

Title 9

PUBLIC PEACE AND WELFARE

Chapters:

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Chapter 9.04

GENERAL PROVISIONS

Sections:

- 9.04.010** **Definitions.**
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9.04.010

Definitions.

Except as the context indicates otherwise, as used in this chapter:

“City” means the city of Sutherlin.

“Council” means the governing body of the city.

“Dangerous or deadly weapon” means and includes a firearm, metal knuckles, straight razor, weapon of the type commonly known as a nunchaku, blackjack, sap or sap glove, any type of 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 or butterfly knife, and any type of a knife which has more than one sharpened blade or point which is designed for throwing and commonly known as a throwing star. When carried with intent to use the same unlawfully against another, “dangerous or deadly weapon” also includes any instrument or device capable of inflicting injury to the person or property of another.

“Minor” means a person under the age of twenty-one (21) years, except as otherwise provided.

“Passageway” means a street, sidewalk, unpaved walkway or bicycle path used for pedestrian, bicycle or vehicular traffic.

“Person” means a natural person, firm, partnership, association or corporation, whether he is acting for himself or as the clerk, servant, employee or agent of another.

“Public place” means any building, place of accommodation, whether publicly or privately owned, open and available to the general public.

“Public way” means any street, road, alley, right-of-way or pedestrian or bicycle easement for public use which is controlled by the city.

“Sidewalk” means the improved part of a street right-of-way that is intended for pedestrian use between the curb-lines or the lateral lines of a roadway and the adjacent property lines.

Wherever necessary for the proper interpretation of this code, the masculine shall include the feminine and the singular shall include the plural. (Ord. 763 § 5-001, 1989)

9.04.020**Adoption of state laws.**

A. Except as otherwise noted, all references to state law or to the Oregon Revised Statutes are those statutes as adopted by the Oregon Legislature and published in the Oregon Revised Statutes, as amended from time to time.

B. Unless otherwise defined in a Sutherlin ordinance, those definitions in the Oregon Revised Statutes which apply to a section of ORS adopted by a Sutherlin ordinance are incorporated by reference and adopted.

C. Unless otherwise noted in a Sutherlin ordinance, all terms, standards and statutes incorporated by a section of the Oregon Revised Statutes adopted by a Sutherlin ordinance, or which are necessary for the operation of such a section of the Oregon Revised Statutes, are incorporated by reference and adopted. (Ord. 875 § 3(H) (part), 1997; Ord. 763 § 5-002, 1989)

9.04.030**Offenses outside the city limits.**

Where permitted by Oregon law, an act made unlawful by this code shall constitute an offense when committed in an area owned or occupied by the city, even though outside the corporate limits of the city. (Ord. 763 § 5-003, 1989)

9.04.040**Offenses—Attempt to commit.**

A person who shall attempt to commit any of the offenses mentioned in this code or any ordinance of the city, but who for any reason is prevented from consummating such act, shall be deemed guilty of an offense. A person attempts to commit an offense when the person intentionally engages in conduct which constitutes a substantial step toward commission of the offense. (Ord. 763 § 5-004, 1989)

9.04.050**Manager's duties.**

In establishing a rule required by any section of this chapter, or in issuing a permit required by any section of this chapter the city manager shall consider, where applicable, the following matters:

- A. The purpose of the requirement for a rule or permit;
- B. The value of the city property involved in the rule or permit;
- C. The administrative costs of issuing and enforcing any permit;
- D. The intended public use giving rise to the permit; and
- E. The public health and safety.

9.04.050

The manager shall notify, in writing, the applicant for a permit of the manager's decision. An applicant may appeal the decision of the manager to the city council, which shall consider the same matters, and which shall make a final decision on the matter. (Ord. 763 § 5, 1989)

Chapter 9.08

STATE CRIMINAL STATUTES ADOPTED

Sections:

9.08.010 Adoption of sections of the Oregon Revised Statutes.

9.08.010

Adoption of sections of the Oregon Revised Statutes.

