

ORDINANCE NO. 4009

**AN ORDINANCE ADDING AND AMENDING
PROVISIONS CONTAINED IN CHAPTERS FIVE AND SIX
OF THE BEAVERTON CODE
AND DECLARING AN EMERGENCY**

WHEREAS, the City has the legal authority to define and punish criminal and quasi-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 and traffic-related ordinances and state laws; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. BC 5.08.010, Definitions for BC 5.08.010 to 5.08.800, is hereby amended to read as follows:

“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 the same manner to the provisions of BC 5.08.010 to 5.08.800.”

Section 2. BC 5.08.015, Application of State Statutes, is hereby amended to read as follows:

“5.08.015 Application of State Statutes.

A. 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), responsibility (ORS 161.290 to 161.400), fines for corporations (ORS 161.655) and effect of non-payment of fines, restitution or costs (ORS 161.685) 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.

B. Except as otherwise expressly provided, or unless the context requires otherwise, the provisions of this section shall govern the construction of and punishment of any offense defined outside BC 5.08.010 to 5.08.800, as well as the construction and application of any defense to a prosecution for such an offense.”

Section 3. BC 5.08.225, Discharging a Weapon, is amended to read as follows:

“5.08.225 Discharging a Weapon.

A. No person shall intentionally discharge a firearm into or across a public place or while located in a public place.

B. No person shall intentionally discharge a pellet gun, BB gun, bow and arrow, sling shot, or other similar weapon that expels a projectile by means other than by the action of smokeless powder.

C. This section shall not prohibit the discharge of a firearm or other weapon while at a reasonably safe and regularly operated firing range.

D. A person who violates this section commits a Class B misdemeanor.”

Section 4. BC 5.08.230, Possession of Hoax Destructive Device, is hereby added to and made a part of the Beaverton Code to read as follows:

“5.08.230 Possession of Hoax Destructive Device. Subsections (1), (2) and (4) of ORS 166.385, possession of hoax destructive device, as now constituted, are hereby incorporated into this code.”

Section 5. BC 5.08.300, Indecent Exposure, is amended to read as follows:

“5.08.300 Indecent Exposure.

A. No person shall expose his or her genitalia while in a public place or place visible from a public place, if the public place is open or available to persons of the opposite sex.

B. A person who violates this section commits a Class B misdemeanor.”

Section 6. BC 5.08.410, Violating the Privacy of Another, is hereby amended to read as follows:

“5.08.410 Invasion of Personal Privacy.

A. ORS 163.700, invasion of personal privacy, as now constituted, is hereby incorporated into this code.

B. ORS 163.702, exceptions to ORS 163.700, as now constituted, is hereby incorporated into this code.”

Section 7. BC 5.08.535, Children Confined in Vehicles, is amended to read as follows:

“5.08.535 Child Confined in Vehicle.

A. No person who has control or custody of a child under eight years of age shall lock or confine, or leave the child unattended, or permit the child to be locked or confined, or left unattended in a vehicle for a period of time longer than 15 consecutive minutes.

B. A peace officer, finding a child confined in violation of the terms of this section, may enter the vehicle and remove the child, using such force as is reasonably necessary to effect an entrance to the vehicle.

C. A person who violates this section commits a Class B misdemeanor.”

Section 8. BC 5.08.618, Failure to Provide Name and Date of Birth, is amended to read as follows:

“5.08.618 Failure to Provide Name and Date of Birth.

A. No person shall knowingly fail to provide a name and date of birth to a peace officer having probable cause to believe the person has committed a violation offense.

B. A person who violates this section commits a Class C misdemeanor.”

Section 9. BC 5.08.622, False Representation, is amended to read as follows:

“5.08.622 False Representation.

A. No person shall falsely represent to another that the person is acting as an employee, agent or representative of the City or that the City endorses or sanctions the actions of that person.

B. A person who violates this section commits a Class C misdemeanor.”

Section 10. BC 5.08.626, Giving False Information to a Peace Officer, is hereby amended to read as follows:

“5.08.626 Giving False Information to a Police Officer for a Citation.
ORS 162.385, giving false information to a police officer for a citation, as now constituted, is hereby incorporated into this code.”

Section 11. 5.08.655, Hindering Misdemeanor Prosecution, is amended to read as follows:

“5.08.655 Hindering Misdemeanor Prosecution.

A. No person shall intentionally hinder the apprehension, prosecution, conviction or punishment of a person who has committed a crime punishable as a

misdemeanor, or intentionally assist a person who has committed a crime punishable as a misdemeanor in profiting or benefiting from the commission of the crime by:

1. Harboring or concealing such person; or
2. Warning such person of impending discovery or apprehension; or
3. Providing or aiding in providing such person with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension; or
4. Preventing or obstructing by means of force, intimidation or deception, anyone from performing an act that might aid in the discovery or apprehension of such person; or
5. Aiding such person in securing or protecting the proceeds of the crime.

B. A person who violates this section commits a Class C misdemeanor.”

Section 12. BC 5.08.630, Resisting Arrest, is hereby amended to read as follows:

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

Section 13. BC 5.08.660, Interfering with a Police Officer, is hereby amended to read as follows:

“5.08.660 Interfering with a Police Officer. ORS 162.247, interfering with police, as now constituted, is hereby incorporated into this code.”

Section 14. BC 6.02.020, Applicability of State Traffic Laws, is amended to read as follows:

“6.02.020 Applicability of State Traffic Laws.

A. Violation of a provision of the Oregon Vehicle Code, as now constituted, is an offense against this city, punishable as provided by state law.

B. A reference in any ordinance, resolution, Code section or regulation of the City to any section of the Oregon Revised Statutes repealed by Oregon Laws 1983, Chapter 338, Section 978, or Oregon Laws 1985, Chapter 16, Section 475, is deemed a reference to the comparative section of Oregon Laws 1983, Chapter 338, Sections 1-981, and Oregon Laws 1985, Chapter 16, Sections 1-477, as shown in "Introduction to Oregon Vehicle Code 1986-87," prepared by the Judicial Education Committee of the Oregon Judicial Conference.”

Section 15. An emergency is hereby declared to exist because the provisions of the criminal and traffic laws of Oregon and the City of Beaverton are inconsistent. To expeditiously restore

consistency between State and City criminal and traffic laws, and to preserve the peace, health and safety of the City, this ordinance shall take effect immediately upon its adoption by the Council and approval by the Mayor.

First reading this 8th day of June, 1998.

Passed by the Council this 15th day of June, 1998.

Approved by the Mayor this 16th day of JUNE, 1998.

ATTEST:

Darleen Cozburn
DARLEEN COGBURN, City Recorder

APPROVED:

Rob Drake
ROB DRAKE, Mayor