

## **Title 9**

### **PUBLIC PEACE AND WELFARE**

#### Chapters:

- 9.04 Introductory Provisions
- 9.08 Offenses By or Against Public Officers and Government
- 9.12 Offenses Against the Person
- 9.16 Offenses Against Public Peace and Decency
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## Chapter 9.04

### INTRODUCTORY PROVISIONS

#### Sections:

- 9.04.010 Definitions.
- 9.04.020 Soliciting or confederating to violate ordinances.
- 9.04.030 Attempt to commit offenses.
- 9.04.040 Offenses outside city limits.
- 9.04.050 Nuisance abatement.
- 9.04.060 General applicable principles.
- 9.04.070 Separate violations.
- 9.04.080 Violation--Penalty.
- 9.04.090 Labor in place of fines or costs.

Ordinance History: #961

#### 9.04.010 Definitions.

Except where the context clearly indicates a different meaning, the general definitions and the definitions appearing in other sections of this code shall be applicable throughout this title. (Editorially amended during 2000 codification.)

#### 9.04.020 Soliciting or confederating to violate ordinances.

No person shall solicit, aid, abet, employ or engage another, or confederate with another, to violate a provision of this title or any other ordinance of the city.

#### 9.04.030 Attempt to commit offenses.

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

#### 9.04.040 Offenses outside city limits.

Where permitted by Oregon law, an act made unlawful by this title shall constitute an offense when committed on any property owned or leased by the city, even though outside the corporate limits of the city.

#### 9.04.050 Nuisance abatement.

No provisions in this title shall preclude the abatement of a nuisance as provided in the general nuisance ordinance of the city.

#### 9.04.060 General applicable principles.

Provisions relating to defenses and burden of proof, general principles of criminal liability, parties and general principles of justification shall apply to offenses defined and made punishable by this title. (Editorially amended during 2000 codification.)

9.04.070 Separate violations.

Whenever in this title, 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 required or the failure to do an act is declared to be unlawful or an offense, each day a violation continues shall constitute a separate offense.

9.04.080 Violation--Penalty.

Violation of this title is punishable in accordance with Chapter 1.16.

9.04.090 Labor in place of fines or costs.

When a person shall be convicted of an offense under the laws of the city and shall be adjudged to pay a fine and costs, and shall fail to pay the fine and costs, the municipal judge may collect the fine by sentencing such person so fined to labor on the streets or on other public works, one day for each ten dollars (\$10.00) of such fine unpaid. Persons fined and sentenced to labor, as set out in this section, shall be under the charge and supervision of the chief of police and the police department.

## Chapter 9.08

### OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

#### Sections:

- 9.08.010 Unsworn falsification.
- 9.08.020 Obstructing governmental administration.
- 9.08.030 Tampering with public records.
- 9.08.040 Impersonation.
- 9.08.050 False alarms or reports.
- 9.08.060 Refusing to assist in firefighting operations.
- 9.08.070 Disorderly conduct at fires.
- 9.08.080 Resisting or refusing to aid officer.
- 9.08.090 Escape.
- 9.08.100 Police and fire communications.
- 9.08.110 Deliveries to prisoners.
- 9.08.120 Destruction of plants.

Ordinance History: #961

#### 9.08.010 Unsworn falsification.

No person shall knowingly make any false written statement to a public servant in connection with an application for any benefit.

#### 9.08.020 Obstructing governmental administration.

A. No person shall intentionally obstruct, impair or hinder the administration of law or other governmental function by means of intimidation, force or physical interference or obstacle.

B. This section shall not apply to the obstruction of unlawful governmental action or interference with the making of an arrest.

#### 9.08.030 Tampering with public records.

No person shall, without lawful authority, knowingly destroy, mutilate, conceal, remove, make a false entry in, or falsely alter any public record.

#### 9.08.040 Impersonation.

No person shall, with intent to obtain a benefit or to injure or defraud another, falsely impersonate a public servant and do an act in such assumed character.