It is the policy of the city to conform its criminal statutes as closely as feasible to the criminal statutes of the State of Oregon. The provisions of ORS Chapters 161, 162, 163, 164, 165, 166, 167, 471, 475, 476, and 480, as now enacted or hereafter amended, are adopted. (Ord. 1023, 2013; Ord. 763 §§ 5-102, 5-202, 5-302, 5-402, 5-502 and 5-602, 1989)

Chapter 9.12

OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

Sections:

- 9.12.010** **Impersonating a peace officer.**
- 9.12.020** **Interference with peace officer.**
- 9.12.030** **Delivery of goods to persons confined in city holding cell.**
- 9.12.040** **Aiding escape of prisoners from custody.**
- 9.12.050** **Fire department equipment.**
- 9.12.060** **Directions of park officers or officers of the police department to be obeyed.**
- 9.12.070** **Interfering in emergencies.**
- 9.12.080** **Authority to restrict access to certain areas.**
- 9.12.090** **Destruction of official notices and signs.**
- 9.12.100** **Mutilation of traffic citations.**
- 9.12.110** **Taking, retention or mutilation of public records.**

9.12.010

Impersonating a peace officer.

Except for peace officers performing official duties, it is unlawful for any person:

- A. To represent himself to be a peace officer, either by words, conduct or appearance;
- B. To possess or display the badge, identification or other credential of a peace officer, or any imitation or copy thereof, or to use the word “police” or the seal of the city on any insignia or badge;
- C. To wear the official uniform of a peace officer or any distinctive part of such uniform;
- D. To own or operate a motor vehicle marked or identified by the word “police” or any other marking or insignia identifying it as a police vehicle. (Ord. 763 § 5-111, 1989)

9.12.020

Interference with peace officer.

A. For purposes of this section:

- 1. “Arrest” means to place a person under actual or constructive restraint for the purpose of charging him with an offense.
- 2. “Custody” means to place a person under actual or constructive restraint pursuant to a court order or for other lawful purpose.
- 3. “Stop” means a temporary restraint of a person’s liberty, by a peace officer lawfully present in a place, when the officer reasonably suspects that the person is committing or has committed a criminal offense, or when the officer reasonably believes that the person is in need of attention pursuant to ORS 397, or when the officer reasonably believes that the person is the subject of service of a valid court order.

4. "To leave the area of an arrest, custody or stop" means to physically move to a location not less than ten feet extending in a radius from where a police officer is engaged in effecting an arrest, taking a person into custody, or stopping a person; provided, that the peace officer may extend the radius beyond ten feet when he reasonably believes that the extension is necessary because of substantial risk of physical injury to any person.

B. No person shall refuse to leave the area of an arrest, custody or stop, or, having left that area, re-enter it, after being directed to leave the area by a person known by him to be a peace officer.

9.12.030

C. No person shall operate a generator of electromagnetic waves or otherwise cause a disturbance of such magnitude as to interfere with the proper functioning of any police radio, telephone, computer or other communication system of the city.

D. It is unlawful to knowingly or recklessly shine, project or otherwise cause or allow a laser light to be used upon the person of a police officer, firefighter, or other city officer, or upon a police dog, in such a manner that might reasonably cause injury to anyone or interfere with the discharge of official duties. Any device used for focusing a narrow, intense beam of light by means of amplification or concentration shall be considered a laser light. (Ord. 911 § 1, 1999; Ord. 875 § 3(H) (part), 1997; Ord. 763 § 5-112, 1989)

9.12.030

Delivery of goods to persons confined in city holding cell.

No person shall give, sell or deliver any article to a person in city holding cell without the prior consent of the officer in charge. (Ord. 1055 § 1, 2016; Ord. 763 § 5-113, 1989)

9.12.040

Aiding escape of prisoners from custody.

A. No person shall knowingly aid or attempt to aid in the escape of a confined prisoner or make available to him anything calculated to aid an escape.

B. No person shall knowingly aid an escaped prisoner by offering shelter, clothing, food, or any other thing or service which would aid or abet the escape of a prisoner. (Ord. 763 § 5-114, 1989)

9.12.050

Fire department equipment.

A. No person shall drive a vehicle over or upon any fire hose, or destroy, damage or remove any hose, engine, appliance or apparatus belonging to or used by the fire department.

B. No unauthorized person shall unfasten, open, draw water from, or otherwise tamper with a hydrant. (Ord. 763 § 5-115, 1989)

9.12.060

Directions of park officers or officers of the police department to be obeyed.

