

ORDINANCE NO. 977

AN ORDINANCE AMENDING THE STAYTON MUNICIPAL CODE TITLES 8 and 9 RELATING TO HEALTH AND SAFETY AND PUBLIC PEACE AND WELFARE.

WHEREAS, the City of Stayton has become aware of particular criminal activities for which the Marion County District Attorney's office does not file charges, due to its staffing levels;

WHEREAS, the City of Stayton desires persons to be held accountable for their unlawful activities;

WHEREAS, the City of Stayton deems these activities to be "violations", the Stayton Municipal Court may affectively reduce the unlawful activities;

WHEREAS, the City of Stayton desires to update the Stayton Municipal Code (SMC) Title 8 and 9 changing specific unlawful activities;

WHEREAS, the City of Stayton desires to repeal SMC 8.16 Control of Insect Pest as it is no longer necessary;

WHEREAS, the City of Stayton finds that numerous "housekeeping" changes to Title 8 and 9 to update the SMC to newer formats, and updated language is necessary and appropriate;

NOW THEREFORE, the City of Stayton ordains:

SECTION 1. Stayton Municipal Code Title 8 relating to Health and Safety is amended to read as set forth in Exhibit A, attached hereto as incorporated herein, replacing and superseding the current text of SMC Title 8 and Title 9

SECTION 2. Stayton Municipal Code Title 9 relating to Public Peace and Welfare is amended to read as set for the in Exhibit B, attached hereto as incorporated herein, replacing and superseding the current text of SMC Title 8 and Title 9

SECTION 3. Upon enactment by the Stayton City Council and the Mayor's signature, the Ordinance shall become effective 30 days after enactment.

ADOPTED BY THE STAYTON CITY COUNCIL this 15th day of December 2014.

CITY OF STAYTON

Signed: 12-15-14

By: [Signature] A. Scott Vigil, Mayor

ATTEST

Signed: 12-15-2014

By: [Signature] Keith Campbell, City Administrator

APPROVED AS TO FORM:

[Signature] David A. Rhoten, City Attorney

TITLE 8.
HEALTH AND SAFETY

CHAPTERS

- 8.04 Nuisances
- 8.08 Public Alarm Systems
- 8.12 Use of Public Parks, Public Property, and Waterways
- 8.16 ~~Control of Insect Pests~~REPEALED
- 8.20 Chronic Nuisance Property

CHAPTER 8.04

NUISANCES

SECTIONS

- 8.04.010 Definitions
- 8.04.020 Public Health Nuisances
- 8.04.030 Attractive Nuisances
- 8.04.040 Snow and Ice
- 8.04.050 Scattering Rubbish
- 8.04.055 ~~RESERVED Prohibiting Consumption of Alcoholic Beverages on Public Property~~
- 8.04.060 Trees and Vegetation Obstructing View
- 8.04.070 Barbed Wire or Electric Fences
- 8.04.080 Inadequate Drainage
- 8.04.090 Obstruction of Sidewalks and Alleys
- 8.04.100 Obstructing Waterways or Public Thoroughfares
- 8.04.110 Utility Wires Strung Too Low
- 8.04.120 Damaged, Derelict, and Dangerous Structures
- 8.04.130 Noxious Vegetation
- 8.04.140 Noise and Vibrations
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- 8.04.160 Advertising: Public Property, Prohibition
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- 8.04.200 Junk Accumulation
- 8.04.210 Discarded Vehicles
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- 8.04.230 Abatement: Notice
- 8.04.235 Abatement of Dangerous Structures
- 8.04.240 Abatement: Protest Hearing
- 8.04.250 Abatement: Joint Responsibility
- 8.04.260 Abatement by City: Procedure
- 8.04.270 Abatement by City: Assessment of Costs
- 8.04.280 Summary Abatement
- 8.04.290 Abatement as Additional Remedy
- 8.04.300 RESERVED
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- 8.04.320 RESERVED
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- 8.04.340 RESERVED
- 8.04.350 RESERVED
- 8.04.360 RESERVED
- 8.04.370 Occupancy of Residential Property after Notice of Violation
- 8.04.380 Interference with Repair, Demolition, or Abatement Prohibited

8.04.390 Violation: Penalty

8.04.010 DEFINITIONS

For the purposes of this title, the following words and phrases mean:

ADVERTISING: Any method, procedure, or substance used to announce, present, or display any fact, opinion, or other information by means of pictures, words, or designs, or otherwise, whether written, printed, painted, or in any other way expressed.

AIR POLLUTION: Repealed.

BUILDING OFFICIAL: The individual(s) designated by the City Administrator to administer and enforce the building codes, and inspect buildings.

CESSPOOL: Septic tanks or other subsurface sewage disposal facilities that are in an unsanitary condition or which cause an offensive odor.

CITY ADMINISTRATOR: That official of the City hired ~~or appointed~~ by the Mayor/Council ~~to serve at the pleasure of the Council as chief administrative officer of the City under Chapter 2.08 of this Code~~ or the ~~a~~Administrator's designee.

DEBRIS: Accumulations of rubbish, manure, and other refuse ~~that are not removed within a reasonable time and~~ that have the potential to affect the health of residents of the City or the cleanliness or visual attractiveness of the area.

DECAYED FOOD: Spoiled or unwholesome food not fit for human consumption.

DISCARDED VEHICLE: Any vehicle which is in one or more of the following conditions:

- a. Inoperative
- b. Wrecked
- c. Dismantled
- d. Partially dismantled
- e. Abandoned
- f. Junked
- g. Not displaying a current registration plate from a state Department or Division of Motor Vehicles

"Discarded vehicles" also includes major parts of vehicles, including but not limited to bodies, engines, body parts, transmissions, or rear ends.

ENFORCEMENT OFFICER: The individual designated by the City Administrator to enforce the provisions of this Chapter.

JUNK: Motor vehicle parts, machinery, machinery parts, appliances or parts thereof, iron or other metal, glass, paper, lumber, wood, or other waste or discarded material.

LOUD, DISTURBING NOISES: A noisesound that creates a plainly audible noisesound within any dwelling unit which does not contain the source of the sound.

NOXIOUS VEGETATION:

- a. Weeds more than 10 inches high;
- b. Grass more than 10 inches high and not within the exception stated in subsection 1 of this Chapter;
- c. Poison oak;
- d. Poison ivy;
- e. Blackberry bushes that extend into a public thoroughfare or across a property line;
- f. Vegetation that is:
 - i. A safety hazard because of the possibility of falling branches;
 - ii. A fire hazard because it is near other combustibles;
 - iii. A traffic hazard because it impairs the view of a public thoroughfare, otherwise makes use of the thoroughfare hazardous, or does not meet the sight distance triangle requirements contained in SMC Section 17.26.020.4.c) and d); or
- g. Dandelions, hawkweed, Queen Ann's lace, tansy ragwort, or other weeds that have gone to seed.
- h. Noxious vegetation does not include vegetation that constitutes an agricultural crop unless that vegetation is a health hazard, a fire hazard, or a traffic hazard.

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

PERSON IN CHARGE OF PROPERTY: An owner, agent, occupant, lessee, contract purchaser, or other person having possession or control of property or the supervision of any construction project.

PERSON RESPONSIBLE: The persons responsible for abating a nuisance, including:

- a. The owner;
- b. The person in charge of property; or
- c. The person who caused a nuisance to come into or continue in existence.

PLAINLY AUDIBLE SOUND: Any sound that is clearly distinguishable from other sounds, such as but not limited to, amplified speech sufficiently loud to be understood by a person with normal hearing, or when a person with normal hearing can readily discern whether an amplified or reproduced human voice is raised or normal, 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 tone from a distance of 10 feet or less.

PRIVIES: An open vault or receptacle for human waste constructed and maintained within the City, except those constructed or maintained in connection with construction projects or

outdoor, community gatherings of large groups of people, in accordance with the State Health Division regulations.

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

PUBLIC THOROUGHFARE: A street, alley, bicycle path, pedestrian way, or trail that is open to the public.

REFUSE/RUBBISH: Any material discarded or rejected as useless or worthless.

SLAUGHTERHOUSES: An establishment where animals are killed and processed for meat, where animal byproducts are rendered, or where animal hides are tanned. For purposes of this Chapter, an establishment where livestock are kept in a confined manner shall also be considered a slaughterhouse.

SOUND PRODUCTION OR REPRODUCTION DEVICE: Any radio, stereo, loudspeaker, amplifier, television, tape player, or other similar machine or mechanical or electrical device intended for the production, reproduction, or amplification of sound.

STAGNANT WATER: Water that affords a breeding place for mosquitoes and other insect pests.

SURFACE DRAINAGE: Drainage of liquid wastes from private premises.

VEHICLE: Any device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

WATER POLLUTION: Repealed. (Ord. 899, October 1, 2007)

8.04.020 PUBLIC HEALTH NUISANCES

No person shall cause or permit on property owned or controlled by that person any nuisance affecting the public health. Cesspools, debris, decayed food, odor, privies, slaughterhouses and other similar establishments, stagnant water, and surface drainage are nuisances affecting the public health and shall be abated as provided in Sections 8.04.240 through 8.04.290. (Ord. 899, October 1, 2007)

8.04.030 ATTRACTIVE NUISANCES

1. No person shall create an attractive nuisance or hazard by:
 - a. Maintaining or leaving in a place accessible to children a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside, including specifically any used icebox, refrigerator or freezer of any size or shape; or
 - b. Being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, excavation, or other hole of a depth of four feet or more and a top width of twelve inches or more and failing or refusing to cover or fence it with a suitable protective construction.
2. No owner or person in charge of property shall permit on the property:

- a. Unguarded machinery, equipment, or other devices that is attractive, dangerous, and accessible to the public;
- b. Lumber, logs, or piling placed or stored in a manner so as to be attractive, dangerous, or accessible to the public;
- c. An open pit, quarry, cistern, or other excavation without safeguards or barriers to prevent such places from being accessed by the public.

This subsection shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to the public. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.040 SNOW AND ICE

No owner or person in charge of property, improved or unimproved, abutting on a public sidewalk shall permit:

- 1. Snow to remain on the sidewalk for a period longer than the first 12 hours after daybreak after the snow has fallen;
- 2. Ice to remain on the sidewalk for more than 12 hours after daybreak after the ice has formed unless the ice is covered with sand, ashes, or other suitable material to assure safe travel. (Ord. 711, November, 1992)

8.04.050 SCATTERING RUBBISH

No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse, or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property, or would be likely to injure a person, animal, or vehicle traveling upon a public way. (Ord. 711, November, 1992)

~~8.04.055 PROHIBITING CONSUMPTION OF ALCOHOLIC BEVERAGES ON PUBLIC PROPERTY~~

~~No person shall drink or consume alcoholic beverages in or upon any public street or sidewalk, alley, public grounds, parks, City owned facilities and properties, except when a permit for that purpose has been issued pursuant to this section. (Ord. 921, April 05, 2010; Ord. 760, '1, April 1996)~~

~~1. Upon application to the City, the City Administrator, or designee may grant a revocable facility use permit to responsible persons or organizations for an event or activity at which alcoholic beverages may be served and consumed in City owned facilities or on city property. (Ord. 921, April 05, 2010)~~

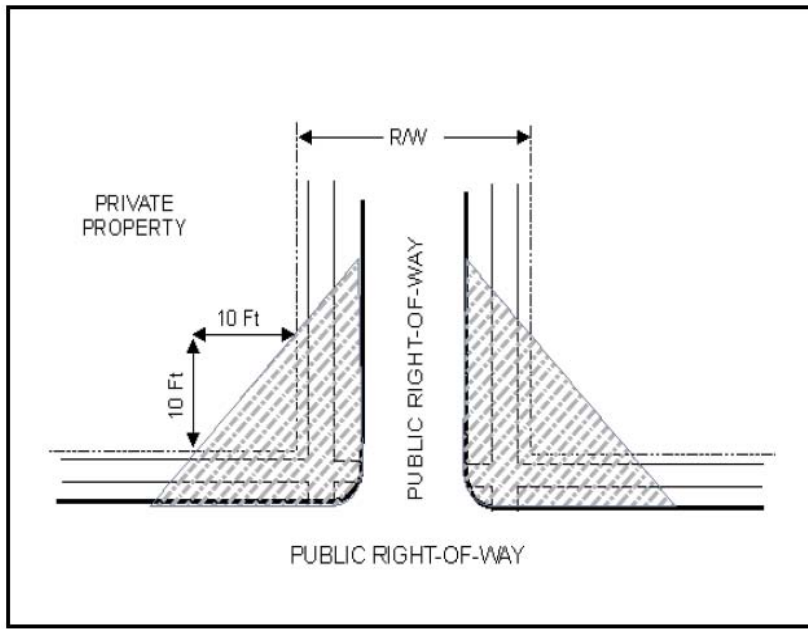
~~2. The Council shall adopt rules governing facility use permits by Resolution. (Ord. 921, April 05, 2010; Ord. 899, October 01, 2007; Ord. 871, November 22, 2004)~~

8.04.060 TREES AND VEGETATION OBSTRUCTING VIEW

- 1. No owner or person in charge of property that abuts ~~on~~ a street or public sidewalk shall permit trees or vegetation on the property to interfere with street or sidewalk traffic.
- 2. The owner or person in charge of property shall keep all trees and vegetation on the

property, including the adjoining parking strip, trimmed to a height of not less than 8 feet above the sidewalk and not less than 10 feet above the roadway. (Ord. 798, May 17, 1999)

3. No owner or person in charge of property shall allow any hedge or other obstructing vegetation within the vision clearance area (also known as the sight distance triangle) described in this ~~Chapter~~section per the requirements contained in SMC Section 17.26.020.4.c) and d).
 - a. Repealed.
 - b. The vision clearance area shall not contain temporary or permanent obstructions to vision exceeding 24 inches in height above the curb level or street shoulder where there is no curb, except a supporting pillar or post not greater than 12 inches in diameter or 12 inches on the diagonal of a rectangular pillar or post; and, further, excepting utility poles and those posts, poles, tree trunks, street signs, street lights, and traffic control signs.
 - c. Vision clearance shall not be required at a height 7 feet or more above the curb level or 7 feet 6 inches above the shoulder of a street that does not have curbs.
 - d. The vision clearance provisions of this section shall not be construed as waiving or altering any yard, landscaping or setback requirements that may be required in Title 17 or any other section of this ~~code~~Code.



e. Repealed. (Ord. 899, October 1, 2007)

8.04.070 BARBED WIRE OR ELECTRIC FENCES

1. No owner or person in charge of property shall construct or maintain a barbed wire fence, or permit barbed wire to remain as a part of a fence, within three feet of a sidewalk or public way, except such wire may be placed above the top of other fencing not less than 6

feet high.