#### 9.08.050 False alarms or reports.

A. No person shall knowingly initiate a false alarm or report which is transmitted to a fire department or law enforcement agency or other organization that deals with emergencies involving danger to life or property.

B. No person shall knowingly make or file with the police department or with the city attorney or a police officer engaged in his or her official duties a false, misleading or unfounded

statement or report concerning the violation or alleged violation of a city ordinance or the commission or alleged commission of a crime.

9.08.060 Refusing to assist in firefighting operations.

No person shall:

- A. Upon command by a person known by him or her to be a firefighter, unreasonably refuse or fail to assist in extinguishing a fire or protecting property threatened thereby; or
- B. Upon command by a person known by him or her to be a firefighter or peace officer, intentionally and unreasonably disobey a lawful order relating to his or her conduct in the vicinity of a fire.

9.08.070 Disorderly conduct at fires.

- A. No person at or near a fire shall obstruct or impede the fighting of the fire, interfere with fire department personnel or fire department apparatus, behave in a disorderly manner, or refuse to observe promptly an order of a member of the fire or police department.
- B. 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.

9.08.080 Resisting or refusing to aid officer.

- A. No person shall resist any peace officer acting in the performance of his or her duties; or, when requested to do so, refuse to assist any such officer in the discharge of his or her duties; or by any means whatsoever hinder, delay or obstruct any such officer acting in the performance of his or her duties.
- B. As used in this section, "resist" refers to the ordinary meaning of the term.
- C. It is no defense to a prosecution under this section that the peace officer lacked legal authority to make an arrest, provided that the peace officer was acting under color of his or her official authority.

9.08.090 Escape.

- A. No person shall:
  - 1. Knowingly escape or attempt to escape from official detention; Knowingly cause, aid, assist, abet or facilitate an escape from official detention.

As used in this section:

- 1. "Escape" means an unlawful departure.
- 2. "Official detention" means:
  - a. Arrest by a peace officer;
  - b. Detention in a vehicle or facility for the transportation or custody of persons under arrest, charge or conviction of an offense;
  - c. Detention for extradition or deportation.
  - d. Other detention because the person detained is charged with or convicted of an offense.

9.08.100 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.

9.08.110 Deliveries to prisoners.

No person shall deliver, by any means whatsoever, intoxicating liquor, dangerous drugs or narcotic drugs as defined by state law to a person confined in the city jail, or attempt to convey or deliver to such person any article without the consent of the officer in charge.

9.08.120 Destruction of plants.

No person shall cut down, mutilate, remove, destroy or injure an ornamental or native tree, shrub or flower growing in a public park, parking, street, public square or place within the city, except on orders of and under the direction of the public park commission or the city council.

## Chapter 9.12

### OFFENSES AGAINST THE PERSON

#### Sections:

- 9.12.010 Assault.
- 9.12.020 Menacing.
- 9.12.030 Recklessly endangering another person.
- 9.12.040 Harassment.
- 9.12.050 Violating privacy of another.

Ordinance History: #961

#### 9.12.010 Assault.

No person shall:

- A. Intentionally, knowingly or recklessly cause physical injury to another;
- B. With criminal negligence, cause physical injury to another by means of a deadly weapon.

#### 9.12.020 Menacing.

No person shall by word or conduct intentionally attempt to place another person in fear of imminent serious physical injury.

#### 9.12.030 Recklessly endangering another person.

No person shall recklessly engage in conduct which creates a substantial risk of serious physical injury to another person.

#### 9.12.040 Harassment.

No person shall, with intent to harass, annoy or alarm another person:

- A. Subject another to offensive physical contact;
- B. Publicly insult another by abusive or obscene words or gestures in a manner likely to provoke a violent or disorderly response;
- C. Communicate with a person, anonymously or otherwise, by telephone, mail or other form of written communication, in a manner likely to cause annoyance or alarm;
- D. Engage in a course of conduct that alarms or seriously annoys another person and which serves no legitimate purpose.

