

Title 9 PUBLIC PEACE AND WELFARE

Chapter 9.04 - CRIMINAL CODE ADOPTED

Chapter 9.08 - OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

Chapter 9.12 - OFFENSES AGAINST PUBLIC PEACE AND DECENCY

Chapter 9.16 - OFFENSES BY OR AGAINST MINORS

Chapter 9.20 - WEAPONS

Chapter 9.04 CRIMINAL CODE ADOPTED

Sections:

[9.04.010 Oregon Criminal Code adopted.](#)

9.04.010 Oregon Criminal Code adopted.

- A. Oregon Revised Statutes, Chapters 161, 162, 163, 164, 165, 166 and 167, except for any provision classified as a felony under state law, are adopted by reference. Violation of an adopted provision of those chapters is an offense against this city.
- B. The provisions of Oregon Revised Statutes, Chapter 161, 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 title.
- C. Except where the context clearly indicates a different meaning, definitions appearing in the general definitional and other particular sections of chapters adopted by subsection A. of this section are applicable throughout this title.

(Prior code § 5.016)

Chapter 9.08 OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

Sections:

[9.08.010 Fire control.](#)

[9.08.020 Destruction of official notices and signs.](#)

[9.08.030 Injury to or removal of property.](#)

9.08.010 Fire control.

- A. No person may lead, ride or drive any animal or vehicle over or upon any fire hose or otherwise disturb or damage any hose, engine, appliance or apparatus belonging to or used by the fire district.
- B. No person at a fire may refuse to obey promptly any order of any member of the fire district or resist, obstruct or hinder any member of the fire district.
- C. No person unauthorized by public works director or by a member of the fire district may unfasten, open or draw water from or otherwise interfere with any fire hydrant.

(Ord. 2000-20 § 1: prior code § 5.040(2)—(4))

(Ord. No. 2008-008, § 2, 10-27-2008)

9.08.020 Destruction of official notices and signs.

No person without proper authority may wilfully deface, alter, remove or tear down any official notice or bulletin or any official sign, signal, fence or barricade posted or placed in conformity with the law.

(Prior code § 5.140)

9.08.030 Injury to or removal of property.

- A. No person without proper authority may wilfully or negligently cut, remove, deface, alter, injure or damage real or personal property of the city within or without the corporate limits.
- B. No person without proper authority may wilfully or negligently cut, destroy, remove, injure or damage any plant, flower, shrub, tree or bush growing upon any property owned or controlled by the city within or without the corporate limits.

(Prior code § 5.145)

Chapter 9.12 OFFENSES AGAINST PUBLIC PEACE AND DECENCY ⁽¹⁾

[9.12.010 Drinking in public places.](#)

[9.12.020 Expectoration.](#)

[9.12.030 Littering and befouling public and private property.](#)

[9.12.035 Offensive littering by an animal.](#)

[9.12.040 Obstructing passageways.](#)

[9.12.050 Trespass in public spaces.](#)

9.12.010 Drinking in public places.

No person shall possess an open alcoholic beverage container or consume alcoholic liquor in or on a street, alley, mall, parking lot or structure, motor vehicle, public grounds, including parks, or other public place unless the place has been licensed for that purpose by the Oregon Liquor Control Commission. For purposes of this section, the term "open alcoholic beverage container" means any bottle, can or other

receptacle containing any alcoholic liquor which has been opened, or a seal broken, or the contents of which have been partially removed.

(Ord. No. 2015-009, § 1, 11-9-2015)

9.12.020 Expectoration.

No person may expectorate upon any sidewalk or in any public building.

(Ord. No. 2015-009, § 1, 11-9-2015)

9.12.030 Littering and befouling public and private property.

No person may place or deposit any litter, trash, debris, broken glass, nails, or other waste matter on any publicly owned premises, street or alleyway, nor shall any person defoul any publicly owned premises, privately owned premises, street or alleyway with any offensive or ill-smelling substance, unless the person placing the materials on such premises does so with the permission of the owner or lawful possessor thereof. Nothing in this section shall be construed to authorize any person to maintain any condition offensive to the general public or constituting a nuisance, either public or private, or which condition might be inimical to the health of the public.

