

Title 9

PUBLIC PEACE, MORALS AND WELFARE

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Chapter 9.10

CRIMINAL OFFENSES

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9.10.010 Purpose.

It is the intention of this chapter to make the prosecution of and the applicable penalty for all criminal misdemeanors and violations match as closely as possible those provided under state law. [Ord. 464 § 1, 1981.]

9.10.020 Title.

This chapter shall be known as the “Philomath criminal misdemeanor and violation ordinance.” [Ord. 464 § 2, 1981.]

9.10.030 Definitions.

In addition to those definitions contained in the Oregon Criminal Code of 2006, adopted by reference and made a part of this chapter, the following words or phrases, except where the context clearly indicates a different meaning, shall mean:

“Hinder” means any attempt to delay, impede, or prevent action.

“Interfere” means to interpose in a way that hinders or impedes.

“Obstruct” means to hinder from passage, action, or operation. [Ord. 736 § 1, 2006; Ord. 694 § 1, 2000; Ord. 621 § 1, 1994; Ord. 464 § 3, 1981.]

9.10.040 Procedures.

The criminal procedures applicable to the prosecution of misdemeanors and violations contained in the Oregon Revised Statutes as constituted on January 2, 2006, are adopted by reference and made a part of this chapter, and all references therein to “district attorney” shall include the city attorney. This shall include those provisions relat-

ing to defenses and burden of proof, general principles or criminal liability, parties, and general principles of justification. [Ord. 736 § 1, 2006; Ord. 694 § 1, 2000; Ord. 646, 1996; Ord. 621 § 2, 1994; Ord. 604 § 1, 1991; Ord. 552 § 1, 1987; Ord. 532 § 1, 1986; Ord. 464 § 4, 1981.]

9.10.050 Adoption of state criminal misdemeanor offenses and violations.

Each and every misdemeanor and violation made an offense against the State of Oregon under the provisions in Oregon Revised Statutes Chapters 161 through 169; 419(A), (B), and (C); 471; and 475; as constituted on January 2, 2006, are adopted by reference and made a part of this chapter, and designated an offense against the city of Philomath. A person who violates any one of those provisions within the jurisdiction of the city of Philomath is in violation of this chapter and may be charged with the offense of violating this section and reference shall be made in the charging instrument to that particular section of the Oregon Revised Statutes, as incorporated by reference, which has been violated. In the event that any other section of this chapter or any other ordinance creates a specific misdemeanor or violation offense in conflict with a misdemeanor or violation offense herein incorporated by reference, the provisions of the specific ordinance misdemeanor or ordinance violation offense shall govern. [Ord. 736 § 1, 2006; Ord. 694 § 1, 2000; Ord. 646, 1996; Ord. 621 § 3, 1994; Ord. 604 § 2, 1991; Ord. 552 § 2, 1987; Ord. 532 § 2, 1986; Ord. 464 § 5, 1981.]

9.10.060 Offenses against the public order.

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

Violation of this subsection shall be punishable as a Class B misdemeanor.

B. False Reports.

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

2. No person shall knowingly make or file with the police department or with the city attorney or with a police officer a false, misleading, or unfounded statement or report concerning the violation or alleged violation of a city ordinance or the commission or alleged commission of a crime.

Violation of this subsection shall be punishable as a Class C misdemeanor.

C. Obstructing a Police Officer. A person commits the crime of obstructing a police officer if that person intentionally or knowingly interferes with or obstructs another person, knowing the other person to be a police officer and while such other person is acting in the course of official duty.

Violation of this subsection shall be punishable as a Class A misdemeanor.

D. Providing False Information to a Police Officer. A person commits the crime of providing false information to a police officer if that person, intentionally or knowingly uses a false or fictitious name, intentionally or knowingly gives a false or fictitious address or intentionally or knowingly gives a false date of birth to another person, knowing the other person to be a police officer while the police officer is investigating any violation of any city ordinance or state statute.

Violation of this subsection shall be punishable as a Class B misdemeanor.