#### 9.12.050 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 or her own without permission of the owner or person entitled to possession thereof and while so trespassing look through or attempt to look through a window, door or transom of the dwelling or that part of a building used as a dwelling with the intent to violate the privacy of any other person.

## Chapter 9.16

### OFFENSES AGAINST PUBLIC PEACE AND DECENCY

#### Sections:

- 9.16.010 Disorderly conduct.
- 9.16.020 Drinking in public places.
- 9.16.030 Loitering.
- 9.16.040 Begging.
- 9.16.050 Lodging.
- 9.16.060 Abuse of venerated objects.

Ordinance History: #961, 1618, 1621

#### 9.16.010 Disorderly conduct.

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

- A. Engage in fighting or in violent, tumultuous or threatening behavior;
- B. Use abusive or obscene language, or make an obscene gesture, in a public place;
- C. Disturb any lawful assembly of persons without lawful authority;
- D. Obstruct vehicular or pedestrian traffic in or on a public way or public place;
- E. Congregate with other persons in a public place and refuse to comply with a lawful order of the police to disperse;
- F. Initiate or circulate a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency;
- G. Create a hazardous or physically offensive condition by any act which he or she is not licensed or privileged to do.

#### 9.16.020 Drinking in public places.

It shall be lawful for a resident of, or visitor to, the City of Bandon to bring and consume alcoholic beverages, upon a street, alley, mall, parking lot or structure, public grounds or other public places, so long as the beverages are intended for the resident or visitor's own use and such usage is in accordance with all governing federal, state or local laws & regulations.

No person shall vend in exchange for financial consideration alcoholic beverages in or upon a street, alley, mall, parking lot or structure, motor vehicle, public grounds or other public places unless licensed for that purpose by the Oregon Liquor Control Commission and vending is conducted in accordance with all governing federal, state or local laws & regulations.

9.16.030 Loitering.

No person shall:

- A. Loiter in or near a school building or grounds, not having any reason or relationship involving custody of or responsibility for a student, or, upon inquiry by a peace officer or school official, not having a specific legitimate reason for being there;
- B. Loiter in or about a public place frequented by children, including swimming pools, school bus stops, playgrounds and parks, and public premises adjacent thereto, for the purpose of annoying, bothering or molesting children.

9.16.040 Begging.

No person shall accost another in a public place for the purpose of soliciting alms.

9.16.050 Lodging.

No person shall lodge in a car, outbuilding or other place not intended for that purpose without permission of the owner or person entitled to the possession thereof.

9.16.060 Abuse of venerated objects.

- A. No person shall intentionally abuse a public monument or structure, a place of worship or burial, or the national or state flag.
- B. As used in this section, "abuse" means to deface, damage, defile or otherwise physically mistreat in a manner likely to outrage public sensibilities.

## Chapter 9.20

### PROPERTY OFFENSES

#### Sections:

- 9.20.010 Theft.
- 9.20.020 Trespass.
- 9.20.030 Mischief.
- 9.20.040 Obstruction of building entrances.
- 9.20.050 Open cellar doors or grates.
- 9.20.060 Obstruction of fire hydrants.
- 9.20.070 Vending goods on streets or sidewalks.
- 9.20.080 Selling or pledging property of intoxicated persons.
- 9.20.090 Posted notices.

Ordinance History: #961

#### 9.20.010 Theft.

ORS 164.015 to 164.045, 164.065 and 164.085 to 164.125, and 131.655, as now or hereafter constituted, are adopted by reference and made a part of this chapter, save and except penalty provisions. (Editorially amended during 2000 codification.)

#### 9.20.020 Trespass.

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

#### 9.20.030 Mischief.

- A. No person shall, with intent to cause substantial inconvenience to the owner or to another person, and having no right to do so nor reasonable grounds to believe that he or she has such right, tamper or interfere with property of another.
- B. No person shall, while having no right to do so nor reasonable grounds to believe that he or she has such right, intentionally damage property of another or recklessly damage property of another.