(Ord. No. 2015-009, § 1, 11-9-2015)

9.12.035 Offensive littering by an animal.

Any person in control of an animal that defecates on the property of another without permission of the property owner, upon any public way as defined in ORS 164.805(2) or upon public parks property, commits the offense of permitting offensive littering by an animal if the person fails to promptly remove and properly dispose of the animal waste.

(Ord. No. 2015-009, § 1, 11-9-2015)

9.12.040 Obstructing passageways.

- A. No person may, except as otherwise permitted in this code, obstruct, cause to be obstructed, or assist in obstructing pedestrian or vehicular traffic on any sidewalk or street.
- B. The provisions of this section shall not apply to the delivery of merchandise or equipment. No owner or person in charge of property may permit such delivered merchandise or equipment to remain on any street or sidewalk beyond a reasonable time.
- C. Except as otherwise provided in this code, no owner or person in charge of property may permit any merchandise, equipment or other obstruction to remain on any street or sidewalk beyond a reasonable time.
- D. Except as otherwise provided in this chapter, no person may use any street or sidewalk or any portion thereof for selling, storing or displaying merchandise or equipment. This section shall not prohibit the display of merchandise on portions of sidewalks directly in front of retail establishments, so long as the display does not unduly obstruct pedestrian traffic, does not create a safety hazard, and so long as the merchandise is part of the inventory of the adjacent retail establishment.
- E. No unauthorized person may deposit any earth, gravel or debris upon any street or sidewalk.

(Ord. No. 2015-009, § 1, 11-9-2015)

9.12.050 Trespass in public spaces.

- A. The purpose of this section is to promote the general welfare and protect city property and the general public by regulating activities on city property.
- B. In addition to other measures provided for violation of this code or any of the laws of the state of Oregon, any peace officer, as defined by ORS 133.005(3) or duly authorized agent of the city, may exclude any person who violates any provision of this code from any city park or property owned, leased or operated by the city for a period of not more than thirty (30) days.
 - 1. Written notice shall be given to any person excluded from city property. Such notice shall specify the dates and places of exclusion, and shall be signed by the issuing party. Warning of consequences for failure to comply shall be prominently displayed on the notice;
 - 2. A person who receives such notice may appeal to the city manager to have written notice rescinded or the period shortened. The appeal shall be filed within five days of receipt of the exclusion notice unless extended by the city manager for good cause shown. The city manager's decision may be appealed to the city council. Notice of appeal should be delivered to the city recorder. The council shall review the application de novo and within fifteen (15) days rescind the written notice, uphold the written notice or uphold the written notice subject to conditions.
- C. A person who violates the terms of the notice of exclusion is subject to the general penalty provisions of this code as set forth in Section 1.12.010, or as amended.

(Ord. No. 2015-009, § 1, 11-9-2015)

FOOTNOTE(S):

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Editor's note—Ord. No. 2015-009, § 1, adopted Nov. 9, 2015, amended Ch. 9.12 in its entirety to read as herein set out, including the repeal of §§ 9.12.050—9.12.110 and 9.12.130, pertaining to noise. Former Ch. 9.12, §§ 9.12.010—9.12.130, pertained to similar subject matter and derived from prior code §§ 5.017, 5.055, 5.165, 5.405—5.435; Ord. 2000-22 § 1; Ord. 2003-6 §§ 1, 2; Ord. 2005-2 § 1; Ord 2006-5 § 1; Ord. 2007-3 § 4; Ord. No. 2012-006, § 1, 10-8-2012; Ord. No. 2013-005, §§ 1, 2, 11-25-2013. At the editor's discretion, § 9.12.120 has been redesignated 9.12.050 in order to maintain consecutive numbering. See Title 8 for provisions concerning noise. ([Back](#))

Chapter 9.16 OFFENSES BY OR AGAINST MINORS

[9.16.010 Curfew for minors.](#)

[9.16.020 Tobacco possession by minors.](#)

[9.16.030 Children confined in vehicles.](#)

9.16.010 Curfew for minors.

A. Purpose of Curfew for Minors. The purpose of this section is to:

1. Promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the city of Estacada;
2. Promote the safety and well-being of the city's youngest citizens, persons under the age of eighteen (18) whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities and to being victimized by older perpetrators of crime; and
3. Foster and strengthen parental responsibility for children.

