1-7-13 to grow on private property, public ways, or other public property.

6-1-8-3: UNENUMERATED NUISANCES:

- A. In addition to the acts and conditions specifically enumerated in this Chapter, the City Council may declare any other condition, thing, substance or activity which is detrimental to, injurious to, or constitutes a danger to the public health, safety or welfare or any activity prohibited by state law, common law, this Code or other City ordinances to be a public nuisance, and such public nuisance is subject to the abatement procedures set forth in this Chapter.
- B. Notwithstanding paragraph A of this subsection, a condition, thing, substance or activity declared to be a public nuisance by another ordinance of the City is subject to the abatement procedures of this Chapter only if no abatement procedures are provided by such ordinance.

6-1-8-4: PENALTY FOR NUISANCE VIOLATIONS: In addition to the imposition of penalties, violations of subsections 6-1-7-3, 6-1-8-1 to 6-1-8-5 and 6-1-9-1 of this Chapter, and subsections 6-6-3-1 and 6-6-3-4 of this Code, and other public nuisances, are subject to abatement as provided in subsection 6-1-8-5.

6-1-8-5: NUISANCE ABATEMENT:

- A. It shall be the duty of the Chief of Police, upon receipt of information that a public nuisance exists, to make an investigation based on such information, or to conduct an investigation on his own initiative, and in case he finds that a public nuisance does exist, except as provided in paragraph E of this subsection, he shall at once serve a written notice on the person responsible or, if personal service cannot be made, post a copy of the notice upon the affected premises. Except as provided in paragraph D of this subsection, the notice shall direct the person responsible to abate the public nuisance within seven (7) calendar days; provided, that the Chief of Police may grant such additional time as he may deem necessary for the abatement of the public nuisance. If, at the expiration of the time provided in the notice, the person responsible has not appealed the notice and fails, refuses or neglects to abate the public nuisance, the City has the right to abate and remove the public nuisance and may incur such expense as is reasonably necessary in order to accomplish the abatement or

removal. The Chief of Police shall keep an accurate account of the expense incurred in such action and shall present an itemized statement thereof to the City Council. Such expense shall in the first instance be paid by the City, and the City Council may immediately proceed by ordinance to assess such cost against each lot, part of lot, block or premises on which, or in front of which the public nuisance was maintained. The actual cost of such abatement shall become a lien on the effective date of the council ordinance assessing the cost to the particular property, and shall be entered in the docket of City liens and collected in the same manner as is provided by ordinance for the collection of assessments for local improvements. The Council may also institute an action in a court of competent jurisdiction for the recovery of the cost of abatement from the person responsible, or it may pursue both remedies to recover the cost of abatement.

- B. Any person aggrieved by the notice served by the Chief of Police pursuant to paragraph A of this subsection may appeal to the City Council by filing notice of appeal in the City Records office within seven (7) calendar days from the receipt of the notice. Within twenty one (21) calendar days from the date of the appeal, the council shall hold a hearing and render a decision on the appeal.
- C. At the expiration of the time allowed by the notice from the Chief of Police, or at the expiration of the time allowed after appeal to the City Council, if the person responsible has not abated the public nuisance, the person responsible shall be held to be committing a separate violation for each day that the public nuisance continues unabated.
- D. If the Chief of Police determines that a public nuisance constitutes an imminent danger to public health, safety or welfare, he shall at once serve a written notice upon the person responsible, or, if personal service cannot be made, post a copy of the notice upon the affected premises. The notice shall direct the person responsible to abate the public nuisance within a period of twenty-four (24) hours; provided, that the Chief of Police may grant such additional time as he may deem necessary for the abatement of the public nuisance. Any person aggrieved by the notice served or posted by the Chief of Police pursuant to this paragraph may appeal to the City Council within twenty-four (24) hours from the receipt of the notice by filing notice of appeal in the City Records office, and within forty-eight (48) hours from the date of the appeal, the Council shall hold a hearing and render a decision on the appeal.
- E. If the Chief of Police determines that a public nuisance constitutes an immediate and substantial danger to public health, safety or welfare, he may summarily abate the public nuisance with such notice as may be reasonably provided under the circumstances. The person responsible is entitled to appeal the summary abatement of a public nuisance pursuant to paragraph B of this subsection.
- F. If more than one person is responsible for a public nuisance, they shall be jointly and severally liable for abating the public nuisance or for the costs incurred by the City in abating the public nuisance.
- G. The remedy provided in this subsection is not exclusive of any other remedies available to the City under statute, common law, this Code or other City ordinances.