2. No owner or person in charge of property shall construct, maintain, or operate an electric fence except to contain livestock permitted under Section 6.04.185. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.080 INADEQUATE DRAINAGE

1. No owner or person in charge of property shall cause or permit any water from any ditch, canal, flume, reservoir pipeline, or conduit above or below the ground to leak or flow over or under any premises, public street, sidewalk, or other public property where such leak or flow shall endanger the public health, safety, welfare, or convenience.
2. No owner or person in charge of a building or structure shall cause or permit rainwater, ice, or snow to fall from the building or structure onto a public sidewalk or to flow across the sidewalk. The owner or person in charge of any structure shall install and maintain in proper repair adequate drainpipes or a drainage system, so that any overflow water accumulating on the roof or about the building is not carried across or upon the sidewalk. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.090 OBSTRUCTION OF SIDEWALKS AND ALLEYS

1. Except as specifically provided in this section, no person shall place or maintain any item obstructing a sidewalk or alley that extends more than 36 inches into the public right-of-way.
2. No person may obstruct any portion of a sidewalk, street, or alley with any building material in connection with the alteration or construction of buildings without first obtaining a permit from the City Administrator ~~or designee~~.
3. If obstruction is permitted under subsection 2 of this section, not more than one-third of the street or alley shall be occupied or obstructed with material, and only in front of the property where the building is being altered or constructed.
4. Any person who maintains an obstruction under subsection 2 of this section shall, upon request of the City Administrator ~~or designee~~, give written proof of carrying liability insurance to cover any hazard.
5. If a permit is granted to allow obstruction, the person so obstructing shall maintain a substantial temporary sidewalk around the construction. A guard railing and amber light as a danger signal shall be kept at each end of the obstruction during the hours between sunset to sunrise.
6. Nothing in this section shall be construed to prohibit the display of goods and materials upon private property, nor shall it apply to persons receiving or discharging goods or merchandise across a sidewalk or alley in accordance with all applicable laws ~~and ordinances~~. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.100 OBSTRUCTING WATERWAYS OR PUBLIC THOROUGHFARES

No person shall interfere with, obstruct, create a congested condition or render dangerous for passage any stream, canal, waterway, or any public park, square, sidewalk, public way, alley, street, or highway. (Ord. 727, February 1993. '1; Ord. 899, October 1, 2007)

8.04.110 UTILITY WIRES STRUNG TOO LOW

No wires used for the transmission of electricity or for any communication purposes shall be strung less than 15 feet above the surface of the ground. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.120 DAMAGED, DERELICT AND DANGEROUS STRUCTURES

1. No property shall contain any dangerous or derelict structure as described in this Chapter. All such buildings or structures shall be repaired or demolished.

2. Derelict Structures

a. A derelict structure is any unoccupied nonresidential building, structure, or portion thereof that meets any of the following criteria or any residential building which is at least 50% unoccupied and meets any of the following criteria:

i. Has been ordered vacated by the Enforcement Officer pursuant to [SMC](#) Section 8.04.235.2; or,

ii. Has been issued a notice of infraction by the Enforcement Officer pursuant to [SMC](#) Section 8.04.230; or,

iii. Is unsecured; or,

iv. Is boarded unless the boarding is required by the Enforcement Officer; or,

v. Has, while vacant, had a nuisance declared by the City on the property upon which it is located.

b. Any property which has been declared by the Building Official to include a derelict structure shall be considered in violation of this Chapter until:

i. The structure has been lawfully occupied;

ii. The structure has been demolished and the lot cleared and graded after approval is issued by the City, with final inspection and approval by the Building Official, or,

iii. The owner has demonstrated to the satisfaction of the Building Official that the property is free of all conditions causing its status as a derelict structure. (Ord. 899, October 1, 2007)

3. Dangerous Structures

a. Any structure which through damage, neglect or lack of maintenance, has any or all of the following conditions or defects to the extent that life, health, property or safety of the public or the structure's occupants are endangered, shall be deemed to be a dangerous structure, declared a nuisance, and such condition or defects shall be abated pursuant to [SMC](#) Section 8.04.230.

i. *High loads.* Whenever the stress in any materials, member, or portion of a structure, due to all dead and live loads, is more than 1-1/2 times the working stress or stresses allowed by the current Oregon building codes for new buildings of similar structure, purpose, or location.

ii. *Weakened or unstable structural members or appendages.*

- a. Whenever any portion of a structure has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability is materially less than it was before such catastrophe and is less than the minimum requirements of the current Oregon building codes for new buildings of similar structure, purpose, or location; or
 - b. Whenever appendages including parapet walls, cornices, spires, towers, tanks, statuary, or other appendages or structural members which are supported by, attached to, or part of a building, and which are in a deteriorated condition or otherwise unable to sustain the design loads which are specified in the current Oregon building codes.
- iii. *Buckled or leaning walls, structural members.* Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
- iv. *Vulnerability to earthquakes, high winds*
- a. Whenever any portion of a structure is wrecked, warped, buckled, or has settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction; or
 - b. Whenever any portion of a building, or any member, appurtenance, or ornamentation of the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the current Oregon building codes for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted in the current Oregon building codes for such buildings.
- v. *Insufficient strength or fire resistance.* Whenever any structure which, whether or not erected in accordance with all applicable laws and ordinances:
- a. Has in any non-supporting part, member, or portion, less than 50% of the strength or the fire-resisting qualities or characteristics required by law for a newly constructed building of like area, height, and occupancy in the same location; or
 - b. Has in any supporting part, member, or portion less than 66% of the strength or the fire-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.
- vi. *Risk of failure or collapse*
- a. Whenever any portion or member or appurtenance thereof is likely to fail, or to become disabled or dislodged, or to collapse and thereby injure persons or damage property; or
 - b. Whenever the structure, or any portion thereof, is likely to partially or completely collapse as a result of any cause, including but not limited to:

1. Dilapidation, deterioration, or decay;
 2. Faulty construction;
 3. The removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such structure; or
 4. The deterioration, decay, or inadequacy of its foundation.
- vii. *Excessive damage or deterioration.* Whenever the structure exclusive of the foundation:
- a. Shows 33% or more damage or deterioration of its supporting member or members;
 - b. 50% damage or deterioration of its non-supporting members; or
 - c. 50% damage or deterioration of its enclosing or outside wall coverings.
- viii. *Demolition remnants on site.* Whenever any portion of a structure, including unfilled excavations, remains on a site for more than 30 days after the demolition or destruction of the structure;
- ix. *Fire hazard.* Whenever any structure is a fire hazard as a result of any cause, including but not limited to dilapidated condition, deterioration, or damage; inadequate exits; lack of sufficient fire-resistive construction; or faulty electric wiring, gas connections, or heating apparatus.
- x. *Other hazards to health, safety, or public welfare*
- a. Whenever, for any reason, the structure, or any portion thereof, is manifestly unsafe for the purpose for which it is lawfully constructed or currently is being used; or
 - b. Whenever a structure is structurally unsafe or is otherwise hazardous to human life, including but not limited to whenever a structure constitutes a hazard to health, safety, or public welfare by reason of inadequate maintenance, dilapidation, unsanitary conditions, obsolescence, fire hazard, disaster, damage, or abandonment.
- xi. *Public nuisance.* Whenever the structure has been so damaged by fire, wind, earthquake or flood or any other cause, or has become so dilapidated or deteriorated as to become an attractive nuisance or a harbor for vagrants or criminals.
- xii. *Chronic dereliction.* Whenever a derelict structure remains unoccupied for a period in excess of 6 months or period less than 6 months when the structure or portion thereof constitutes an attractive nuisance or hazard to the public.
- xiii. *Violations of codes, laws.* Whenever any structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such structure provided by the building regulations of this City, as specified in the current Oregon building codes or any law or ordinance of this State or City relating to the condition, location, or structure or buildings. (Ord. 899, October 1, 2007)

4. Abatement of Dangerous Structures

All structures or portions thereof which are determined after inspection by the Building Official to be dangerous as defined in this Chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures specified herein. If the Building Official determines that a structure is dangerous, as defined by this Chapter, the Enforcement Officer shall commence proceedings to cause the repair, vacation or demolition of the structure. (Ord. 899, October 1, 2007)

8.04.130 NOXIOUS VEGETATION

- ~~1. 1. The term "noxious vegetation" does not include vegetation that constitutes an agricultural crop nor vegetation on a parcel of property or any portion of a parcel of property that is greater than 100 feet from a public right of way, alley, property line, or dwelling unit, unless that vegetation is a health hazard, a fire hazard, or a traffic hazard and the requirements contained in Section 17.26.020.4.c) and d).~~
- ~~2. 2. The term "noxious vegetation" does include:~~
- ~~3. a. weeds more than 10 inches high;~~
- ~~4. b. grass more than 10 inches high and not within the exception stated in subsection 1 of this section;~~
- ~~5. c. poison oak;~~
- ~~6. d. poison ivy;~~
- ~~7. e. blackberry bushes that extend into a public thoroughfare or across a property line;~~
- ~~8. f. vegetation that is:~~
- ~~9. i. a safety hazard because of the possibility of falling branches;~~
- ~~10. ii. a fire hazard because it is near other combustibles;~~
- ~~11. iii. a traffic hazard because it impairs the view of a public thoroughfare, otherwise makes use of the thoroughfare hazardous, or does not meet the sight distance triangle requirements contained in Section 17.26.020.4.c) and d).~~

1. No owner or person in charge of property shall allow noxious vegetation to be on the property or in the public right-of-way ~~of a public thoroughfare~~ abutting on the property. An owner or person in charge of property shall cut down or destroy grass, shrubbery, brush, bushes, weeds, or other noxious vegetation as often as needed to prevent them from becoming noxious vegetation ~~unsightly, from becoming a fire hazard, or, in the case of weeds or other noxious vegetation, from maturing or going to seed.~~

2. Between March 1st and April 15th of each year, the City Administrator may publish three times, in a newspaper of general circulation in the City, a copy of subsection ~~13~~ as a notice to all owners and persons in charge of property of the duty to keep their property free from noxious vegetation. The notice shall state that the City is willing to abate the nuisance on a particular parcel of property at

the request of the owner or person in charge of the property for a fee sufficient to cover the City's abatement costs. The notice shall also state that, in the absence of request, the City intends to abate all nuisances 10 or more days after the final publication of the notice and to charge the cost of doing so to the owner or the person responsible for the property, or on the property itself.

3. In lieu of providing notice as provided in subsection ~~24~~ of this section, between March 1st and April 15th of each year, the City Administrator may obtain a list of property owners within the City and may then mail a notice to each listed property owner. The notice shall include a copy of subsection ~~13~~ advising property owners of their duty to keep their property free from noxious vegetation. The notice shall also state that the City is willing to abate the nuisance on a particular parcel of property for a fee sufficient to cover the City's abatement costs. The notice shall also state that, in the absence of such request, the City intends to abate all such nuisances at any time and the City will charge the cost of abating the nuisance on a particular parcel of property to the owner or the person responsible for the property, or on the property itself.
4. During any time of each year, the City Administrator may provide notice for abatement of noxious vegetation as provided in SMC Section 8.04.240.
5. If the notices provided for in subsections ~~42~~ or ~~53~~ are used, they shall be in lieu of the notice required by Section 8.04.240. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.140 NOISE AND VIBRATIONS

1. No person shall make, assist in making, continue, or cause to be made any loud, disturbing, or unnecessary noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, safety, or peace of others between the hours of 10:00 p.m. and 7:00 a.m. except as otherwise provided. (Ord. 773, 4 August, 1997)
2. Loud, disturbing and unnecessary noises include, but are not limited to:
 - a. The keeping of any animal which, by causing frequent or continued noise, disturbs the comfort and repose of any person in the vicinity.
 - ~~b. The attaching of a bell to an animal or allowing a bell to remain on an animal.~~
 - b. ~~e.~~ The use of a vehicle or engine, either stationary or moving, so out of repair, loaded, or operated as to create any loud or unnecessary grating, grinding, rattling, or other noise.
 - c. ~~d.~~ The sounding of a horn or signaling device on a vehicle on a street, public place, or private place, except as a necessary warning of danger.
 - d. ~~e.~~ Repealed. (Ord. 899, October 1, 2007)
 - e. ~~f.~~ The use of a mechanical device operated by compressed air, steam, or otherwise, unless the noise created thereby is effectively muffled.
 - f. ~~g.~~ The erection, including excavation, demolition, alteration, or repair of a building in residential districts other than between the hours of 7:00 a.m. and 6:00 p.m., except in case of urgent necessity in the interest of the public welfare and

safety, and then only with permit granted by the City Administrator for a period not to exceed 10 days. The permit may be renewed for periods of five days while the emergency continues to exist. If the City Administrator determines that the public health, safety, and welfare will not be impaired by the erection, demolition, alteration, or repair of a building between the hours of 6:00 p.m. and 7:00 a.m., and if the City Administrator shall further determine that loss or inconvenience would result to any person unless the work is permitted within those hours, the City Administrator may grant permission for such work to be done within specified hours between 6:00 p.m. and 7:00 a.m., upon application therefore being made at the time the permit for the work is awarded or during the progress of the work. The owner of property may do work on property actually occupied by the owner between the hours of 6:00 p.m. and 10:00 p.m. without obtaining a permit.

- g. ~~h.~~ The use of a gong or siren upon a vehicle other than an emergency services vehicle except when used as part of a community function such as a parade or other special promotion for which a permit has been issued under S:M-C: Chapter 10.36.
- h. ~~i.~~ The creation of loud or disturbing noises on a street adjacent to a school, institution of learning, church, or court of justice, while the same are in use, or on a street adjacent to a hospital, nursing home, or other institution for the care of the sick or infirm, which interferes with the safe operation of such institution or disturbs or unduly annoys occupants.
- i. ~~j.~~ The discharge in the open air of the exhaust of a steam engine, internal combustion engine, motorboat, or motor vehicle, except through muffler or other device which will effectively prevent loud or explosive noises.
- j. ~~k.~~ The use or operation of an automatic or electric piano, phonograph, radio, television, loudspeaker, or any instrument for sound producing, or any sound production device so loudly as to disturb persons in the vicinity thereof, or in such a manner as renders the use thereof a nuisance. However, upon application to the Chief of Police, permits may be granted to responsible persons or organizations for the broadcast or amplification of programs of music, news, speeches, or general entertainment as a part of a national, state, or municipal event, public festivals, or outstanding events of a noncommercial nature.
- k. ~~l.~~ The making of a noise by crying, calling, or shouting or by means of a whistle, rattle, bell, gong, clapper, horn, hammer, drum, musical instrument, or other device for the purpose of advertising goods, wares, or merchandise, attracting attention, or inviting patronage of a person to a business.
- l. ~~m.~~ The conducting, operating, or maintaining of a commercial or industrial business within 100 feet of a private residence, apartment, rooming house, or hotel in such manner as to cause loud or disturbing noises to be emitted there from between the hours of 10:00 p.m. and 7:00 a.m.