B. Definitions. As used in this section, the following words and phrases shall have the means ascribed to them below:

"Curfew hours." As to minors under fourteen (14) years of age the hours of curfew shall be between nine-fifteen p.m. and six a.m. the following morning except that on any day immediately preceding a day for which no public school is scheduled in the city, the curfew shall be between ten-fifteen p.m. and six a.m. the following morning. As to minors fourteen (14) years of age or older, the hours of curfew shall be between ten-fifteen p.m. and six a.m. the following morning except on any day immediately preceding a day for which no public school is scheduled in the city, the curfew shall be between twelve midnight and six a.m. the following morning.

"Emergency" means unforeseen circum-stances or the status or condition resulting therefrom requiring immediate action to safeguard life, limb or property. The term includes, but is not limited to, fires, natural disasters, automobile accidents or other similar circumstances.

"Establishment" means any privately owned place of business within the city operated for a profit to which the public is invited including, but not limited to, any place of amusement or entertainment. With respect to such establishment, the term "operator" shall mean any person in any firm, association, partnership (and the members or partners thereof) and/or any corporation (and the officers thereof) conducting or managing that establishment.

"Minor" means any person under eighteen (18) years of age who has not been emancipated by court order.

"Officer" means a police or other law enforcement officer charged with the duty of enforcing the laws of Oregon or the ordinances of the city of Estacada.

"Parents" means:

- a. A person who is a minor's biological or adoptive parent and who has legal custody of a minor (including either parent if custody is shared under a court order or agreement);
- b. A person who is the biological or adoptive parent with whom a minor regularly resides;
- c. A person judicially appointed as a legal guardian of the minor; and/or
- d. A person eighteen (18) years of age or older standing in local parentis (as indicated by the authorization of an individual listed in subsections a, b or c of this definition for the person to assume the care or physical custody of the child or as indicated by any other circumstances).

"Person" means an individual and not any association, corporation or any other legal entity.

"Public place" means any place to which the public or a substantial group of the public has access including, but not limited to, streets, highways, roads, sidewalks, alleys, avenues, parks and/or the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities and shops.

"Regular school hours" means the hours of the full time school which the minor would attend in the school district in which the minor resides on any day for which school is in session or if such school in the school district of residence is unknown "regular school hours" are the school hours of the Estacada School District No. 108 on any day for which school is in session.

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"Remain" refers to the following actions:

- a. To linger or stay at or upon a place; and/or
- b. To fail to leave a place when requested to do so by an officer or by the owner, operator or other person in control of that place.

"Temporary care facility" means a nonlocked, nonrestrictive shelter at which minors may wait under visual supervision to be retrieved by a parent. Minors waiting in such facilities shall not be handcuffed and/or secured by handcuffs or otherwise to any stationary object.

C. Curfew. It is unlawful for a minor during curfew hours to remain in or upon any public place within the city, to remain in any motor vehicle operating or parked therein or thereon or to remain in or upon the premises of any establishment within the city unless:

1. The minor is accompanied by a parent as defined in this section; or
2. 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
3. The minor is involved in an emergency; or
4. The minor is engaged in an employment activity or is going to or returning home from such activity without detour or stop; or
5. The minor is on the sidewalk directly abutting a place where he or she resides with a parent; or
6. The minor is attending an activity sponsored by a school, religious or civic organization, by a public organization or agency, or by another similar organization or entity which activity is supervised by adults and/or the minor is going to or returning from such an activity without detour or stop; or
7. The minor is on an errand at the direction of a parent and the minor has in his or her possession a writing by the parent containing the following information: the name, signature, address and telephone number of the parent authorizing the errand; the telephone number where the parent may be reached during the errand; the name of the minor and a brief description of the errand, the minor's destination and the hours the minor is authorized to be engaged in the errand; or
8. The minor is involved in interstate travel through or beginning or terminating in the city of Estacada; or
9. The minor is exercising first amendment rights protected by the United States Constitution such as the free exercise of religion, freedom of speech and the right of assembly.

