



CITY OF BEAVERTON

CITY ORDINANCES

ORDINANCE 3957 AN ORDINANCE ADDING, AMENDING, AND
REPEALING CERTAIN PROVISIONS OF CHAPTER FIVE OF THE BEAVERTON
CODE.

NUMBER OF PAGES

62

ORD
3957

City of Beaverton
City Attorney's Office

MEMORANDUM

TO: CITY RECORDER, MAYOR'S OFFICE
FROM: JANET PARK, CITY ATTORNEY'S OFFICE
DATE: SEPTEMBER 23, 1996
RE: ORDINANCE NO. 3957

I discovered a typo while reviewing the above-referenced ordinance. Sections 25 and 26 use the same code number, 5.08.685. I believe the logical code number for Misuse of Confidential Information should have been 5.08.690.

Please let me know what is need to correct this ordinance.

*Corrected
9/26/96
distributed to
code ord recipients*

ORDINANCE NO. 3957

**AN ORDINANCE ADDING, AMENDING, AND REPEALING
CERTAIN PROVISIONS OF CHAPTER FIVE OF THE BEAVERTON CODE.**

WHEREAS, the City has the legal authority to define and punish criminal misconduct under its charter and ordinances and to prosecute such offenses in its Municipal Court; and

WHEREAS, local governments are prohibited under Article XI, section 2, of the Oregon Constitution from enacting legislation that conflicts with state criminal laws; and

WHEREAS, the City endeavors to maintain consistency between its local criminal ordinances and state criminal laws; now therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

The following provisions are hereby added to the Beaverton Code:

Section 1. BC 5.08.137, Abuse of a Memorial to the Dead. ORS 166.076, "Abuse of a memorial to the dead," as now constituted, is hereby incorporated into this code.

Section 2. BC 5.08.226, Unlawful Use of Mace, Tear Gas or an Electrical Stun Gun. ORS 163.212, "Unlawful use of an electrical stun gun, tear gas or mace in the second degree," as now constituted, is hereby incorporated into this code.

Section 3. BC 5.08.325, Prostitution. ORS 167.007, "Prostitution," as now constituted, is hereby incorporated into this code.

Section 4. BC 5.08.407, Trespass while in Possession of a Firearm. ORS 164.265, "Criminal trespass while in possession of firearm," as now constituted, is hereby incorporated into this code.

Section 5. BC 5.08.413, Unlawful Entry into Motor Vehicle. ORS 164.272, "Unlawful entry into motor vehicle," as now constituted, is hereby incorporated into this code.

Section 6. BC 5.08.423, Computer Crime. Subsections (1) and (4) of ORS 164.377, "Computer crime," as now constituted, are hereby incorporated into this code. A violation of this section is a Class A misdemeanor.

Section 7. BC 5.08.424, Reckless Burning. ORS 164.335, "Reckless burning," as now constituted, is hereby incorporated into this code.

Section 8. BC 5.08.440, Criminal Possession of a Forged Instrument. ORS 165.017, "Criminal possession of a forged instrument in the second degree," as now constituted, is hereby incorporated into this code.

Section 9. BC 5.08.445, Criminal Simulation. ORS 165.037, "Criminal simulation," as now constituted, is hereby incorporated into this code.

Section 10. BC 5.08.450, Fraudulently Obtaining a Signature. ORS 165.042, "Fraudulently obtaining a signature," as now constituted, is hereby incorporated into this code.

Section 11. BC 5.08.455, Negotiating a Bad Check. ORS 165.065, "Negotiating a bad check," as now constituted, is hereby incorporated into this code.

Section 12. BC 5.08.460, Unlawful Videotape Recording. ORS 164.875, "Unlawful videotape recording," as now constituted, is hereby incorporated into this code.

Section 13. BC 5.08.465, Improper Use of 9-1-1 Emergency Reporting System. ORS 165.570, "Improper use of 9-1-1 emergency reporting system," as now constituted, is hereby incorporated into this code.

Section 14. BC 5.08.470, Falsifying Business Records. ORS 165.080, "Falsifying business records," as now constituted, is hereby incorporated into this code.

Section 15. BC 5.08.475, Misapplication of Entrusted Property. ORS 165.095, "Misapplication of entrusted property," as now constituted, is hereby incorporated into this code.

Section 16. BC 5.08.480, Issuing a False Financial Statement. ORS 165.100, "Issuing a false financial statement," as now constituted, is hereby incorporated into this code.

Section 17. BC 5.08.485, Obtaining Execution of Documents by Deception. ORS 165.102, "Obtaining execution of documents by deception," as now constituted, is hereby incorporated into this code.

Section 18. BC 5.08.503, Posting of Signs Concerning Sale of Tobacco Devices. ORS 163.580, "Posting of signs concerning sale of smoking devices," as now constituted, is hereby incorporated into this code.

Section 19. BC 5.08.507, Failing to Supervise a Child. ORS 163.577, "Failing to supervise a child," as now constituted, is hereby incorporated into this code.

Section 20. BC 5.08.657, Compounding a Felony.

A. ORS 162.335, "Compounding a felony," as now constituted, is hereby incorporated into this code.

B. ORS 162.345, "Defenses for hindering or compounding limited," as now constituted, is hereby incorporated into this code.

Section 21. BC 5.08.665, Simulating Legal Process. ORS 162.355, "Simulating legal process," as now constituted, is hereby incorporated into this code.

Section 22. BC 5.08.670, Tampering with Physical Evidence. ORS 162.295, "Tampering with physical evidence," as now constituted, is hereby incorporated into this code.

Section 23. BC 5.08.675, Tampering with Public Records. ORS 162.305, "Tampering with public records," as now constituted, is hereby incorporated into this code.

Section 24. BC 5.08.680, Official Misconduct in the Second Degree. ORS 162.405, "Official misconduct in the second degree," as now constituted, is hereby incorporated into this code.

Section 25. BC 5.08.685, Official Misconduct in the First Degree. ORS 162.415, "Official misconduct in the first degree," as now constituted, is hereby incorporated into this code.

Section 26. BC 5.08.690, Misuse of Confidential Information. ORS 162.425, "Misuse of confidential information," as now constituted, is hereby incorporated into this code.

Section 27. BC 5.08.702, Animal Abuse in the Second Degree. ORS 167.315, "Animal abuse in the second degree," as now constituted, is hereby incorporated into this code.

Section 28. BC 5.08.703, Animal Abuse in the First Degree. ORS 167.320, "Animal abuse in the first degree," as now constituted, is hereby incorporated into this code.

Section 29. BC 5.08.704, Animal Neglect in the Second Degree. ORS 167.325, "Animal neglect in the second degree," as now constituted, is hereby incorporated into this code.

Section 30. BC 5.08.706, Animal Neglect in the First Degree. ORS 167.330, "Animal neglect in the first degree," as now constituted, is hereby incorporated into this code.

Section 31. BC 5.08.708, Animal Abandonment. ORS 167.340, "Animal abandonment," as now constituted, is hereby incorporated into this code.

Section 32. BC 5.08.709, Forfeiture of Rights in Mistreated Animals. ORS 167.350, "Forfeiture of rights in mistreated animals; costs; disposition of animal," as now constituted, is hereby incorporated by reference into this code. Reference therein to ORS 167.315 to 167.330 and 167.340 shall be deemed a reference to BC 5.08.702 to 5.08.706 and 5.08.708.

Section 33. BC 5.08.712, Placing Offensive Substances on Property. ORS 164.785, "Placing offensive substances in waters, on highways or other property," as now constituted, is hereby incorporated into this code.

hereby incorporated into this code.

Section 34. BC 5.08.765, Solicitation.

A. ORS 161.435, "Solicitation' described," as now constituted, is hereby incorporated into this code.

B. ORS 161.440, "Renunciation as defense to solicitation," as now constituted, is hereby incorporated into this code.

Section 35. BC 5.08.770, Conspiracy.

A. ORS 161.450, "Conspiracy' described," as now constituted, is hereby incorporated into this code.

B. ORS 161.455, "Conspiratorial relationship," as now constituted, is hereby incorporated into this code.

C. ORS 161.460, "Renunciation as defense to conspiracy," as now constituted, is hereby incorporated into this code.

D. ORS 161.465, "Duration of conspiracy," as now constituted, is hereby incorporated into this code.

The following provisions of the Beaverton Code are hereby amended:

Section 36. BC 5.02.017, Providing Premises for the Consumption of Alcohol by Minors Prohibited, is amended to read:

"5.02.017 Providing Premises for the Consumption of Alcohol by Minors Prohibited. Subsections (3), (7) and (8) of ORS 471.410, "Providing liquor to persons under 21 or to intoxicated persons; allowing consumption by minor on property; mandatory minimum penalties," as now constituted, are hereby incorporated into this code."

Section 37. BC 5.02.100, Penalty, is amended to read:

"5.02.100 Penalty. Violation of any of the provisions of BC 5.02.005 to 5.02.105 is punishable upon conviction by a fine of not more than \$2,500 or by imprisonment not to exceed 365 days, or both. Violation of a provision substantially similar to a state statute is punishable by fine or imprisonment, or both, not to exceed the penalty prescribed by the state statute."

Section 38. BC 5.08.010, Definitions for BC 5.08.010 to 5.08.800, is amended to read:

"5.08.010 Definitions for BC 5.08.010 to 5.08.800. The definitions contained in the Oregon Criminal Code of 1971, as now constituted, are incorporated into this code. A definition provided under state law and made applicable to a provision of the Oregon Revised Statutes that is incorporated by reference into this code at BC 5.08.010 to 5.08.800 applies in similar manner to those provisions of BC 5.08.010 to 5.08.800."

Section 39. BC 5.08.015, Application of State Statutes, is amended to read:

“5.08.015 Application of State Statutes. Provisions of the Oregon Criminal Code of 1971, as now constituted, relating to principles (ORS 161.005 to 161.067), criminal liability (ORS 161.085 to 161.125), parties to crime ORS (161.150 to 161.175), justification (ORS 161.190 to 161.275) and responsibility (ORS 161.290 to 161.400) apply to offenses defined and made punishable by BC 5.08.010 to 5.08.800. Reference contained therein to an offense defined by the Oregon Revised Statutes and incorporated herein shall be deemed a reference to the provision of this code that incorporates by reference the offense defined by the Oregon Revised Statutes.”

Section 40. BC 5.08.020, Defenses and Burden of Proof, is amended to read:

“5.08.020 Defenses and Burden of Proof.

A. When a defense, other than an affirmative defense, is raised at trial, the City has the burden of disproving the defense beyond a reasonable doubt.

B. When a defense, declared to be an affirmative defense by Chapter 743, Oregon Laws 1971, as now constituted, is raised at a trial, the defendant has the burden of proving the defense by a preponderance of the evidence.

C. The City is not required to negate a defense unless it is raised by the defendant, either by providing the City, before commencement of trial, with written notice of intent to rely on the defense, or by providing affirmative evidence of the defense by a defense witness in the defendant's case in chief.

D. ORS 161.475, “Defenses to solicitation and conspiracy,” as now constituted, is hereby incorporated into this code.

E. ORS 161.485, “Multiple convictions barred in inchoate crimes,” as now constituted, is hereby incorporated into this code.

F. ORS 164.035, “Defenses to theft,” as now constituted, is hereby incorporated into this code.

G. ORS 167.335, “Exemption from ORS 167.315 to 167.330,” as now constituted, is hereby incorporated into this code. Reference therein to ORS 167.315 to 167.330 shall be deemed a reference to BC 5.08.702 to 5.08.706.”

Section 41. BC 5.08.100, Assault, is hereby amended to read:

“5.08.100 Assault. ORS 163.160, “Assault in the fourth degree,” as now constituted, is hereby incorporated into this code.”

Section 42. BC 5.08.105, Menacing, is hereby amended to read:

“ 5.08.105 Menacing. ORS 163.190, “Menacing,” as now constituted, is hereby incorporated into this code.”

Section 43. BC 5.08.110, Reckless Endangerment, is hereby amended to read:

“5.08.110 Reckless Endangerment. ORS 163.195, “Recklessly endangering another person,” as now constituted, is hereby incorporated into this code.”

Section 44. BC 5.08.111, Throwing Object off Overpass, is hereby amended to read:

“5.08.111 Throwing Object off Overpass. ORS 166.649, “Throwing object off overpass in second degree,” as now constituted, is hereby incorporated into this code.”

Section 45. BC 5.08.115, Disorderly Conduct, is hereby amended to read:

“5.08.115 Disorderly Conduct. ORS 166.025, “Disorderly conduct,” as now constituted, is hereby incorporated into this code.”

Section 46. BC 5.08.127, Intimidation, is hereby amended to read:

“5.08.127 Intimidation. ORS 166.155, “Intimidation in the second degree,” as now constituted, is hereby incorporated into this code.”

Section 47. BC 5.08.130, Harassment, is hereby amended to read:

“5.08.130 Harassment. ORS 166.065, “Harassment,” as now constituted, is hereby incorporated into this code.”

Section 48. BC 5.08.133, Telephonic Harassment, is hereby amended to read:

“5.08.133 Telephonic Harassment. ORS 166.090, “Telephonic harassment,” as now constituted, is hereby incorporated into this code.”

Section 49. BC 5.08.135, Abuse of Venerated Objects, is hereby amended to read:

“5.08.135 Abuse of Venerated Objects ORS 166.075, “Abuse of venerated objects,” as now constituted, is hereby incorporated into this code.”

Section 50. BC 5.08.140, Interfering with Public Transportation, is hereby amended to read:

“5.08.140 Interfering with Public Transportation. ORS 166.115, “Interfering with public transportation,” as now constituted, is hereby incorporated into this code.”

Section 51. BC 5.08.205, Carrying of Concealed Weapons, is hereby amended to read:

“5.08.205 Carrying of Concealed Weapons. Except as to those provisions relating to the jurisdiction of justice courts, ORS 166.240, “Carrying of concealed weapons,” as now constituted,

is hereby incorporated into this code.”

Section 52. BC 5.08.305, Public Indecency, is hereby amended to read:

“5.08.305 Public Indecency. ORS 163.465, “Public indecency,” as now constituted is hereby incorporated into this code.”