3. No person shall make, assist in making, continue, or cause to be made any loud, disturbing, or unnecessary noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, safety, or peace of others at any time in the following manner:

(Ord. 773, August 4, 1997)

- a. The use or operation of any sound production or reproduction device, car alarm or horn on public property or on a public right-of-way so as to cause a plainly audible sound fifty feet or more from such device, except as allowed by permits in SMC section 2, subsection kj, or in the case of an actual emergency. (Ord. 711, November, 1992; Ord. 773, August 4, 1997)
- b. The operation, or to permit the use or operation of any device designed for sound production or reproduction, including, but not limited to any radio, television set, musical instrument, phonograph, loud speaker, bell, chime, horn, in such a manner as to cause a noise disturbance and as defined in SMC Section 8.04.140.2.d and k, except as allowed by permits in SMC Section 8.04.140.2.jk, so as to be plainly audible within any dwelling unit, church, temple, synagogue, business, day care center or school; which is not the source of the sound. The sources of noise within the City industrial zones are exempt from this SMC section 8.04.150 (3).(Ord. 773, 4 August, 1997; Ord. 899, October 1, 2007)

8.04.150 POSTED NOTICES

No person shall affix a sign, 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. 711, November, 1992)

8.04.160 ADVERTISING: PUBLIC PROPERTY, PROHIBITION

- ~~1. —~~ Except as otherwise specifically permitted, no person may:
1. Place, display, scatter, or distribute any advertising matter ~~on or across any public street, sidewalk, city street right of way, or other public thoroughfare or erect,~~ place, or display any structure or device which is used to display advertising matter ~~on or across~~ within any public street, ~~sidewalk, city street right of way,~~ or other public thoroughfare except on the City-provided cables on N First Ave between Cedar and Regis Streets in accordance with SMC Section 17.20.140.3.1 and sidewalk signs in the Downtown Zones as allowed in accordance with SMC Title 17.20.140.9-A.
 2. Attach any advertising matter to any tree, pole, or post situated on any public property within the City. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.170 ADVERTISING: PRIVATE PROPERTY, PROHIBITION

No person may display any advertising matter on or across any private property within the City without the express consent of the owner or person in charge of such property. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.180 ADVERTISING: PUBLIC PROPERTY, EXCEPTIONS

1. The City Administrator may permit any person to display or distribute advertising on City-owned property for meetings or entertainment. If the request is denied, the applicant may appeal to the City Council.
- ~~2. — The City Council may, upon request, permit any person to erect a sign or device adjacent to any property to display advertising matter pertaining to the business or activity carried~~

~~on at said premises, and which will extend over or across any portion of a public thoroughfare. Any person desiring such permission shall apply to the City Administrator who shall forward the request to the City Council. If the City Council finds that such sign or device is not likely to endanger any person or property, it may grant the application, dictating the terms and conditions for such erection and use, or it may reject the application.~~

2. Any sign or device permitted under this Section must conform to standards in the Oregon Structural Specialty Code as adopted by Marion County, where such standards are applicable.
3. Nothing in SMC Sections 8.04.170 through 8.04.190 of this Chapter shall prohibit the proper display of notices of any election to be held by the federal or state governments or any subdivision thereof, or of notices of judicial sales, or any other notices or advertisements issued or displayed pursuant to law/code or ordinance. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

Sidewalk signs in the Downtown Zones as allowed in accordance with Title 17.20.140

8.04.190 ADVERTISING: REMOVAL

The Police Chief or designate may immediately remove and dispose of any advertising matter or sign or other device displayed or erected within the City in violation of any of the terms of this Chapter. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.200 JUNK ACCUMULATION

1. No person shall keep any junk outdoors on any street, lot, or premises, or in a building that is not wholly or entirely enclosed, except doors used for ingress and egress.
2. This section shall not apply to junk kept by a junk dealer licensed under ~~S-M-C~~ Chapter 5.36. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.210 DISCARDED VEHICLES

1. No person shall store or permit the storing of a discarded vehicle on any private property for more than seventy-two 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 6 feet in height, or unless it is in connection with a business enterprise dealing in junked vehicles lawfully conducted within the City.
2. In addition to or in lieu of the procedures contained in SMC Sections 8.04.240 through 8.04.290 for abating nuisances, vehicles found in violation of subsection 1 of this section may be impounded and disposed of in accordance with the applicable state law for vehicles abandoned in public places. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.220 UNENUMERATED NUISANCES

1. The acts, conditions, or objects, specifically enumerated and defined in SMC Sections 8.04.020 through 8.04.210 are declared public nuisances, and such acts, conditions, or objects may be abated by any of the procedures set forth in Sections 8.04.240 through 8.04.290.

2. In addition to the nuisances specifically enumerated in this Chapter, every other thing, substance, or act which is determined by the Council to be injurious or detrimental to the public health, safety, or welfare is declared a nuisance and may be abated as provided in this Chapter. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.230 ABATEMENT: NOTICE

1. If satisfied that a nuisance exists, the Enforcement Officer shall notify the property owner by registered or certified mail at the address of record in the Marion County Assessor's Office of the ~~cause a notice to be posted on the premises or at the site of the nuisance~~ nuisance conditions, directing the person responsible to abate the nuisance.
- ~~2. At the time of posting, the Enforcement Officer shall cause a copy of the notice to be forwarded by registered or certified mail to the person responsible at the last known address, or the notice may be personally served.~~
2. 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 the 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 written notice to the City Administrator within 10 days from the date of the notice.
3. If the person responsible is not the owner, an additional notice shall be served on the owner, whose name and address appear on the County tax records, stating that the cost of abatement not paid by the person responsible may be assessed to and become a lien on the property.
- ~~5. Upon completion of the posting and mailing, the Enforcement Officer shall execute and file certificates stating the date and place of the mailing and posting.~~
4. If there is an inaccuracy in the name or address of the person responsible or property owner it shall not affect the validity of the notice, the posted notice shall be sufficient. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.235 ABATEMENT OF DANGEROUS STRUCTURES.

All structures or portions thereof which are determined after inspection by the Building Official to be dangerous as defined in this Chapter are hereby declared to be public

nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures specified herein. If the Building Official determines that a structure is dangerous, as defined by this Chapter, the Enforcement Officer shall commence proceedings to cause the repair, vacation or demolition of the structure.

1 Notice of Status as Derelict or Dangerous Structure

a. When the Building Official determines that a structure is a derelict or dangerous structure, the Enforcement Officer shall give notice of the infraction to the owner pursuant to this Chapter. Additional notice to other affected persons, such as tenants and holders of a security interest shall be given. In addition to the notice required by SMC Section 8.04.230, the Enforcement Officer shall give the statement of actions required to cure or remedy the condition and, if necessary, the order to vacate described in SMC Section 8.04.235.2.

b. Statement of Actions Required

i. Notice of the statement of action shall be given in conjunction with the notice of infraction pursuant to SMC Section 8.04.230.

ii. The statement of the action required to cure or remedy a condition giving rise to classification of a structure as derelict or dangerous shall include the following:

(a) If the Building Official has determined that the building or structure must be repaired, the statement shall require that all required permits be secured and the work physically commenced within such time from the date of the statement and completed within such time as the Enforcement Officer shall determine is reasonable under all of the circumstances, but no more than 10 days, or the building or structure be demolished.

(b) If the Building Official has determined that the building or structure must be vacated, the statement shall order that the building or structure shall be vacated within a time certain from the date of the statement as determined by the Enforcement Officer to be reasonable, but no more than 7 days.

(c) If the Building Official has determined that

(1) the building or structure is vacant,

(2) the building or structure is structurally sound and does not present a fire hazard, and

(3) the building or structure has presented or is likely to present a danger to individuals who may enter the building or structure even though they are unauthorized to do so, the statement shall require that the building or structure be secured against unauthorized entry by means which may include but are not limited to the boarding up of doors and windows.

(d) If the Building Official has determined that the building or structure must be demolished, the statement shall order that the building be vacated within such time as the Enforcement Officer shall determine is reasonable from the date of the statement; that all required permits be secured from the date of the statement, and that the demolition be completed within such time as the

Enforcement Officer shall determine is reasonable.

- (e) Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Enforcement Officer will order the building vacated and posted to prevent further occupancy until the work is completed, and may proceed to cause the work to be done and charge the costs thereof against the property or its owners.

2 Notice of Unsafe Occupancy

- a. Posting Notice. In conjunction with an order to vacate, a notice shall be posted at or upon each exit of the building and shall be in substantially the following form:

DO NOT ENTER

UNSAFE TO OCCUPY

It is a violation of Chapter 8.04 of the Stayton
Municipal Code to enter or occupy this building or to
remove or deface this [Notice](#).

Enforcement Officer

City of Stayton

b. Compliance

- i. Upon an order to vacate and the posting of an unsafe building notice, no person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit.
- ii. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and either a final inspection has been conducted in the case of residential structure or a certificate of occupancy issued pursuant to the provisions of the building code ordinance. (Ord. 899, October 1, 2007)

8.04.240 ABATEMENT: PROTEST HEARING.

- 1. Within the time limit set by the notice under [SMC](#) section 8.04.230 or 8.04.235, the person responsible shall remove the nuisance or show that no nuisance exists.
- 2. A person responsible, protesting that no nuisance exists, shall file with the City Administrator a written statement that specifies the basis for so protesting.
- 3. The statement shall be referred to the Council as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the Council. The Council shall determine whether or not a nuisance exists, or whether abatement of any nuisance will work a hardship on the property owner or person in charge of property out of proportion to the benefit to the public. Council determinations shall be required only in those cases where a written statement has been filed as provided [herein](#).

4. If the Council determines that a nuisance does exist and that abatement will not work an unreasonable hardship, the person responsible shall abate the nuisance within 10 days after the Council determination, or within such other time limit as may be set by the Council. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.250 ABATEMENT: 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. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.260 ABATEMENT BY CITY: PROCEDURE

1. If, within the time allowed, the nuisance has not been abated by the person responsible, the Council may cause the nuisance to be abated.
2. The Enforcement Officer has the right at reasonable times to enter into or upon the property to investigate or cause the removal of a nuisance in accordance with ~~S-M-C~~ Chapter 1.24.
3. The person charged with removing any nuisance shall use all reasonable care so as to do a minimum of damage to any ornamental grass or bushes or any structure or other item not the subject of the abatement.
4. The City Administrator shall keep an accurate record of the expense incurred by the City in physically abating the nuisance and shall include therein a charge of \$100 or 10% of those expenses, whichever is greater, for administrative overhead.
5. The cost of any abatement by the City shall be paid from the general fund, and all income resulting from the enforcement of SMC Section 8.04.280 and the collection of such costs shall be credited to said fund. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.270 ABATEMENT BY CITY: ASSESSMENT OF COSTS

1. The City Administrator shall deliver, by personal service or by mail, both regular and certified mail (return receipt requested), to the person responsible and to the owner 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 thirty days from the date of the notice.
 - c. That if the person responsible objects to the cost of the abatement as indicated, that person may file a notice of objection with the City Administrator not more than 10 days from the date of the notice.
- ~~2. Upon the expiration of 10 days after the date of the notice, the Council, in the regular course of business, shall hear and determine any objections to the costs assessed.~~
2. If the costs of the abatement are not paid within thirty days from the date of the notice an assessment of the costs as stated ~~or determined by the Council shall be made by resolution and~~ shall then be entered in the docket of City liens against the property from which the nuisance was removed or abated.

3. The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of 9% per year. The interest shall be computed from the date of entry of the lien in the lien docket.
4. If there is an inaccuracy in the name of the owner or person responsible, if such persons do not receive the notice of the proposed assessment, the assessment shall remain a valid lien against the property.

~~6. If neither the person responsible nor the owner has received notice of the proposed assessment, then the City shall publish the notice of the proposed assessment once in a newspaper of general circulation. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)~~

8.04.280 SUMMARY ABATEMENT

The procedure provided by [SMC](#) Sections 8.04.240 through 8.04.270 is not exclusive, but is in addition to procedures provided by other sections of this Chapter for the removal of nuisances, and the Chief of Police or the City Administrator may proceed summarily to abate a health or other nuisance which unmistakably exists, and which imminently endangers human life or property. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.290 ABATEMENT AS ADDITIONAL REMEDY

The abatement of a nuisance is not a penalty for violating this Chapter, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within the time set by the notice to abate, or if a written protest has been filed, abatement within 10 days of Council determination that a nuisance exists, will relieve the person responsible from the imposition of any fine for such nuisance. (Ord. 711, November, 1992; Ord. 899, October 1, 2007)

8.04.300 TO 8.04.360 RESERVED FOR EXPANSION

8.04.370 OCCUPANCY OF RESIDENTIAL PROPERTY AFTER NOTICE OF VIOLATION

1. If a notice of violation of [SMC](#) Section 8.04.120 has been issued, and if the affected dwelling unit(s) is or becomes vacant, it shall be unlawful to reoccupy or permit re-occupancy of the unit(s) for residential purposes until the necessary permits are obtained, corrections made, and permit inspection approvals given.
2. Notwithstanding [SMC](#) Subsection 8.04.370.1, the Enforcement Officer may permit re-occupancy of the dwelling unit if in the Building Official's opinion, all nuisance conditions have been addressed and rectified. (Ord. 899, October 1, 2007)

8.04.380 INTERFERENCE WITH REPAIR, DEMOLITION, OR ABATEMENT PROHIBITED.

It is unlawful for any person to obstruct, impede, or interfere with any person lawfully engaged in:

1. The work of repairing, vacating, warehousing, or demolishing any structure pursuant to the provisions of this Chapter;
2. The abatement of a nuisance pursuant to the provisions of this Chapter.
3. The performance of any necessary act preliminary to or incidental to such work as

authorized by this Chapter or directed pursuant to it.