#### 9.20.040 Obstruction of building entrances.

No person shall obstruct any entrance to any building or loiter unnecessarily about or near any entrance, stairway or hall leading to any building.

#### 9.20.050 Open cellar doors or grates.

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.

9.20.060      Obstruction of fire hydrants.

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

9.20.070      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 approval has first been obtained from the city council.

9.20.080      Selling or pledging property of intoxicated persons.

No person shall purchase property from any person who is in an intoxicated condition or under the influence of any narcotic drug, or advance or loan money to such person, or have any dealings with any such person respecting the title of property.

9.20.090      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.

## Chapter 9.24

### OFFENSES BY OR AGAINST MINORS

Sections:

9.24.010 Curfew.

Ordinance History: #961

9.24.010 Curfew.

- A. No child under the age of eighteen (18) years shall be in, or remain in or upon, any street, alley, park or other public place between the hours specified herein, unless such child is accompanied by a parent, guardian or other proper companion of the age of twenty-one (21) years or more, specifically chosen by the parent or guardian to escort the child on the occasion in question, or by a person over twenty-one (21) years of age having the care and custody of such child, or unless such child is then engaged in an entertainment, or night school, or going to or from an employment or night school which makes it necessary to be in or upon such street, alley, park or other public place during the nighttime between such specified hours.
- B. For the purpose of this section, the applicable hours shall be: For children under fourteen (14) who have not begun high school, between nine-fifteen p.m. and six a.m. of the following morning; except that during the months of June, July and August, the hours shall be between ten-fifteen p.m. and six a.m. of the following morning; for children fourteen (14) years of age or over or who have begun high school, the hours shall be between ten-fifteen p.m. Sunday, Monday, Tuesday, Wednesday or Thursday, and six a.m. of the following morning and between twelve midnight on Friday or Saturday and six a.m. of the following morning.
- C. No parent or guardian or the person having the care or custody of any child under the age of eighteen (18) years shall permit or, by inefficient control, allow such child to be in or remain in or upon any street, alley, park or other public place between the hours herein above set forth, contrary to the provisions of this section. Proof that such child was on any street, alley, park or other public place at a time prohibited shall, prima facie, be sufficient evidence to sustain a conviction of a violation of this section.
- D. All police and other peace officers are authorized to arrest any child violating any of the

provisions of this section and for the first violation to take or send such child home and notify the parent, guardian, custodian or person in control or charge of such child of the violation; or may, if such officer finds the child beyond the power of the parent or person having care or custody to exercise efficient control, surrender said child to the juvenile court for Coos County.

## Chapter 9.28

### WEAPONS

Sections:

- 9.28.010 Concealed weapons.
- 9.28.020 Discharge of weapons.

Ordinance History: #961

9.28.010 Concealed weapons.

Except as provided in ORS 166.260 and 1.66.290, as now constituted and hereafter amended, no person shall carry concealed about his or her person or carry concealed in a vehicle a revolver, pistol or other firearm; or any knife other than an ordinary pocket knife; any dirk, dagger or stiletto; any metal knuckles; or any other weapon by the use of which injury could be inflicted upon the person or property of another. For purposes of this section, an ordinary pocket knife is one with a maximum blade length of three and one-half inches, which is not a switchblade or spring-blade knife.

9.28.020 Discharge of weapons.

Except at firing ranges approved by the chief of police, no person other than a peace officer shall fire or discharge a gun, including spring or air-actuated pellet guns, air guns or BB guns, or other weapon which propels a projectile by use of gunpowder or other explosive, jet or rocket propulsion.

## Chapter 9.32

### CRIME PROPERTY

#### Sections:

- 9.32.010 Definitions.
- 9.32.020 Specified crime property prohibited.
- 9.32.030 Preliminary notice.
- 9.32.040 Complaint--Burden of proof--Defenses--Stay of proceedings.
- 9.32.050 Emergency closures.
- 9.32.060 Closure order and civil penalties--Costs.
- 9.32.070 Relocation costs.
- 9.32.080 Relief from closure order.

