

**Title 9
CRIMINAL CODE**

Chapters:

Division I. General Offenses

- 9.05 State Statutes Adopted**
- 9.10 Weapons**
- 9.15 Sexual and Related Offenses**
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- 9.25 Minors**
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- 9.40 Curfew**
- 9.45 Failure to Supervise Minor**
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Division I. General Offenses

Chapter 9.05
STATE STATUTES ADOPTED

Sections:

9.05.010 Oregon Criminal Code adopted.

9.05.010 Oregon Criminal Code adopted.

(1) Chapters 161, 162, 163, 164, 165, 166, and 167 ORS, except for any provision classified as a felony under the state law, are adopted by reference. Violation of an adopted provision of those chapters is an offense against this city.

(2) The provisions of Chapter 161 ORS, relating to defenses, burden of proof, general principles of criminal liability, parties, and general principles of justification apply to offenses defined and made punishable by this division.

(3) Except where the context clearly indicates a different meaning, the definitions appearing in the general definitional and other particular sections of the chapters adopted by subsection (1) of this section are applicable throughout this division. [Ord. 642 § 1, 1987]

**Chapter 9.10
WEAPONS**

Sections:

9.10.010 Discharge of weapons.

9.10.010 Discharge of weapons.

Except at firing ranges approved by the chief of police, no person other than a peace officer shall fire or discharge a gun, including spring- or air-actuated pellet guns, air guns, or BB guns, or other weapon which propels a projectile by use of gunpowder or other explosive, jet or rocket propulsion, within the city. [Ord. 642 § 2, 1987]

Chapter 9.15
SEXUAL AND RELATED OFFENSES

Sections:

9.15.010 Public indecency.

9.15.020 Prohibited touching.

9.15.010 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 person's genitals with the intent of arousing the sexual desire of himself or herself or another person.

(4) An act of urination or defecation, except in toilets provided for that purpose. [Ord. 642 § 3, 1987]

9.15.020 Prohibited touching.

(1) No person shall pay a fee or receive a fee, directly or indirectly, for touching or offering to touch the sexual parts of another for the purpose of arousing or gratifying the sexual desire of either party.

(2) No person who manages or controls any place of business shall cause or permit any agent, employee or other person under his or her control or supervision to participate in conduct prohibited in subsection (1) of this section. [Ord. 642 § 4, 1987]

Chapter 9.20
OFFENSES RELATING TO PROPERTY

Sections:

9.20.010 Violating privacy of another.

9.20.020 Unauthorized posters.

9.20.030 Defacement of posted notices.

9.20.010 Violating privacy of another.

No person other than a peace officer performing a lawful duty shall enter upon land or into a building used as a dwelling without permission of the owner or person entitled to possession and while so trespassing look through or attempt to look through a window, door or transom of the dwelling with the intent to violate the privacy of any other person. [Ord. 642 § 5, 1987]

9.20.020 Unauthorized posters.

No person shall affix a placard, bill or poster upon personal or real property, private or public, without first obtaining permission of the owner or proper public authority. [Ord. 642 § 6, 1987]

9.20.030 Defacement of posted notices.

No person shall deface or tear down any official notice or bulletin posted in conformity with law. [Ord. 642 § 7, 1987]

**Chapter 9.25
MINORS**

Sections:

- 9.25.010 Child neglect.**
- 9.25.020 Places of amusement.**
- 9.25.030 Misrepresentation of age.**
- 9.25.040 Hazing.**
- 9.25.050 Skateboards and roller skates.**

9.25.010 Child neglect.

(1) No person having custody or control of a child under 10 years of age shall lock or confine, or leave the child unattended, or permit the child to be locked or confined, or left unattended in a vehicle for longer than 15 consecutive minutes.

(2) A peace officer, finding a child confined in violation of the terms of this section, may enter the vehicle and remove the child, using such force as is reasonably necessary to enter the vehicle and remove the child. [Ord. 642 § 13, 1987]

9.25.020 Places of amusement.

(1) No person shall employ a person under 18 years of age in or about a cardroom, poolroom or billiard parlor.