Section 53. BC 5.08.320, Sexual Abuse, is hereby amended to read:

“5.08.320 Sexual Abuse.

A. ORS 163.415, “Sexual abuse in the third degree,” as now constituted, is hereby incorporated into this code.

B. ORS 163.315, “Incapacity to consent,” ORS 163.325, “Ignorance or mistake as a defense,” and ORS 163.345, “Age as a defense in certain cases,” as now constituted, are hereby incorporated into this code.”

Section 54. BC 5.08.400, Theft in the Second Degree, is hereby amended to read:

“5.08.400 Theft in the Second Degree ORS 164.045, “Theft in the second degree,” as now constituted, is hereby incorporated into this code.”

Section 55. BC 5.08.401, Theft in the Third Degree, is hereby amended to read:

“5.08.401 Theft in the Third Degree. ORS 164.043, “Theft in the third degree,” as now constituted, is hereby incorporated into this code.”

Section 56. BC 5.08.402, Aggravated Theft of Services, is hereby amended to read:

“5.08.402 Aggravated Theft of Services. ORS 164.125. “Theft of services,” as now constituted, is hereby incorporated into this code. This section shall apply if the aggregate total value of services that are the subject of the theft is \$50 or more but is under \$750.”

Section 57. BC 5.08.403, Theft of Services, is hereby amended to read:

“5.08.403 Theft of Services. ORS 164.125. “Theft of services,” as now constituted, is hereby incorporated into this code. This section shall apply if the aggregate total value of services that are the subject of the theft is under \$50.”

Section 58. BC 5.08.404, Criminal Possession of Rented or Leased Personal Property, is hereby amended to read:

“5.08.404 Criminal Possession of Rented or Leased Personal Property. ORS 164.140, “Criminal possession of rented or leased personal property,” as now constituted, is hereby

incorporated into this code. This section shall apply if the aggregate total value of the personal property not returned is under \$500.”

Section 59. BC 5.08.405, Trespass, is hereby amended to read:

“5.08.405 Trespass. ORS 164.245, “Criminal trespass in the second degree,” as now constituted, is hereby incorporated into this code.”

Section 60. BC 5.08.406, Trespass in the First Degree, is hereby amended to read:

“5.08.406 Trespass in the First Degree. ORS 164.255, “Criminal trespass in the first degree,” as now constituted, is hereby incorporated into this code.”

Section 61. BC 5.08.415, Mischief, is hereby amended to read:

“5.08.415 Mischief. ORS 164.345, “Criminal mischief in the third degree,” as now constituted, is hereby incorporated into this code.”

Section 62. BC 5.08.420, Aggravated Mischief, is hereby amended to read:

“5.08.420 Aggravated Mischief. ORS 164.354, “Criminal mischief in the second degree,” as now constituted, is hereby incorporated into this code.”

Section 63. BC 5.08.425, Forgery, is hereby amended to read:

“5.08.425 Forgery. ORS 165.007, “Forgery in the second degree,” as now constituted, is hereby incorporated into this code.”

Section 64. BC 5.08.430, Unlawful Use of Slugs, is hereby amended to read:

“5.08.425 Forgery. ORS 165.047, “Unlawfully using slugs,” as now constituted, is hereby incorporated into this code.”

Section 65. BC 5.08.435, Fraudulent Use of a Credit Card, is hereby amended to read:

“5.08.435 Fraudulent Use of a Credit Card. ORS 165.055, “Fraudulent use of a credit card,” as now constituted, is hereby incorporated into this code. This section shall apply if the aggregate total amount of property or services the person obtains or attempts to obtain is under \$750.”

Section 66. BC 5.08.500, Endangering the Welfare of a Minor, is hereby amended to read:

“5.08.500 Endangering the Welfare of a Minor. ORS 163.575, “Endangering the welfare of a minor,” as now constituted, is hereby incorporated into this code.”

Section 67. BC 5.08.530, Child Neglect, is hereby amended to read:

“5.08.530 Child Neglect. ORS 163.545, “Child neglect in the second degree,” as now constituted, is hereby incorporated into this code.”

Section 68. BC 5.08.600, Unsworn falsification, is hereby amended to read:

“5.08.600 Unsworn falsification. ORS 162.085, “Unsworn falsification,” as now constituted, is hereby incorporated into this code.”

Section 69. BC 5.08.602, False Swearing, is hereby amended to read:

“5.08.602 False Swearing.

A. ORS 162.075, “False swearing,” as now constituted, is hereby incorporated into this code.

B. ORS 162.095, “Defenses to perjury and false swearing limited,” ORS 162.105, “Retraction as defense,” and ORS 162.115, “Corroboration of falsity required,” as now constituted, are hereby incorporated into this code.”

Section 70. BC 5.08.605, Obstructing Governmental Administration, is hereby amended to read:

“5.08.605 Obstructing Governmental Administration. ORS 162.235, “Obstructing Governmental Administration,” as now constituted, is hereby incorporated into this code.”

Section 71. BC 5.08.610, Assaulting an Officer, is hereby amended to read:

“5.08.610 Assaulting an Officer. ORS 163.208, “Assaulting a public safety officer,” as now constituted, is hereby incorporated into this code.”

Section 72. BC 5.08.611, Tampering with Animals Used for Law Enforcement Purposes, is hereby amended to read:

“5.08.611 Tampering with Animals Used for Law Enforcement Purposes. ORS 164.369, “Interfering with police animal,” as now constituted, is hereby incorporated into this code.”

Section 73. BC 5.08.620, Impersonation, is hereby amended to read:

“5.08.620 Impersonation. ORS 162.365, “Criminal Impersonation,” as now constituted, is hereby incorporated into this code.”

Section 74. BC 5.08.621, Possession of False Law Enforcement Identification, is hereby amended to read:

“5.08.621 Possession of False Law Enforcement Identification. ORS 162.369, “Possession of false law enforcement identification card,” as now constituted, is hereby incorporated into this code.”

Section 75. BC 5.08.625, False Reports, is hereby amended to read:

“5.08.625 False Reports. ORS 162.375, “Initiating a false report,” as now constituted, is hereby incorporated into this code.”

Section 76. BC 5.08.630, Resisting an Officer, is hereby amended to read:

“5.08.630 Resisting an Officer. ORS 162.315, “Resisting arrest,” as now constituted, is hereby incorporated into this code.”

Section 77. BC 5.08.635, Escape, is hereby amended to read:

“5.08.635 Escape. ORS 162.145, “Escape in the third degree,” as now constituted, is hereby incorporated into this code.”

Section 78. BC 5.08.640, Interference with Police and Fire Communication, is hereby amended to read:

“5.08.640 Interference with Police and Fire Communication. ORS 166.095, “Misconduct with emergency telephone calls,” as now constituted, is hereby incorporated into this code.”

Section 79. BC 5.08.645, Refusing to Assist an Officer, is hereby amended to read:

“5.08.645 Refusing to Assist an Officer. ORS 162.245, “Refusing to assist a peace officer,” as now constituted, is hereby incorporated into this code.”

Section 80. BC 5.08.650, Failure to Appear, is hereby amended to read:

“5.08.650 Failure to Appear.

A. ORS 162.195, “Failure to appear in the second degree,” as now constituted, is hereby incorporated by reference into this code.

B. ORS 162.193, “Failure to appear; counsel for defendant cannot be witness; exception,” as now constituted, is hereby incorporated into this code. Reference therein to ORS 162.195 shall be deemed a reference to this section.

Section 81. BC 5.08.710, Littering, is hereby amended to read:

“5.08.710 Littering. ORS 164.805, “Offensive littering,” as now constituted, is hereby incorporated into this code.”

Section 82. BC 5.08.715, Possession of Less than One Ounce of Marijuana, is hereby amended to read:

“5.08.715 Possession of Less than One Ounce of Marijuana. Subsection (4)(f) of ORS 475.992, “Prohibited acts generally; penalties’ affirmative defense for certain peyote uses,” as now constituted, is hereby incorporated into this code.”

Section 83. BC 5.08.760, Attempt, is hereby amended to read:

“5.08.760 Attempt.

A. ORS 161.405, “Attempt’ described,” as now constituted, is hereby incorporated into this code.

B. ORS 161.425, “Impossibility not a defense,” as now constituted, is hereby incorporated into this code.

C. ORS 161.430, “Renunciation as a defense to attempt,” as now constituted, is hereby incorporated into this code.”

Section 84. BC 5.08.800, Penalties, is hereby amended to read:

“5.08.800 Penalties.

A. Violation of any provision of BC 5.08.100 to 5.08.770 designated as a Class A misdemeanor is punishable, upon conviction, by a fine not to exceed \$5,000, imprisonment not to exceed one year, or both.

B. Violation of any provision of BC 5.08.100 to 5.08.770 designated as a Class B misdemeanor is punishable, upon conviction, by a fine not to exceed \$2,000, imprisonment not to exceed six months, or both.

C. Violation of any provision of BC 5.08.100 to 5.08.770 designated as a Class C misdemeanor is punishable, upon conviction, by a fine not to exceed \$1,000, imprisonment not to exceed 30 days, or both.

D. Unless otherwise provided, violation of any provision of BC 5.08.100 to 5.08.770 designated as a violation is punishable, upon conviction, by a fine not to exceed \$250.”

Section 85. The following provisions of the Beaverton Code are repealed:

5.08.120 Disobeying an Order to Disperse
5.08.121 Public Fighting
5.08.125 Loitering
5.08.200 Definitions

- 5.08.210 Pointing a Firearm at Another
- 5.08.215 Unlawful Possession of Firearms
- 5.08.217 Unlawful Carrying of a Loaded Firearm
- 5.08.220 Persons Not Affected by BC 5.08.215 and 5.08.217
- 5.08.230 Unlawful Display of Fireworks
- 5.08.310 Prohibited Touching
- 5.08.505 Furnishing Obscene Materials to a Minor
- 5.08.510 Sending Obscene Materials to Minors
- 5.08.515 Exhibiting Obscene Performances to a Minor
- 5.08.520 Displaying Obscene Materials to Minors
- 5.08.525 Defenses in Prosecuting Under BC 5.08.505 - .520
- 5.08.615 Tampering with Public Records
- 5.08.700 Cruelty to Animals
- 5.08.705 Soliciting Drinks

Section 86. The sections and subsections of this ordinance are severable. If any part of this ordinance is held unconstitutional or otherwise invalid, the remaining parts shall remain in force unless:

- A. The remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional or invalid part that it is apparent that the remaining parts would not have been enacted without the unconstitutional part; or
- B. The remaining parts, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

Section 87. The repeal or amendment of an existing ordinance provision by a provision of this ordinance shall not preclude the accusation, prosecution, conviction or punishment of a person who violated the ordinance provision repealed or amended before the effective date of this ordinance.

First reading this 29th day of May, 1996.

Passed by the Council this 10th day of June, 1996.

Approved by the Mayor this 17th day of JUNE, 1996.

ATTEST:

Darleen Coghlan
DARLEEN COGBURN, City Recorder

APPROVED:

Rob Drake
ROB DRAKE, Mayor

Exhibit 1

SECTIONS ADDED, AMENDED, REPEALED AND UNCHANGED BY PROPOSED ORDINANCE

I. SECTIONS ADDED

- 5.08.137 Abuse of a Memorial to the Dead
- 5.08.226 Unlawful Use of Mace, Tear Gas or an Electrical Stun Gun
- 5.08.325 Prostitution
- 5.08.407 Trespass while in Possession of a Firearm
- 5.08.413 Unlawful Entry into Motor Vehicle
- 5.08.423 Computer Crime
- 5.08.424 Reckless Burning
- 5.08.460 Unlawful Videotape Recording
- 5.08.465 Improper Use of 9-1-1 Emergency Reporting System
- 5.08.470 Falsifying Business Records
- 5.08.475 Misapplication of Entrusted Property
- 5.08.480 Issuing a False Financial Statement
- 5.08.485 Obtaining Execution of Documents by Deception
- 5.08.503 Posting of Signs Concerning Sale of Tobacco Devices
- 5.08.507 Failing to Supervise a Child
- 5.08.657 Compounding a Felony
- 5.08.665 Simulating Legal Process
- 5.08.670 Tampering with Physical Evidence
- 5.08.675 Tampering with Public Records
- 5.08.680 Official Misconduct in the Second Degree
- 5.08.685 Official Misconduct in the First Degree
- 5.08.690 Misuse of Confidential Information
- 5.08.701 Definitions for BC 5.08.701 to 5.08.709
- 5.08.702 Animal Abuse in the Second Degree
- 5.08.703 Animal Abuse in the First Degree
- 5.08.704 Animal Neglect in the Second Degree
- 5.08.706 Animal Neglect in the First Degree
- 5.08.707 Exemptions from BC 5.08.702 to 5.08.706
- 5.08.708 Animal Abandonment
- 5.08.709 Forfeiture of Rights in Mistreated Animals
- 5.08.712 Placing Offensive Substances on Property
- 5.08.765 Solicitation
- 5.08.770 Conspiracy

II. SECTIONS AMENDED
(Grouped by reason for amendment)

Match state law

5.02.017	<u>Providing Premises for the Consumption of Alcohol by Minors</u>
5.02.100	<u>Penalty</u>
5.08.010	<u>Definitions</u>
5.08.015	<u>Application of State Statutes.</u>
5.08.020	<u>Defenses and Burden of Proof.</u>
5.08.115	<u>Disorderly Conduct</u>
5.08.127	<u>Intimidation</u>
5.08.130	<u>Harassment</u>
5.08.135	<u>Abuse of Venerated Objects</u>
5.08.140	<u>Interfering with Public Transportation</u>
5.08.205	<u>Carrying of Concealed Weapons</u>
5.08.305	<u>Public Indecency</u>
5.08.405	<u>Trespass</u>
5.08.406	<u>Trespass in the First Degree</u>
5.08.500	<u>Endangering the Welfare of a Minor</u>
5.08.600	<u>Unsworn falsification</u>
5.08.602	<u>False Swearing</u>
5.08.605	<u>Obstructing Governmental Administration</u>
5.08.610	<u>Assaulting an Officer</u>
5.08.611	<u>Tampering with Animals Used for Law Enforcement Purposes</u>
5.08.620	<u>Impersonation</u>
5.08.621	<u>Possession of False Law Enforcement Identification</u>
5.08.625	<u>False Reports</u>
5.08.630	<u>Resisting an Officer</u>
5.08.635	<u>Escape</u>
5.08.640	<u>Interference with Police and Fire Communication</u>
5.08.650	<u>Failure to Appear</u>
5.08.710	<u>Littering</u>
5.08.760	<u>Attempt</u>
5.08.800	<u>Penalties</u>