Ordinance History: #1376

#### 9.32.010 Definitions.

As used in this chapter:

"Costs" means those costs actually incurred by the city for the physical securing of real property, court costs, and other expenses incurred in enforcing this chapter.

"Enforcement officer" means the chief of police for the city of Bandon, or his or her designee.

"Owner" means any person holding or claiming to hold title to real property, including, but not limited to, a mortgagee in possession, a vendee under a land sale contract, or a beneficiary under a deed of trust; any person having or claiming to have lawful care, custody, control or possession of real property by any method or manner whatsoever; an occupant of any real property who is engaging or has engaged in any criminal activity on the real property which may be the basis for a determination that the property is specified crime property, and who is known by the person holding or claiming title to the real property or who otherwise has or claims to have lawful care, custody, control or possession of the property to be engaging or to have engaged in such criminal activity.

"Person" means any natural person, association, partnership or corporation, or other form of legal entity or entity in fact capable of owning or using property.

"Specified crime property" means any kind of real property where a crime involving controlled substances as defined in ORS Chapter 475, gambling as defined in ORS 167.117, or prostitution as defined by ORS 167.007 has occurred or is occurring.

"Real property" means any real property, including, but not limited to lots, parcels, buildings, houses, rooms, structures or any separate part or portion thereof, whether temporary or permanent.

"Tenant" means a residential tenant, as defined by the Oregon Residential Landlord and Tenant Act, and any other person holding real property under the terms of a lease.

#### 9.32.020 Specified crime property prohibited.

- A. It is unlawful for any real property to be used or maintained as a specified crime property within the city.
- B. It is unlawful for any owner to use or to allow the use or maintenance of real property as specified crime property.

- C. It is unlawful for an owner to use or occupy, or allow or permit any person to use or occupy, by lease or otherwise, any real property during any period such property is subject to an order of closure pursuant to Section 9.32.060.

9.32.030 Preliminary notice.

- A. When the enforcement officer has reasonable grounds to believe real property has been or is being used or maintained in violation of Section 9.32.020, the enforcement officer may institute proceedings against the owner for closure of the real property and the imposition of civil penalties.
- B. The enforcement officer shall provide preliminary notice of the institution of proceedings in the following manner:
  - 1. The enforcement officer shall notify the owner in writing that the structure is believed to be specified crime property. The notice shall contain the following information:
    - a. The street address and a legal description sufficient for identification of the structure;
    - b. A statement the structure is specified crime property, along with specific findings supporting this determination. The findings shall contain a concise description of the conditions establishing a violation of this chapter.
  - 2. A copy of the notice shall be served on the owner at least ten (10) days prior to the filing of a complaint. Service of the notice shall be made by personal delivery or by mailing a copy of the notice by certified mail to the owner at the address as it appears on the tax rolls and the address as it appears on the last recorded instrument of conveyance, if different from the address specified on the tax rolls, and to the owner's actual address, if known to be different from the above.
  - 3. A copy of the notice shall be served on the occupant or occupants of the real property not less than ten (10) days prior to the filing of a complaint. Notice shall be made by mailing a copy of the notice by first class mail, or by personal delivery to the occupant or occupants at the real property.
  - 4. A copy of the notice may be posted at the real property if ten (10) days has elapsed from the service or mailing of the notice to the owner, and no response has been received by the city during that time.
  - 5. The enforcement officer shall send a copy of the notice to the district attorney for Coos County, as well as any other documentation supporting closure and imposition of civil penalties.
- C. After notice has been given pursuant to this section, the city manager may authorize the filing of a complaint. Nothing in this section shall limit the power of the city manager to enter into an agreement with the owner for the voluntary abatement of conditions giving rise to the violation.