8.04.390 VIOLATION: PENALTY

1. Any person, firm, or corporation who violates any provision of this Chapter is punishable upon conviction by a fine as provided in subsection 2 of this section. This penalty may be assessed against the owner and the person in charge of the property. Each day that the violation persists after notification shall be deemed as a separate offense.
2. A violation of a provision of this Chapter is punishable by a fine approved by Council Resolution. ~~A violation of this Chapter shall be punishable as an infraction by a fine not less than \$500.00 nor more than \$1,000.00 for each infraction.~~ (Ord. 899, October 1, 2007)

CHAPTER 8.08

PUBLIC ALARM SYSTEMS

SECTIONS

- 8.08.4010 Title of Provisions
- 8.08.4020 Purpose of Provisions
- 8.08.4030 Definitions
- 8.08.4040 General System Requirements
- 8.08.4050 Digital Communicator Restrictions
- 8.08.4060 Training Requirements
- 8.08.4070 Maintenance and Repair Responsibility
- 8.08.4080 Testing of Systems
- 8.08.4090 Fire Drills: Prior Notification Required
- 8.08.5100 Responsibility for Alarm Deactivation
- 8.08.5110 Sound Limitations
- 8.08.5120 Permit Required
- 8.08.5130 Permit: Application, Issuance
- 8.08.5140 Fee Schedule
- 8.08.5150 Permit: Grounds for Revocation
- 8.08.5160 Permit: Appeals
- 8.08.5170 False Alarms
- 8.08.5180 RESERVED
- 8.08.5190 Violation: Penalty

8.08.4010 TITLE OF PROVISIONS

This chapter shall be known as the "Public Alarm Code Ordinance." (Ord. 711, November, 1992)

8.08.4020 PURPOSE OF PROVISIONS

1. The purpose of this chapter is to protect the Santiam Canyon Communications Center Public Safety Answering Point (PSAP) and Emergency Services from misuses of automatic emergency alarm reporting systems.
2. The ordinance Code governs fire, medical, burglar, and hazard monitoring alarm systems, requires permits, establishes fees, provides for revocation of permits, and provides for punishment of violations. (Ord. 711, November, 1992)

8.08.4030 DEFINITIONS

As used in this chapter, the following mean:

ALARM SYSTEM: A device or system of interconnected devices, including hardware and related accessories, designed to give warning of a fire, burglary, robbery, medical emergency, or other hazardous conditions occurring on the protected premises, except residential smoke detectors which are not connected to a receiving panel at an alarm reception point and does not emit sound outside the residence.

AUTOMATIC DIALER: A device programmed to select a telephone number and deliver a warning message or signal over standard telephone lines.

DIGITAL COMMUNICATOR: An automatic dialer specially designed and programmed to deliver an alarm signal to compatible receiving equipment located at an alarm reception point by telephone line.

CITY: City of Stayton, Oregon

PUBLIC SAFETY ANSWERING POINT (PSAP): eThe emergency communication center also known as the 911 Center; ~~The Santiam Canyon Communications Center, that is~~ used to receive transmissions and general information from the public to be dispatched to the respective emergency services agencies/entities utilizing the center.

FALSE ALARM: Any activation of any alarm system which results in the dispatch of emergency personnel to the protected premises where they are unable to discover any evidence of an emergency condition, but it does not include an alarm signal caused by violent conditions or nature of other extraordinary circumstances not reasonably subject to control by the alarm user.

HARD-WIRE SYSTEM: An alarm system that detects and transmits alarms using direct leased lines to a receiving panel at an alarm reception point.

LOCAL ALARMS: Systems or devices that sound audibly on the premises of the user, but are not connected to a receiving panel at an alarm reception point.

PROTECTED PREMISES: All of that contiguous area including buildings protected by a single alarm system and under common ownership and use.

PERSONS: Any alarm user, be it a natural person, firm, partnership, association, corporation, company, utility, or organization, profit or nonprofit, public or private. (Ord. 711, November, 1992)

8.08.4040 GENERAL SYSTEM REQUIREMENTS

1. No alarm system shall be installed, used, or maintained in violation of any of the requirements of adopted provisions of the Uniform Fire Code or of any applicable statute, law, or administrative regulation of the sState or of the eCity.

2. Any alarm user required by federal, state, county, or municipal statute, regulation, rule, code, or ordinance to install, maintain, and operate an alarm system shall be subject to this chapter. (Ord. 711, November, 1992)

8.08.4050 DIGITAL COMMUNICATOR RESTRICTIONS

Any alarm system that incorporates a digital communicator shall be programmed to select an emergency communication center phone line specifically designed for this purpose. No automatic dialer shall be programmed to select the emergency communication center trunk phone lines. (Ord. 711, November, 1992)

8.08.4060 TRAINING REQUIREMENTS

The holder of an alarm system permit shall be responsible for training and retraining of employees, family members, and other persons who make regular use of the protected premises and who may, in the normal course of their activities, be in a position to accidentally trigger an alarm device. Such training shall include procedures to avoid accidental alarms and steps to follow in the event the system is accidentally triggered. (Ord. 711, November, 1992)

8.08.4070 MAINTENANCE AND REPAIR RESPONSIBILITY

The holder of an alarm system permit shall, at all times, be responsible for the proper maintenance and repair of the system and for the repair or replacement of any component, method of installation, design feature, or like condition which may give rise to a false alarm. (Ord. 711, November, 1992)

8.08.4080 TESTING OF SYSTEMS

All alarm system testing shall be conducted in accordance with the following: All service and tests of any alarm system that may result in transmission of alarm signals to the emergency communication center shall be conducted only after notification to the emergency communication center of the intention to conduct such service or tests. Failure to so notify will result in a false alarm assessment. (Ord. 711, November, 1992)

8.08.4090 FIRE DRILLS: PRIOR NOTIFICATION REQUIRED

Fire drills that incorporate activation of the alarm system with resultant transmission of alarm signals to the emergency communication center shall not be conducted without prior notification to the emergency communication center. (Ord. 711, November, 1992)

8.08.5100 RESPONSIBILITY FOR ALARM DEACTIVATION

All permit holders shall furnish and update names and phone numbers of at least two responsible persons having access to the premises who may be notified to assist

personnel in the event the alarm is activated. (Ord. 711, November, 1992)

8.08.5110 SOUND LIMITATIONS

Local alarms other than fire alarms shall not make a sound similar to that of sirens on emergency vehicles or of civil defense warning systems. Owners of local alarms shall be responsible to maintain and turn the alarm system off in case of malfunction, and are subject to Section 8.08.570 of this chapter. No local alarm sounding device shall sound for more than five minutes and shall incorporate an automatic cutoff. (Ord. 711, November, 1992)

8.08.5120 PERMIT: REQUIRED

No person shall install, use, or maintain any alarm system without first obtaining a permit for such system from the eCity. Systems approved and installed prior to the adoption of this chapter shall be governed by such rules and regulations contained in this chapter. (Ord. 711, November, 1992)

8.08.5130 PERMIT: APPLICATION, ISSUANCE

1. Each application for an alarm system permit shall be made on a form prescribed by the city.
2. Each permit application shall be accompanied by the fee ~~prescribed in Section 8.08.540~~ set by Stayton City Council Resolution. ~~of this chapter.~~
3. Upon receipt of the permit application and fee, the city shall undertake such investigation as is deemed necessary. If it appears that the proposed system will comply with the provisions of this chapter and any other applicable rules and regulations, the city shall issue to the applicant a permit bearing an identifying number and specifying the type of alarm system for which it is issued. (Ord. 711, November, 1992)

8.08.5140 FEE SCHEDULE

The alarm system fees designated in Title 8 shall be set by Stayton City Council Resolutions ~~as follows~~ and are not refundable:

1. The initial fee for a permit application is set by Stayton City Council Resolution ~~\$20.00~~.
2. An additional ~~-\$25.00~~ charge shall be assessed in addition to the initial permit application fee ~~provided in subsection 1. of this section~~ if a user fails to obtain a permit prior to activation of the alarm.

~~3. Fees shall be subject to revisions by ordinance of the city council over time as conditions merit.~~

~~4.~~

3. False Alarm Fees will be charged based on the number of false alarms received per year. There is no charge for the first five false alarms. False Alarm fees are set by Stayton City Council Resolution and may go up incrementally based on the number of false alarms received per year at a given location.:

~~a. First Five false alarms during the permit year, no charge;~~

~~b. For the sixth through fifteenth false alarms, \$25.00 per alarm;~~

~~c. For each false alarm call after the fifteenth, \$50.00 per alarm. (Ord. 732, '3, October 1994)~~

8.08.5150 PERMIT: GROUNDS FOR REVOCATION

1. The following shall be grounds for revoking any permit issued pursuant to this chapter:

a. Any false or incomplete statement made on the permit application;

b. Substantial alteration of alarm transmitting devices other than those approved at the time of the permit application;

c. Testing or deliberate activation of the alarm system without following the provisions set forth in sections 8.08.480 and 8.08.490 of this chapter;

d. Failure to properly maintain the system;

e. Failure to pay a false alarm fee as prescribed in Section 8.08.540 of this chapter within thirty days of demand. Noncompliance shall subject the protected property to a lien on the property, as well as to the penalties prescribed in Section 8.08.590 of this chapter.

f. Any permit for an alarm system that has ten or more false alarms within a permit year- may be revoked and the system shall be disconnected.

2. An alarm user shall immediately discontinue use of the alarm system upon being notified by certified mail of the revocation of the permit. (Ord. 711, November, 1992)

8.08.5160 PERMIT: APPEALS

Any party whose alarm system permit has been revoked under SMC Section 8.08.550 of this eChapter may appeal ~~the~~ at action to the Stayton eCity eCouncil by giving written notice to the eCity aAdministrator within thirty days after receipt of the notice of revocation. The filing of a notice of appeal shall stay the action appealed until

disposition of the appeal by the eCouncil. (Ord. 711, November, 1992)

8.08.5170 FALSE ALARMS

As a condition of any alarm system permit issued under the provisions of this chapter and for maintenance of any similar system installed prior to adoption of this chapter, the permittee shall pay the city fees for false alarms generated by the permittee's alarm system according to the schedule in Section 8.08.540 of this chapter. (Ord. 711, November, 1992)

8.08.5180 RESERVED

8.08.5190 VIOLATION: PENALTY

1. A violation of a provision of this chapter is punishable by a fine ~~not to exceed \$500.00~~adopted by Stayton City Council Resolution.
2. In addition to other remedies and fees provided for in this chapter, any person authorized to enforce the provisions of this chapter may issue an-enforcement complaint, as defined in section 6.04.020, to any person found in violation of the provisions of this chapter. (Ord. 711, November, 1992)

CHAPTER 8.12

USE OF PUBLIC PARKS, PUBLIC PROPERTY, AND WATERWAYS

SECTIONS

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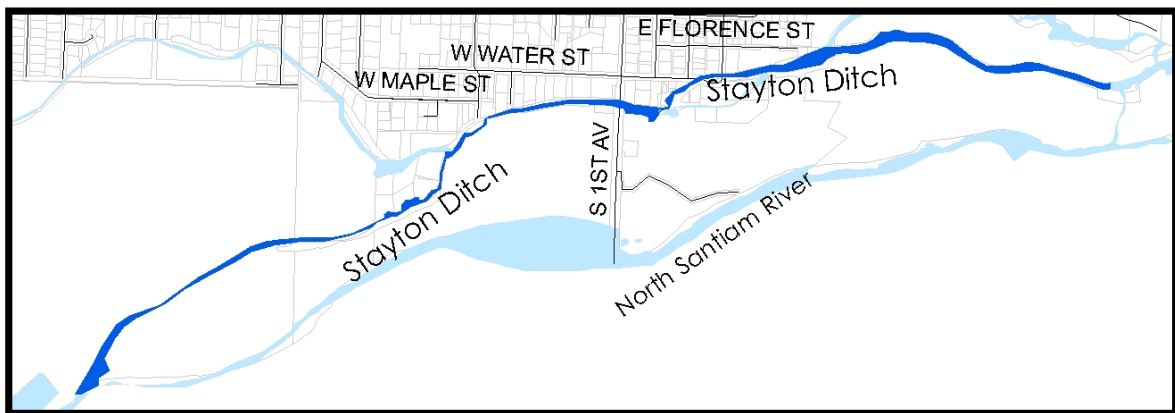
8.12.~~62~~010 DEFINITIONS

As used in this Chapter, the following mean:

1. **CAMP:** To set up or to remain in or at a campsite.
2. **CAMPSITE:** Any place where any bedding, sleeping bag, or other material used for bedding purposes, or any stove or fire is placed, established, or maintained for the purpose of maintaining a temporary place to staylive, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.
3. **CITY:** City of Stayton, Oregon
4. **PARK:** Real property owned, managed, or leased by the City of Stayton for recreational purposes, other than dedicated rights-of-way. (Ord. 936, July 05, 2011)
5. **PUBLIC PROPERTY:** A sidewalk, street, alley, public right-of-way, park, building, structure, any other publicly owned land, waterway, or facility. (Ord. 933, March 07, 2011)
6. **RECREATION VEHICLE:** A vacation trailer or other vehicular or portable unit which is either self-propelled, carried, or towed by a motor vehicle and which is intended for human occupancy and is designed for vacation or recreational purposes but not a permanent residence. Recreational vehicles also include travel trailers, motorhomes, campers, boats, boat trailers, snowmobiles, all-terrain vehicles (ATVs), and trailers designed primarily to carry ATVs or snowmobiles. Recreational vehicles do not include utility trailers or canopies. (Ord. 933, March 07, 2011; Ord. 711, November, 1992)
7. **POWER CANAL a waterway (Reid Power Canal).** See Stayton Ditch. (Ord. 933, March 07, 2011)
8. **STAYTON DITCH a waterway, also known as POWER CANAL or REID POWER CANAL.** The Stayton Ditch is the waterway which flows west from the N. Santiam

River dividing the Wilderness Area Park from the Riverfront Park in Stayton. The Stayton Ditch flows from the North Santiam River west to First Ave in Stayton, crossing First Ave flowing back into the N. Santiam River, as illustrated below. (Ord. 933, March 07, 2011)

9. **SMOKING:** Any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant or other tobacco or tobacco-like product or substance in any manner or any form. (Ord. 936, July 05, 2011)
10. **TOBACCO PRODUCT:** Any tobacco, cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco, or any other means of ingestion. (Ord. 936, July 05, 2011)
11. **TOBACCO USE:** Smoking, chewing or other ingestion of any tobacco product. (Ord. 936, July 05, 2011)



8.12.63020 CAMPING PERMIT

1. No person shall camp in or upon any public property ~~or~~ or under any bridge unless a permit is obtained from the Chief of Police or designated representative or by declaration of the Mayor in emergency circumstances. An application shall be filed with the City for each RV, tent, or campsite. (Ord. 933, March 07, 2011)
2. The Chief of Police or designated representative may issue a permit to any person to park a recreational vehicle (RV) or to camp upon any public property. A permit issued under this section shall be issued when the Chief of Police or designated representative finds that the following criteria will be met. (Ord. 933, March 07, 2011)
 - a. The applicant has made arrangements for appropriate sanitary facilities and drinking water; (Ord. 933, March 07, 2011)
 - b. The proposed activity for which the permit is issued is not likely to disturb the peace and quiet of any person; ~~and~~; (Ord. 933, March 07, 2011)
 - c. The proposed activity is unlikely to result in litter, trash, garbage, sewage, or other unsanitary material being placed or left on public property; and, (Ord. 933, March 07, 2011)

d. A permit shall not be issued for camping in a public park unless it is in conjunction with another City approved event, such as a festival in the park and does not interfere with the needs of the City such as normal city services. (Ord. 933, March 07, 2011)