Format change only

5.08.100	<u>Assault</u>
5.08.105	<u>Menacing</u>
5.08.110	<u>Reckless Endangerment</u>
5.08.111	<u>Throwing an Object Off an Overpass</u>
5.08.133	<u>Telephonic Harassment</u>

5.08.320	<u>Sexual Abuse</u>
5.08.400	<u>Theft in the Second Degree</u>
5.08.401	<u>Theft</u>
5.08.402	<u>Aggravated Theft of Services</u>
5.08.403	<u>Theft of Services</u>
5.08.404	<u>Criminal Possession of Rented or Leased Personal Property</u>
5.08.415	<u>Mischief</u>
5.08.420	<u>Aggravated Mischief</u>
5.08.425	<u>Forgery</u>
5.08.430	<u>Unlawful Use of Slugs</u>
5.08.440	<u>Criminal Possession of a Forged Instrument</u>
5.08.445	<u>Criminal Simulation</u>
5.08.450	<u>Fraudulently Obtaining a Signature</u>
5.08.455	<u>Negotiating a Bad Check</u>
5.08.435	<u>Fraudulent Use of a Credit Card</u>
5.08.530	<u>Child Neglect</u>
5.08.645	<u>Refusing to Assist an Officer</u>
5.08.715	<u>Possession of Less than an Ounce of Marijuana</u>

III. SECTIONS REPEALED
(Grouped by reason for repeal)

Redundant

5.08.120	<u>Disobeying an Order to Disperse</u>
5.08.121	<u>Public Fighting</u>
5.08.615	<u>Tampering with Public Records</u>
5.08.700	<u>Cruelty to Animals</u>

Firearm-related

5.08.200	<u>Definitions</u>
5.08.210	<u>Pointing a Firearm at Another</u>
5.08.215	<u>Unlawful Possession of Firearms</u>
5.08.217	<u>Unlawful Carrying of a Loaded Firearm</u>
5.08.220	<u>Persons Not Affected by BC 5.08.215 and 5.08.217</u>
5.08.230	<u>Unlawful Display of Fireworks</u>

Obscenity-related

5.08.505	<u>Furnishing Obscene Materials to a Minor</u>
5.08.510	<u>Sending Obscene Materials to Minors</u>
5.08.515	<u>Exhibiting Obscene Performances to a Minor</u>
5.08.520	<u>Displaying Obscene Materials to Minors</u>
5.08.525	<u>Defenses in Prosecuting Under BC 5.08.505 - .520</u>

Antiquated or unconstitutional

- 5.08.125 Loitering
- 5.08.310 Prohibited Touching
- 5.08.705 Soliciting Drinks

***IV. SECTIONS UNCHANGED
(Enacted under City's home rule authority
and compatible with state law)***

- 5.08.225 Discharging a Weapon
- 5.08.227 Seizure and Forfeiture of Weapons
- 5.08.300 Indecent Exposure
- 5.08.410 Violating Privacy of Another
- 5.08.535 Children Confined in Vehicles
- 5.08.618 Failure to Provide Name and Date of Birth
- 5.08.622 False Representation
- 5.08.626 Giving False Information to a Peace Officer
- 5.08.655 Hindering Misdemeanor Prosecution
- 5.08.660 Interfering with Police

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

EXHIBIT 2
CONTENT OF SECTIONS ADDED, AMENDED OR REPEALED.

I. SECTIONS ADDED:

Section 1.

“Abuse of a memorial to the dead.

(1) A person commits the crime of abuse of a memorial to the dead if the person intentionally:

(a) Destroys, mutilates, defaces, injures or removes any:

(A) Tomb, monument, gravestone or other structure or thing placed as or designed for a memorial to the dead; or

(B) Fence, railing, curb or other thing intended for the protection or for the ornamentation of any structure or thing listed in subparagraph (A) of this paragraph; or

(b) Destroys, mutilates, removes, cuts, breaks or injures any tree, shrub or plant within any structure listed in paragraph (a) of this subsection.

(2) Abuse of a memorial to the dead is a Class A misdemeanor.

(3) This section does not apply to a person who is the burial right owner or that person’s representative, an heir at law of the deceased, or a person having care, custody or control of a cemetery by virtue of law, contract or other legal right, if the person is acting within the scope of the person’s legal capacity.”

Section 2.

“Unlawful use of mace, tear gas or an electrical stun gun.

(1) A person commits the crime of unlawful use of an electrical stun gun, tear gas or mace in the second degree if the person recklessly discharges an electrical stun gun, tear gas weapon, mace, tear gas, pepper mace or any similar deleterious agent against another person.

(2) Unlawful use of an electrical stun gun, tear gas or mace in the second degree is a Class A misdemeanor.”

Section 3.

“Prostitution.

(1) A person commits the crime of prostitution if:

(a) The person engages in or offers or agrees to engage in sexual conduct or sexual contact in return for a fee; or

(b) The person pays or offers or agrees to pay a fee to engage in sexual conduct or sexual contact.

(2) Prostitution is a Class A misdemeanor.”

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

Section 4.

“Trespass while in possession of a firearm.

(1) A person commits the crime of criminal trespass while in possession of a firearm who, while in possession of a firearm, enters or remains unlawfully in or upon premises.

(2) Criminal trespass while in possession of a firearm is a Class A misdemeanor.”

Section 5.

“Unlawful entry into motor vehicle.

(1) A person commits the crime of unlawful entry into a motor vehicle if the person enters a motor vehicle, or any part of a motor vehicle, with the intent to commit a crime.

(2) Unlawful entry into a motor vehicle is a Class A misdemeanor.

(3) As used in this section, ‘enters’ includes, but is not limited to, inserting:

(a) Any part of the body; or

(b) Any object connected with the body.”

Section 6.

“Computer crime.

(1) As used in this section:

(a) To ‘access’ means to instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or computer network.

(b) ‘Computer’ means, but is not limited to, an electronic device which performs logical, arithmetic or memory functions by the manipulations of electronic, magnetic or optical signals or impulses, and includes all input, output, processing, storage, software or communication facilities which are connected or related to such a device in a system or network.

(c) ‘Computer network’ means, but is not limited to, the interconnection of communication lines, including microwave or other means of electronic communication, with a computer through remote terminals or a complex consisting of two or more interconnected computers.

(d) ‘Computer program’ means, but is not limited to, a series of instructions or statements, in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from or usage of such computer system.

(e) ‘Computer software’ means, but is not limited to, computer programs, procedures and associated documentation concerned with the operation of a computer system.

(f) ‘Computer system’ means, but is not limited to, a set of related, connected or unconnected, computer equipment, devices and software. ‘Computer system’ also includes any computer, device or software owned or operated by the Oregon State Lottery or rented, owned or operated by another person or entity under contract to or at the direction of the Oregon State Lottery.

(g) ‘Data’ means a representation of information, knowledge, facts, concepts, computer software, computer programs or instructions. ‘Data’ may be in any form, in storage media, or as stored in the memory of the computer, or in transit, or presented on a display device. ‘Data’

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

includes, but is not limited to, computer or human readable forms of numbers, text, stored voice, graphics and images.

(h) 'Property' includes, but is not limited to, financial instruments, information, including electronically produced data, and computer software and programs in either computer or human readable form, intellectual property and any other tangible or intangible item of value.

(I) 'Proprietary information' includes any scientific, technical or commercial information including any design, process, procedure, list of customers, list of suppliers, customers' records or business code or improvement thereof that is known only to limited individuals within an organization and is used in a business that the organization conducts. The information must have actual or potential commercial value and give the user of the information an opportunity to obtain a business advantage over competitors who do not know or use the information.

(j) 'Services' include, but are not limited to, computer time, data processing and storage functions.

(4) Any person who knowingly and without authorization uses, accesses or attempts to access any computer, computer system, computer network, or any computer software, program, documentation or data contained in such computer, computer system or computer network, commits computer crime.

A violation of this section is a Class A misdemeanor."

Section 7.

"Reckless burning.

(1) A person commits the crime of reckless burning if the person recklessly damages property of another by fire or explosion.

(2) Reckless burning is a Class A misdemeanor."

Section 8.

"Criminal possession of a forged instrument.

(1) A person commits the crime of criminal possession of a forged instrument in the second degree if, knowing it to be forged and with intent to utter same, the person possesses a forged instrument.

(2) Criminal possession of a forged instrument in the second degree is a Class A misdemeanor."

Section 9.

"Criminal simulation.

(1) A person commits the crime of criminal simulation if:

(a) With intent to defraud, the person makes or alters any object in such a manner that it appears to have an antiquity, rarity, source or authorship that it does not in fact possess; or

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

(b) With knowledge of its true character and with intent to defraud, the person utters or possesses an object so simulated.

(2) Criminal simulation is a Class A misdemeanor.”

Section 10.

“Fraudulently obtaining a signature.

(1) A person commits the crime of fraudulently obtaining a signature if, with intent to defraud or injure another, the person obtains the signature of a person to a written instrument by knowingly misrepresenting any fact.

(2) Fraudulently obtaining a signature is a Class A misdemeanor.”

Section 11.

“Negotiating a bad check.

(1) A person commits the crime of negotiating a bad check if the person makes, draws or utters a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) For purposes of this section, unless the check or order is postdated, it is prima facie evidence of knowledge that the check or order would not be honored if:

(a) The drawer has no account with the drawee at the time the check or order is drawn or uttered; or

(b) Payment is refused by the drawee for lack of funds, upon presentation within 30 days after the date of utterance, and the drawer fails to make good within 10 days after receiving notice of refusal.

(3) Negotiating a bad check is:

(a) A Class A misdemeanor, except as provided in paragraph (b) of this subsection.

(b) Enhanced from a Class A misdemeanor to a Class C felony if at the time of sentencing it is established beyond a reasonable doubt that the person has been convicted in this state, within the preceding five years, of the crime of negotiating a bad check or of theft by deception by means of a bad check.”

Section 12.

“Unlawful videotape recording.

(1) A person commits the crime of unlawful videotape recording if the person:

(a) Produces for sale any videotape without the written consent of the owner of the motion picture imprinted thereon; or

(b) Knowingly sells or offers for sale any videotape that has been produced without the written consent of the owner of the motion picture imprinted thereon.

(2) Unlawful videotape recording is a Class B misdemeanor.”

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

Section 13.

“Improper use of 9-1-1 emergency reporting system.

(1) A person commits the crime of improper use of a 9-1-1 emergency reporting system if the person knowingly:

(a) Calls a 9-1-1 emergency reporting system for a purpose other than to report a situation that the person reasonably believes requires prompt service in order to preserve human life or property; or

(b) Allows another person to use telephone equipment owned, rented or leased by or under the control of the person to call a 9-1-1 emergency reporting system for a purpose other than to report a situation that the other person reasonably believes requires prompt service in order to preserve human life or property.

(2) As used in this section, ‘9-1-1 emergency reporting system’ has the meaning given that term in ORS 401.710.

(3) Improper use of a 9-1-1 emergency reporting system is a Class A misdemeanor.”

Section 14.

“Falsifying business records.

(1) A person commits the crime of falsifying business records if, with intent to defraud, the person:

(a) Makes or causes a false entry in the business records of an enterprise; or

(b) Alters, erases, obliterates, deletes, removes or destroys a true entry in the business records of an enterprise; or

(c) Fails to make a true entry in the business records of an enterprise in violation of a known duty imposed upon the person by law or by the nature of the position of the person; or

(d) Prevents the making of a true entry or causes the omission thereof in the business records of an enterprise.

(2) Falsifying business records is a Class A misdemeanor.”

Section 15.

“Misapplication of entrusted property.

(1) A person commits the crime of misapplication of entrusted property if, with knowledge that the misapplication is unlawful and that it involves a substantial risk of loss or detriment to the owner or beneficiary of such property, the person intentionally misapplies or disposes of property that has been entrusted to the person as a fiduciary or that is property of the government or a financial institution.

(2) Misapplication of entrusted property is a Class A misdemeanor.”

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

Section 16.

“Issuing a false financial statement.

(1) A person commits the crime of issuing a false financial statement if, with intent to defraud, the person:

(a) Knowingly makes or utters a written statement which purports to describe the financial condition or ability to pay of the person or some other person and which is inaccurate in some material respect; or

(b) Represents in writing that a written statement purporting to describe a person's financial condition or ability to pay as of a prior date is accurate with respect to that person's current financial condition or ability to pay, knowing the statement to be materially inaccurate in that respect.

(2) Issuing a false financial statement is a Class A misdemeanor.”

Section 17.

“Obtaining execution of documents by deception.

(1) A person commits the crime of obtaining execution of documents by deception if, with intent to defraud or injure another or to acquire a substantial benefit, the person obtains by means of fraud, deceit or subterfuge the execution of a written instrument affecting or purporting to affect the pecuniary interest of any person.

(2) Obtaining execution of documents by deception is a Class A misdemeanor.”

Section 18.

“Posting of signs concerning sale of smoking devices.

(1) Any person who sells any of the smoking devices listed in ORS 163.575 (1)(e) shall display a sign clearly stating that the sale of such devices to persons under 18 years of age is prohibited by law.

(2) Any person who violates this section commits a violation.”

Section 19.

“Failing to supervise a child.

(1) A person commits the offense of failing to supervise a child if the person is the parent, lawful guardian or other person lawfully charged with the care or custody of a child under 15 years of age and the child:

(a) Commits an act that brings the child within the jurisdiction of the juvenile court under ORS 419C.005;

(b) Violates a curfew law of a county or any other political subdivision; or

(c) Fails to attend school as required under ORS 339.010.

(2) Nothing in this section applies to a child-caring agency as defined in ORS 418.205 or to foster parents.