(2) No person under 18 years of age shall enter, visit or loiter in or about a public cardroom, poolroom or billiard parlor.

(3) No person operating or assisting in the operation of a public cardroom, poolroom, billiard parlor or public place of amusement shall permit a person under 18 years of age to engage in any game of cards, pool, billiards, dice, darts, pinball, games of like character, or games of chance, either for amusement or otherwise.

(4) This section shall not apply to the playing of billiards or pool in a recreational facility. As used in this section, a "recreational facility" means an area, enclosure or room in which facilities are offered to the public to play billiards or pool for amusement only, and (a) which is clean, adequately lighted and ventilated; (b) in which no alcoholic liquor is sold or consumed; and (c) access to which does not require passing through a room where alcoholic liquor is sold or consumed. [Ord. 642 § 14, 1987]

9.25.030 Misrepresentation of age.

(1) No person shall knowingly represent himself or herself to be of any age other than the person's true age with the intent of securing a right, benefit or privilege which by law is denied to persons under a certain, specified age.

(2) No person shall, being unmarried, knowingly represent that the person is married with the intent of securing a right, benefit or privilege which by law is denied to unmarried persons. [Ord. 642 § 15, 1987]

9.25.040 Hazing.

(1) No student body, class, group, or other student organization, whether recognized or not, whether in school or out of school, nor any member of such an organization or group, shall intentionally haze any student or any member or potential member of such a class or group of students or persons as a condition, or purported condition, initiation, or precondition of or for entering any grade level within the schools.

(2) As used in this section, "haze" means to subject a person to bodily danger or physical harm or a likelihood of bodily danger or physical harm, or to require, encourage, authorize or permit that the person be subjected to any of the following:

- (a) Calisthenics;

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- (b) Total or substantial nudity on the part of the person;
- (c) Compelled ingestion of any substance by the person;
- (d) Wearing or carrying of any obscene or physically burdensome article by the person;
- (e) Physical assaults upon or offensive physical contact with the person;
- (f) Participation by the person in boxing matches or other physical contests;
- (g) Confinement of the person to unreasonably small, unventilated, unsanitary or unlighted areas;
- (h) Assignment of pranks to be performed by the person; or
- (i) Compelled personal servitude by the person.

(3) Subsection (1) of this section does not apply to curricular activities of athletic teams of the schools.

(4) It is the intent of this section to abolish the practice of hazing and initiating students into either junior high or high school, whether in or out of school.

(5) A recognized group or organization that violates this section commits a violation punishable by a fine of not more than \$500.00.

(6) A person or member of any organization, class or group who personally violates or causes another to violate this section, commits a violation punishable by a fine of not more than \$250.00. [Ord. 654, 1988; Ord. 642 § 16, 1987]

9.25.050 Skateboards and roller skates.

(1) Use of Roller Skates and/or Skateboards Restricted. No person shall go upon any street or sidewalk, except a play street or play sidewalk, upon any skateboard or by riding in or upon any coaster, toy vehicle or similar device. No person shall go upon any street or sidewalk in the business district upon roller skates.

(2) Play Streets. No person shall drive a vehicle upon a play street during the hours for which it has been so designated, and reasonable notice given, except drivers having business on the designated play street or portion of any street, or persons whose residences are along said portion of such streets, and in any such event any such driver shall exercise the greatest care in driving upon such street or portions thereof.

(3) A violation of subsection (1) of this section shall be punishable by a fine not to exceed \$50.00.