D. Parental Responsibility.

1. No parent shall allow such minor to be in or upon any street, highway, park, alley or other public place between the hours specified in subsection B of this section except as otherwise provided in subsection C of this section.
2. It is unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow or encourage a violation of subsection C of this section.
3. It is unlawful for the operator of any establishment or for any person who is an employee thereof to knowingly permit, allow or encourage a minor to remain upon the premises of the establishment during curfew hours. It shall be a defense to prosecution under this subsection that the operator or employee of an establishment promptly notify the police department that a minor was present at the establishment after curfew hours and refused to leave.
4. It is unlawful for any person, including any minor, to give a false name, address or telephone number to any officer investigating the possible violation of subsection C of this section.

E. Truancy Reduction. It is unlawful for a minor who is at least seven years of age and under eighteen (18) years of age and who has not completed the twelfth grade to be upon any street, highway, park,

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alley or other public property during regular school hours except while attending school as required by ORS 339.010 to 339.065 unless such minor is:

1. Absent from the school with the school's permission but not including students who have been suspended or expelled; or
 2. Engaged in a lawful pursuit or activity that requires the minor's presence somewhere other than school during regular school hours which is authorized by the parent or other person having legal care and custody of such minor; or
 3. Lawfully emancipated pursuant to ORS 419B.550 to 419B.558; or
 4. Exempt from compulsory school attendance pursuant to ORS 339.030.
- F. Enforcement. Before taking any enforcement action hereunder, an officer shall make an immediate investigation for the purpose of ascertaining whether or not the presence of a minor in a public place, motor vehicle and/or establishment within the city during curfew hours is a violation of this section. If such investigation reveals that the presence of such minor is in violation of this section, then:
1. If the minor has not previously been issued a warning for any such violation, then the officer shall issue a verbal warning to the minor and the officer or designee shall issue a written warning mailed to the parent.
 2. If the minor has previously been issued a warning for any such violation, then the officer shall charge the minor with a violation of this section and shall issue a summons requiring the parent/guardian of the minor to appear in Estacada Municipal Court. If a minor refuses to give an officer his or her name and address, refuses to give the name and address of his or her parents, or if no parent can be located prior to the end of the applicable curfew hours or if located, no parents appears to accept custody of the minor, the minor may be taken into custody as provided in ORS 419C.080, 419C.085 and 419C.088.

(Ord. 2007-3 §§ 5, 6; Ord. 2000-21 § 1: prior code § 5.171)

(Ord. No. 2010-002, §§ 1, 2, 5-24-2010)

9.16.020 Tobacco possession by minors.

- A. Oregon Revised Statute (ORS) 167.400 is adopted by reference.
- B. All citations issued to minors alleged to have violated the provisions of ORS 167.400 shall be issued on an ordinance violation citation form and remanded to Estacada municipal court.
- C. Upon a finding of guilty by the Estacada municipal judge, either by trial or a guilty plea, a twenty-five dollar (\$25.00) minimum fine shall be imposed. A second finding of guilty for the same offense shall result in a fifty dollar (\$50.00) minimum fine being imposed. A third finding of guilty for this offense and subsequent offenses shall result in a one hundred dollar (\$100.00) minimum fine.
- D. The fine of twenty-five dollars (\$25.00) for the first offense may be waived by the court upon proof of completion, by minor, of a smoking cessation program.

(Ord. 2007-3 § 7; prior code § 5.173)

9.16.030 Children confined in vehicles.

- A. No person who has under his control or guidance a child under ten (10) years of age may at any time leave, lock, confine or permit such child to be left, locked or confined unattended in any vehicle on the streets, alleys or public ways for a period of time longer than fifteen (15) consecutive minutes.