(3) In a prosecution of a person for failure to supervise a child under subsection (1)(a) of this section, it is an affirmative defense that the person:

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

(a) **Is the victim of the act that brings the child within the jurisdiction of the juvenile court; or**

(b) **Reported the act to the appropriate authorities.**

(4) **In a prosecution of a person for failing to supervise a child under subsection (1) of this section, it is an affirmative defense that the person took reasonable steps to control the conduct of the child at the time the person is alleged to have failed to supervise the child.**

(5)(a) **In a prosecution of a person for failing to supervise a child under subsection (1)(a) of this section, the court may order the person to pay restitution under ORS 137.103 to 137.109 to a victim for pecuniary damages arising from the act of the child that brings the child within the jurisdiction of the juvenile court.**

(b) **The amount of restitution order under this subsection may not exceed \$2,500.**

(6) **If a person pleads guilty or is found guilty of failing to supervise a child under this section and if the person has not previously been convicted of failing to supervise a child, the court:**

(a) **Shall warn the person of the penalty for future convictions of failing to supervise a child and shall suspend imposition of sentence.**

(b) **May not order the person to pay restitution under this section.**

(7)(a) **If a person pleads guilty or is found guilty of failing to supervise a child under this section and if the person has only one prior conviction for failing to supervise a child, the court, with the consent of the person, may suspend imposition of sentence and order the person to complete a parent effectiveness program approved by the court. Upon the person's completion of the parent effectiveness program to the satisfaction of the court, the court may discharge the person. If the person fails to complete the parent effectiveness program to the satisfaction of the court, the court may impose a sentence authorized by this section.**

(b) **There may be only one suspension of sentence under this subsection with respect to a person.**

(8) **The juvenile court has jurisdiction over a first offense of failing to supervise a child under this section.**

(9) **Failing to supervise a child is a violation punishable by a fine not more than \$1,000."**

Section 20.

A. "Compounding a felony.

(1) **A person commits the crime of compounding if the person accepts or agrees to accept any pecuniary benefit as consideration for refraining from reporting to law enforcement authorities the commission or suspected commission of any felony or information relating to a felony.**

(2) **Compounding is a Class A misdemeanor."**

B. "Defenses for hindering or compounding limited.

It is no defense to a prosecution for hindering prosecution or compounding that the principal offender is not apprehended, prosecuted, convicted or punished."

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

Section 21.

“Simulating legal process.

(1) A person commits the crime of simulating legal process if the person knowingly issues or delivers to another any document that in form and substance falsely simulates civil or criminal process.

(2) Simulating legal process is a Class B misdemeanor.”

Section 22.

“Tampering with physical evidence.

(1) A person commits the crime of tampering with physical evidence if, with intent that it be used, introduced, rejected or unavailable in an official proceeding which is then pending or to the knowledge of such person is about to be instituted, the person:

(a) Destroys, mutilates, alters, conceals or removes physical evidence impairing its verity or availability; or

(b) Knowingly makes, produces or offers any false physical evidence; or

(c) Prevents the production of physical evidence by an act of force, intimidation or deception against any person.

(2) Tampering with physical evidence is a Class A misdemeanor.”

Section 23.

“Tampering with public records.

(1) A person commits the crime of tampering with public records if, without lawful authority, the person knowingly destroys, mutilates, conceals, removes, makes a false entry in or falsely alters any public record, including records relating to the Oregon State Lottery.

(2)(a) Except as provided in paragraph (b) of this subsection, tampering with public records is a Class A misdemeanor.

(b) Tampering with records relating to the Oregon State Lottery is a Class C felony.”

Section 24.

“Official misconduct in the second degree.

(1) A public servant commits the crime of official misconduct in the second degree if the person knowingly violates any statute relating to the office of the person.

(2) Official misconduct in the second degree is a Class C misdemeanor.”

Section 25.

“Official misconduct in the first degree.

(1) A public servant commits the crime of official misconduct in the first degree if with intent to obtain a benefit or to harm another:

(a) The public servant knowingly fails to perform a duty imposed upon the public servant by law or one clearly inherent in the nature of office; or

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

(b) The public servant knowingly performs an act constituting an unauthorized exercise in official duties.

(2) Official misconduct in the first degree is a Class A misdemeanor.”

Section 26.

“Misuse of confidential information.

(1) A public servant commits the crime of misuse of confidential information if in contemplation of official action by the public servant or by a governmental unit with which the public servant is associated, or in reliance on information to which the public servant has access in an official capacity and which has not been made public, the public servant acquires or aids another in acquiring a pecuniary interest in any property, transaction or enterprise which may be affected by such information or official action.

(2) Misuse of confidential information is a Class B misdemeanor.”

Section 27.

“Animal abuse in the second degree.

(1) A person commits the crime of animal abuse in the second degree if, except as otherwise authorized by law, the person intentionally, knowingly or recklessly causes physical injury to an animal.

(2) Any practice of good animal husbandry is not a violation of this section.

(3) Animal abuse in the second degree is a Class B misdemeanor.”

Section 28.

“Animal abuse in the first degree.

(1) A person commits the crime of animal abuse in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly or recklessly:

(a) Causes serious physical injury to an animal; or

(b) Cruelly causes the death of an animal.

(2) Any practice of good animal husbandry is not a violation of this section.

(3) Animal abuse in the first degree is a Class A misdemeanor.”

Section 29.

“Animal neglect in the second degree.

(1) A person commits the crime of animal neglect in the second degree if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence fails to provide minimum care for an animal in such person's custody or control.

(2) Animal neglect in the second degree is a Class B misdemeanor.”

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

Section 30.

“Animal neglect in the first degree.

(1) A person commits the crime of animal neglect in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly or with criminal negligence:

(a) Fails to provide minimum care for an animal in such person's custody or control;
and

(b) Such failure to provide care results in serious physical injury or death to the animal.

(2) Animal neglect in the first degree is a Class A misdemeanor.”

Section 31.

“Animal abandonment.

(1) A person commits the crime of animal abandonment if the person intentionally, knowingly, recklessly or with criminal negligence leaves a domesticated animal at a location without providing for the animal's continued care.

(2) It is no defense to the crime defined in subsection (1) of this section that the defendant abandoned the animal at or near an animal shelter, veterinary clinic or other place of shelter if the defendant did not make reasonable arrangements for the care of the animal.

(3) Animal abandonment is a Class C misdemeanor.”

Section 32.

“Forfeiture of rights in mistreated animal; costs; disposition of animal.

(1) In addition to and not in lieu of any other sentence it may impose, a court may require a defendant convicted under ORS 167.315 to 167.330 and 167.340 to forfeit any rights of the defendant in the animal subjected to abuse, neglect or abandonment, and to repay the reasonable costs incurred by any person or agency prior to judgment in caring for each animal subjected to abuse, neglect or abandonment.

(2) When the court orders the defendant's rights in the animal to be forfeited, the court may further order that those rights be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to the county or an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals. This subsection shall not constitute or authorize any limitation upon the right of the person or agency to whom rights are granted to resell or otherwise make disposition of the animal. A transfer of rights under this subsection constitutes a transfer of ownership.

(3) In addition to and not in lieu of any other sentence it may impose, a court may order the owner or person having custody of an animal to repay the reasonable costs incurred by any person or agency in providing water under ORS 167.345 (1).”

Reference herein to ORS 167.315 to 167.330 and 167.340 shall be deemed a reference to BC 5.08.702 to 5.08.706 and 5.08.708.

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

Section 33.

“Placing offensive substances in waters, on highways or other property.

(1) It is unlawful for any person, including a person in the possession or control of any land, to discard any dead animal carcass or part thereof, excrement, putrid, nauseous, noisome, decaying, deleterious or offensive substance into or in any other manner befoul, pollute or impair the quality of any spring, river, brook, creek, branch, well, irrigation drainage ditch, irrigation ditch, cistern or pond of water.

(2) It is unlawful for any person to place or cause to be placed any polluting substance listed in subsection (1) of this section into any road, street, alley, lane, railroad right of way, lot, field, meadow or common. It is unlawful for an owner thereof to knowingly permit any polluting substances to remain in any of the places described in this subsection to the injury of the health or to the annoyance of any citizen of this state. Every 24 hours after conviction for violation of this subsection during which the violator permits the polluting substances to remain is an additional offense against this subsection.

(3) Nothing in this section shall apply to the storage or spreading of manure or like substance for agricultural, silvicultural or horticultural purposes, except that no sewage sludge, septic tank or cesspool pumpings shall be used for these purposes unless treated and applied in a manner approved by the Department of Environmental Quality.

(4) Violation of this section is a Class A misdemeanor.

(5) The Department of Environmental Quality may impose the civil penalty authorized by ORS 468.140 for violation of this section.”

Section 34.

A. “Solicitation’ described.

(1) A person commits the crime of solicitation if with the intent of causing another to engage in specific conduct constituting a crime punishable as a felony or as a Class A misdemeanor or an attempt to commit such felony or Class A misdemeanor the person commands or solicits such other person to engage in that conduct.

(2) Solicitation is a:

(a) Class A felony if the offense solicited is murder or treason.

(b) Class B felony if the offense solicited is a Class A felony.

(c) Class C felony if the offense solicited is a Class B felony.

(d) Class A misdemeanor if the offense solicited is a Class C felony.

(e) Class B misdemeanor if the offense solicited is a Class A misdemeanor.”

B. “Renunciation as defense to solicitation.

(1) It is a defense to the crime of solicitation that the person soliciting the crime, after soliciting another person to commit a crime, persuaded the person solicited not to commit the crime or otherwise prevented the commission of the crime, under circumstances manifesting a complete and voluntary renunciation of the criminal intent.

(2) The defense of renunciation is an affirmative defense.”

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

Section 35.

A. “‘Conspiracy’ described.

(1) A person is guilty of criminal conspiracy if with the intent that conduct constituting a crime punishable as a felony or a Class A misdemeanor be performed, the person agrees with one or more persons to engage in or cause the performance of such conduct.

(2) Criminal conspiracy is a:

(a) Class A felony if an object of the conspiracy is commission of murder, treason or a Class A felony.

(b) Class B felony if an object of the conspiracy is commission of a Class B felony.

(c) Class C felony if an object of the conspiracy is commission of a Class C felony.

(d) Class A misdemeanor if an object of the conspiracy is commission of a Class A misdemeanor.”

B. “Conspiratorial relationship.

If a person is guilty of conspiracy, as defined in ORS 161.450, and knows that a person with whom the person conspires to commit a crime has conspired or will conspire with another person or persons to commit the same crime, the person is guilty of conspiring with such other person or persons, whether or not the person knows their identity, to commit such crime.”

C. “Renunciation as defense to conspiracy.

(1) It is a defense to a charge of conspiracy that the actor, after conspiring to commit a crime, thwarted commission of the crime which was the object of the conspiracy, under circumstances manifesting a complete and voluntary renunciation of the criminal purpose of the actor. Renunciation by one conspirator does not, however, affect the liability of another conspirator who does not join in the renunciation of the conspiratorial objective.

(2) The defense of renunciation is an affirmative defense.”

D. “Duration of conspiracy. For the purpose of application of ORS 131.125:

(1) Conspiracy is a continuing course of conduct which terminates when the crime or crimes which are its object are completed or the agreement that they be committed is abandoned by the defendant and by those with whom the defendant conspired.

(2) Abandonment is presumed if neither the defendant nor anyone with whom the defendant conspired does any overt act in pursuance of the conspiracy during the applicable period of limitation.

(3) If an individual abandons the agreement, the conspiracy is terminated as to the individual only if and when the individual advises those with whom the individual conspired of the abandonment or the individual informs the law enforcement authorities of the existence of the conspiracy and of the participation of the individual therein.”

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

II. SECTIONS AMENDED:

Section 36.

“Providing Premises for the Consumption of Alcohol by Minors Prohibited.

No person who owns or is in control of premises shall knowingly allow a minor to consume alcoholic liquor on the premises except as provided in BC 5.02.030.”

“Providing Premises for the Consumption of Alcohol by Minors Prohibited. Subsections (3), (7) and (8) of ORS 471.410, ‘Providing liquor to persons under 21 or to intoxicated persons; allowing consumption by minor on property; mandatory minimum penalties,’ as now constituted, are hereby incorporated into this code.”

Section 37.

“Penalty.

Violation of a provision of this ordinance is punishable by a fine not to exceed \$1,000 or by imprisonment not to exceed 365 days, or both. Violation of a provision substantially similar to a state statute is punishable by fine or imprisonment not to exceed the penalty prescribed by state statute.”

“Penalty. Violation of any of the provisions of BC 5.02.005 to 5.02.105 is punishable upon conviction by a fine of not more than \$2,500 or by imprisonment not to exceed 365 days, or both. Violation of a provision substantially similar to a state statute is punishable by fine or imprisonment, or both, not to exceed the penalty prescribed by the state statute.”

Section 38.

“Definitions.

The definitions contained in the Oregon Criminal Code, as constituted on the effective date of this ordinance, are adopted by reference and made a part of BC 5.08.010-.800 as if set forth in full. Except where the context clearly indicates a different meaning, a definition set out in Chapter One or Chapter Five of this Code shall supersede a definition contained in the Oregon Criminal Code.”

“Definitions for BC 5.08.010 to 5.08.800. The definitions contained in the Oregon Criminal Code of 1971, as now constituted, are incorporated into this code. A definition provided under state law and made applicable to a provision of the Oregon Revised Statutes that is incorporated by reference into this code at BC 5.08.010 to 5.08.800 applies in similar manner to those provisions of BC 5.08.010 to 5.08.800.”

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

Section 39.

“Application of State Statutes.

Provisions of the Oregon Criminal Code of 1971, as now constituted, relating to criminal liability, parties to crime, justification and responsibility apply to offenses defined and made punishable by BC 5.08.010-.800.”

“Application of State Statutes. Provisions of the Oregon Criminal Code of 1971, as now constituted, relating to principles (ORS 161.005 to 161.067), criminal liability (ORS 161.085 to 161.125), parties to crime ORS (161.150 to 161.175), justification (ORS 161.190 to 161.275) and responsibility (ORS 161.290 to 161.400) apply to offenses defined and made punishable by BC 5.08.010 to 5.08.800. Reference contained therein to an offense defined by the Oregon Revised Statutes and incorporated herein shall be deemed a reference to the provision of this code that incorporates by reference the offense defined by the Oregon Revised Statutes.”