E. Interference with Police or Fire Communications. No person shall knowingly operate any generator, transmitter, or electric or magnetic wave or cause the disturbance of such magnitude as to interfere with the proper functioning of any police or fire department radio communication system.

Violation of this subsection shall be punishable as a Class A misdemeanor.

F. Obstruction or Tampering with Fire Hydrants. No owner or occupant of property adjacent to a street upon which is located a fire hydrant shall place or maintain within eight feet of such fire hydrant any bush, shrub, tree, or other obstruction. It shall be unlawful for any unauthorized person to tamper with a fire hydrant.

Obstructing a fire hydrant shall be a violation. Tampering with a fire hydrant shall be a Class B misdemeanor.

G. Vending Goods on Streets or Sidewalks. No person shall use or occupy any portion of a street or sidewalk for the purpose of vending goods, wares or merchandise by public outcry or otherwise,

unless a written permit has been first obtained from the city council.

Violation of this subsection shall be punishable as a Class C misdemeanor.

H. Begging. No person shall accost another in a public place for the purpose of soliciting money or any other thing of value.

Violation of this subsection shall be punishable as a Class C misdemeanor.

I. 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. Permission for use of public property for placement of signs must be in writing.

Violation of this subsection shall be punishable as a Class C misdemeanor.

J. Drinking Alcoholic Beverage in Public Place. No person shall dispense or consume alcoholic liquor in a public place, to wit, in a street, alley, mall, parking lot or structure, motor vehicle, public grounds, or in any room or building used for public dancing, or other places open to the public unless such place has been licensed for that purpose by the Oregon Liquor Control Commission and a permit has been obtained from the chief of police. No premises licensed by the Oregon Liquor Control Commission shall serve alcoholic liquors without first screening from public view the place where the alcohol is to be served and consumed. The consumption of alcoholic liquor in a city park shall be prohibited unless a permit therefor has been received from the chief of police. The fee for such permit shall be set by the city council.

Violation of this subsection shall be punishable as a Class C misdemeanor.

K. Lawful Hours of Sale of Liquor. No licensed package store, restaurant, tavern, or bar shall sell, dispense, deliver or allow the consumption of any alcoholic liquor on any licensed premises or permit the removal of any alcoholic liquor from any licensed premises between the hours of 2:30 a.m. and 7:00 a.m.

Violation of this subsection shall be punishable as a Class C misdemeanor.

L. Selling or Pledging Property of Intoxicated Persons. No person shall purchase property from any person who is in an intoxicated condition or under the influence of any narcotic drug, or advance or loan money to such persons or have any

dealing with any such person respecting the title to property.

Violation of this subsection shall be punishable as a Class A misdemeanor. [Ord. 621 § 4, 1991; Ord. 571 § 1, 1989; Ord. 532 §§ 3, 4, 5, 9, 1985; Ord. 464 § 6, 1981.]

9.10.070 Offenses against persons.

A. Endangering the Welfare of a Minor. In addition to the provisions of ORS 163.575, a person commits the crime of endangering the welfare of a minor if the person knowingly:

1. Employs a person under 18 years of age in or about a card room, poolroom, billiard parlor or dance hall, unless the establishment is an "arcade" as defined in PMC 9.10.080(B)(1)(b).

2. Solicits, aids, abets, or causes a person under 18 years of age to:

a. Violate a law of the United States or any statute or any city or county ordinance; or

b. Run away or conceal himself from a person, agency, or institution having lawful custody of the minor.

Violation of this subsection shall be punishable as a Class B misdemeanor.

B. Public Indecency. No person shall, while in or in view of a public place, perform:

1. An act of sexual intercourse;

2. An act of deviate sexual intercourse;

3. An act of exposing the genitals with the intent of arousing the sexual desire of himself or another person; or

4. An act of urination or defecation, except in toilets provided for that purpose.

Violation of this subsection shall be punishable as a Class A misdemeanor.

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

Violation of this subsection shall be punishable as a Class B misdemeanor.