(4) A violation of subsection (2) of this section is punishable by a fine not to exceed \$500.00. [Ord. 673, 1990; Ord. 642 § 17, 1987]

Chapter 9.30
MISCELLANEOUS OFFENSES

Sections:

- 9.30.010 Police and fire communications.**
- 9.30.020 Unnecessary noises prohibited.**
- 9.30.030 Repealed.**
- 9.30.040 Public drinking – Open container.**

9.30.010 Police and fire communications.

No person shall operate any generator or electromagnetic wave or cause a disturbance of such magnitude as to interfere with the proper functioning of any police or fire department radio communication system. [Ord. 642 § 21, 1987]

9.30.020 Unnecessary noises prohibited.

No person shall create, permit, or continue any loud, disturbing or unnecessary noise. The following acts are declared to be violations of this section, but such enumerations shall not be deemed to be exclusive:

(1) The keeping of any animal which by frequent or loud continued noise disturbs the comfort and repose of any person in the vicinity.

(2) The use of any automobile, motorcycle or other vehicle, any engine, stationary or moving instrument, device or thing so out of repair, so loaded, or operated in such manner as to create loud or unnecessary grating, grinding, rattling or other noises.

(3) The sounding of any horn or signal device on any automobile, motorcycle or other vehicle on any street or public place of the city, except as a necessary warning of danger to property or persons.

(4) The use of any mechanical device operated by compressed air, steam or otherwise, unless the noise created is effectively muffled.

(5) The erection, including excavating, demolition, alteration, or repair of any building, other than between the hours of 7:00 a.m. and 6:00 p.m., except upon special permit granted by the common council.

(6) The use of any gong or siren upon any vehicle, other than police, fire or other emergency vehicle.

(7) The operation of any gasoline engine not equipped with a muffler.

(8) The use of a “muffler cutout” on any motor vehicle upon any street.

(9) The use or operation of any automatic or electric piano, phonograph, radio, loudspeaker or any sound-amplifying device so loudly as to disturb persons in the vicinity thereof or in a manner which renders it a public nuisance. Upon application to the common council, permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches or general entertainment.

(10) The use of any loudspeaker, public announcing equipment, or other automatic or electrical device for magnifying sound within the city between the hours of 8:00 p.m. and 8:00 a.m. during weekdays, or on Sunday at any time. Loudspeakers and public announcement systems may be used to announce athletic contests and other civic functions at any time; provided, the equipment is used and its tone modulated so that it is not audible at a distance greater than one block. This provision shall not apply to church or school functions.

(11) The conducting, operating or maintaining of any garage within 100 feet of any building used as a private residence, apartment house, rooming house or hotel in a manner which causes loud or offensive noises to be emitted between the hours of 11:00 p.m. and 7:00 a.m. [Ord. 642 § 22, 1987]

9.30.030 Ice and snow removal.

Repealed by Ord. 762. [Ord. 642 § 23, 1987]

9.30.040 Public drinking – Open container.

No person shall drink or consume any alcoholic liquor or possess upon his immediate person any container which contains any alcoholic liquor after the same has been opened, or a seal broken thereon, or the contents of which have been partially removed in or upon a street, alley, mall, parking lot or structure, motor vehicle, public grounds or premises open to the general public for the use of motor vehicles whether the premises are publicly or privately owned and whether or not a fee is charged for the use of the premises unless such place has been licensed for that purpose by the Oregon Liquor Control Commission and/or other authority; provided, however, nothing in this section shall prohibit the drinking of any alcoholic beverage at any activity for which a permit authorizing such consumption or possession has been obtained from the city, nor where such drinking or possession occurs within 250 feet of the residence of the person involved when such residence is in a residentially zoned area pursuant to city ordinance. [Ord. 674, 1990; Ord. 642 § 27, 1987]

Chapter 9.35
VIOLATION – PENALTY

Sections:

9.35.010 Penalties.

9.35.010 Penalties.

(1) A violation of this division is punishable by a fine not to exceed \$500.00.

(2) Each violation of a separate provision of this division constitutes a separate offense, and each day that a violation of this division is committed or permitted to continue constitutes a separate offense.