Section 40.

“Defenses and Burden of Proof.

A. When a defense, other than an affirmative defense, is raised at trial, the City has the burden of disproving the defense beyond a reasonable doubt.

B. When a defense, declared to be an affirmative defense by Chapter 743, Oregon Laws 1971, is raised at a trial, the defendant has the burden of proving the defense by a preponderance of the evidence.

C. The City is not required to negate a defense unless it is raised by the defendant, either by providing the City, before commencement of trial, with written notice of intent to rely on the defense, or by providing affirmative evidence of the defense by a defense witness in the defendant's case in chief.”

“Defenses and Burden of Proof.

A. When a defense, other than an affirmative defense, is raised at trial, the City has the burden of disproving the defense beyond a reasonable doubt.

B. When a defense, declared to be an affirmative defense by Chapter 743, Oregon Laws 1971, as now constituted, is raised at a trial, the defendant has the burden of proving the defense by a preponderance of the evidence.

C. The City is not required to negate a defense unless it is raised by the defendant, either by providing the City, before commencement of trial, with written notice of intent to rely on the defense, or by providing affirmative evidence of the defense by a defense witness in the defendant's case in chief.

D. ORS 161.475, ‘Defenses to solicitation and conspiracy,’ as now constituted, is hereby incorporated into this code.

E. ORS 161.485, ‘Multiple convictions barred in inchoate crimes,’ as now constituted, is hereby incorporated into this code.

F. ORS 164.035, ‘Defenses to theft,’ as now constituted, is hereby incorporated into this code.

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

G. ORS 167.335, 'Exemption from ORS 167.315 to 167.330,' as now constituted, is hereby incorporated into this code. Reference therein to ORS 167.315 to 167.330 shall be deemed a reference to BC 5.08.702 to 5.08.706."

Section 41.

"Assault.

No person shall:

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

"Assault in the fourth degree.

- (1) A person commits the crime of assault in the fourth degree if the person:
 - (a) Intentionally, knowingly or recklessly causes physical injury to another; or**
 - (b) With criminal negligence causes physical injury to another by means of a deadly weapon.****
- (2) Assault in the fourth degree is a Class A misdemeanor."**

Section 42.

"Menacing.

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

"Menacing.

- (1) A person commits the crime of menacing if by word or conduct the person intentionally attempts to place another person in fear of imminent serious physical injury.**
- (2) Menacing is a Class A misdemeanor."**

Section 43.

"Reckless Endangerment.

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

"Recklessly endangering another person.

- (1) A person commits the crime of recklessly endangering another person if the person recklessly engages in conduct which creates a substantial risk of serious physical injury to another person.**
- (2) Recklessly endangering another person is a Class A misdemeanor."**

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

Section 44.

“Throwing an Object Off an Overpass.

No person shall, with criminal negligence, throw an object off an overpass or other structure that carries a roadway or pedestrian pathway over a roadway if the person knows, or reasonably should know, that the object is of a type or size to cause damage to any person or vehicle that the object might hit.”

“Throwing object off overpass in second degree.

(1) A person commits the crime of throwing an object off an overpass in the second degree if the person:

(a) With criminal negligence throws an object off an overpass; and
(b) Knows, or reasonably should have known, that the object was of a type or size to cause damage to any person or vehicle that the object might hit.

(2) Throwing an object off an overpass in the second degree is a Class A misdemeanor.

(3) As used in this section and ORS 166.651, ‘overpass’ means a structure carrying a roadway or pedestrian pathway over a roadway.”

Section 45.

“Disorderly Conduct.

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

- A. Engage in fighting or in violent, tumultuous or threatening behavior;*
- B. Disturb any lawful assembly of persons without lawful authority;*
- C. Obstruct vehicular or pedestrian traffic in or on a public way or public place;*
- D. Initiate or circulate a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency;*
- E. Create a hazardous or physically offensive condition by any act which the person is not licensed or privileged to do; or*
- F. Make unreasonable noise.”*

“Disorderly conduct.

(1) A person commits the crime of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, the person:

- (a) Engages in fighting or in violent, tumultuous or threatening behavior; or**
- (b) Makes unreasonable noise; or**
- (c) Disturbs any lawful assembly of persons without lawful authority; or**
- (d) Obstructs vehicular or pedestrian traffic on a public way; or**
- (e) Congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or**
- (f) Initiates or circulates a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency; or**
- (g) Created a hazardous or physically offensive condition by any act which the person**

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

is not licensed or privileged to do.

(2) Disorderly conduct is a Class B misdemeanor.”

Section 46.

“Intimidation.

A. *No person shall tamper or interfere with property, having no right to do so nor reasonable ground to believe that the person has such right, with the intent to cause substantial inconvenience to another because of the person's perception of the other's race, color, religion, national origin or sexual orientation.*

B. *No person shall intentionally subject another to offensive physical contact because of the person's perception of the other's race, color, religion, national origin or sexual orientation.*

C. *No person shall intentionally, because of the person's perception of race, color, religion, national origin or sexual orientation of another or of a member of the other's family, subject such other person to alarm by threatening:*

1. *to inflict serious physical injury upon or to commit a felony affecting such other person, or a member of the person's family; or*

2. *to cause substantial damage to the property of the other person or of a member of the other person's family.”*

“Intimidation in the second degree.

(1) A person commits the crime of intimidation in the second degree if the person:

(a) Tamper or interferes with property, having no right to do so nor reasonable ground to believe that the person has such right, with the intent to cause substantial inconvenience to another because of the person's perception of the other's race, color, religion, national origin or sexual orientation;

(b) Intentionally subjects another to offensive physical contact because of the person's perception of the other's race, color, religion, national origin or sexual orientation; or

(c) Intentionally, because of the person's perception of race, color, religion, national origin or sexual orientation of another or of a member of the other's family, subjects such other person to alarm by threatening:

(A) To inflict serious physical injury upon or to commit a felony affecting such other person, or a member of the person's family; or

(B) To cause substantial damage to the property of the other person or of a member of the other person's family.

(2) Intimidation in the second degree is a Class A misdemeanor.

(3) For purposes of this section:

(a) ‘Property’ means any tangible personal property or real property.

(b) ‘Sexual orientation’ means heterosexuality, homosexuality or bisexuality.”

Section 47.

“Harassment.

A. *No person shall intentionally:*

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

1. *Harass or annoy another person by:*
 - a. *subjecting such other person to offensive physical contact; or*
 - b. *publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response.*
 2. *Subject another to alarm by conveying a false report, known by the conveyor to be false, concerning death or serious physical injury to a person, which report reasonably would be expected to cause alarm; or*
 3. *Subject another to alarm by conveying a telephonic or written threat to inflict serious physical injury on that person or to commit a felony involving the person or property of that person or any member of that persons's family, which threat reasonably would be expected to cause alarm.*
- B. *A person is criminally liable for harassment if the person knowingly permits any telephone under the person's control to be used in violation of subsection A. of this section.*"

"Harassment.

- (1) **A person commits the crime of harassment if the person intentionally:**
 - (a) **Harasses or annoys another person by:**
 - (A) **Subjecting such other person to offensive physical contact; or**
 - (B) **Publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response;**
 - (b) **Subjects another to alarm by conveying a false report, known by the conveyor to be false, concerning death or serious physical injury to a person, which report reasonably would be expected to cause alarm; or**
 - (c) **Subjects another to alarm by conveying a telephonic or written threat to inflict serious physical injury on that person or to commit a felony involving the person or property of that person or any member of that person's family, which threat reasonably would be expected to cause alarm.**
- (2) **A person is criminally liable for harassment if the person knowingly permits any telephone under the person's control to be used in violation of subsection (1) of this section.**
- (3) **Harassment is a Class B misdemeanor."**

Section 48.

"Telephonic Harassment.

No person shall intentionally harass or annoy another person:

1. *By causing the telephone of the other person to ring, the caller having no communicative purpose; or*
2. *By causing the telephone of the other person to ring and causing the other person to answer the telephone, the caller knowing that he or she has been forbidden from doing so by a person exercising lawful authority over the receiving telephone."*

"Telephonic harassment.

- (1) **A telephone caller commits the crime of telephonic harassment if the caller intentionally harasses or annoys another person:**

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

(a) By causing the telephone of the other person to ring, such caller having no communicative purpose; or

(b) By causing such other person's telephone to ring and causing such other person to answer it, knowing that the caller has been forbidden from so doing by a person exercising lawful authority over the receiving telephone.

(2) Telephonic harassment is a Class B misdemeanor."

Section 49.

"Abuse of Venerated Objects.

A. No person shall intentionally abuse a public monument or structure, a place of worship or burial, or the national or State flag.

B. As used in this section, 'abuse' means to deface, damage, defile or otherwise physically mistreat in a manner likely to outrage public sensibilities."

"Abuse of venerated objects.

(1) A person commits the crime of abuse of venerated objects if the person intentionally abuses a public monument or structure, a place of worship or burial, or the national or state flag.

(2) As used in this section and ORS 166.085, 'abuse' means to deface, damage, defile or otherwise physically mistreat in a manner likely to outrage public sensibilities.

(3) Abuse of venerated objects is a Class C misdemeanor."

Section 50.

"Interfering with Public Transportation.

No person shall intentionally harass, annoy or alarm the operator of any bus or train by subjecting the operator to offensive physical contact when the bus or train is operated by or under contract to a public body to provide public transportation. As used in this section, the term 'public body' means the state; any city, county or special district; any political subdivision; and any municipal or public corporation."

"Interfering with public transportation.

(1) A person commits the crime of interfering with public transportation if, with intent to harass, annoy or alarm, the person subjects the operator of any bus to offensive physical contact when the bus is operated by or under contract to any public body in order to provide public transportation.

(2) As used in this section, 'public body' means the state, any city, county or special district, or any other political subdivision or municipal or public corporation.

(3) Interfering with public transportation is a Class A misdemeanor."

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

Section 51.

“Carrying of Concealed Weapons.

A. *No person shall knowingly carry concealed on or about the person any switchblade knife, dirk, dagger, ice pick, slung 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.*

B. *Nothing contained in subsection (A) of this section shall apply to any peace officer whose duty includes service of process or making arrests.”*

“Carrying of concealed weapons.

(1) Except as provided in subsection (2) of this section, any person who carries concealed upon the person any knife having a blade that projects or swings into position by force of a spring or by centrifugal force and commonly known as a switchblade knife, any dirk, dagger, ice pick, slung 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, commits a Class B misdemeanor.

(2) Nothing in subsection (1) of this section applies to any peace officer as defined in ORS 133.005, whose duty it is to serve process or make arrests.”

Section 52.

“Public Indecency.

A. *No person, while in or in view of a public place, shall perform:*

1. *an act of sexual intercourse;*
2. *an act of deviate sexual intercourse;*
3. *an act of exposing the genitals of the person with the intent of arousing the sexual desire of the person or another person.*

B. *This section shall not be applied to conduct which taken as a whole has serious educational, artistic, dramatic, political or scientific value.”*

“Public indecency.

(1) A person commits the crime of public indecency if while in, or in view of, a public place the person performs:

(a) An act of sexual intercourse; or

(b) An act of deviate sexual intercourse; or

(c) An act of exposing the genitals of the person with the intent of arousing the sexual desire of the person or another person.

(2) Public indecency is a Class A misdemeanor.”

Section 53.

“Sexual Abuse.

A. *No person shall subject another person to sexual contact while:*

1. *the victim does not consent to the sexual contact; or*

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

2. *the victim is incapable of consent by reason of being under 18 years of age, mentally defective, mentally incapacitated or physically helpless.*

B. *In any prosecution under subsection (A) of this section it is an affirmative defense for the defendant to prove that:*

1. *the victim's lack of consent was due solely to incapacity to consent by reason of being under 18 years of age; and*
2. *the victim was more than 14 years of age; and*
3. *the defendant was less than four years older than the victim."*

A. **"Sexual abuse in the third degree.**

(1) A person commits the crime of sexual abuse in the third degree if the person subjects another person to sexual contact; and

(a) The victim does not consent to the sexual contact; or

(b) The victim is incapable of consent by reason of being under 18 years of age, mentally defective, mentally incapacitated or physically helpless.

(2) Sexual abuse in the third degree is a Class A misdemeanor."

B. **"Incapacity to consent.**

A person is considered incapable of consenting to a sexual act if the person is:

(1) Under 18 years of age; or

(2) Mentally defective; or

(3) Mentally incapacitated; or

(4) Physically helpless."

"Ignorance or mistake as a defense.

(1) In any prosecution under ORS 163.355 to 163.445 in which the criminality of conduct depends on a child's being under the age of 16, it is no defense that the defendant did not know the child's age or that the defendant reasonably believed the child to be older than the age of 16.

(2) When criminality depends on the child's being under a specified age other than 16, it is an affirmative defense for the defendant to prove that the defendant reasonably believed the child to be above the specified age at the time of the alleged offense.

(3) In any prosecution under ORS 163.355 to 163.445 in which the victim's lack of consent is based solely upon the incapacity of the victim to consent because the victim is mentally defective, mentally incapacitated or physically helpless, it is an affirmative defense for the defendant to prove that at the time of the alleged offense the defendant did not know of the facts or conditions responsible for the victim's incapacity to consent."

"Age as a defense in certain cases.

(1) In any prosecution under ORS 163.355, 163.365, 163.385, 163.395, 163.415, 163.425 or 163.427 in which the victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense.

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

(2) In any prosecution under ORS 163.408, when the object used to commit the unlawful sexual penetration was the hand or any part thereof of the actor and in which the victim's lack of consent was due solely to incapacity to consent by reason of being less than a specified age, it is a defense that the actor was less than three years older than the victim at the time of the alleged offense."

Section 54.

"Theft in the Second Degree.

Except as to provisions that relate to penalty, Oregon Laws 1971, Chapter 743, Sections 121, 122, 123, 124, 126, 128, 129, 130, 131 and 132; and Oregon Laws 1987, Chapter 907, Sections 3 and 6, are incorporated by reference into this code."

"Theft in the second degree.