D. Unlawful Discharge of Weapons.

1. Except at ranges approved by the chief of police or city council, no person other than a peace officer shall fire or discharge a firearm, including spring or air actuated pellet guns or BB guns, rockets, archery equipment, or any other weapon which propels a projectile by use of gunpowder, explosive or flammable liquid fuel, or any sling shot, wrist rocket or similar device designed or used to discharge a projectile within the city limits of Philomath.

2. Nothing in subsection (D)(1) of this section shall prevent any person from defending his life or the life of another, or his property or the property of another, within the limitations set by Oregon statutes.

3. Any weapon or device used in committing a violation of this subsection shall be confiscated by police and, upon conviction, may be forfeited to the city of Philomath by order of the municipal court judge.

Violation of this subsection shall be punishable as a Class A misdemeanor

E. Misrepresentation of Age or Status. No person shall, being less than a certain, specified age, knowingly represent himself to be of any age other than his true age with the intent of securing a right, benefit or privilege which by law is denied to persons under that certain age.

Violation of this subsection shall be punishable as a Class C misdemeanor.

F. Unlawful Communication.

1. No person shall communicate with another person with intent to harass, annoy, or alarm that other person anonymously or otherwise, by telephone, mail or other form of written communication to:

a. Threaten injury or death to another;

b. Threaten damage to the property of another;

c. Use abusive or obscene language; or

d. Initiate a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe, death, injury, or other emergency.

2. No person shall use or cause to be used any telephone with the intent to harass, annoy or alarm any person by means of a series of two or more calls during which the caller makes no intelligible communication.

Violation of this subsection shall be punishable as a Class C misdemeanor. [Ord. 621 § 5, 1994; Ord. 582A § 19, 1990; Ord. 574 § 15, 1989; Ord. 532 § 6, 1985; Ord. 475 § 1, 1982; Ord. 464 § 7, 1981.]

9.10.080 Restricted activities.

A. Occult Arts.

1. "Occult arts" means the use or practice of fortune telling, astrology, phrenology, palmistry, clairvoyance, mesmerism, spiritualism or any other practice or practices generally recognized to be unsound and unscientific whereby an attempt or pretense is made:

- a. To reveal or analyze past incidents or events;
- b. To analyze or define the character or personality of a person;
- c. To foretell or reveal the future;
- d. To locate by such means lost or stolen property; or
- e. To give advice or information concerning any matter or event.

2. No person shall for hire or profit engage in the practice of occult arts, either public or private, but no charge shall issue under this subsection unless upon the complaint of a person who has thereby suffered physical or mental injury or monetary damage in excess of \$50.00.

3. Nothing in this section shall be construed to prohibit or prevent:

a. A duly organized and recognized religious organization which promulgates religious teachings or beliefs involving spiritualism or similar media from holding its regular meetings or services.

b. A school, church, fraternal, charitable or other benevolent organization from utilizing occult arts for a bazaar or other money-raising project; provided, that all money so received is devoted exclusively to the organization sponsoring the affair. In such case, the money so received shall be considered as a donation for benevolent and charitable purposes.

Violation of this subsection shall be punishable as a Class C misdemeanor.

B. Places of Amusement.

1. Definitions.

a. "Games of amusement" shall be defined as pinball, pool, billiards, and electronic amusement devices.

b. An "arcade" is defined as any area, enclosure or room open to minors where five or more games of amusement are in operation to earn a profit for the owner or operator of the games or establishment.

2. a. No person owning or having charge of any game of amusement available to the public shall permit a person under 18 years of age to operate or play, until after 3:00 p.m., any game of amusement on days Philomath schools are in session and shall not permit a person under 18 years of age to operate or play any game of amusement after the hours of curfew as specified by Philomath ordinance.

b. No person shall make any game of amusement available to the public without first obtaining a permit to operate such game from the city of Philomath.