No person shall refuse a request to obey any reasonable direction of the park officers or employees or officers of the Sutherlin police department. (Ord. 763 § 5-118, 1989)

9.12.070**Interfering in emergencies.**

It is unlawful for any person to stop or remain in the vicinity of a fire, explosion, accident, cave-in, or similar emergency or disaster, or where such an emergency or disaster is threatened, or in the vicinity of a riot, affray or arrest, when his presence may be unsafe to himself or others, or may interfere with rescue, fire fighting or other emergency aid, after being notified by a peace officer or authorized employee of the Sutherlin fire department to move to a place outside the area of danger or interference. (Ord. 763 § 5-126, 1989)

9.12.080**Authority to restrict access to certain areas.**

A. Whenever a threat to the public health or safety is created by any fire, explosion, accident, cave-in, or similar emergency, catastrophe or disaster, or by disturbance, riot, presence of an armed person, hostage being held, or other disturbance, an officer of the rank of Police Officer or above of the Sutherlin Police Department, Command Level Firefighter of the Sutherlin Fire Department or the City Manager may restrict or deny access to persons to the area where such threat exists, for the duration of such threat, when the presence of such persons in such area would constitute a danger to themselves or when such officer reasonably believes that the presence of such persons would substantially interfere with the performance of police or other emergency services.

B. Whenever it appears to be reasonably necessary to investigate, or to preserve or collect evidence of, criminal acts, an officer of the Sutherlin police department may restrict or deny access to any room, building or enclosure, or any open area, by cordoning off such area by the use of persons, vehicles, ropes, markers or any other means.

C. As used in this section, “restrict or deny access” means that an authorized official of the city has the authority to regulate or prohibit the presence or movement of persons or vehicles to, from, and within any area, to evacuate persons and to move or remove any property therefrom, until the reason for such restriction or denial of access no longer exists.

D. It is unlawful for any person to enter or to refuse to leave any area closed or restricted in access pursuant to subsection A or B of this section, unless such person has specific statutory authority, or the permission of the on-scene ranking officer of the Sutherlin police department, to be within such area.

E. In accordance with the authority granted by this section, and in consideration of the law enforcement and emergency services needs involved, provision shall be made for reasonable access to such areas by members of the media for the purpose of news gathering and reporting. (Ord. 1056 § 1, 2016; Ord. 763 § 5-127, 1989)

9.12.090

Destruction of official notices and signs.

No person, without proper authority, shall willfully deface, alter, remove or knock or tear down any official notice or bulletin, or any official sign, signal or barricade posted or placed in conformity with the law. (Ord. 763 § 5-151, 1989)

9.12.100

Mutilation of traffic citations.

It is unlawful for any unauthorized person to change, erase, alter, mar, mark, mutilate or destroy a traffic citation form which has been issued by a properly authorized official of the city. (Ord. 763 § 5-152, 1989)

9.12.110

Taking, retention or mutilation of public records.

A. No person, without proper authority, shall take or remove any public record, document, book, paper or personal property of any kind owned by the city.

B. No person, without proper authority, shall mutilate or destroy any public record, document, book or paper on file or kept on record in any public office of the city.

C. No person shall retain any public record, document, book or paper after lawful demand has been made for the return thereof. (Ord. 763 § 5-153, 1989)

9.16.010

Chapter 9.16

OFFENSES AGAINST PUBLIC PEACE AND DECENCY

Sections:

- 9.16.010** **Conduct in taverns.**
- 9.16.020** **Liquor control.**
- 9.16.030** **Consumption of alcohol.**
- 9.16.040** **Inhaling toxic vapors.**
- 9.16.050** **Prostitution.**
- 9.16.060** **Public indecency.**
- 9.16.070** **Prohibited nudity.**
- 9.16.080** **Public urination.**
- 9.16.090** **Interfering with privacy.**
- 9.16.110** **Gambling.**
- 9.16.120** **Disorderly houses.**
- 9.16.130** **Amusement concessions or games.**
- 9.16.140** **Reckless or intentional use of laser lights on others.**

9.16.010

Conduct in taverns.

No owner, proprietor, employee or person in charge of any bar, tavern, lounge or other place where intoxicating liquor is regularly sold to the public shall permit or suffer any disorderly conduct, as defined in ORS 166.025, to take place on the premises. (Ord. 763 § 5-505, 1989)

9.16.020

Liquor control.