3. The permit may be granted for up to ten days. A permit shall not be issued to the same applicant more than once in any thirty-day period. (Ord. 933, March 07, 2011)

| 8.12.64030 PARK HOURS

Public parks of the City shall be closed to access and use by the public between the hours of 10:00 p.m. and 6:00 a.m. unless a permit has been issued by the Chief of Police or designee or a facility use permit has been issued by the City. (Ord. 933, March 07, 2011)

| 8.12.65040 PROHIBITED BEHAVIOR IN PUBLIC PARKS, PUBLIC PROPERTY, AND FACILITIES

1. No person shall make, assist in making, continue, or cause to be made any boisterous, disturbing, threatening, abusive, indecent, or obscene language or gestures; or unnecessary noise; or by any other act to breach the public peace; or annoy, disturb, injure, or endanger the comfort, repose, health, safety, welfare, or peace of others while in any park or public facility in accordance with the State Disorderly Conduct laws. (Ord. 933, March 07, 2011)
2. No person shall blow, spread, or place any nasal or other bodily discharge, or spit, urinate, or defecate on the floors, walls, partitions, furniture, fittings, or any portion of a public restroom located in any park, or in any place in a public restroom or public facility, excepting directly into the particular fixture provided for that purpose.
3. No person shall damage or do anything that will or could cause damage to the public parks, public property, waterways, and facilities. (Ord. 933, March 07, 2011)
4. No person shall use the City's recreational equipment and facilities for activities other than their intended or approved purpose or in a way that could cause damage to them.
5. Smoking of ~~T~~tobacco, marijuana, or any other substances including E-Cigarettes and use of smokeless tobacco-use is prohibited at any eCity-owned ~~parks~~ property, park and facilities. (Ord. 936, July 05, 2011)
6. Fires are not permitted except in designated fire rings or barbeque stands.
7. No person shall enter into, put anything into, or cause anything to end up into the waterway known as the Stayton Ditch.
8. No person shall swim, float, kayak, raft, boat, fish, wade, play in or participate in any similar recreation activity in the Stayton Ditch. (Ord. 933, March 07, 2011)

9. The Stayton Ditch may be accessed for official use such as by the City of Stayton, Santiam Water Control District, Stayton Fire District, or other governmental or public safety organizations. (Ord. 933, March 07, 2011)

8.12.050 PROHIBITING CONSUMPTION OF ALCOHOLIC BEVERAGES ON PUBLIC PROPERTY

No person shall drink or consume alcoholic beverages in or upon any public street or sidewalk, alley, public grounds, parks, City-owned facilities and properties, except when a permit for that purpose has been issued pursuant to this SMC or a business establishment has received OLCC approval for an outdoor eating area. (Ord. 921, April 05, 2010; Ord. 760, '1, April 1996)

- a. Upon application to the City, the City Administrator, or designee may grant a revocable facility use permit to responsible persons or organizations for an event or activity at which alcoholic beverages may be served and consumed in City-owned facilities or on City property. (Ord. 921, April 05, 2010)
- b. The City Council shall adopt rules governing facility use permits by Resolution. (Ord. 921, April 05, 2010; Ord. 899, October 01, 2007; Ord. 871, November 22, 2004)
- c. The Stayton Police may issue an ordinance violation citation for violating the Facility Use Rules which also may include revoking the "Facility Use" permit

8.12.660060 EXCLUSION OF PERSONS FROM PARKS AND PUBLIC FACILITIES

1. If there is probable cause to believe that a person has violated the Stayton Municipal Code, ~~Chapters Titles 6 or 8, 04, 8.12, 9.04, 9.08, 9.20, 9.24, 9.28, 9.36, or Chapters 10.04, or 10.12,~~ or any related state law, while in a public park or ~~public park~~ facility, that person may be excluded from ~~the any or all parks or public facility where the incident occurredies. Public property may include City owned parks and facilities, City business offices, community center, and library~~ for a period of not more than thirty (30) days in accordance with the following procedure: ~~(Ord. 933, March 07, 2011; Ord. 874, section 23, 2004)~~
 - a. Written notice shall be given to the person to be excluded from a park or public facility. The exclusion period shall take immediate effect.
 - b. The notice shall prominently specify the beginning and ending dates of the exclusion period.
 - c. The notice shall specify the location(s) they are excluded from which is based on the original offense location. The exclusion location shall only reflect the location of the original offense. For example: If the person commits a crime in the park they should only be excluded from the park(s) and not the Stayton Pool or the Community Center.

- d. The notice shall prominently display a trespass warning describing the potential consequences of unlawful behavior after receipt of an exclusion notice and for entering a park, public property or facility during the exclusion period. (Ord. 933, March 07, 2011)
- e. At any time within the exclusion period, a person having received a notice may apply in writing to the Chief of Police or designee for a temporary waiver from the exclusion for good reason shown. Good reason may include but not limited to such things as employment purposes, first amendment activities, a funeral or wedding. The Chief of Police will have 48 hours to make a decision on the waiver. (Ord. 933, March 07, 2011; Ord 720, §1, August 1993)
- f. The excluded individual may appeal the exclusion to the Stayton Municipal Court which shall hear the appeal at the next available Municipal Court hearing date. The Municipal Court may overturn the exclusion, agree with the exclusion or extend the exclusion. The Municipal Court decision is final. The exclusion is valid during the time of the appeal.
- g. 8.12.660 This Section shall does not apply to City--owned properties with long term lease by a business organization, such as the movie theater and/or the Moose Lodge. Those properties are considered to be privately controlled.
- h. If a person is excluded from City business offices, reasonable accommodations will be made for legitimate City business to be conducted.
- d. _____

8.12.6070 EMERGENCY CLOSURE OF PUBLIC PROPERTIES, PARKS, AND WATERWAYS

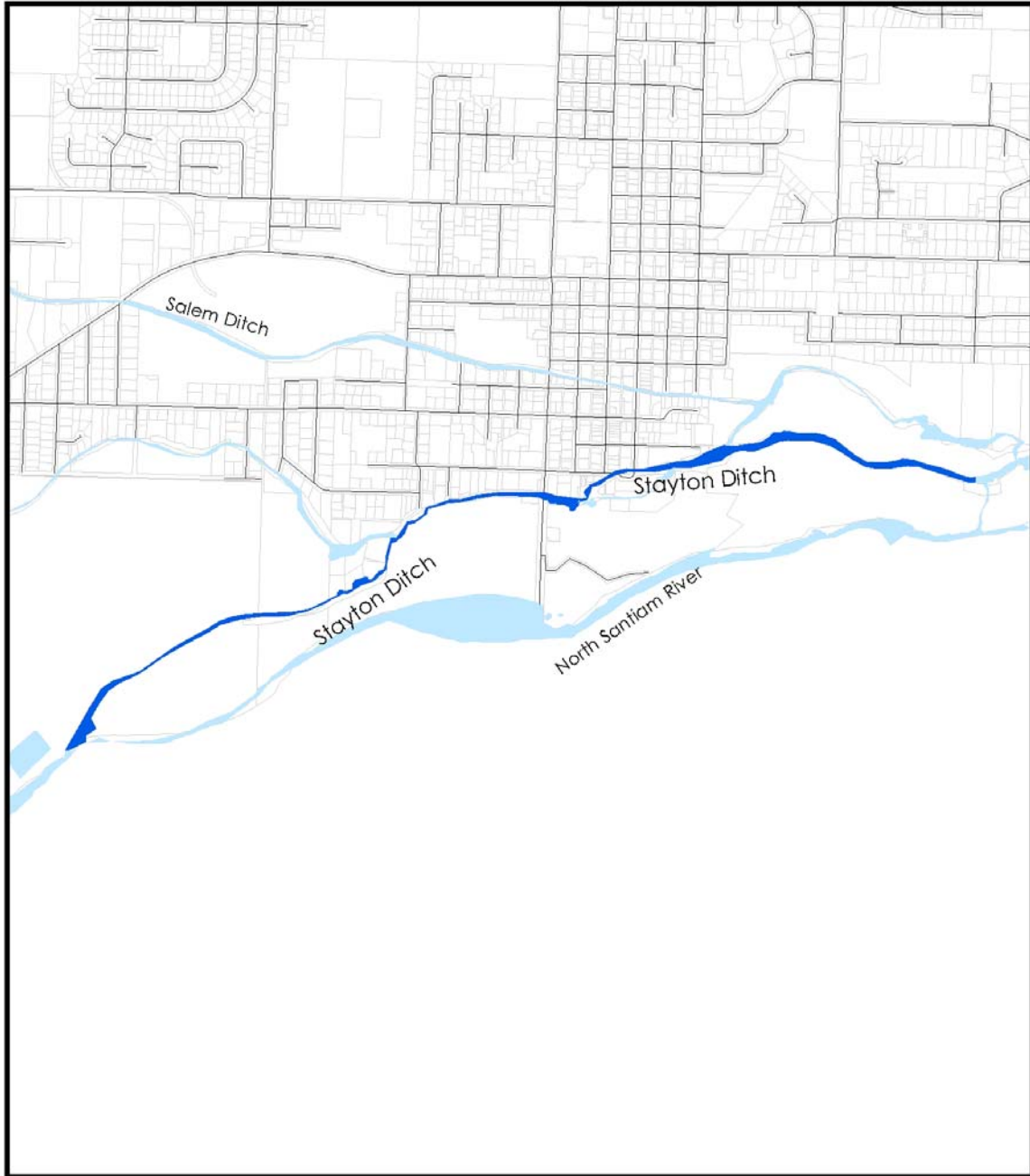
- 1. ~~Stayton's The~~ Police Chief or designee may close a public property, park, waterway or part thereof, at any time by erecting barricades, signs, locking mechanisms or other appropriate measures prohibiting and barring access to any such public property, park, waterway or part thereof, at appropriate locations. Notice that any public property, park, waterway or part thereof, is closed shall be posted at appropriate locations during the period of such closure. (Ord. 933, March 07, 2011)
- 2. ~~Stayton's The~~ Police Chief or designee may close any public property, park, waterway, or any part thereof, in accordance with this section, in the interest of public safety, health, and welfare in the event conditions exist in or near that premises which involve any of the following circumstances: (Ord. 933, March 07, 2011)
 - a. Life or ~~property appear~~ properties appear to be endangered and other means cannot reasonably be utilized to eliminate the danger;
 - b. An overcrowding of persons or vehicles has occurred, impairing access of emergency assistance or emergency vehicles;
 - c. The subject premises or other property located near the premises reasonably appears to be endangered; (Ord. 933, March 07, 2011)

- d. Persons making, assisting in making, continuing, or causing to be made any boisterous, disturbing, threatening, abusive, indecent, or obscene language or gestures, or unnecessary noise, or by any other act to breach the public peace; or annoying, disturbing, injuring, or endangering the comfort, repose, health, safety, welfare, or peace of others in any park, public facility, or waterway and is of such consequence that cessation of the disturbance cannot otherwise be accomplished; (Ord. 933, March 07, 2011)
 - e. A hazardous condition exists;
 - f. That violation(s) of criminal offenses or ~~ordinances code~~ is occurring and is caused by sufficient numbers of persons, or is of such consequence that cessation of the disturbance cannot otherwise be accomplished; or, (Ord. 933, March 07, 2011)
 - g. Other conditions exist such that the safety or protection of persons or property cannot reasonably be assured. (Ord. 933, March 07, 2011)
3. During the closure of a park, public premises or waterway, or portion thereof, in accordance with this ~~section~~ chapter, it shall be unlawful for any person to enter upon the premises, or any part thereof, that has been closed, or to remain in the premises, or part thereof, after having been notified of the closure and having been requested to leave by a an authorized authority. (Ord. 933, March 07, 2011)
 4. Such emergency closure shall not exceed 18 hours without the written approval of the City Administrator. (Ord. 933, March 07, 2011; Ord 720, §1, August 1993)

8.12.6080 VIOLATION: PENALTY

1. A violation of a provision of this chapter is punishable by a fine ~~not to exceed \$500.00 per day. (approved by Stayton City Council Resolution Ord. 933, March 07, 2011)~~
2. In addition to the remedies and fees provided for in this Chapter, any person authorized to enforce the provisions of this ~~C~~chapter may issue an enforcement complaint, as defined in section 6.04.020, to any person found in violation of the provisions of this ~~C~~chapter. (Ord. 933, March 07, 2011; Ord. 711, November, 1992)
3. If there is probable cause to believe a person has violated provisions of ~~8.12~~ this Chapter, constituting a crime under Oregon Revised Statutes that person may be prosecuted accordingly, and if convicted, fined accordingly. (Ord. 933, March 07, 2011)

Exhibit A. Location of Stayton Ditch



~~CHAPTER 8.16~~

~~CONTROL OF INSECT PESTS SECTIONS~~

~~8.16.710 Prohibited Generally~~

~~8.16.720 Definitions~~

~~8.16.730 Control Methods~~

~~8.16.740 Pest Control Officer: Appointment, Authority~~

~~8.16.750 Pest Control Officer: Right of Access~~

~~8.16.760 Abatement Procedures~~

~~8.16.770 Violation Generally~~

~~8.16.780 Abatement as Additional Remedy and Other Remedies~~

~~8.16.790 Exemptions~~

~~8.16.800 Penalty~~

~~8.16.710 PROHIBITED GENERALLY~~

~~No owner or person in charge of property shall fail to control insect pests on host plants or host trees on his property. (Ord. 711, November, 1992)~~

~~8.16.720 DEFINITIONS~~

~~**HOST PLANTS AND HOST TREES:** As used in this chapter, host plants and host trees include all conifer trees and ornamental shrubs including rhododendrons, azaleas, camellias, and any other plant or shrub designated by the Oregon Department of Agriculture or Oregon State University Extension Service upon or around which root weevils live, feed, or reproduce.~~

~~**INSECT PESTS:** As used in this chapter, insect pests include the strawberry root weevil, *Otiorhynchus ovatus* L., and all other weevils in the species *Otiorhynchus*. (Ord. 711, November, 1992)~~

~~8.16.730 CONTROL METHODS~~

~~Insect pests on all host plants and host trees, including but not limited to host plants and host trees on commercial or semi-commercial tree farms, orchards, private residential property, public property, and abandoned property within the control area shall be controlled by the following control methods:~~

~~1. Control by spraying: Host plants and host trees shall, subject to subsection 3. of this section, be sprayed by the owner or person in possession thereof by using the agricultural chemicals or pesticide formulations at the rate, at the times, and in the manner recommended by Oregon State University (whether by its own publications, approval of other publications, or otherwise) or the Oregon Department of Agriculture.~~