(1) A person commits the crime of theft in the second degree if, by other than extortion, the person:

(a) Commits theft as defined in ORS 164.015; and

(b) The total value of the property in a single or aggregate transaction is \$50 or more but is under \$200 in a case of theft by receiving and under \$750 in any other case.

(2) Theft in the second degree is a Class A misdemeanor."

Section 55.

"Theft.

Except as to provisions that relate to penalty, Oregon Laws 1987, Chapter 907, Section 2, is incorporated by reference into this code."

"Theft in the third degree.

(1) A person commits the crime of theft in the third degree if, by means other than extortion, the person:

(a) Commits theft as defined in ORS 164.015; and

(b) The total value of the property in a single or an aggregate transaction is under \$50.

(2) Theft in the third degree is a Class C misdemeanor."

Section 56.

"Aggravated Theft of Services.

Except as to provisions that relate to penalty, Oregon Laws 1971, Chapter 743, Section 133; Oregon Laws 1973, Chapter 133, Sections 1 and 3; and Oregon Laws 1985, Chapter 537, Section 1, are incorporated by reference into this code to the extent that the aggregate total value of services that are the subject of the theft is \$50 or more but is under \$500."

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

“Theft of services.

(1) A person commits the crime of theft of services if:

(a) With intent to avoid payment therefor, the person obtains services that are available only for compensation, by force, threat, deception or other means to avoid payment for the services; or

(b) Having control over the disposition of labor or of business, commercial or industrial equipment or facilities of another, the person uses or diverts to the use of the person or a third person such labor, equipment or facilities with intent to derive for the person or the third person a commercial benefit to which the person or the third person is not entitled.

(2) As used in this section, ‘services’ includes, but is not limited to, labor, professional services, toll facilities, transportation, communications service, entertainment, the supplying of food, lodging or other accommodations in hotels, restaurants or elsewhere, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water. ‘Communication service’ includes, but is not limited to, use of telephone, computer and cable television systems.

(3) Absconding without payment or offer to pay for hotel, restaurant or other services for which compensation is customarily paid immediately upon the receiving of them is prima facie evidence that the services were obtained with intent to avoid payment therefor. Obtaining the use of any communication system the use of which is available only for compensation, including but not limited to telephone, computer and cable television systems, or obtaining the use of any services of a public utility nature, without payment or offer to pay for such use is prima facie evidence that the obtaining of the use of such system or the use of such services was gained with intent to avoid payment therefor.

(4) The value of single theft transactions may be added together if the thefts were committed:

(a) Against multiple victims by a similar means within a 30-day period; or

(b) Against the same victim, or two or more persons who are joint owners, within a 180-day period.

(5) Theft of services is:

(a) A Class C misdemeanor if the aggregate total value of services that are the subject of the theft is under \$50;

(b) A Class A misdemeanor if the aggregate total value of services that are the subject of the theft is \$50 or more but is under \$750;

(c) A Class C felony if the aggregate total value of services that are the subject of the theft is \$750 or more; and

(d) A Class B felony if the aggregate total value of services that are the subject of the theft is \$10,000 or more.

This section shall apply if aggregate total value of services that are the subject of the theft is \$50 or more but is under \$750.”

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

Section 57.

“Theft of Services.

Except as to provisions that relate to penalty, Oregon Laws 1971, Chapter 743, Section 133; Oregon Laws 1973, Chapter 133, Sections 1 and 3; and Oregon Laws 1985, Chapter 537, Section 1, are incorporated by reference into this Code to the extent that the aggregate total value of services that are the subject of the theft is under \$50.”

“Theft of services.

(1) A person commits the crime of theft of services if:

(a) With intent to avoid payment therefor, the person obtains services that are available only for compensation, by force, threat, deception or other means to avoid payment for the services; or

(b) Having control over the disposition of labor or of business, commercial or industrial equipment or facilities of another, the person uses or diverts to the use of the person or a third person such labor, equipment or facilities with intent to derive for the person or the third person a commercial benefit to which the person or the third person is not entitled.

(2) As used in this section, ‘services’ includes, but is not limited to, labor, professional services, toll facilities, transportation, communications service, entertainment, the supplying of food, lodging or other accommodations in hotels, restaurants or elsewhere, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water. ‘Communication service’ includes, but is not limited to, use of telephone, computer and cable television systems.

(3) Absconding without payment or offer to pay for hotel, restaurant or other services for which compensation is customarily paid immediately upon the receiving of them is prima facie evidence that the services were obtained with intent to avoid payment therefor. Obtaining the use of any communication system the use of which is available only for compensation, including but not limited to telephone, computer and cable television systems, or obtaining the use of any services of a public utility nature, without payment or offer to pay for such use is prima facie evidence that the obtaining of the use of such system or the use of such services was gained with intent to avoid payment therefor.

(4) The value of single theft transactions may be added together if the thefts were committed:

(a) Against multiple victims by a similar means within a 30-day period; or

(b) Against the same victim, or two or more persons who are joint owners, within a 180-day period.

(5) Theft of services is:

(a) A Class C misdemeanor if the aggregate total value of services that are the subject of the theft is under \$50;

(b) A Class A misdemeanor if the aggregate total value of services that are the subject of the theft is \$50 or more but is under \$750;

(c) A Class C felony if the aggregate total value of services that are the subject of the theft is \$750 or more; and

(d) A Class B felony if the aggregate total value of services that are the subject of the theft is \$10,000 or more.

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

This section shall apply if the aggregate total value of services that are the subject of the theft is under \$50.”

Section 58.

“Criminal Possession of Rented or Leased Personal Property.

Except as to provisions that relate to penalty, Oregon Laws 1979, Chapter 476, Section 3, is incorporated by reference into this code to the extent that the aggregate total value of the personal property not returned is under \$500.”

“Criminal possession of rented or leased personal property.

(1) A person is guilty of criminal possession of rented or leased personal property if:

(a) After renting an item of personal property from a commercial renter of personal property under a written agreement which provides for the return of the item to a particular place at a particular time, the person fails to return the item as specified, is thereafter served by mail with a written demand to return the item, and knowingly fails to return the item within 10 business days from the date of mailing of the demand; or

(b) After leasing an item of personal property from a commercial lessor of personal property under a written agreement which provides for periodic lease payments, the person fails to pay the lessor a periodic payment when due for a period of 45 days, is thereafter served by mail with a written demand to return the item, and knowingly fails to return the item within 10 business days from the date of mailing of the demand.

(2) Service of written demand under this section shall be accomplished by certified mail sent to the person who obtained the item of personal property by rental or lease, sent to the address stated in the rental or lease agreement and any other address of the person provided by the person to the renter or lessor. The person is responsible for providing correct current address information to the renter or lessor until the item of personal property is returned.

(3) A bona fide contract dispute with the lessor or renter shall be an affirmative defense to a charge of criminal possession of rented or leased personal property.

(4) For purposes of this section, the value of property shall be ascertained as provided in ORS 164.115. Criminal possession of rented or leased personal property is:

(a) A Class A misdemeanor if the aggregate total value of the personal property not returned is under \$500.

(b) A Class C felony if the aggregate total value of the personal property not returned is \$500 or more.

This section shall apply if the aggregate total value of the personal property not returned is under \$500.”

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

Section 59.

Trespass.

No person shall knowingly enter or remain unlawfully in or upon premises or in a motor vehicle.

“Criminal trespass in the second degree.

(1) A person commits the crime of criminal trespass in the second degree if the person enters or remains unlawfully in or upon premises.

(2) Criminal trespass in the second degree is a Class C misdemeanor.”

Section 60.

Trespass in the First Degree.

No person knowingly shall enter or remain unlawfully in a dwelling. Dwelling means a building which regularly or intermittently is occupied by a person lodging therein at night, whether or not a person is actually present at the time of entry or remaining.”

“Criminal trespass in the first degree.

(1) A person commits the crime of criminal trespass in the first degree if the person:

(a) Enters or remains unlawfully in a dwelling; or

(b) Having been denied future entry to a building pursuant to a merchant's notice of trespass, reenters the building during hours when the building is open to the public with the intent to commit theft therein.

(2) Criminal trespass in the first degree is a Class A misdemeanor.”

Section 61.

Mischief.

No person shall, with intent to cause substantial inconvenience to the owner or to another person, and having no right to do so nor reasonable ground to believe that the person has that right, tamper or interfere with property of another.”

“Criminal mischief in the third degree.

(1) A person commits the crime of criminal mischief in the third degree if, with intent to cause substantial inconvenience to the owner or to another person, and having no right to do so nor reasonable ground to believe that the person has such right, the person tampers or interferes with property of another.

(2) Criminal mischief in the third degree is a Class C misdemeanor.”

Section 62.

Aggravated Mischief.

A. *No person shall violate BC 5.08.415 and as a result damage property in an amount exceeding \$100.00.*

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

B. No person shall, while having no right to do so nor reasonable ground to believe that the person has the right, shall intentionally damage property of another, or, recklessly damage property of another in an amount exceeding \$100.00."

"Criminal mischief in the second degree.

(1) A person commits the crime of criminal mischief in the second degree if:

(a) The person violates ORS 164.345, and as a result thereof, damages property in an amount exceeding \$100; or

(b) Having no right to do so nor reasonable ground to believe that the person has such right, the person intentionally damages property of another, or, the person recklessly damages property of another in an amount exceeding \$100.

(2) Criminal mischief in the second degree is a Class A misdemeanor."

Section 63.

"Forgery.

Except as to provisions that relate to penalty, Oregon Laws 1971, Chapter 743, Sections 151, 152, 154, 157, 158 and 161 are incorporated by reference into this Code."

"Forgery in the second degree.

(1) A person commits the crime of forgery in the second degree if, with intent to injure or defraud, the person:

(a) Falsely makes, completes or alters a written instrument; or

(b) Utters a written instrument which the person knows to be forged.

(2) Forgery in the second degree is a Class A misdemeanor."

Section 64.

"Unlawful Use of Slugs.

Except as to provisions that relate to penalty, Oregon Laws 1971, Chapter 743, Section 159, is incorporated by reference into this Code."

"Unlawfully using slugs.

(1) A person commits the crime of unlawfully using slugs if:

(a) With intent to defraud the supplier of property or a service sold or offered by means of a coin machine, the person inserts, deposits or otherwise uses a slug in such machine; or

(b) The person makes, possesses, offers for sale or disposes of a slug with intent to enable a person to use it fraudulently in a coin machine.

(2) As used in this section:

(a) 'Coin machine' means a coin box, turnstile, vending machine, or other mechanical or electronic device or receptacle designed to receive a coin or bill of a certain denomination or a token made for such purpose, and in return for the insertion or deposit thereof,

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

automatically to offer, provide, assist in providing or permit the acquisition or use of some property or service.

(b) 'Slug' means an object, article or device which, by virtue of its size, shape or any other quality is capable of being inserted, deposited, or otherwise used in a coin machine as a fraudulent substitute for a genuine coin, bill or token.

(3) **Unlawfully using slugs is a Class B misdemeanor.**"

Section 65.

"Fraudulent Use of a Credit Card.

Except as to provisions that relate to penalty, Oregon Laws 1979, Chapter 743, Section 160 and Oregon Laws 1973, Chapter 133, Section 7, are incorporated by reference into this code to the extent that the aggregate total amount of property or services the person obtains or attempts to obtain is under \$500.00."

"Fraudulent use of a credit card.

(1) A person commits the crime of fraudulent use of a credit card if, with intent to injure or defraud, the person uses a credit card for the purpose of obtaining property or services with knowledge that:

(a) The card is stolen or forged; or

(b) The card has been revoked or canceled; or

(c) For any other reason the use of the card is unauthorized by either the issuer or the person to whom the credit card is issued.

(2) 'Credit card' means a card, booklet, credit card number or other identifying symbol or instrument evidencing an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

(3) The value of single credit card transactions may be added together if the transactions were committed:

(a) Against multiple victims within a 30-day period; or

(b) Against the same victim within a 180-day period.

(4) Fraudulent use of a credit card is:

(a) A Class A misdemeanor if the aggregate total amount of property or services the person obtains or attempts to obtain is under \$750.

(b) A Class C felony if the aggregate total amount of property or services the person obtains or attempts to obtain is \$750 or more.

This section shall apply if the aggregate total amount of property or services the person obtains or attempts to obtain is under \$750."

Section 66.

"Endangering the Welfare of a Minor.

No person shall knowingly:

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

A. *Induce, cause or permit an unmarried person under 18 years of age to witness an act of sexual conduct or sadomasochistic abuse as defined by ORS 167.060; or*

B. *Permit a person under 18 years of age to enter or remain in a place where unlawful activity involving controlled substances is maintained or conducted; or*

C. *Induce, cause or permit a person under 18 years of age to participate in gambling as defined by ORS 167.117; or*

D. *Sell, or cause to be sold, tobacco in any form to a person under 18 years of age; or*

E. *Sell to a person under 18 years of age any device in which tobacco, marijuana, cocaine or any controlled substance, as defined in ORS 475.005, is burned and the principal design and use of which is directly or indirectly to deliver tobacco smoke, marijuana smoke, cocaine smoke or smoke from any controlled substance into the human body including but not limited to:*

1. *pipes, water pipes, hookahs, wooden pipes, carburetor pipes, electric pipes, air driven pipes, corncob pipes, meerschaum pipes and ceramic pipes; with or without screens, permanent screens, hashish heads or punctured metal bowls;*

2. *carburetion tubes and devices including carburetion masks;*

3. *bongs;*

4. *chillums;*

5. *ice pipes or chillers;*

6. *cigarette rolling papers and rolling machines; and*

7. *cocaine free basing kits.”*

“Endangering the welfare of a minor.