3. In addition to complying with subsection (B)(2) of this section, the operator of an arcade must:

a. Not allow the sale, consumption, or possession of alcoholic beverages or illegal drugs on the premises; and

b. Maintain order at all times by providing adequate supervision. For the purpose of this subsection, adequate supervision means at least one adult employee shall be physically present on the premises for every 40 customers, or fraction thereof.

4. An exemption from the provisions of this subsection may be made by the city council.

Violation of this subsection shall be punishable as a Class C misdemeanor, and may, upon action of the city council, result in the temporary suspension or cancellation of the violator's amusement game permit(s).

C. Second-Hand Merchandise.

1. Every "used merchandise dealer" shall keep records of all used merchandise valued at \$25.00 or more which is purchased or taken in on loan or consignment or sold. A "used merchandise dealer" is a person or business that devotes all or a part of his, her or its business to the collection, purchase, exchange or sale of used articles or the lend-

ing of money on the security of used articles. This definition shall not apply to persons dealing exclusively in automobiles, farm implements and machinery, books, or to any business which sells, buys or takes in trade used articles incidental to the sale of new articles or merchandise. The records shall include the general description of the item, brand, name, value, size, color, serial number, model number, and the name, address, telephone number, date of birth of the customer, and the customer's vehicle license number. Such records shall be maintained on forms supplied by the Philomath police department and shall be completed at the time of the transaction, and said records shall be kept by the "used merchandise dealer" for a period of time of one year after the date of the transaction.

2. Every person delivering for sale, loan, or consignment any item to a "used merchandise dealer" shall provide to the operator or the operator's agent or employee adequate identification at the time of the transaction so as to positively establish his or her identity.

3. The records described in subsection (C)(1) of this section shall be made in triplicate at the time of the transaction. The third (pink) copy shall be given to the customer; the second (yellow) copy shall be maintained by the merchant; and the original (white) sheet shall be delivered by the merchant to the Philomath police department between the first and tenth day of each month. Officers of the police department may inspect the merchant's copies of the transaction forms at any time during normal business hours.

4. The provisions of this section shall not apply to periodic sales by individuals of used merchandise at garage sales, yard sales, or other similar activities, or to sales sponsored by recognized nonprofit charitable organizations. Such exclusion shall not apply, however, if either of the following conditions is met:

a. More than three such sales take place within any calendar year at the same location.

b. The sale has a duration of more than 72 consecutive hours.

5. The city council may, upon request, exempt any operator of any business from the provisions of this section by a majority vote.

Violation of this subsection shall be punishable as a Class B misdemeanor. [Ord. 621 § 6, 1994; Ord. 558 § 1, 1988; Ord. 532 § 7, 1985; Ord. 499

§ 1, 1983; Ord. 475, §§ 2, 3, 1982; Ord. 464 § 8, 1981.]

9.10.090 General.

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

B. Separate Violations. Whenever in this chapter or any ordinance of the city of Philomath, an act is prohibited or is made or declared to be unlawful or an offense, or the doing of an act is required, or the failure to do an act is declared to be unlawful or an offense, each day a violation is continued after notification shall constitute a separate offense.

C. Classes of Offenses and Penalties. Those provisions of the Oregon Revised Statutes, as constituted on November 9, 1993, creating and designating classes of offenses, provisions for the disposition of offenders and provisions for authority of the sentence in court, be and hereby are adopted by reference and incorporated herein. Any special offense set forth in this chapter which is classified in the section defining the offense shall be punishable as so classified. Any special offense shall be processed and sentenced as a Class A misdemeanor and is punishable by a fine not to exceed \$5,000 or imprisonment not to exceed 365 days or by both such fine and imprisonment; provided however, if there is a violation of any provision identical to a state statute with a lesser penalty attaching, punishment shall be limited to the lesser penalty prescribed in the state law.

D. Nuisance Abatement. No provision in this chapter shall preclude the abatement of a nuisance as provided in any other city of Philomath ordinances. [Ord. 621 § 7, 1994; Ord. 604 § 3, 1991; Ord. 552 § 3, 1987; Ord. 532 § 8, 1985; Ord. 464 § 9, 1981.]