(3) The maximum penalty for a violation of this division shall not exceed the maximum penalty prescribed for violation of a substantially similar offense prescribed by the Oregon Criminal Code of 1971. [Ord. 642 § 24, 1987]

Division II. Public Peace and Morals

**Chapter 9.40
CURFEW**

Sections:

- 9.40.010 Curfew imposed.**
- 9.40.020 Curfew hours.**
- 9.40.030 Parental responsibility.**
- 9.40.040 Police custody.**
- 9.40.050 Penalty.**

9.40.010 Curfew imposed.

No minor under 18 years of age shall be on a street, highway, park, alley or other public place between the hours specified in BMC 9.40.020, unless:

- (1) The minor is accompanied by a parent, guardian or other person 21 years of age or over and authorized by the parent or law to have custody of the minor;
- (2) The minor is engaged in a lawful pursuit or activity which requires the minor's presence upon the street, highway, park, alley or other public place; or
- (3) The minor is emancipated under ORS 109.550 to 109.565 or current Oregon law. [Ord. 636 § 1, 1988]

9.40.020 Curfew hours.

For minors under the age of 16, curfew hours are the hours between 10:00 p.m. and 4:00 a.m. of the following morning. For minors 16 years and older, curfew hours are the hours between 10:00 p.m. and 4:00 a.m. of the following morning on Sundays through Thursdays, and the hours between 12:00 midnight and 4:00 a.m. of the following morning on Fridays and Saturdays. [Ord. 715 § 1, 1996; Ord. 636 § 2, 1988]

9.40.030 Parental responsibility.

No parent, guardian or other person having legal custody of a minor under the age of 18 years shall permit the minor to be in violation of this chapter. [Ord. 636 § 3, 1988]

9.40.040 Police custody.

Any police officer is authorized to take a minor violating a provision of this chapter into custody as provided by ORS 419.569. [Ord. 636 § 4, 1988]

9.40.050 Penalty.

Violation of BMC 9.40.030 by a parent, guardian or person having legal custody of a minor is punishable by a fine not to exceed \$100.00. [Ord. 636 § 5, 1988]

Chapter 9.45
FAILURE TO SUPERVISE MINOR

Sections:

- 9.45.010 Offense designated.**
- 9.45.020 Defenses.**
- 9.45.030 Restitution.**
- 9.45.040 Citation of parent or guardian.**
- 9.45.050 Warning.**
- 9.45.060 First offense.**
- 9.45.070 Violation – Penalty.**

9.45.010 Offense designated.

A person commits the offense of failure to supervise a minor if the person is the parent, legal guardian or person with legal responsibility for a child under 18 years of age and the child has been found on private property or premises open to the public in violation of any provision of the Burns ordinances. [Ord. 716 § 1, 1996]

9.45.020 Defenses.

It shall be a defense to the offense of failure to supervise a minor if the child's violation of the Burns ordinance occurred in the presence of the person. It shall be a defense to the offense of failure to supervise a minor if the violation occurred on private property of the person. It shall be an affirmative defense that the person:

(1) Took reasonable steps to control the conduct of the child at the time the person is alleged to have failed to supervise; or

(2) Reported the act to the appropriate authorities within a reasonable period of time after the commission of the act. [Ord. 716 § 2, 1996]

9.45.030 Restitution.

In addition to any fine or penalty imposed pursuant to this chapter, the court may order the person to pay restitution to a victim of the minor's conduct. The amount of restitution ordered pursuant to this chapter shall not exceed \$2,500. [Ord. 716 § 3, 1996]

9.45.040 Citation of parent or guardian.

If a child in violation of the Burns ordinances is 11 years of age or younger, any citation issued for such violation shall be issued to the parent, legal guardian or person with legal responsibility for the safety and welfare of the child, rather than to the child. [Ord. 716 § 4, 1996]

9.45.050 Warning.

The first time a person is cited for an offense proscribed herein, the court shall issue a warning to the person cited setting out the penalties under the requirements of the chapter. This warning shall be in lieu of any other action in the case and the case shall be dismissed. [Ord. 716 § 5, 1996]

9.45.060 First offense.

The first time a person is convicted of an offense proscribed herein, the person shall not be required to pay a fine exceeding \$100.00 if the person participates in and completes a parent effectiveness program to the satisfaction of the court. [Ord. 716 § 6, 1996]