~~2. Control or removal of host plants or trees: If control spraying is not possible or practicable, the pest control officer may, by written order delivered or mailed to the owner or the person in possession of property, direct that the host plants or host trees be removed and/or destroyed. The only approved methods for removal and destruction of host plants or host trees is as follows:~~

~~a. Digging out of trees or plants and their complete root structures;~~

~~b. Cutting down the trees or plants and thereafter treating the remaining stump and root systems thereof with an effective chemical to prevent their regrowth or resprouting.~~

~~3. Other methods of control: As necessary or at the request of a property owner or possessor, the pest control officer may authorize other methods of control as deemed effective by qualified experts such as the Oregon Department of Agriculture or Oregon State University. (Ord. 711, November, 1992)~~

~~8.16.740 PEST CONTROL OFFICER: APPOINTMENT, AUTHORITY~~

~~1. The chief of police shall appoint a pest control officer who shall enforce the provisions of this chapter.~~

~~2. The pest control officer shall work under the direction of and be responsible to the chief of police. (Ord. 711, November, 1992)~~

~~8.16.750 PEST CONTROL OFFICER: RIGHT OF ACCESS~~

~~In order to determine whether the provisions of this chapter have been complied with by the persons obligated to do so, the pest control officer or designate may inspect any field, orchard, private residential property, public property, or abandoned property within the control area at reasonable times in accordance with Chapter 1.24 of this code and shall not be subject, civilly or criminally, to liability for trespass. (Ord. 711, November, 1992)~~

~~8.16.760 ABATEMENT PROCEDURES~~

~~Violation of this chapter shall be considered a public nuisance which may be abated as provided in this subsection.~~

~~1. The city pest control officer or designate may, and upon the written complaint of any person shall, make an investigation to determine whether a violation of this chapter exists.~~

~~2. The nuisance may be abated in accordance with the sections 8.04.240 to 8.04.300 of this code. (Ord. 711, November, 1992)~~

~~8.16.770 VIOLATION GENERALLY~~

~~It is a violation of this chapter for any owner or possessor of public or private property to fail to control insect pests on host plants or host trees on his property as required by this chapter. (Ord. 711, November, 1992)~~

~~8.16.780 ABATEMENT AS ADDITIONAL REMEDY AND OTHER REMEDIES~~

~~1. The abatement of a nuisance is not a penalty for violating this chapter, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance; however, abatement of a nuisance within the time set by the notice to abate, or if a written protest has been filed, then abatement within ten (10) days of council determination that a nuisance exists, will relieve the person responsible from the imposition of any fine for such nuisance.~~

~~2. Other remedies: In addition to any remedies provided in this chapter, the city council may institute any available remedial proceedings (e.g., injunction, mandamus, abatement, or any other appropriate proceedings) to prevent, temporarily or permanently enjoin, abate, or remove any activity or use of real or personal property which it has reasonable cause to believe does or will violate this chapter. (Ord. 711, November 1992; Ord. 874, section 24, 2004)~~

~~8.16.790 EXEMPTIONS~~

~~1. There shall be an exemption from the provisions of this chapter for the conducting of accepted scientific experiments by Oregon State University or its designate on test plots.~~

~~2. Should any such experiments cause complaints, the pest control officer shall contact Oregon State University, which shall take action to alleviate the complaint. (Ord. 711, November, 1992)~~

~~8.16.800 PENALTY~~

~~1. A violation of sections 8.16.710 through 8.16.760 of this chapter shall be punishable as an infraction by a fine not to exceed \$500.00.~~

~~2. In addition to other remedies and fees provided for in this chapter, any person authorized to enforce the provisions of this chapter may issue an enforcement complaint as defined in section 6.04.020, to any person found in violation of the provision of this chapter. (Ord. 711, November, 1992)~~

CHAPTER 8.20

CHRONIC NUISANCE PROPERTY ORDINANCE

SECTIONS

8.20.010	Title of Provisions
8.20.020	Incorporation of State Statute and Stayton Municipal Code
8.20.030	Definitions
8.20.040	Chronic Nuisance Property
8.20.050	Pre-filing Notification Procedure
8.20.060	Compliance Agreement with Responsible Party(ies)
8.20.070	Commencement of Actions; Summons and Complaint
8.20.080	Remedies; Fines; Civil Penalty; Enforcement Order
8.20.090	Defenses; Mitigation
8.20.100	Emergency Remedy
8.20.110	Costs; Lien
8.20.120	Attorney Fees
8.20.130	Severability
8.20.140	Nonexclusive Remedy

8.20.010 TITLE OF PROVISIONS

This chapter shall be known as the ~~A~~Chronic Nuisance Property ~~Ordinance~~Code.~~@~~ (Ord. 809, February, 2000)

8.20.020 INCORPORATION OF STATE STATUTE AND STAYTON MUNICIPAL CODE

Repealed. (Ord. 874, section 25, 2004)

8.20.030 DEFINITIONS

As used in this ordinance, the following definitions apply:

1. **CHIEF OF POLICE:** means the Chief of the Stayton Police Department or designee.
2. **CITY ADMINISTRATOR:** means the City Administrator of the City of Stayton or designee.
3. **CHRONIC NUISANCE PROPERTY:** means real property premises (including industrial, commercial or residential buildings), herein also referred to as the ~~A~~property,~~@~~ ~~A~~premises~~@~~ or ~~A~~subject property,~~@~~ upon,

near (as hereinafter described in this section) or in which three or more distinct occurrences of any of the below listed prohibited acts or behaviors (as defined in Oregon law or the SMC) occur, or the patrons, employees, residents, owners or occupants thereof engage in three or more of said prohibited acts or behaviors on the property, or, in relation to the property within 400 feet of the property, during any 90 consecutive day period. The victim of a crime should not be held responsible for incidents that occur at the location when considering enforcement of this Section~~of the SMC~~:

- A. All Crimes against Persons
- B. The following Crimes and Violations against Society will include:
 - a. Dangerous Animal
 - b. Disorderly Conduct
 - c. Drug crimes and violations
 - d. Furnishing Alcohol to a Minor
 - e. Minor in Possession of Alcohol
 - f. Custodial Interference
 - g. Prostitution
 - h. Public and Private Indecency
 - i. Unnecessary Noise
 - j. Weapons and Firearms including Discharge of Weapons in the City
- C. Property Crimes and Violations in which the “Chronic Nuisance Property” in question is directly involved in the crime such being the location where stolen property is stored or stolen property transactions are conducted, or where arson/reckless burning has occurred, graffiti etc.

~~A. Criminal Homicide (or Attempt) ORS 163.005~~

~~B. Rape in the First Degree ORS 163.375~~

~~C. Menacing ORS 163.190~~

~~D. Intimidation ORS 166.155 166.165~~

~~E. Harassment ORS 166.065~~

~~rly Conduct ORS 166.025~~

- ~~F. Disorder~~
- ~~G. Discharge of Weapons—ORS 166.630 et seq.—
(See ORS 166.172 re.
—city regulation.)~~
-
- ~~H. Unnecessary Noise (SMC, Title 8—HEALTH & SAFETY, Section 8.04.140 Noise & Vibrations);~~
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- ~~I. Drinking in Public Places (SMC, Title 8—HEALTH & SAFETY, Section 8.04.055-
Prohibited Consumption of Alcoholic Beverages on Public Property);~~
-
- ~~J. Minor in Possession of Alcohol—ORS 471.430~~
-
- ~~K. Assault—ORS 163.160—163.185~~
-
- ~~L. Sexual Abuse—ORS 163.415—163.427~~
-
- ~~M. Public Indecency—ORS 163.465~~
-
- ~~N. Public Indecency (SMC, Title 9—PUBLIC PEACE & WELFARE, Section 9.20.410-
Public Urination or Defecation);~~
-
- ~~O. Criminal Mischief—ORS 164.345—164.365~~
-
- ~~P. Criminal Mistreatment—ORS 163.200—163.206~~
-
- ~~Q. Criminal Trespass—ORS 164.243—164.255~~
-
- ~~R. Unlawful Use of a Weapon—ORS 166.220~~

4. CODE: City of Stayton Municipal Code (aka SMC)

5. **OWNER:** means the person(s) (including individual(s), corporation, partnership or other entity) having legal or equitable title to the property. Property means any real property and any improvement thereon incidental or appurtenant, including but not limited to any room, apartment, house, building, structure or any separate part or portion thereof, whether permanent or not.

6. **RESPONSIBLE PARTY** includes:

A. The owner of the property, or the owner/s manager or agent or other person or entity in control of the property on behalf of the owner; and/ or,

B. The person or entity occupying the property, including a bailee, lessee, tenant or other

having possession.

- C. Responsible party for a specific property shall be presumed from the following:
 - a. The owner and the owner/s agent, as shown on the Assessors tax rolls of Marion County.
 - b. The resident or occupant of the property, as shown on the records (including utilities records) of the City of Stayton.

- 7. **COURT:** means a court of competent jurisdiction, which may address the respective issue.

8.20.040 CHRONIC NUISANCE PROPERTY

- 1. The behavior, acts or omissions described in this ~~Chapter~~Ordinance are hereby declared to be nuisances and if they commonly reoccur in relation to a specific property, such property may be declared chronic nuisance property, thereby requiring the application of remedies set out in this ~~Ordinance~~Chapter.
- 2. Any property within the City of Stayton, which is found to be a chronic nuisance property, shall be in violation of this Ordinance and subject to its remedies.
- 3. Any person who is a responsible party for property, which is deemed a chronic nuisance property, shall be in violation of this ~~Ordinance~~Chapter and subject to its remedies.

8.20.050 PRE-FILING NOTIFICATION PROCEDURE

After two occurrences on or near (as defined in this ~~Ordinance~~Chapter) the property, of any of the prohibited acts or behaviors listed in this Ordinance, within a consecutive 90-day period, the Chief of Police or designee shall provide notification, via certified mail, return receipt requested, to all known responsible parties for the property, stating the times and places of the alleged occurrences and the potential liability for violation of this ~~Ordinance~~Chapter. The City Administrator and City Attorney shall be provided copies of the notice.

8.20.060 COMPLIANCE AGREEMENT WITH RESPONSIBLE PARTY(IES)

- 1. -After providing notification to all known responsible parties, the Chief of Police or designee has the authority to solicit and obtain, on behalf on the

City, a voluntary agreement with the party(ies) to comply with the provisions of ~~this OrdinanceChapter~~ (~~A compliance agreement~~). The compliance agreement shall be in writing and signed by all known responsible parties and the Chief of Police or designee on behalf of the City; a copy thereof shall be provided to the City Administrator.

2. In proposing the compliance agreement, the Chief of Police or designee shall consider the factors outlined in Section 8.20.090(2) below.
3. The compliance agreement is strictly remedial in nature and shall not be interpreted to limit in any manner the authority of the City to commence an action against any responsible party or another for a violation of any provision of the Stayton Municipal Code or Oregon law.
4. If the compliance agreement is not followed as agreed, the City may proceed with civil action as provided in this ~~OrdinanceChapter~~ or the provisions of the ORS or the Stayton Municipal Code.

8.20.070 COMMENCEMENT OF ACTIONS; SUMMONS AND COMPLAINT

1. In the event there occurs on or near (as defined in this ~~OrdinanceChapter~~) the property three or more continued prohibited acts or behavior as listed in Section 8.20.030 of this ~~OrdinanceChapter~~, contrary to the terms of the compliance agreement and/or in violation of this Ordinance, the Stayton City Council shall be advised and, upon deliberation, may direct that the City proceed to initiate court action pursuant to the provisions of this ~~OrdinanceChapter~~ or take such other action as the Council deems appropriate.
2. Except as otherwise noted, the procedures to be used in processing a violation under this ~~OrdinanceChapter~~ are contained in SMC Title 1: GENERAL PROVISIONS, Ch. 1.32 General Penalty and Title 2: ADMINISTRATION AND PERSONNEL, Ch. 2.20 Municipal Court.
3. Subject to the provisions of SMC Title 1: GENERAL PROVISIONS, Sections 1.32.970, Violation: Penalty, 1.32.980, Each Act a Separate Violation, and 1.32.990, Default of Payment, following the filing of an action in a court of competent jurisdiction, upon verification of proper service of process of the Summons and Complaint, and a prima facie presentation to the Court, a default judgment and order may be entered against a respondent who fails to duly appear before that court.

8.20.080 REMEDIES; FINES; CIVIL PENALTY; ENFORCEMENT ORDER

1. In the event the respondent(s) is found by a preponderance of the evidence to have violated this OrdinanceChapter, the court may, by judgment and order:
 - A. Require that the chronic nuisance property be closed against all use and occupancy for a period of not less than 30 days, but not more than 180 days; and/or,
 -
 - B. Assess a fine of not more than \$250.00 for each offense.
 -
 - C. Subsequent acts and behavior in violation of the provisions of this OrdinanceChapter, which occur within two years following the entry of any earlier judgment and order, may be actionable, at the direction of the City Council, and, if violation(s) of this OrdinanceChapter is established, the chronic nuisance property may be closed in accordance with this Section, and the court may impose a civil penalty of a fine of not more than one thousand dollars (\$1,000.00).
 -
 - D. In addition to above, the court may employ any other remedy provided by law, deemed by the court to be appropriate to abate the nuisance.
 -
 - E. In addition to the above, the court may assess costs and charges as described in Section 8.20.110.

2. In lieu of closure of the property, at the court's discretion, the respondent may be permitted to file a bond with the City that is acceptable to the court and subject to the court's satisfaction of the respondent's good faith commitment to abatement of the nuisance. Such bond shall be in the amount of at least \$500 and shall be conditioned upon the non-recurrence, for a period of one year after entry of the judgment, of any of the acts or behaviors listed in Section 8.20.030 of this OrdinanceChapter. Forfeiture of the bond is subject to court review and order.

3. The court may authorize the City to physically secure the subject property against use or occupancy, in compliance with the judgment or order, in the event the owner(s) or the responsible party(ies) fail to do so within the time specified by the court.

8.20.090 DEFENSES; MITIGATION

1. It is a defense to an action brought pursuant to this OrdinanceChapter, that the responsible party, the respondent, at the time the alleged action or behavior occurred, 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 determination that the property is a chronic nuisance property. The assertion that the party, the respondent, was not present at the property at the time the alleged acts or behavior occurred upon which the property was deemed chronic nuisance property, shall not, alone, be a defense to the action.

2. The court may consider any of the following factors, as appropriate, in its decision, and shall cite those found applicable:
 - A. The effort taken by the responsible party to mitigate or correct the alleged action or behavior which occurred at or near (as defined in this ~~Ordinance Chapter~~) and in relation to the property;
 - B. Whether the alleged action or behavior was repeated or continuous;
 - C. The magnitude or gravity of the alleged action or behavior; The cooperativeness of the responsible party with the City in causing the abatement of the alleged action or behavior;
 - D. The cost to the City of investigating and abating action or behavior or attempting to correct the condition; or,
 - E. Any other factor deemed by the court to be relevant.