Chapter 9.15**NUISANCES**

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9.15.010 Definitions.

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9.15.020 Nuisances affecting public health.

Article 2. Nuisances Affecting Public Safety

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9.15.170 Separate violations.

9.15.010 Definitions.

A. Person. A natural person, firm, partnership, association or corporation.

B. Person in Charge of Property. An agent, occupant, lessee, contract purchaser, or other person having possession or control of property or the supervision of any construction project.

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

1. The owner.

2. The person in charge of property, as defined in subsection (B) of this section.

3. The person who caused to come into or continue in existence a nuisance as defined in this chapter or another ordinance of this city. [Ord. 582A § 1, 1990.]

Article 1. Nuisances Affecting Public Health**9.15.020 Nuisances affecting public health.**

No person shall cause or permit, on property owned or controlled by him, a nuisance affecting public health. The following are nuisances affecting public health and may be abated as provided in this chapter.

A. Privies. An open vault or privy constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the health division regulations.

B. Debris. Accumulation of debris, rubbish, manure and other refuse that are not removed within a reasonable time and that affect the health of the city.

C. Stagnant Water. Stagnant water which affords a breeding place for mosquitoes and other insect pests.

D. Water Pollution. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.

E. Food. Decayed or unwholesome food which is offered for human consumption.

F. Odor. Premises which are in such a state or condition as to cause an offensive odor, or which are in an unsanitary condition.

G. Surface Drainage. Drainage of liquid wastes from private premises.

H. Cesspools. Cesspools or septic tanks which are in an unsanitary condition or which cause an offensive odor.

I. Slaughterhouses, Etc. A slaughterhouse, tannery or pigsty.

J. Drainage of petroleum products on public or private property, unless otherwise authorized by law. [Ord. 582A § 2, 1990.]

Article 2. Nuisances Affecting Public Safety

9.15.030 Attractive nuisances.

A. No owner or person in charge of property shall permit thereon:

1. Unguarded machinery, equipment or other devices which are attractive, dangerous and accessible to children.

2. Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.

3. An open pit, quarry, cistern or other excavation without safeguards or barriers to prevent such places from being used by children.

B. This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children. [Ord. 582A § 3, 1990.]

9.15.040 Snow and ice.

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

A. Snow to remain on the sidewalk for a period of longer than the first two hours of daylight after the snow has fallen.

B. Ice to remain on the sidewalk for more than two hours of daylight after the ice has formed, unless the ice is covered with sand, ashes or other suitable material to assure safe travel. [Ord. 582A § 4, 1990.]

9.15.050 Noxious vegetation and tall grass.

No owner or person in charge of property shall permit weeds or other noxious vegetation to grow upon their property nor on the public rights-of-way of any street or alley which abuts their property. It shall be the duty of an owner or person in charge of property to:

A. Not allow the height of grass or weeds to exceed 12 inches;

B. To destroy weeds or other noxious vegetation as often as needed to prevent them from maturing and going to seed; and

C. To prevent grass, shrubbery, brush, bushes, and other vegetation from becoming a fire hazard. [Ord. 655, 1996; Ord. 582A § 5, 1990.]

9.15.060 Scattering rubbish.

No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse or any other substance that would mar the appearance, threaten the environment, 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. 582A § 6, 1990.]

9.15.070 Trees, bushes and vision clearance.

A. No owner or person in charge of property that abuts upon a street or public sidewalk shall permit trees or bushes on their property to interfere with street or sidewalk traffic. It shall be the duty of an owner or person in charge of property that abuts upon a street or public sidewalk to keep all trees and bushes on the premises, including the adjoining parking strip, trimmed to a height of not less than eight feet above the sidewalk and not less than 10 feet above the roadway.

B. No owner or person in charge of property shall allow to stand a dead or decaying tree that is a hazard to the public or to persons or property on or near the property.

C. It shall be a violation of this chapter if an owner or person in charge does not provide a clear vision area on the corner of all property at the intersection of two streets, a street and a railroad, a street and an alley, and driveways of parking lots open to the public.