6-1-9: OBSTRUCTING GOVERNMENT ADMINISTRATION:

6-1-9-1: POLICE AND FIRE:

- A. Interfering With Duties of a Police Officer: No person shall, when requested to do so, refuse to assist any officer in the discharge of his duties, or by any means whatsoever, hinder, delay or obstruct any such officer acting in the performance of his duties.
- B. Police and Fire Communications: No person shall operate any generator or electromagnetic wave or cause a disturbance of such magnitude as to interfere with the proper functioning of any Police or Fire Department radio communication system.

6-1-10: APPLICATION, VIOLATIONS:

6-1-10-1: EXTRATERRITORIAL EFFECT: All ordinances of the City enacted to protect property and preserve peace and order, including penalties of fine or imprisonment, now or hereafter enacted and applicable within the City limits, shall apply with equal force and effect to all lands owned or controlled by the City, located outside the boundaries of the City, and the right to make arrests and serve processes shall likewise apply.

6-1-10-2: VIOLATIONS CONTINUOUS: Whenever, in this Chapter or any ordinance of the City, an act is prohibited or is made or declared to be unlawful or an offense or the doing of an act is required, or the failure to do an act is declared to be unlawful or an offense, a separate offense shall be deemed committed for each day a violation shall continue.

6-1-10-3: PENALTIES:

- A. Civil Proceeding: Violation of Sections 6-1-2-9, 6-1-3-3, 6-1-3-5, 6-1-6-5, 6-1-6-7, 6-1-7-3, 6-1-8-1, and 6-1-8-2, shall be civil in nature, and a violation thereof is punishable by a fine not exceed \$500.00. (Amended by Ord 6 Series 1991, 4-1-91).
- B. Fine and Imprisonment: Violation of any other provision of this Chapter not set forth in Section 4 of this Code or enumerated in 6-1-11-6-A is punishable by a fine not to exceed two thousand five hundred dollars (\$2,500.00) or imprisonment not to exceed three hundred sixty-five (365) days, or both such fine and imprisonment; provided however, if there is a violation of any provision identical to a State Statute with a lesser penalty attaching, punishment shall be limited to the lesser penalty prescribed in the State law. (amended by Ord 6, Series 1991, 4-1-91).
- C. Working of Prisoners: In all cases of conviction for any of the offenses mentioned in this Chapter, other than those enumerated in 6-1-11-6-A, the court additionally may order such convicted person to labor upon the streets or public works of the City under the direction of the proper authorities. (Ord. 6, Series 1991, 4-1-91).

Amended by Ordinance 6, Series 1991 B effective April 1, 1991

Amended by Ordinance 11, Series 1998 B effective December 8, 1998.

Amended by Ordinance 7, Series 1999 B effective May 19, 1999

Amended by Ordinance 1, Series 2001 - effective May 3, 2001

Amended by Ordinance 12, Series 2002 – effective May 16, 2002

Amended by Ordinance 21, Series 2003 – effective Dec. 4, 2003

Section 6-1-7-Amended by Ordinance 25, Series 2008 – effective Jan. 14, 2009

Section 6-1-2-5-C Amended by Ordinance 12, Series 2009 – effective Aug. 19, 2009

Section 6-1-3-2 Amended by Ordinance 5, Series 2010 – effective June 7, 2010

Section 6-1-7-1-E added and subsequent section renumbered, Section 6-1-7-2, and 6-1-7-5-A amended by Ordinance No. 13, Series 2011 – effective July 9, 2011

Sections 6-1-4-5 & 6-1-4-6 added by Ordinance No. 15, Series 2011 – effective August 19, 2011

Sections 6-1-5 added and all subsequent sections renumbered by Ordinance No. 4, Series 2012 – effective December 8, 2012

Section 6-1-2-4 amended by Ordinance 12, Series 2018 – effective October 17, 2018