(1) A person commits the crime of endangering the welfare of a minor if the person knowingly:

(a) Induces, causes or permits an unmarried person under 18 years of age to witness an act of sexual conduct or sadomasochistic abuse as defined by ORS 167.060; or

(b) Permits a person under 18 years of age to enter or remain in a place where unlawful activity involving controlled substances is maintained or conducted; or

(c) Induces, causes or permits a person under 18 years of age to participate in gambling as defined by ORS 167.117; or

(d) Distributes, sells, or causes to be sold, tobacco in any form to a person under 18 years of age; or

(e) Sells to a person under 18 years of age any device in which tobacco, marijuana, cocaine or any controlled substance, as defined in ORS 475.005, is burned and the principal design and use of which is directly or indirectly to deliver tobacco smoke, marijuana smoke, cocaine smoke or smoke from any controlled substance into the human body including but not limited to:

(A) Pipes, water pipes, hookahs, wooden pipes, carburetor pipes, electric pipes, air driven pipes, corncob pipes, meerschaum pipes and ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;

(B) Carburetion tubes and devices, including carburetion masks;

(C) Bongs;

(D) Chillums;

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

(E) Ice pipes or chillers;

(F) Cigarette rolling papers and rolling machines; and

(G) Cocaine free basing kits.

(2) Endangering the welfare of a minor by violation of paragraph (a), (b), (c) or (e), involving other than a device for smoking tobacco, of subsection (1) of this section, is a Class A misdemeanor.

(3) Endangering the welfare of a minor by violation of subsection (1)(d) of this section or by violation of paragraph (e), involving a device for smoking tobacco, of subsection (1) of this section is a violation punishable by a fine of not less than \$100 nor more than \$500."

Section 67.

"Child Neglect.

No person having custody or control of a child under ten years of age shall, with criminal negligence, leave the child unattended in or at any place for such period of time as may be likely to endanger the health or welfare of the child."

"Child neglect in the second degree.

(1) A person having custody or control of a child under 10 years of age commits the crime of child neglect in the second degree if, with criminal negligence, the person leaves the child unattended in or at any place for such period of time as may be likely to endanger the health or welfare of such child.

(2) Child neglect in the second degree is a Class A misdemeanor."

Section 68.

"Unsworn Falsification.

No person shall knowingly make a false written statement to a public official, employee or agent in connection with an application or information submitted to or filed with the City."

"Unsworn falsification.

(1) A person commits the crime of unsworn falsification if the person knowingly makes any false written statement to a public servant in connection with an application for any benefit.

(2) Unsworn falsification is a Class B misdemeanor."

Section 69.

"False Swearing.

No person shall make a false sworn statement, knowing the statement to be false."

"False swearing.

(1) A person commits the crime of false swearing if the person makes a false sworn statement, knowing it to be false.

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

(2) False swearing is a Class A misdemeanor.”

“Defenses to perjury and false swearing limited.

It is no defense to a prosecution for perjury or false swearing that:

- (1) The statement was inadmissible under the rules of evidence; or**
- (2) The oath or affirmation was taken or administered in an irregular manner; or**
- (3) The defendant mistakenly believed the false statement to be immaterial.”**

“Retraction as defense.

(1) It is a defense to a prosecution for perjury or false swearing committed in an official proceeding that the defendant retracted the false statement:

(a) In a manner showing a complete and voluntary retraction of the prior false statement; and

(b) During the course of the same official proceeding in which it was made; and

(c) Before the subject matter of the official proceeding is submitted to the ultimate trier of fact.

(2) ‘Official proceeding,’ as used in this section, means a proceeding before any judicial, legislative or administrative body or officer, wherein sworn statements are received, and includes any referee, hearing examiner, commissioner, notary or other person taking sworn statements in connection with such proceedings. Statements made in separate stages of the same trial or administrative proceeding shall be considered to have been made in the course of the same proceeding.”

“Corroboration of falsity required.

In any prosecution for perjury or false swearing, falsity of a statement may not be established solely through contradiction by the testimony of a single witness.”

Section 70.

“Obstructing Governmental Administration.

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

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

C. No person shall interfere with, hinder or attempt to prevent abatement of a nuisance by the City when the nuisance has not been abated within ten days of the notice to abate or when a written protest has not been filed within ten days of the Council's determination that a nuisance exists.

D. No person shall knowingly hinder, delay, impede or otherwise interfere with the inspection or investigation of property based upon an administrative warrant issued under the terms of BC 2.04.012.”

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

“Obstructing governmental or judicial administration.

(1) A person commits the crime of obstructing governmental or judicial administration if the person intentionally obstructs, impairs or hinders the administration of law or other governmental or judicial function by means of intimidation, force, physical or economic interference or obstacle.

(2) This section shall not apply to the obstruction of unlawful governmental or judicial action or interference with the making of an arrest.

(3) Obstructing governmental or judicial administration is a Class A misdemeanor.”

Section 71.

“Assaulting an Officer.

A. No person shall intentionally or knowingly cause physical injury to the other person, knowing the other person to be a peace officer or firefighter, and while the other person is acting in the course of official duty; or

B. Uses or causes to be used any mace, tear gas, pepper mace or any similar deleterious agent against the other person, knowing the other person to be a peace officer or firefighter, and while the other person is acting in the course of official duty.

C. As used in this ordinance, 'mace, tear gas, pepper mace or similar deleterious agent' means sternutator, lacrimator or any substance composed of a mixture of sternutator or lacrimator including, but not limited to chloroacetophenone, alpha-chloroacetophenone, phenylchloromethylketone, orthochlorobenzalmalonitrile, oleoresin capsicum or a chemically similar sternutator or lacrimator by whatever name known, or phosgene or other gas or substance capable of generating offensive, noxious or suffocating fumes, gases or vapor or capable of immobilizing a person.

D. A person convicted under this ordinance shall be sentenced to not less than seven days in jail and shall not be granted bench parole, probation, or suspension of sentence before serving at least seven days of the sentence.”

“Assaulting a public safety officer.

(1) A person commits the crime of assaulting a public safety officer if the person intentionally or knowingly:

(a) Causes physical injury to the other person, knowing the other person to be a peace officer, corrections officer or firefighter, and while the other person is acting in the course of official duty; or

(b) Uses or causes to be used any mace, tear gas, pepper mace or any similar deleterious agent against the other person, knowing the other person to be a peace officer, corrections officer or firefighter, and while the other person is acting in the course of official duty.

(2) As used in this section, 'mace, tear gas, pepper mace or similar deleterious agent' means a sternutator, lacrimator or any substance composed of a mixture of a sternutator or lacrimator including, but not limited to, chloroacetophenone, alpha-chloroacetophenone, phenylchloromethylketone, orthochlorobenzalmalonitrile, oleoresin capsicum or a chemically similar sternutator or lacrimator by whatever name known, or phosgene or other gas or

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

substance capable of generating offensive, noxious or suffocating fumes, gases or vapor or capable of immobilizing a person.

(3) Assaulting a public safety officer is a Class A misdemeanor. A person convicted under this section shall be sentenced to not less than seven days of imprisonment and shall not be granted bench parole or suspension of sentence nor released on a sentence of probation before serving at least seven days of the sentence of confinement.”

Section 72.

“Tampering With Animals Used for Law Enforcement Purposes.

It is unlawful for any person to hurt, torment, harass, kick, strike, choke, disable, stone, injure or otherwise tamper with any animal while it is being kenneled, transported, exhibited, exercised, or used in discharging or attempting to discharge any lawful duty or function or power of office, by any police officer or his representative, for any police agency.”

“Interfering with police animal.

(1) A person commits the crime of interfering with a police animal if the person intentionally or knowingly injures or attempts to injure an animal the person knows or reasonably should know is a police animal while the police animal is being used in the lawful discharge of its duty.

(2) Interfering with a police animal is a Class A misdemeanor.”

Section 73.

“Impersonation.

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

“Criminal impersonation.

(1) A person commits the crime of criminal impersonation if with intent to obtain a benefit or to injure or defraud another the person falsely impersonates a public servant and does an act in such assumed character.

(2)(a) Criminal impersonation is a Class A misdemeanor.

(b) Notwithstanding paragraph (a) of this subsection, criminal impersonation is a Class C felony if the public servant impersonated is a peace officer.”

Section 74.

“Possession of False Law Enforcement Identification.

No person shall possess an identification card that identifies the possessor of the card as a member of a law enforcement unit unless the card is lawfully issued to the possessor by a law enforcement unit.”

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

“Possession of false law enforcement identification card.

(1) A person commits the crime of possession of a false law enforcement identification card if the person possesses a false law enforcement identification card.

(2) Possession of a false law enforcement identification card is a Class A misdemeanor.

(3) As used in this section, ‘false law enforcement identification card’ means an identification card that:

(a) Identifies the possessor of the card as a member of a law enforcement unit; and

(b) Was not lawfully issued to the possessor by the law enforcement unit.”

Section 75.

“False Reports.

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

B. No person shall knowingly make or file with the police department, the city attorney or a peace officer engaged in official duties a false, misleading or unfounded statement or report concerning the violation or alleged violation of the Code, a City ordinance or the commission or alleged commission of a crime.”

“Initiating a false report.

(1) A person commits the crime of initiating a false report if the person knowingly initiates a false alarm or report which is transmitted to a fire department, law enforcement agency or other organization that deals with emergencies involving danger to life or property.

(2) Initiating a false report is a Class C misdemeanor.”

Section 76.

“Resisting An Officer.

A. No person shall intentionally resist a person known by the person to be a peace officer, in making an arrest.

B. ‘Resist,’ as used in this section means the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person and includes behavior clearly intended to prevent being taken into custody by overcoming the actions of the arresting officer. The behavior does not have to result in actual physical injury to the arresting officer. Passive resistance does not constitute behavior intended to prevent being taken into custody.

C. It is no defense to a prosecution under this section that the peace officer lacked legal authority to make an arrest, provided the peace officer was acting under color of the peace officer's official authority.”

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

“Resisting arrest.

(1) A person commits the crime of resisting arrest if the person intentionally resists a person known by the person to be a peace officer in making an arrest.

(2) ‘Resists,’ as used in this section, means the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person and includes behavior clearly intended to prevent being taken into custody by overcoming the actions of the arresting officer. The behavior does not have to result in actual physical injury to the arresting officer. Passive resistance does not constitute behavior intended to prevent being taken into custody.

(3) It is no defense to a prosecution under this section that the peace officer lacked legal authority to make the arrest, provided the peace officer was acting under color of official authority.

(4) Resisting arrest is a Class A misdemeanor.”

Section 77.

“Escape

A. *No person shall:*

- 1. *Knowingly escape or attempt to escape from official detention; or***
- 2. *Knowingly cause, aid, assist, abet or facilitate an escape from official detention.***

B. *As used in this section:*

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

“Escape in the third degree.

(1) A person commits the crime of escape in the third degree if the person escapes from custody.

(2) It is a defense to a prosecution under this section that the person escaping or attempting to escape was in custody pursuant to an illegal arrest.

(3) Escape in the third degree is a Class A misdemeanor.”

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

Section 78.

“Interference With Police and Fire Communications.

No person shall operate a generator or electromagnetic wave or cause a disturbance of such magnitude as to interfere with the proper functioning of police or fire department radio communication system.”

“Misconduct with emergency telephone calls.

(1) A person commits the crime of misconduct with emergency telephone calls if the person:

(a) Intentionally refuses to relinquish immediately a party line or public pay telephone after being informed that it is needed for an emergency call; or

(b) Requests another to relinquish a party line or public pay telephone to place an emergency call with knowledge that no such emergency exists.

(2) As used in this section:

(a) ‘Party line’ means a subscriber's line telephone circuit, consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.

(b) ‘Emergency call’ means a telephone call to a police or fire department, or for medical aid or ambulance service, necessitated by a situation in which human life or property is in jeopardy and prompt summoning of aid is essential.

(3) Every telephone directory published after January 1, 1972, which is distributed to members of the general public in this state shall contain in a prominent place a notice of the offense punishable by this section.

(4) Misconduct with emergency telephone calls is a Class B misdemeanor.”

Section 79.

“Refusing to Assist An Officer.

No person shall refuse to assist a peace officer if on command by a person known by the person to be a peace officer the person unreasonably refuses or fails to assist in effecting an authorized arrest or preventing another from committing a crime.”

“Refusing to assist a peace officer.

(1) A person commits the offense of refusing to assist a peace officer if upon command by a person known by the person to be a peace officer the person unreasonably refuses or fails to assist in effecting an authorized arrest or preventing another from committing a crime.

(2) Refusing to assist a peace officer is a violation.”

Section 80.

“Failure to Appear.

A. No person shall knowingly fail to appear as required, if the person has, by court order, been released from custody on the condition that the person will subsequently appear

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

personally in connection with a charge against the person of having violated the Code or a City ordinance.

B. No person who has been cited to appear on an offense in violation of this Code shall knowingly fail to appear at any time fixed by a court."

A. "Failure to appear in the second degree.

(1) A person commits the crime of failure to appear in the second degree if, having by court order been released from custody or a correctional facility upon a release agreement or security release upon the condition that the person will subsequently appear personally in connection with a charge against the person of having committed a misdemeanor or violation, the person intentionally fails to appear as required.

(2) Failure to appear in the second degree is a Class A misdemeanor."

B. "Failure to appear; counsel for defendant cannot be witness; exception.

In no prosecution under ORS 162.195 or 162.205 shall counsel representing the defendant on the underlying charge for which the defendant is alleged to have failed to appear be called to testify by the state as a witness against the defendant at any stage of the proceedings including, but not limited to, grand jury, preliminary hearing and trial. However, upon written motion by the state, and upon hearing the matter, if the court determines that no other reasonably adequate means exists to present evidence establishing the material elements of the charge, the counsel representing the defendant may be called to testify."

Reference in subsection B of this section to ORS 162.195 shall be deemed a reference to subsection A of this section.

Section 81.

"Littering.

No person shall create an unsightly condition, objectionable stench or otherwise degrade the beauty or appearance of property or detract from the natural cleanliness or safety of property by intentionally:

A. Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission of the owner, or upon any public way or in or upon any public transportation facility; or

B. Draining, or causing or permitting to be drained sewage or the drainage from a cesspool, septic tank, recreational or camping vehicle waste holding tank or other contaminated source, upon the land of another without permission of the owner, or upon any public way; or

C. Permitting any rubbish, trash, garbage, debris or other refuse to be thrown from a vehicle which the person is operating; except that this subsection shall not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Interstate Commerce Commission or the Public Utility Commissioner of Oregon or a person operating a school bus subject to the Oregon Vehicle Code."

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

“Offensive littering.