1. A clear vision area is a triangular area, two sides of which are:

a. Twenty feet along the lot lines, measured from the intersection of two streets or a street and a railroad, and the third side of which is a line across the corner of the lot, joining the other two lines. Where a lot has a rounded corner, the lot lines shall be extended in a straight line to a point of intersection and measured from that point.

b. Ten feet along the lot lines, measured from the intersection of a street and an alley, and the third side of which is a line across the corner of the lot, joining the other two lines. Where a lot has a rounded corner, the lot lines shall be extended in a straight line to a point of intersection and measured from that point. The 10-foot vision clearance area shall not be required in any commercial district as defined in PMC Title 18.

2. A clear vision area shall contain no planting, fences, walls, structures or temporary or permanent obstruction exceeding two and one-half feet in height, measured from the top of the curb, or, where no curb exists, from the established street centerline grade. Trees exceeding this height may be located in this area; provided, all branches or foliage are removed to a height of eight feet above grade. [Ord. 582A § 7, 1990.]

9.15.080 Fences.

A. No owner or person in charge of property shall construct or maintain a barbed-wire fence thereon or permit barbed wire to remain as part of a fence along a sidewalk or public way; except such wire may be placed above the top of other fencing not less than six feet, six inches high.

B. No owner or person in charge of property shall construct, maintain or operate an electric fence along a sidewalk or public way or along the adjoining property line of another person.

C. Any electric fence permitted by this section must be equipped with a commercially manufactured controller in good operating condition with a pulsating output not to exceed 2.4 joules and a quick-blow fuse rated at 1/16 AMP or less. [Ord. 582A § 8, 1990.]

9.15.090 Surface waters, drainage.

A. No owner or person in charge of a building or structure shall suffer or permit rainwater, ice or snow to fall from the building or structure onto a street or public sidewalk or to flow across the sidewalk.

B. The owner or person in charge of property shall install and maintain in a proper state of repair adequate drainpipes or a drainage system, so that any overflow water accumulating on the roof or about the building is not carried across or upon the sidewalk. [Ord. 582A § 9, 1990.]

Article 3. Nuisances Affecting Public Peace

9.15.100 Radio and television interference.

A. No person shall operate or use an electrical, mechanical or other device, apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.

B. This section does not apply to devices licensed, approved, and operated under the rules and regulations of the Federal Communications Commission. [Ord. 582A § 10, 1990.]

9.15.110 Junk.

A. 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.

B. The term “junk” as used in this section includes all old motor vehicles, old motor vehicle parts, abandoned automobiles, old machinery, old machinery parts, old appliances or parts thereof, old iron or other metal, glass, paper, lumber, wood or other waste or discarded material.

C. This section shall not apply to junk kept in a duly licensed junkyard or automobile wrecking yard or materials left for weekly curbside pickup by the city’s franchised solid waste collector. [Ord. 738 § 2, 2006; Ord. 582A § 11, 1990.]

9.15.120 Unnecessary noise.

No person shall create, assist in creating or permit the continuance of unreasonable noise in the city of Philomath. “Unreasonable noise” is defined as noise which, because of its loudness and frequency, causes serious annoyance or serious alarm to another person, and includes the following specific offenses, which are not exclusive, but are rather illustrative:

A. The use of an engine, thing or device which is so loaded, out of repair, unmuffled, or operated in such a manner as to create a loud or unnecessary grating, grinding, rattling, exhaust, or other noise.

B. The use of a mechanical device operated by compressed air, steam or otherwise, unless the noise created thereby is effectively muffled.

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

D. The use or operation of an automatic or electric piano, organ, radio, phonograph, tape player, television, loudspeaker, or sound-amplifying device in an area near residences, private businesses, or buildings open to the public, so loudly as to disturb persons in such residences, private businesses, or buildings open to the public; provided however, that upon application to the city manager,

permits in writing may be granted to responsible persons or organizations to broadcast programs of music, news, speeches, advertisements, or general entertainment. [Ord. 582A § 12, 1990.]