No person shall make a statement of age that is false in whole or in part or produce any evidence that would falsely indicate his or her age for purposes of purchasing, securing or otherwise acquiring any alcoholic liquor or for the purpose of gaining admission or admittance to any place where alcoholic liquors are sold which would otherwise not permit such person to be on the premises. (Ord. 763 § 5-506, 1989)

9.16.030

Consumption of alcohol.

A. Except while on the premises of an establishment wherein intoxicating liquor may be sold for on-premises consumption under the laws of the state of Oregon, no person shall drink intoxicating liquor or use controlled substances while on any street, sidewalk or public park within the corporate limits of the city, or in a motor vehicle in a public place.

9.16.040

B. Except while on the premises of an establishment wherein intoxicating liquors may be sold for on-premises consumption under the laws of the state of Oregon, no person shall stand, walk or otherwise travel on a sidewalk or other public place while carrying an open container which has within it any intoxicating liquor. (Ord. 763 § 5-507, 1989)

9.16.040

Inhaling toxic vapors.

No person shall smell or inhale toxic vapors for the purpose of causing a condition of intoxication, inebriation, euphoria, excitement, exhilaration, stupefaction or dulling of the senses or nervous system. (Ord. 763 § 5-611, 1989)

9.16.050

Prostitution.

A. No person shall engage in any act of prostitution.

B. A person engages in an act of prostitution if:

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

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

C. For purposes of this section:

1. "Sexual conduct" means sexual intercourse or deviate sexual intercourse, as defined in ORS 163.305.

2. "Sexual contact" means any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either party or a third party. (Ord. 763 § 5-612, 1989)

9.16.060

Public indecency.

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

1. An act of sexual intercourse; or

2. An act of deviate sexual intercourse; or

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

B. As used in this section, the terms "sexual intercourse" and "deviate sexual intercourse" have the meaning found in ORS 163.305. (Ord. 763 § 5-613, 1989)

9.16.070

Prohibited nudity.

It is unlawful for any person eight years of age or older to expose his or her genitalia, pubic area or any portion of the female breast below the top of the areola while in a public place, or a place visible from a public place, if the public place is open or available to persons of the opposite sex. (Ord. 763 § 5-614, 1989)

9.16.080

Public urination.

No person shall urinate or defecate on, or in view of, publicly owned property, except in a lavatory. (Ord. 763 § 5-615, 1989)

9.16.090

Interfering with privacy.

No person shall look or peep in the door or window of a building or structure which is inhabited or used as a dwelling without the consent of, or without lawful business with, the owner or occupant thereof. (Ord. 763 § 5-616, 1989)

9.16.110

9.16.110

Gambling.

A. As used in this section and Section 9.16.120, “gambling” means the use of a game, machine, device or contest, whether played for money, check, credit or other representative of value, in which the element of chance is controlling, in which a charge is made to participate, and in which the winner is selected primarily on the basis of chance.

B. No person shall participate in, operate or assist in operating a gambling game or activity, including a lottery except as authorized by state law.

C. No person shall have in his possession any property, instrument or device designed or adapted for use in any type of gambling activity, unless such possession is authorized by state law. Such property, instrument or device is a nuisance and may be summarily seized by a police officer. Property so seized shall be placed in the custody of the chief of police. Upon conviction of the person owning or controlling the property for a violation of this section, the municipal judge shall order the property confiscated and destroyed and the money found in the machines deposited in the city general fund. (Ord. 763 § 5-621, 1989)

9.16.120

Disorderly houses.

A. “Disorderly house” means a house or place kept or maintained for the purpose of prostitution, as that term is defined in Section 9.16.050, gambling, or other offenses, including a place, room or building used for the consumption, sale or disposition of liquor or narcotics or dangerous drugs contrary to law.

9.16.130

B. No person shall establish, maintain or aid in the establishment or maintenance of a disorderly house.

C. No person shall knowingly visit or frequent a disorderly house; provided, that this section shall not apply to physicians and public officers acting in the discharge of their professional duties.

D. No person shall knowingly lease a building under his or her control for the purposes of a disorderly house. A person whose property has been leased and is used as a disorderly house shall, upon learning of its use, immediately take appropriate action to oust the occupants thereof.

E. No person shall solicit or entice another person to visit or enter a disorderly house. (Ord. 763 § 5-622, 1989)

9.16.130

Amusement concessions or games.