- B. It shall be lawful and the duty of a policeman or other peace officer, finding a child or children confined in violation of the terms of this section, to enter such vehicle and remove such child, using such force as is necessary to effect an entrance to the vehicle or place where such child may be confined in order to remove the child.

(Prior code § 5.175)

Chapter 9.20 WEAPONS

Sections:

[9.20.010 Concealed weapons.](#)

[9.20.020 Discharge of weapons.](#)

9.20.010 Concealed weapons.

Except as provided in ORS 166.291 to ORS 166.293, no person shall carry concealed on his or her person any knife having a blade that projects or swings into position by force of a spring or by centrifugal force; any dirk, dagger, ice pick, sling shot, metal knuckles, or any similar instrument by the use of which injury could be inflicted upon the person or property of any other person.

(Ord. 2000-19 § 1: prior code § 5.021)

9.20.020 Discharge of weapons.

- A. No person other than a police officer acting in his or her capacity as such shall discharge a firearm within the limits of the city of Estacada except under the following circumstances:
- a. When the discharge occurs at a firing range approved by the city council and the discharge is conducted in a safe and reasonable manner and with due regard for the safety of all persons and property, or
 - b. When the discharge is by a person duly licensed by the Oregon Department of Agriculture as a custom slaughterer provided that the person is acting within the scope of the authority granted by the license and in furtherance of the activities for which the license has been obtained. Sight securing should be used when possible during all slaughter activity.
 - c. When the discharge is for the humanitarian purpose of euthanizing an animal that has been injured or ailing.
 - d. When the discharge is in full compliance with a permit issued by the city council of the city of Estacada or its designee.
- B. The permit referred to in subsection A. hereof may be issued only for such purposes as may be considered by the city of Estacada to be reasonable and necessary when a firearm is required in furtherance of a legitimate and otherwise lawful activity, but not including target practice outside of an approved firing range.
- C. All permits issued pursuant to this ordinance shall contain the following provision:

"Permittee's use of a firearm shall at all times be conducted in a safe and reasonable manner, and all reasonable precautions shall be made to prevent harm to any person or the property of any person. Permittee shall be solely responsible for any and all injury arising out of permittee's activities. In no event shall the city of Estacada be responsible for injury to person or property as a result of the permittee's

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activities. Permittee shall indemnify, defend, and hold harmless the city of Estacada of and from any and all claims by any person for any injury, whether bodily injury, property injury, or otherwise, as a result of permittee's activities."

- D. Any permit issued pursuant to this ordinance may contain such additional conditions as deemed appropriate such as limits on the location of use, limits relating to time of day, and special precautions relating to safety.
- E. A permit shall be personal to a specifically named permittee who shall be a natural person. No permit issued pursuant to this ordinance is assignable or transferable. Every permit shall be limited in duration for a period which the issuing official, in that official's discretion, deems reasonable considering the purpose for the issuance of the permit.
- F. In furtherance of the permitting process, the city may require a prospective permittee to supply permittee's name, address, and such other information as the city deems appropriate including, but not limited to, specifics about the location of the proposed use of the firearm, the proposed permittee's experience with firearms, the proximity of other persons and property to the place of use, and alternatives that may accomplish the same purpose as a firearm would.
- G. For purposes of this ordinance a starter's pistol that cannot propel any projectile and that is being used in the course of athletic activity or in the training of hunting dogs shall not be considered a firearm.
- H. This ordinance shall not be applied against a farm practice that is in fact protected by ORS 30.930 through 30.937 as such statutes may read at the time of an alleged violation hereof. Nor shall this ordinance be interpreted as declaring any farm activity to be a trespass or nuisance when such practices are protected by such statutes.
- I. This ordinance is not intended to provide for a private right of action for damages or equitable relief based upon a violation hereof.

(Prior code § 5.025)

(Ord. No. 2012-001, 2-13-2012)