9.15.130 Abandoned vehicles.

A. It shall be unlawful to store or permit the storing of a discarded vehicle upon any private property within the city, unless the vehicle is completely enclosed within a building, or unless it is in connection with a licensed business enterprise dealing in junked vehicles lawfully conducted within the city.

B. "Vehicle" shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

C. "Discarded" shall mean any vehicle which does not have lawfully affixed thereto an unexpired license plate or is in one or more of the following conditions:

1. Inoperative.
2. Wrecked.
3. Dismantled.
4. Partially dismantled.
5. Abandoned.
6. Junked.

Discarded vehicles may be deemed to include major parts thereof, including, but not limited to, bodies, frames, engines, transmissions, and rear ends. [Ord. 582A § 13, 1990.]

Article 4. Unenumerated Nuisances

9.15.140 Unenumerated nuisances.

A. The acts, conditions or objects specifically enumerated and defined in PMC 9.15.020 through 9.15.130 are declared public nuisances; and such acts, conditions or objects may be abated by the procedures set forth in PMC 9.15.150 and 9.15.160.

B. In addition to the nuisances specifically enumerated within this chapter, every other thing, substance or act which is determined by the city council to be injurious or detrimental to the public health, safety or welfare of the city, is declared a nuisance and may be abated as provided in this chapter. [Ord. 582A § 14, 1990.]

Article 5. General Provisions

9.15.150 Summary abatement.

The procedure provided by this chapter is not exclusive, but is in addition to procedures provided by other ordinances; and the chief of the fire department, the chief of police, or any other city official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property. [Ord. 582A § 15, 1990.]

9.15.160 Penalties.

A person violating any provision of this chapter shall, upon conviction, be punished by a fine not to exceed \$250.00. It shall be within the authority of the municipal judge to require abatement of any action or condition found to be a nuisance under this chapter. It shall further be within the authority of the municipal judge to assess all costs associated with the abatement against the property owner or person responsible, in addition to any fine imposed. [Ord. 582A § 16, 1990.]

9.15.170 Separate violations.

A. Each day's violation of this chapter constitutes a separate offense.

B. The abatement of a nuisance is not a penalty for violating this chapter, but is an additional remedy. [Ord. 582A § 17, 1990.]

Chapter 9.20**MARIJUANA POSSESSION**

Sections:

- 9.20.010 Definitions.
- 9.20.020 Possession of marijuana.
- 9.20.030 Diversion.

9.20.010 Definitions.

For the purposes of this chapter, the following definitions shall apply:

A. "Marijuana" means the dried leaves, stems, and flowers of the plant *Cannabis*, family *Moraceae*.

B. "Practitioner" means a physician, dentist, veterinarian, scientific investigator, certified nurse practitioner, physician's assistant, or other person licensed, registered, or otherwise permitted by law to dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state but does not include a pharmacist or a pharmacy. [Ord. 680 § 1, 1999.]

9.20.020 Possession of marijuana.

A. No person shall knowingly or intentionally possess marijuana, in an amount less than one avoirdupois ounce, unless the substance was obtained directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of professional practice or except as otherwise authorized by state law.

B. A violation of this section is punishable by a fine of not less than \$500.00 and not more than \$1,000. [Ord. 680 § 2, 1999.]

9.20.030 Diversion.

A. A person charged with the offense of possession of less than one ounce of marijuana may be eligible for a diversion agreement, if the offense for which the defendant is before the court is the defendant's first offense, and the defendant files with the court a petition for a possession of marijuana diversion agreement.

B. Possession of marijuana diversion petitions shall be available to a defendant at the court. The petition form shall conform to the requirements of state law.

C. Diversion procedures shall be as prescribed by state statutes for possession of marijuana diversion agreements. [Ord. 680 § 3, 1999.]