A. It is unlawful for any person to manage, operate or profit from any unlawful amusement game or concession.

B. As used in this section, "unlawful amusement game or concession" includes the following activities where prizes or other inducements to play other than an opportunity to continue playing are offered:

1. Any amusement concession or game in which any physical limitations affecting the degree of skill necessary to win such amusement concession or game are not readily visible to the player unless a duplicate thereof, which does disclose such physical limitations, is displayed, at the location where such amusement concession or game is played, so as to be readily visible to patrons and contestants;

2. Any amusement concession or game, in which the winning of such amusement concession or game depends upon the patron's or contestant's ability to throw or project an object, unless all such objects available for use by any single patron or contestant are uniform in size and weight;

3. Any amusement concession or game, in which the ability of the patron or contestant to win depends upon the throwing or projecting of an object, unless there exists an unobstructed air space of at least eighteen (18) inches in height above the highest point of any surface, object or place upon which such object must land to win such amusement concession or game;

4. Any amusement concession or game in which any target, which must be struck, hit, overturned, broken or passed through is tilted or inclined in any manner so as to give any advantage to such manager or operator;

5. Any amusement concession or game in which any material or substance has been placed on any target so as to give any advantage to such manager or operator;

6. Any amusement concession or game in which utilizes any device, whether mechanical or electrical, other than the target and the objects to be thrown or projected at that target,

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which increases or decreases the opportunity of any patron or contestant to win such amusement concession or game;

7. Any amusement concession or game, in which the patron or contestant is required to shoot a firearm, air gun, pellet gun, BB gun or similar device at a target in order to win such amusement concession or game, unless all of the ammunition utilized in such devices is uniform in type, size and weight and such devices are physically fixed, attached or controlled to ensure that they can only be pointed toward the target area. The utilization of such devices in compliance with this subsection shall be authorized as an exception to, and not be deemed a violation of this section;

8. Any amusement concession or game in which, as a condition of winning such amusement concession or game, a part or all of a target must be destroyed or obliterated, unless the patron or contestant in such amusement concession or game is permitted, at his request, to have such target(s) brought to him for his inspection at any time(s) after he has paid to play and has concluded such contest but before he has left such amusement concession or game location. (Ord. 763 § 5-623, 1989)

9.16.140

Reckless or intentional use of laser lights on others.

It is unlawful to intentionally or recklessly shine, project or otherwise cause or allow a laser light to be used upon any person in such a manner that might reasonably cause injury to anyone. Any device used for focusing a narrow, intense beam of light by means of amplification or concentration shall be considered a laser light. (Ord. 912 § 1, 1999)

Chapter 9.20

PROPERTY OFFENSES

Sections:

- 9.20.010 Prohibited camping.**
- 9.20.020 Injury to or removal of city property.**
- 9.20.030 Trespass.**
- 9.20.040 Unlawful to enter motor vehicle without consent of owner.**
- 9.20.050 Blocking passageways.**
- 9.20.060 Sidewalk cellar doors and grates.**
- 9.20.070 Obstructing sidewalks and streets.**
- 9.20.080 Owner’s responsibility to maintain sidewalks and driveway approaches.**
- 9.20.090 Public responsibilities–Hauling waste.**

9.20.010

Prohibited camping.

A. Definitions. As used in this section:

1. “To camp” means to set up or remain in or at a campsite.
2. “Campsite” means any place where any bedding, sleeping bag, or other material used for bedding purposes, or any stove or fire is placed, established or maintained for the purpose of maintaining a place to live, whether or not such place incorporates the use of a tent, lean-to, shack or other structure, or a vehicle or part thereof.

B. No person shall camp in or upon any sidewalk, street, alley, lane, public right-of-way, park, bridge, viaduct, or any other publicly owned property, unless otherwise specifically authorized by this code or by declaration of the city council in emergency circumstances. (Ord. 763 § 5-140, 1989)

9.20.020

Injury to or removal of city property.

A. No person, unless duly authorized by the city, shall cut, remove, deface, injure or in any manner damage real or personal property owned or occupied by the city whether that property is located in or outside the city corporate limits.

B. No person shall retain any property belonging to the city after the same or a portion thereof has been demanded by the city manager or other person duly authorized to make such demand. (Ord. 763 § 5-154, 1989)

9.20.030

9.20.030

Trespass.