8.20.100 EMERGENCY REMEDY

In addition to any remedy available to the City under this ~~Ordinance Chapter~~ or otherwise, in the event the City Administrator finds that a property or its use constitutes an immediate threat to the public safety and welfare, upon review and approval by the City Council, the City may apply to the court for such relief as is deemed appropriate.

8.20.110 COSTS; LIEN

1. The court may assess the property owner(s) and the responsible party(ies) the following costs incurred by the City in the proceeding:
 - A. Costs incurred in the actual physical securing of the subject property against use or occupancy, including, but not limited to, the cost of personnel, materials, medical costs, consulting fees, notices and equipment charges;
 - B. The City's investigative costs; and,
 - C. Administrative costs and attorney fees and costs (collectively

referred to as cost) incurred in pre-filing implementation of the abatement process, together with the cost of the initiation and conducting of the court action.

2. The City Administrator may, within 14 days of the court's entry of judgment and order against the respondent(s), submit a signed detailed statement of costs (including attorney fees) to the court for its review. If no objection to the statement is made within the period prescribed by Oregon Rules of Civil Procedure, Rule 67, the amount submitted shall become a part of the judgment and a lien against the subject premises. A copy of the judgment and the statement of costs, together with a verified designation of the address and legal description of the property, shall be forwarded to the Stayton City Recorder, who shall enter the same in the Stayton City Lien Docket.
3. Persons assessed the costs and/or civil penalty pursuant to this ~~Ordinance~~ Chapter shall be jointly and severally liable for the payment thereof to the City.

8.20.120 ATTORNEY FEES

In any action brought pursuant to this ~~Ordinance~~ Chapter, the court may, in its discretion, award reasonable attorney's fees to the prevailing party.

8.20.130 SEVERABILITY

If any provision of this ~~Ordinance~~ Chapter, or its application to any person or circumstance, is held to be invalid for any reason, the remainder of the ~~Ordinance~~ Chapter, or the application of its provisions to other persons or circumstances, shall not in any way be affected.

8.20.140 NONEXCLUSIVE REMEDY

The remedies described in this ~~Ordinance~~ Chapter shall not be the exclusive remedies of the City in enforcement of the prohibition of the acts and behaviors described in Section 8.20.030. (Ord. 809, February, 2000)

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTERS

<u>9.02</u>	<u>Definitions</u>
9.04	Adoption of State Law
9.08	Inchoate Offenses
9.12	Offenses By or Against Public Officers and Government
9.15	Inventory Searches
9.20	Offenses Against Public Decency
9.24	Offenses By or Against Minors
9.28	Weapons
9.32	Inhaling Toxic Vapors
9.36	Miscellaneous Offenses
9.40	Drug Paraphernalia
9.44	Violation: Penalty

CHAPTER 9.02

DEFINITIONS

SECTIONS

9.02.010 Definitions

9.02.010 DEFINITIONS

For the purposes of this title, the following words and phrases mean:

FELONY: A serious crime, usually punishable by at least one year in prison.

MISDEMEANOR: Criminal offenses for which the maximum penalty is a fine not to exceed \$6250 and/or incarceration not to exceed 1 year.

VIOLATION: Offenses for which there is no jail sanction as defined in ORS153.008.

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.08

INCHOATE OFFENSES

SECTIONS

9.08.~~4~~010 Soliciting and Conspiring to Violate eCode
9.08.~~4~~020 Attempt to Commit Offenses

9.08.~~4~~010 SOLICITING AND CONSPIRING TO VIOLATE CODE

No person shall in any way or manner aid, abet, solicit, counsel, advise, encourage, employ, or engage another or conspire with another to violate a provision of this Stayton Municipal Code~~title~~. (Ord. 711, November, 1992)

9.08.~~4~~020 ATTEMPT TO COMMIT OFFENSES

Any person who attempts to commit any of the offenses ~~cited~~ in this Stayton Municipal Code~~title~~, but who for any reason is prevented from consummating such act, shall be deemed guilty of an offense. (Ord. 711, November, 1992)

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.12

OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

SECTIONS

9.12.~~2010~~ Interference with Radio Communication System

9.12.~~2020~~ Disorderly Conduct at Fires

9.12.030 Interference with Police

9.12.040 Giving False Information to Police Officers

9.12.~~2010~~ INTERFERENCE WITH RADIO COMMUNICATION SYSTEM

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~~ public safety radio or emergency communication system. (Ord. 711, November, 1992)

9.12.~~2020~~ DISORDERLY CONDUCT AT FIRES

No person at or near a fire shall:

1. Obstruct or impede the fighting of the fire;
2. Interfere with fire department personnel or fire department equipment;
3. Behave in a disorderly manner; or,
4. Refuse to promptly observe ~~promptly~~ an order of a member of the fire or police departments. (Ord. 711, November, 1992)

9.12.030 INTERFERENCE WITH POLICE

1. No person shall interfere with a police officer in performance of the officer's duty.
2. "Interfere" includes but is not limited to:
 - a. Physical contact with a police officer, vehicle, animal, or item of police equipment when the contact substantially limits the officer's ability to act in an official capacity.
 - b. Verbal abuse or production of noise intended and sufficient to prevent a police officer from adequately communicating when communication is necessary for the duty being performed.
 - c. Electronic interruption or blocking of police communications.

TITLE 9. PUBLIC PEACE AND WELFARE

d. Mechanical or electronic disruption of effective use of police equipment, including, but not limited to, vehicle speed detection devices.

9.12.040 GIVING FALSE INFORMATION TO POLICE OFFICERS

It shall be unlawful for any person to knowingly and willfully give any false, untrue or misleading information with intent to obstruct justice, to a police officer while the officer is acting in an official capacity.

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.15

POLICE INVENTORY SEARCHES

SECTIONS

9.15.~~30~~10 _____ Granting Authority and Establishing Procedures for Inventory Searches

9.15.~~30~~20 _____ Definitions

9.15.~~30~~30 _____ Inventories of Impounded Vehicles

9.15.~~30~~40 _____ Inventories of Persons in Police Custody

9.15.~~30~~10 GRANTING AUTHORITY AND ESTABLISHING PROCEDURES FOR INVENTORY SEARCHES

Purpose. This Stayton Municipal Code “Chapter” is meant to exclusively apply to the process for conducting an inventory of the personal property in an impounded vehicle and the personal possessions of a person in police custody and shall not be interpreted to affect any other statutory or constitutional right that police officers may employ to search persons or search or seize possessions for other purposes.

9.15.~~30~~20 DEFINITIONS: FOR THE PURPOSE OF THIS ~~STAYTON MUNICIPAL CODE CHAPTER~~, THE FOLLOWING DEFINITIONS SHALL APPLY:

1. VALUABLES ~~means:~~
 - a. Cash in an aggregate amount of ~~\$50~~10. or more; or,
 - b. Individual items of personal property with a value of over ~~\$500~~200.
2. OPEN CONTAINER: ~~means a~~A container which is unsecured or ~~is not~~ completely secured in such a fashion that the container's contents are exposed to view.
3. CLOSED CONTAINER: ~~means a~~A container the contents of which are not exposed to view.
4. POLICE CUSTODY: ~~means either:~~
 - a. The imposition of restraint as a result of an arrest, as that term is defined in Oregon law or;
 - b. The imposition of actual or constructive restraint by a police officer pursuant to a court order; or,

c. The imposition of actual or constructive restraint by a police officer for purposes of taking the restrained person to an ~~approved~~ facility for the involuntary confinement of persons pursuant to Oregon law.

5. POLICE OFFICER: ~~means a~~Any peace officer, as defined by Oregon law who is employed by the Stayton Police Department or affiliated law enforcement agency.

9.15.3030 INVENTORIES OF IMPOUNDED VEHICLES.

1. The contents of all vehicles impounded by a police officer shall be inventoried. The inventory shall be conducted before constructive custody of the vehicle is released to a third-party for towing or otherwise, except under the following circumstances:

a. If there is reasonable suspicion to believe that the safety of either the police officer or another person is at risk, a required inventory shall be done as soon as safely practical; and,

b. If the vehicle is being impounded for evidentiary purposes in connection with the investigation of a criminal offense, the inventory shall be done after such investigation is completed.

2. The purposes for the inventory of an impounded vehicle are:

a. To locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel;

b. To locate toxic, flammable or explosive substances;

c. To promptly identify property to establish accountability and avoid spurious claims to property;

d. To assist in the prevention of theft of property, and the location and identification of stolen property;

e. To reduce the danger to persons and property; or,

f. To fulfill the requirements of Oregon law to the extent that ~~such law~~ may apply to certain property held by the police officer for safekeeping.

3. Inventories of impounded vehicles shall be conducted according to the following procedure:

a. An inventory of personal property and the contents of open containers shall be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, accessible

areas under or within the dashboard area, in any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats;

- b. In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers shall be conducted in the following locations:
 - i. Any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked vehicle trunks and unlocked car-top containers; and
 - ii Any locked compartments including, but not limited to, locked vehicle trunks, locked hatchbacks and locked car-top containers, if either the keys are available to be released with the vehicle to the third-party for towing or otherwise or an unlocking mechanism for such compartment is available within the vehicle.
- c. Unless otherwise provided in this ordinance, closed containers located either within the vehicle or any of the vehicles compartments will not be opened for inventory purposes.
- d. Upon completion of the inventory, the police officer shall complete an Inventory Report.
- e. Any valuables located during the inventory process shall be listed on a property receipt. A copy of the property receipt shall be left in the vehicle or tendered to the person in control of the vehicle if such person is present.

9.15.3040 INVENTORIES OF PERSONS IN POLICE CUSTODY.

- 1. A police officer shall inventory the personal property in the possession of a person taken into police custody and said inventory will occur:
 - a. At the time of booking; or,
 - b. At the time custody of the person is transferred to another law enforcement agency, correctional facility, or treatment facility as that phrase is used in Oregon laws or such other lawfully approved facility for the involuntary confinement of persons pursuant to Oregon laws.
- 2. The purposes for the inventory of a person in police custody are:
 - a. To locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel;
 - b. To locate toxic, flammable or explosive substances;

- c. To promptly identify property to establish accountability and avoid spurious claims to property;
 - d. To assist in the prevention of theft of property, and the location and identification of stolen property;
 - e. To reduce the danger to persons and property; or,
 - f. To fulfill the requirements of Oregon law to the extent that such law may apply to certain property held by the police officer for safekeeping.
3. Inventories of the personal property in the possession of persons in police custody shall be conducted according to the following procedures:
- a. An inventory shall occur at the time of booking. However, if reasonable suspicion exists to believe that the safety of either the police officer or the person in custody or both are at risk, an inventory will be done as soon as safely practical prior to the transfer of custody to another law enforcement agency or facility.
 - b. To complete the inventory of the personal property in the possession of such person, the police officer shall remove all items of personal property from the clothing worn by or in the possession of such person. In addition, the officer will also remove all items of personal property from all open containers in the possession of such person.
 - c. A closed container in the possession of such person will have its contents inventoried only when:
 - i. The closed container is to be placed in the immediate possession of such person at the time that the person is placed in the secured area of a custodial facility, police vehicle or secure police holding room; or,
 - ii. Such person requests that the closed container be kept by the person in the secure area of a police vehicle or a secure police holding room; or,
 - iii. The closed container is designed for carrying money and/or small valuables on or about the person, including, but not limited to, closed purses, closed coin purses, closed wallets and closed fanny packs.
 - iv. Valuables found during the inventory process shall be noted by the police officer in a report.
 - v. All items of personal property not left in the immediate possession of the person in custody nor left with the facility or agency accepting custody of the person shall be handled by preparing a property receipt listing the property to be retained

9.15 Police Inventory Searches

December 15, 2014

in the possession of the agency. A copy of that receipt will be tendered to the person in custody when such person is released to the facility or agency accepting custody of such person.

vi. All items of personal property not left in the immediate possession of the person in custody nor dealt with as provided in subsection v. above, will be released to the facility or agency accepting custody of the person so that it may:

- a. Hold the property for safekeeping on behalf of the
- b. person in custody; and,
- c. Prepare and deliver a receipt, if required by Oregon law of valuables held on behalf of the person in custody. (Ord. 862, April 06, 2004)

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.20

OFFENSES AGAINST PUBLIC DECENCY

SECTIONS

9.20.4010 Public Urination or Defecation

9.20.4020 Begging

9.20.4010 PUBLIC URINATION OR DEFECATION

No person shall, while in a public place or in view of a public place, perform an act of urination or defecation, except in enclosed toilets provided for that purpose. (Ord. 711, November, 1992)

9.20.4020 BEGGING

No person shall accost another in a public or private place for the purpose of soliciting alms. (Ord. 711, November, 1992)

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.24

OFFENSES BY OR AGAINST MINORS

SECTIONS

9.24. <u>5010</u>	Minors Nighttime Curfew
9.24. <u>5020</u>	Minors Daytime Curfew
9.24. <u>5030</u>	Responsibility of Parent or Guardian
9.24. <u>5040</u>	Enforcement
9.24. <u>5050</u>	Duty of Parent, Guardian or Custodian to Pick Up Violators
9.24. <u>5060</u>	Penalty – Violation by a Minor
9.24. <u>5070</u>	Penalty – Violation by Parent or Guardian

9.24.5010 MINORS NIGHTTIME CURFEW

1. No minor under the age of eighteen (18) years shall be in or upon any street, highway, park, alley or public way or place between the hours specified in subsection 2. and 3. of this section unless:
 - a. The minor is accompanied by a parent, guardian, or other person over 18 years of age and authorized by the parent or by law to have care and custody of the minor; or
 - b. The minor is engaged in a lawful pursuit or activity which requires the presence of the minor in such public places during the hours specified in this section; or
 - c. The minor is lawfully emancipated pursuant to Oregon Revised Statutes law ~~(ORS 419B.550 – 419B.558)~~. ~~(Ord. 874, section 28, 2004)~~
2. For minors under the age of sixteen (16) years, the curfew is between 10:00 p.m. and 6:00 a.m.
3. For minors sixteen (16) years of age or older, the curfew is between 12:00 a.m. and 6:00 a.m.