Chapter 9.25**CURFEW**

Sections:

9.25.010 Curfew for minors.

Article 1. School Hours Curfew

9.25.020 Hours of curfew for minors under the age of 14.

9.25.030 Hours of curfew for minors 14 and over.

9.25.040 Curfew as it pertains to city parks specifically.

Article 2. Evening Hours Curfew

9.25.050 Hours of curfew for minors under 14.

9.25.060 Hours of curfew for minors 14 and over.

9.25.070 Defense to violation.

9.25.080 Parental responsibility.

9.25.090 Criminal penalties.

9.25.010 Curfew for minors.

It shall be unlawful for any child under the age of 18 years to be or remain upon any street, alley, park or other public place within the Philomath city limits between the hours specified hereafter herein unless said child is accompanied by a parent, guardian, a person having legal custody or control of said child or other proper companion of the age of 21 years or more, specifically chosen by the parent, guardian or legal custodian of said child, to escort said child on the occasion in question, or unless such child is then engaged in going to or from employment, night school, lunch, or school activities which make it necessary to be in or upon such street, alley, park or other public place during the time between such specified hours.

School Hours Curfew. Article 1 shall apply to all school age children except those who are exempt under ORS 339.030. [Ord. 704 § 1, 2002.]

Article 1. School Hours Curfew**9.25.020 Hours of curfew for minors under the age of 14.**

For the purpose of this chapter, the specified hours of curfew shall be: for children under 14 years who have not begun high school, between 8:00 a.m. and 3:00 p.m. This chapter shall apply only to those days that school is in session and children are normally expected to be in school. [Ord. 704 § 2, 2002.]

9.25.030 Hours of curfew for minors 14 and over.

For children 14 years of age or over who have begun high school, the hours shall be between 8:00 a.m. and 3:00 p.m. This does not apply to lunch-time that varies according to school procedures. This chapter shall apply only to those days that school is in session and children are normally expected to be in school. [Ord. 704 § 3, 2002.]

9.25.040 Curfew as it pertains to city parks specifically.

For the purpose of this chapter, children under the age of 18 shall not be or remain in any city park within the Philomath city limits between 8:00 a.m. and 3:00 p.m. when school is normally in session and children are expected to be in school. [Ord. 704 § 4, 2002.]

Article 2. Evening Hours Curfew**9.25.050 Hours of curfew for minors under 14.**

For the purpose of this chapter, the specified hours shall be: for children under 14 years who have not begun high school, between 9:30 p.m. and 6:00 a.m. of the following morning, except that during the months of June, July and August the hours shall be between 10:30 p.m. and 6:00 a.m. of the following morning. [Ord. 704 § 5, 2002.]

9.25.060 Hours of curfew for minors 14 and over.

For children 14 years of age or over or who have begun high school, the hours shall be between 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday and Thursday and 6:00 a.m. on the following morning and between 12:00 a.m. on Friday and

Saturday and 6:00 a.m. of the following morning, except that during the months of June, July, and August the hours for such children shall be between 12:00 a.m. and 6:00 a.m. of the following morning. [Ord. 704 § 6, 2002.]

9.25.070 Defense to violation.

The matter of going to or from an employment, night school, lunch, school activity or of participating in an exempt employment which makes it necessary to be in or upon a street, alley, park or public place within the city of Philomath between the specified hours shall be a matter of defense, and the burden of proof thereof shall be upon the child or person claiming the exempt status. [Ord. 704 § 7, 2002.]

9.25.080 Parental responsibility.

It shall be unlawful for any parent, guardian or person having the custody or control of an unemancipated child under the age of 18 years to allow said child, with whom they hold that relationship, to violate this chapter. The conviction of such minor child for violation of this chapter on three separate occasions shall be prima facie evidence that said parent, guardian or person having the care, custody and control of said child, allowed said child to violate such chapter. [Ord. 704 § 8, 2002.]

9.25.090 Criminal penalties.

A person who violates PMC 9.25.010 through 9.25.060 commits a violation punishable by a fine of not more than \$200.00. [Ord. 704 § 9, 2002.]