9.45.070 Violation – Penalty.

The offense described in this chapter of failure to supervise a minor is an infraction punishable by a maximum fine of \$1,000. [Ord. 716 § 7, 1996]

**Chapter 9.50
GRAFFITI**

Sections:

- 9.50.010 Definitions.**
- 9.50.020 Unlawfully possessing graffiti implement.**
- 9.50.030 Seizure – Impoundment.**
- 9.50.040 Penalty.**
- 9.50.050 Community service.**
- 9.50.060 Parental responsibility.**
- 9.50.070 Parental civil liability.**

9.50.010 Definitions.

- (1) “Aerosol paint container” means any aerosol container adapted or made for spraying paint.
- (2) “Etching device” means a glass cutter, awl or any device capable of scratching or etching the surface of any structure or personal property.
- (3) “Felt tip marker” means any indelible marker or similar implement with a tip, which, at its broadest width, is greater than one-fourth inch.
- (4) “Graffiti” means any inscription, word, figure or design that is marked, etched, scratched, drawn or painted on any surface that is not authorized by the owner or person in charge of the property.
- (5) “Graffiti implement” means any aerosol paint container, a felt tip marker, an etching device or a graffiti stick.
- (6) “Graffiti stick” means a device containing a solid form of paint, chalk, wax, epoxy or other similar substance capable of being applied to a surface by pressure, and upon application, leaving a mark at least one-fourth of an inch in width. [Ord. 709 § 1, 1995]

9.50.020 Unlawfully possessing graffiti implement.

- (1) No person may possess, with the intent to unlawfully apply graffiti on any real or personal property of another, any graffiti implement.
- (2) Unlawfully possessing a graffiti implement is a violation. [Ord. 709 § 2, 1995]

9.50.030 Seizure – Impoundment.

In addition to any citation issued, a graffiti implement possessed in violation of this section may be immediately seized and impounded by the Burns police department. The court, upon disposition of the issued citation, shall determine whether the instrument shall be returned to the defendant or deemed contraband and disposed of according to state law. [Ord. 709 § 3, 1995]

9.50.040 Penalty.

A conviction for the violation of BMC 9.50.020 shall be punishable by a fine not to exceed \$250.00. Upon conviction for unlawfully possessing a graffiti implement, the court shall impose a mandatory minimum fine of \$100.00. [Ord. 709 § 4, 1995]

9.50.050 Community service.

In lieu of payment of any fine that may be imposed for violation of this chapter, the court may order community service as follows:

- (1) Upon conviction for unlawfully possessing a graffiti implement, the person shall perform at least 20 hours of community service;
- (2) The entire period of community service shall be performed under the supervision of a community service provider approved by the court; and
- (3) Reasonable effort shall be made to assign the subject person to a type of community service that is reasonably expected to have the most rehabilitative effect on the person. To the extent that the offense

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giving rise to the offer of community service constitutes a violation of this section, reasonable effort shall be made by the court to assign the person to community service which constitutes in significant part the removal of the graffiti. [Ord. 709 § 5, 1995]

9.50.060 Parental responsibility.

(1) No parent, guardian, or other person having the legal custody of a minor person under the age of 18 years may allow or permit the minor to be in violation of BMC 9.50.020.

(2) Upon a subsequent violation by a minor, the parent, guardian or person having legal custody shall be served with a subpoena to appear before the court with the minor and show cause why BMC 9.50.020 has been violated a second time.

(3) Violating parental responsibility under this section is a violation punishable by a fine not to exceed \$250.00 or community service of not more than 20 hours. [Ord. 709 § 6, 1995]

9.50.070 Parental civil liability.

In addition to any other remedy provided by law, the parent or parents of an unemancipated minor child shall be liable for actual damages to person or property in connection with the removal of graffiti caused by said child in accordance with the provisions of ORS 30.765. [Ord. 709 § 7, 1995]