(1) A person commits the crime of offensive littering if the person creates an objectionable stench or degrades the beauty or appearance of property or detracts from the natural cleanliness or safety of property by intentionally:

(a) Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission of the owner, or upon any public way or in or upon any public transportation facility; or

(b) Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank, recreational or camping vehicle waste holding tank or other contaminated source, upon the land of another without permission of the owner, or upon any public way; or

(c) Permitting any rubbish, trash, garbage, debris or other refuse to be thrown from a vehicle which the person is operating; except that this subsection shall not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Interstate Commerce Commission or the Public Utility Commission of Oregon or a person operating a school bus described under ORS 801.460.

(2) As used in this section, ‘public way’ includes, but is not limited to, roads, streets, alleys, lanes, trails, beaches, parks and all recreational facilities operated by the state, a county or a local municipality for use by the general public.

(3) As used in this section, ‘public transportation facility’ has the meaning provided for in ORS 164.365.

(4) Offensive littering is a Class C misdemeanor.”

Section 82.

“Use or Possession of Less Than One Ounce of Marijuana.

No person shall unlawfully and knowingly possess less than one avoirdupois ounce of the dried leaves, stems or flowers of the plant Cannabis family Moraceae.”

“It is unlawful for any person knowingly or intentionally to possess a controlled substance 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 ORS 475.005 to 475.285 and 475.940 to 475.995. Any person who violates this subsection with respect to:

(a) A controlled substance in Schedule I, is guilty of a Class B felony.

(b) A controlled substance in Schedule II, is guilty of a Class C felony.

(c) A controlled substance in Schedule III, is guilty of a Class A misdemeanor.

(d) A controlled substance in Schedule IV, is guilty of a Class C misdemeanor.

(e) A controlled substance in Schedule V, is guilty of a violation.

(f) Notwithstanding the placement of marijuana in a schedule of controlled substances under ORS 475.005 to 475.285 and 475.940 to 475.995, any person who knowingly or intentionally is in unlawful possession of less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae is guilty of a violation, punishable by a fine of not less than \$500 and not more than \$1,000. Fines collected under this paragraph

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

shall be forwarded to the Department of Revenue for deposit in the Criminal Fine and Assessment Account established under ORS 137.300.”

Section 83.

“Attempt to Commit Offenses.

A person who intentionally engages in conduct that constitutes a substantial step toward commission of any offense defined herein is guilty of attempt to commit the offense.”

A. “‘Attempt’ described.

(1) A person is guilty of an attempt to commit a crime when the person intentionally engages in conduct which constitutes a substantial step toward commission of the crime.

(2) An attempt is a:

(a) Class A felony if the offense attempted is murder or treason.

(b) Class B felony if the offense attempted is a Class A felony.

(c) Class C felony if the offense attempted is a Class B felony.

(d) Class A misdemeanor if the offense attempted is a Class C felony or an unclassified felony.

(e) Class B misdemeanor if the offense attempted is a Class A misdemeanor.

(f) Class C misdemeanor if the offense attempted is a Class B misdemeanor.

(g) Violation if the offense attempted is a Class C misdemeanor or an unclassified misdemeanor.”

B. “Impossibility not a defense.

In a prosecution for an attempt, it is no defense that it was impossible to commit the crime which was the object of the attempt where the conduct engaged in by the actor would be a crime if the circumstances were as the actor believed them to be.”

C. “Renunciation as a defense to attempt.

(1) A person is not liable under ORS 161.405 if, under circumstances manifesting a voluntary and complete renunciation of the criminal intent of the person, the person avoids the commission of the crime attempted by abandoning the criminal effort and, if mere abandonment is insufficient to accomplish this avoidance, doing everything necessary to prevent the commission of the attempted crime.

(2) The defense of renunciation is an affirmative defense.”

Section 84.

“Penalties.

A. *Violation of the sections listed below is punishable by a fine not to exceed \$5,000, or by imprisonment not to exceed one year, or by both.*

B. *Violation of the sections listed below or attempt to violate any of the sections listed in subsection A is punishable by a fine not to exceed \$2,000, or imprisonment not to exceed six months or by both.*

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

C. *Violation of the sections listed below or attempt to violate any of the sections listed below or attempt to violate any of the sections listed in subsection B is punishable by a fine not to exceed \$1,000, or imprisonment not to exceed 30 days or by both.*

D. *Violation or attempt to violate any of the sections listed below or attempt to violate any of the sections listed in subsection C is punishable by a fine not to exceed \$250.00.”*

“Penalties.

A. **Violation of any provision of BC 5.08.100 to 5.08.770 designated as a Class A misdemeanor is punishable, upon conviction, by a fine not to exceed \$5,000, imprisonment not to exceed one year, or both.**

B. **Violation of any provision of BC 5.08.100 to 5.08.770 designated as a Class B misdemeanor is punishable, upon conviction, by a fine not to exceed \$2,000, imprisonment not to exceed six months, or both.**

C. **Violation of any provision of BC 5.08.100 to 5.08.770 designated as a Class C misdemeanor is punishable, upon conviction, by a fine not to exceed \$1,000, imprisonment not to exceed 30 days, or both.**

D. **Unless otherwise provided, violation of any provision of BC 5.08.100 to 5.08.770 designated as a violation is punishable, upon conviction, by a fine not to exceed \$250.”**

III. **SECTIONS REPEALED:**

Section 85. The following provisions of the Beaverton Code are repealed:

5.08.120 Disobeying an Order to Disperse

A. *At an assembly of three or more persons when there is reasonable cause to believe that a disturbance of the peace or a danger to public safety is imminent if the assembly continues, a peace officer may order persons present at the assembly to abandon any weapons or to disperse if the officer finds that two or more persons present:*

1. *are threatening bodily harm to another or damage to property, with immediate power to carry out that threat; or*

2. *have committed an unlawful act of violence during the course of assembly.*

B. *No person present at the scene of an assembly of three or more persons shall disobey an order of a peace officer authorized by this section.*

5.08.121 Public Fighting

No person shall knowingly engage in fighting or violent, or threatening behavior which is not a refereed or regulated contest, while in a public place or premises open to the public.

5.08.125 Loitering

No person shall loiter in or near a public place frequented by children including schools, schoolgrounds, school bus stops, swimming pools, playgrounds and parks and public premises adjacent thereto for the purpose of harassing, menacing, or molesting children or committing any other unlawful act.

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

5.08.200 **Definitions**

For purposes of this ordinance, the following mean:

Firearm - A weapon, by whatever name known, which is designed to expel a projectile by the action of smokeless powder and which is readily capable of use as a weapon.

Handgun - A conventional pistol or revolver that uses a fixed cartridge containing a propellant charge, primer and projectile, and is designed to be aimed or fired other than from the shoulder and that when fired, fires a single shot for each pressure on the trigger device.

Public Place - A place to which the general public has access, including, but not limited to, highways, streets, school, parks, play grounds, places of amusement, premises used in connection with public transportation, and the hallways, lobbies and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence.

Switchblade Knife - A knife having a blade that projects or swings into position by force of a spring or by centrifugal force.

5.08.210 **Pointing a Firearm at Another**

No person shall intentionally point or aim a loaded or unloaded firearm at or toward any other person who is within range of the firearm if:

- 1. either person is in a public place; or*
- 2. the firearm is pointed or aimed through a public place.*

5.08.215 **Unlawful Possession of Firearms**

A. Except as provided by B.C. 5.08.220, no person while in a public place or while operating a vehicle in a public place shall knowingly:

- 1. carry a firearm concealed upon the person.*
- 2. carry a handgun concealed and readily accessible about the person within a vehicle which is under the person's control or direction.*

B. Firearms carried openly in belt holsters are not concealed within the meaning of this section.

5.08.217 **Unlawful Carrying of a Loaded Firearm**

A. Except as provided by BC 5.08.220, no person shall knowingly carry a loaded firearm on or about the person while in a public place or in a vehicle located in a public place and under the person's control or direction.

B. A firearm shall not be deemed unloaded until all ammunition is removed from the firearm, including all ammunition contained in the clip, chamber, cylinder or magazine.

5.08.220 **Persons Not Affected by BC 5.08.215 and 5.08.217**

BC 5.08.215 does not apply to or affect:

A. Sheriffs, constables, marshals, policemen, whether active or honorably retired, or other duly appointed peace officers.

B. Any person summoned by any such officer to assist in making arrests or preserving the peace, while said person so summoned is actually engaged in assisting the officer.

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

C. *The possession or transportation by any merchant of unloaded firearms as merchandise.*

D. *Members of the Army, Navy or Marine Corps of the United States, or of the National Guard, when on duty.*

E. *Organizations which are by law authorized to purchase or receive weapons described in ORS 166.250 from the United States, or from this state.*

F. *Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their organization.*

G. *Members of any club or organizations, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in ORS 166.250 upon such target ranges, or while going to and from such ranges.*

H. *Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from a hunting or fishing expedition.*

I. *A corrections officer while transporting or accompanying an individual convicted of or arrested for an offense and confined in a place of incarceration or detention while outside the confines of the place of incarceration or detention.*

J. *Persons who possess a concealed handgun license lawfully issued either by a sheriff of a county of this state or by any official of a state having requirements substantially comparable to those of this state for issuance of concealed handgun licenses.*

5.08.230 Unlawful Display of Fireworks

ORS 480.130, "Permit required for sale or public display of fireworks; fee," is hereby incorporated by reference into this Code.

5.08.310 Prohibited Touching

A. *No person shall knowingly pay a fee or knowingly 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.*

B. *No person who manages or controls any place of business shall knowingly cause or knowingly permit any agent, employee or other person under the person's control or supervision to participate in conduct prohibited in subsection A.*

5.08.505 Furnishing Obscene Materials to a Minor

No person shall furnish obscene materials to minors if knowing or having good reason to know the character of the material furnished, the person furnishes to a minor:

A. *Any picture, photograph, drawing, sculpture, motion picture, film or other visual representation or image of a person or portion of the human body that depicts nudity, sadomasochistic abuse, sexual conduct or sexual excitement;*

B. *Any book, magazine, paperback, pamphlet or other written or printed matter, however reproduced, or any sound recording that contains matter of the nature described in*

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paragraph A of this subsection, or obscenities, or explicit verbal descriptions or narrative accounts of sexual conduct, sexual excitement or sadomasochistic abuse.

C. For the purpose of this section, obscene materials are those materials which are in some significant way erotic and which taken as a whole lack serious literary, artistic, political or scientific value.

5.08.510 Sending Obscene Materials to Minors

A. No person within the city shall knowingly arrange for or dispatch for delivery to a minor, whether the delivery is to be made within or outside the city by mail, delivery service, or any other means, any of the materials listed in BC 5.08.505.

B. Unless the defendant knows or has good reason to know that the person to whom the materials are sent is a minor, it is a defense to a prosecution under this section that the defendant caused to be printed on the outer package, wrapper or cover of the materials to be delivered, in words or substance "This package (wrapper), (publication) contains material that, by city ordinance, cannot be furnished to a minor."

5.08.515 Exhibiting Obscene Performances to a Minor

A. No person shall knowingly or recklessly:

- 1. exhibit an obscene performance to the minor;*
- 2. sell an admission ticket or other means to gain entrance to an obscene performance to the minor; or*
- 3. permit the admission of the minor to premises on which there is exhibited an obscene performance.*

B. If the minor is unaccompanied by the minor's parent or lawful guardian:

- 1. No employee is liable to prosecution under this section for exhibiting or possessing with intent to exhibit any obscene motion picture provided the employee is acting within the scope of the employee's regular employment at a showing open to the public;*
- 2. As used in this section, "employee" means any person regularly employed by the owner or operator of a motion picture theater if the employee has no financial interest, other than salary or wages in the ownership or operation of the motion picture theater, no financial interest in or control over the selection of the motion pictures shown in the theater, and is working within the motion picture theater where the person is regularly employed, but does not include a manager of the motion picture theater.*

5.08.520 Displaying Obscene Materials to Minors

No person, being the owner, operator, or manager of a business or acting in a managerial capacity, shall knowingly or recklessly permit a minor who is not accompanied by the minor's parent or lawful guardian to enter or remain on the premises, if in that part of the premises where the minor is permitted to be, there is visibly displayed:

A. Any picture, photograph, drawing, sculpture or other visual representation or image of a person or portion of the human body that depicts nudity, sexual conduct, sexual excitement or sadomasochistic abuse; or

NOTE: Matter in **Bold** is new; matter in *Italic* is existing law to be omitted.

B. *Any book, magazine, paperback, pamphlet or other written or printed matter, however reproduced, that reveals a person or portion of the human body that depicts nudity, sexual conduct, sexual excitement or sadomasochistic abuse.*

5.08.525 Defenses in Prosecuting Under BC 5.08.505 - .520

In any prosecution under BC 5.08.505-.520, it is an affirmative defense for the defendant to prove:

- A. *That the defendant was in a parental or guardianship relationship with the minor;*
- B. *That the defendant was a bona fide school, museum or public library, or was acting in the course of the defendant's employment as an employee of such organization or of a retail outlet affiliated with and serving the educational purpose of such organization; or*
- C. *That the defendant was charged with the sale, showing, exhibition or display of an item, those portions of which might otherwise be contraband forming merely an incidental part of an otherwise nonoffending whole, and serving some legitimate purpose therein other than titillation; or*
- D. *That the defendant had reasonable cause to believe that the person involved was not a minor.*

5.08.615 Tampering with Public Records

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

5.08.700 Cruelty to Animals

- A. *Except as otherwise authorized by law, no person shall intentionally or recklessly:*
 - 1. *subject any animal under human custody or control to cruel mistreatment;*
 - 2. *subject any animal under the person's custody or control to cruel neglect; or*
 - 3. *kill or injure without legal privilege any animal under the custody or control of another.*
- B. *As used in this section, "animal" includes birds.*

5.08.705 Soliciting Drinks

No person shall frequent, loiter, or be employed in a tavern, bar, night club or cocktail lounge or other place where alcoholic liquor is sold for the purpose of soliciting a person of the opposite sex to purchase drinks. No proprietor of such an establishment shall allow the presence in the establishment of a person who violates the provisions of this section. This section does not apply to persons regularly employed as bartenders, waiters, or waitresses.