9.32.040 Complaint--Burden of proof--Defenses--Stay of proceedings.

- A. An action shall be commenced by the filing of a complaint alleging facts constituting a violation, containing a legal description of the real property and alleging that the owner has been notified of the violation at least ten (10) days prior to the filing of the complaint.
- B. The city shall have the initial burden to show, by a preponderance of the evidence, the real property is specified crime property.
- C. Evidence of the real property's general reputation and the reputation of persons residing

in or frequenting the real property shall be admissible and competent.

- D. It is a defense to an action seeking closure of the real property that the owner, at the time in question, could not in exercise of reasonable care or diligence determine that the real property was being used or maintained as specified crime property.
- E. If, prior to trial, the owner and the city enter into an agreement stipulating to the abatement of the conditions giving rise to the complaint, the court upon motion by the city may stay proceedings for a period not to exceed sixty (60) days. The owner may thereafter petition the court for additional periods of time as may be necessary to complete the actions stipulated to in the agreement. If the owner is not diligently pursuing the actions stipulated to in the agreement, the city may apply for release at any time prior to the end of the stay.

9.32.050 Emergency closures.

If the enforcement officer determines real property is an immediate threat to the public safety and welfare by virtue of activity which would establish a violation of this chapter, the city may apply to the court for a preliminary injunction ordering closure of the real property. In such event, no preliminary notice required under Section 9.32.030 need be given.

9.32.060 Closure order and civil penalties--Costs.

- A. If real property is determined to be specified crime property, the court may order closure of such property for a period of up to one year, and assess a civil penalty against the owner of up to five hundred dollars (\$500.00) for each day the owner had knowledge of activities or conditions constituting the violation. A person shall be deemed to have had knowledge at a date no later than the date preliminary notice is provided pursuant to Section 9.32.030. In establishing the amount of any civil penalty, the court may consider the following factors:
  - 1. The actions taken by the owner or owners to mitigate or correct the problem at the real property;
  - 2. The financial condition of the owner;
  - 3. Whether the problem at the real property was repeated or continuous;
  - 4. The magnitude or gravity of the problem;
  - 5. The economic or financial benefit accruing or likely to accrue to the owner as a result of the failure to correct conditions at the real property;
  - 6. The cooperativeness of the owner with the city;
  - 7. The cost to the city of investigating and correcting or attempting to correct the condition;
  - 8. Any other factors deemed material by the court.
- B. If an order of closure is granted, the city may physically secure the real property against use or occupancy if the owner fails to do so within the time specified by the order. All costs reasonably incurred by the city in such action shall be a lien upon the property.
- C. The city shall prepare a statement of costs, which shall be served on the owner and filed with the court. If no objection to the statement is filed with the court within fourteen (14) days of the date of service, the statement of costs shall be entered as part of the judgment, and a certified copy filed as a lien against the real property in the city's lien docket. Liens shall bear interest at the rate of nine percent per annum, commencing with the date of entry of judgment or order of closure.

9.32.070 Relocation costs.

- A. Any tenant required to relocate by a closure order is entitled to reasonable relocation costs, to be paid by the owner, if the tenant moved into the real property after either:
  - 1. The owner received preliminary notice under Section 9.32.030; or
  - 2. The owner was served with summons and complaint for a preliminary injunction under Section 9.32.050.
- B. In any action to recover relocation costs, the tenant shall be entitled to reasonable attorney's fees associated with recovery, to be paid by the owner.

9.32.080 Relief from closure order.

- A. The owner of real property may obtain relief from a closure order if the owner:
  - 1. Appears and pays all costs associated with the proceedings;
  - 2. Files a bond, in an amount not less than the tax-assessed value of the structure, and keeps such bond in force for a period of not less than one year; and
  - 3. Enters into a stipulation with the city to immediately abate the conditions, to make every effort to prevent the same or similar conditions from occurring at any time.
- B. If the owner violates any term of the stipulation entered into according to subsection A of this section, the entire bond shall be forfeited.