9.24.5020 MINORS DAYTIME CURFEW

1. No minor between the ages of seven (7) and eighteen (18) years, who has not completed the twelfth grade, shall be in or upon any street, highway, park, alley

TITLE 9. PUBLIC PEACE AND WELFARE

or public way or place during regular school hours except while attending school as required by state law unless:

- a. The minor is accompanied by a parent, guardian, or other person over 18 years of age and authorized by the parent or by law to have care and custody of the minor; or,
 - b. The minor is engaged in a lawful pursuit or activity which requires the presence of the minor in such public places during regular school hours and is authorized by the minor's parent, guardian, or other person having the legal care and custody of such minor; or,
 - c. The minor is lawfully emancipated pursuant to state law; or,
 - d. The minor is authorized and approved to be away from school as provided by state law, but is not suspended or expelled.
2. For the purposes of this section, regular school hours are those hours, for the full-time school, which the child would attend in the school district in which the child resides, on any day for which school is in session, unless such day is scheduled vacation or holiday observed by the school.

9.24.5030 RESPONSIBILITY OF PARENT OR GUARDIAN

1. No parent, guardian, or person having the care and custody of a minor under the age 18 years shall knowingly or negligently allow such minor upon a street, highway, park, alley, or other public way or place between the hours specified in Section 9.24.5010, except as otherwise provided in that section.
2. No parent, guardian, or person having care and custody of a minor between the ages of 7 and 18 years of age, who has not completed the twelfth grade shall knowingly or negligently allow such minor to be in or upon any street, highway, park, alley, or other public place during regular school hours except as otherwise provided in Section 9.24.5020.
3. For the purposes of Sections 9.24.5010 and 9.24.5020, a person negligently allows a violation of this Code Chapter if, in the exercise of reasonable diligence, the person knew or should have known that a violation would occur.

9.24.5040 ENFORCEMENT

1. Any police officer or any other law enforcement officer is hereby authorized and empowered to take charge of any person under the age of 18 years violating the provisions of Sections 9.24.5010, 9.24.5020 or 9.24.5030.

TITLE 9. PUBLIC PEACE AND WELFARE

2. It shall be the duty of any such officer taking charge of such person to thereafter notify the parent, guardian or authorized custodian that the minor will be held in the custody of the police officer until he or she can come and get such minor person.

3. For violations of Section 9.24.5020, a police officer, in lieu of holding the minor in custody for delivery to a parent, legal guardian or authorized custodian, may release the minor to the principal or designated official at the school at which the minor is enrolled.

9.24.5050 DUTY OF PARENT, GUARDIAN OR CUSTODIAN TO PICK UP VIOLATORS

It shall be unlawful and shall be considered a separate offense for any parent, guardian, or any other adult person having the legal care and custody of any person under the age of 18 years to refuse the bidding to come to the police officer and take the minor person to the minor's home immediately upon being notified by the police department as provided in Section 9.24.5040.

9.24.5060 PENALTY - VIOLATION BY A MINOR

Any minor who violates the provisions of this chapter may be taken into custody and may be subject to any proceedings available at law. (Ord. 874, section 29, 2004)

9.24.5070 PENALTY - VIOLATION BY PARENT OR GUARDIAN

1. A violation of Section 9.24.5030 shall be punishable as an infraction set by Council Resolution. ~~by a fine for each violation not to exceed \$250.00.~~

2. A violation of Section 9.24.5050 shall be punishable as an infraction by a fine ~~for each violation not to exceed \$100.00~~ set by Resolution. (Ord. 836, Dec.17, 2001)

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.28

WEAPONS

SECTIONS

| 9.28.~~62~~010 Discharge of Weapons

| 9.28.~~62~~010 DISCHARGE OF WEAPONS

1. Except at firing ranges approved by the police chief and the council, no person other than an authorized peace officer shall fire or discharge a gun or other weapon, including spring- or air-activated pellet guns, air guns, BB guns, bow and arrow, sling shot, or any other device used as a weapon which propels a projectile by use of gunpowder, other explosive, jet, rocket propulsion, or manual propulsion, within the city limits.
2. The provisions of this section shall not be construed to prohibit the firing or discharging of any weapon by any person in the lawful defense or protection of that person, family, or property. (Ord. 711, November, 1992)

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.32

INHALING TOXIC VAPORS

SECTIONS

| 9.32.~~70~~10 Prohibitions

| 9.32.~~70~~10 PROHIBITIONS

1. It is unlawful for any person deliberately to smell or inhale any drug, or any other noxious substance, vapor, or chemical containing any ketones, aldehydes, organic acetates, either chlorinated hydrocarbons or other substances containing solvents, releasing vapors, in such excessive quantities as to cause or potentially cause conditions of intoxication, inebriation, excitement, stupefaction, hallucination, or dulling of the brain or nervous system.
2. Subsection 1. of this section applies with particularity, but is not limited to., model airplane glue, fingernail polish, or any other substance or chemical which has the above described effect upon the brain or nervous system.
3. Any person found within the city visibly in a condition of intoxication, inebriation, excitement, stupefaction, or hallucination caused by inhaling substances as above described, shall be presumed to have inhaled the same within the city.
4. If the deliberate inhaling of such an above described substance produces a visible manifestation of a condition as described in subsection 1. of this section, it shall be prima facie evidence that the person so inhaling did so with the intent of producing such state or condition.
5. This section shall not apply to the use of inhalants, or the condition produced thereby, where such use is made or condition induced thereby are under the express direction or written prescription of a licensed physician for medical purposes. (Ord. 711, November, 1992)

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.36

MISCELLANEOUS OFFENSES

SECTIONS

9.36.010~~820~~ — ~~_____~~ Throwing Objects

9.36.020 Miscellaneous Violations

~~9.36.830 Unlawful Use of Recreational Courts~~

~~9.36.840 Interference with Police~~

~~9.36.850 Giving False Information to Police Officers~~

9.36.010 820 — THROWING OBJECTS

1. No person shall throw, drop, propel, release, or deposit any object or substance likely to cause injury, do damage, or create a hazard, at or upon any person or property.
2. The unlawful objects and substances defined in ~~subsection 1. of~~ this section include, but are not limited to, rocks, snowballs, eggs, water balloons, and paint.
3. The unlawful acts defined in ~~subsection 1. of~~ this section include, but are not limited to throwing objects or substances at moving or stationary vehicles or the persons within those vehicles, throwing objects or substances at persons or property from a concealed position, and throwing or leaving objects or substances in or upon a public thoroughfare or waterway in a manner likely to create a hazardous condition. (Ord. 711, November, 1992)

9.36.020 Miscellaneous Violations

1. If a Stayton Police Officer has probable cause to believe any of the following list of offenses has occurred, such offenses shall be treated as violations in the Stayton Municipal Court without penalty of jail time. The definition for each offense will be defined by Oregon Revised Statutes:
 - a. Criminal Mischief III
 - b. Disorderly Conduct II
 - c. Driving While Suspended –Misdemeanor
 - d. Furnishing Alcohol to a Minor
 - e. Harassment –Non Sexual and Non Domestic Violence Related ONLY
 - f. Offensive Littering
 - g. Telephonic Harassment that is not related to a Domestic Violence incident
 - h. Trespass II
 - i. Throwing of burning Material from a Vehicle
2. Exception: The officer shall treat the offenses as a misdemeanor if:
 - a. The officer has a reasonable belief that an arrest is necessary to prevent a public safety risk;

TITLE 9. PUBLIC PEACE AND WELFARE

- b. The officer has a reasonable belief that an arrest is necessary to prevent an ongoing or escalating public disturbance; or
- c. The offender has been cited for the same or similar offense three times within the prior ninety days.

~~9.36.830 UNLAWFUL USE OF RECREATIONAL COURTS~~

~~No person shall use the city's tennis courts for other than playing tennis or other authorized activities. (Ord. 711, November, 1992)~~

~~9.36.840 INTERFERENCE WITH POLICE~~

- 1. ~~No person shall interfere with a police officer in performance of the officer's duty.~~
- 2. ~~"Interfere" includes but is not limited to:~~
 - a. ~~Physical contact with a police officer, vehicle, animal, or item of police equipment, when the contact substantially limits the officer's ability to act in an official capacity.~~
 - b. ~~Verbal abuse or production of noise intended and sufficient to prevent a police officer from adequately communicating when communication is necessary for the duty being performed.~~
 - c. ~~Electronic interruption or blocking of police communications.~~
 - d. ~~Mechanical or electronic disruption of effective use of police equipment, including, but not limited to, vehicles speed detection devices. (Ord. 711, November, 1992)~~

~~9.36.850 GIVING FALSE INFORMATION TO POLICE OFFICERS~~

~~It shall be unlawful for any person to knowingly and willfully give any false, untrue or misleading information with intent to obstruct justice, to a police officer while he is acting in his official capacity. (Ord. 845, February 2003)~~

CHAPTER 9.40 DRUG PARAPHERNALIA

SECTIONS

9.40.9010	Purpose
9.40.9020	Definitions
9.40.9030	Factors to be Considered
9.40.9040	Offenses
9.40.9050	Nuisance
9.40.9060	Defenses
9.40.9070	Severability

| 9.40.9010 —PURPOSE

1. The purpose of this chapter is to limit the display, sale and availability of drug paraphernalia and deter the negative affects in the City of Stayton. Some of the negative affects of drug paraphernalia include:
 - a. Youth who believe drug use is acceptable and common are more likely to use drugs.
 - b. Availability of drug paraphernalia increases the chance of relapse among citizens overcoming drug addiction.
 - c. Drug paraphernalia often is designed to appeal to youth with kid friendly colors and shapes and are often promoted near commodities youth tend to purchase (candy, toys etc.)
 - d. The prevalence of drugs in a neighborhood increases the likelihood of violence and crime.
2. Limiting the display and availability for sale of paraphernalia will not eliminate drug abuse, but endeavoring to make access to paraphernalia less convenient, is intended to discourage the individual drug use. (Ord. 934, June 02, 2011)

| 9.40.9020 —DEFINITIONS

1. "Controlled substance" means a drug or its immediate precursor classified in Schedules I through V under the Federal Controlled Substances Act, 21 U.S.C., sections 811 to 812, as modified under ORS 475.035.
2. "Deliver" or "delivery" means the actual, constructive, or attempted transfer, other than by administering or dispensing from one person to another of a controlled substance or drug paraphernalia, whether or not there is an agency relationship and regardless of consideration.
3. "Drug paraphernalia" means all equipment, products, and materials of any kind which are used, marketed for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing,

compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the ORS 475.840 to 475.980. Drug paraphernalia includes, but is not limited to:

- a. Kits used, marketed for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- b. Kits used, marketed for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
- c. Isomerization devices used, marketed for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
- d. Testing equipment used, marketed for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;
- e. Scales and balances used, marketed for use, or designed for use in weighing or measuring controlled substances;
- f. Lighting equipment specifically designed for the growing of controlled substances;
- g. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, marketed for use, or designed for use in cutting controlled substances;
- h. Separation gins and sifters used, marketed for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;
- i. Containers and other objects used, marketed for use, or designed for use in storing or concealing controlled substances;
- j. Hypodermic syringes, needles and other objects used, marketed for use or intended to be used for injecting illegal controlled substances into the human body;
- k. Objects used, marketed for use, or designed specifically for use of an inhalant as defined in Oregon law;
- l. Objects used, marketed for use, or designed specifically for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - i. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - ii. Water pipes;
 - iii. Carburetion tubes and devices;

- iv. Smoking and carburetion masks;
 - v. Roach clips: meaning objects used to hold burning material, that has become too small or too short to be held in the hand, such as a marijuana cigarette;
 - vi. Miniature cocaine spoons, and cocaine vials;
 - vii. Chamber pipes;
 - viii. Carburetor pipes;
 - ix. Electric pipes;
 - x. Air-driven pipes;
 - xi. Chillums;
 - xii. Bongs;
 - xiii. Ice pipes or chillers;
4. “Drug test” means a lawfully administered test designed to detect the presence of a controlled substance.
5. "Marijuana" means all parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, the sterilized seed of the plant which is incapable of germination, industrial hemp as defined in ORS 571.300, or industrial hemp commodities or products. (Ord. 934, June 02, 2011)

| 9.40.9030-___FACTORS TO BE CONSIDERED

1. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logical, relevant factors, the following:
- a. Statements by an owner or by anyone in control of the object concerning its use;
 - b. Prior convictions, if any, of an owner, or of anyone in control of the object, under any Municipal, State, or Federal law relating to any controlled substance;
 - c. The proximity of the object in time and space, to a direct violation of this chapter or ORS 475.840 to 475.980;
 - d. The proximity of the object to controlled substances;
 - e. The existence of any residue of controlled substances to the object;
 - f. Instructions, oral or written, provided with the object concerning its use;

- g. Descriptive materials accompanying the object which explain or depict its use;
- h. The manner in which the object is displayed for sale;
- i. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- j. The existence and scope of legitimate uses for the object in the community;
- k. All objects present, when viewed collectively, can have significant clues to their intended use as drug paraphernalia. (Ord. 934, June 02, 2011)

| 9.40.9040 _____OFFENSES

- 1. Possession of Drug Paraphernalia. It is unlawful for any person to use or to possess drug paraphernalia to unlawfully plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.
- 2. Delivery of Drug Paraphernalia. It is unlawful for any person to sell, deliver, possess with intent to sell or deliver, or manufacture with intent to sell or deliver drug paraphernalia as defined in this chapter.
- 3. Possession or Delivery of Drug Test Equipment. It is unlawful for any person to use, possess, deliver, or manufacture with intent to deliver any substance or device designed to enable a person to falsify a drug test as defined in this chapter. (Ord. 934, June 02, 2011)

| 9.40.9050 NUISANCE

- 1. Drug paraphernalia are public nuisances. Any peace officer shall summarily seize any such drug paraphernalia. Seized drug paraphernalia shall be held subject to the order of the court.
- 2. Whenever it appears, to the court that a seized item constitutes drug paraphernalia in violation of this ordinance, the court shall, upon motion of the district attorney, order the forfeiture and destruction of the drug paraphernalia. (Ord. 934, June 02, 2011)

| 9.40.9060 _____DEFENSES

- 1. It is an affirmative defense to prosecution under SMC 9.40.940 (1) Possession of Drug Paraphernalia, if the person holds a valid registry

identification card for medical use, is the person responsible for a registered grow site, or is a designated primary caregiver under the Oregon Medical Marijuana Act.

2. Holding a valid registry identification card for medical use, being the person responsible for a registered grow site, or a designated primary caregiver under the Oregon Medical Marijuana Act is not a defense to Delivery of Drug Paraphernalia SMC 9.40.940 (2). (Ord. 934, June 02, 2011)

| 9.40.9070-____SEVERABILITY

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. (Ord. 934, June 02, 2011)

TITLE 9. PUBLIC PEACE AND WELFARE

CHAPTER 9.44

PENALTY FOR VIOLATION

SECTIONS

9.44.1010 Violation: Penalty

9.44.1010 ———VIOLATION: PENALTY

Violation of this title is punishable by a fine set by Council Resolution, ~~not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed one (1) year, or by such fine and imprisonment. (Ord. 711, November, 1992)~~