No person shall trespass upon real or personal property belonging to another. (Ord. 763 § 5-304, 1989)

9.20.040

Unlawful to enter motor vehicle without consent of owner.

No person, except an authorized officer of the law, or other person directed by such officer or a person performing under a contract for the removal and towing and storage of vehicles in behalf of the city shall, without the consent of the owner or person lawfully in charge of a motor vehicle, climb upon or into such motor vehicle, whether the same be at rest or in motion; or while such motor vehicle is unattended, attempt to manipulate any of the levers, the starting crank, or other device, brakes or mechanism or to set the vehicle in motion. (Ord. 763 § 5-305, 1989)

9.20.050

Blocking passageways.

A. No person or group of persons shall gather or stand upon a sidewalk or other passageway in such a manner as to prevent, impede or obstruct the free passage of pedestrian traffic.

B. No person or group of persons obstructing the free passage of pedestrian traffic shall fail or refuse to move on or disperse when lawfully ordered to do so by a police officer. (Ord. 763 § 5-651, 1989)

9.20.060

Sidewalk cellar doors and grates.

No owner or person in control of property abutting a sidewalk shall permit a cellar door or grate located on that sidewalk to remain open except when such entrance is being used. When such entrance is being used, the owner or person in control of the property abutting the sidewalk shall insure there are adequate safeguards for pedestrians using the sidewalk. (Ord. 763 § 5-652, 1989)

9.20.070

Obstructing sidewalks and streets.

A. Except as otherwise permitted by ordinance, or authorized by the city manager or the manager's designee, and except for subsection B of this section, no person shall:

1. Obstruct the free movement of vehicles or pedestrians using a passageway;
2. Park or stand a vehicle in such a manner or location that it constitutes a hazard to public safety or an obstruction of a passageway;
3. Cut or split wood on a passageway;

4. Carry or haul putrefactive material in other than a closed container;
5. Unless otherwise authorized by ordinance, set up or operate a vehicle, stand or place for the display or sale of merchandise, or sell, vend or display for sale an article in the street or on the sidewalks or in doorways or stairways of business houses, or in any other place where such activity causes congregation and congestion of people or vehicles on passageways;
6. Place or maintain gasoline pumps or similar devices for vending volatile oils on a passageway.
 - B. Merchandise, boxes, building materials, household goods, or other things or articles may be left on sidewalks for not more than two hours when in the course of receipt or delivery. (Ord. 763 § 5-653, 1989)

9.20.080

Owner's responsibility to maintain sidewalks and driveway approaches.

- A. The owner of land abutting a sidewalk shall maintain the sidewalk and the driveway approaches in good repair and safe condition.
- B. The owner shall be liable for injury, damage or loss to person or property caused by the owner's negligent failure to comply with this section.
- C. The city shall not be liable for injury, damage or loss to any personal property caused in whole or in part by the defective condition of any sidewalk or driveway approach.
- D. The city manager or the manager's designee may serve notice on the owner to reconstruct or repair the abutting or adjoining sidewalk or driveway approach as conditions may require.
- E. Neither the duty of the owner to maintain the sidewalk and the driveway approach in good repair and safe condition, nor liability for owner's failure to do so is dependent upon the notice from the city to reconstruct or repair.
- F. The owner shall defend and hold harmless the city from all claims for loss or damage arising from the owner's failure to comply with subsection A of this section.
- G. If the city manager or the manager's designee determines that a sidewalk or driveway abutting property is to be repaired or reconstructed, a notice shall be sent to the owner of the property by first-class mail to the owner's last known address, or, if no address is known, to the address on the current county assessor records. The notice shall state the repair or reconstruction required, the time limit for complying with the requirement, and how the cost shall be borne.
- H. The owner may seek the city manager's or the manager's design approval of owner specifications to make the repair him or herself within twenty (20) days of the date the notice is sent. If approved, the owner shall conduct the repair or reconstruction work in accordance with the approved specifications within twenty (20) days of the approval.
- I. If the owner does not make the repair in accordance with approved specifications, the city manager or the manager's designee may cause the repair or reconstruction work to be performed either with city forces or by private contract. The owner shall be charged for the repair or reconstruction at a rate established by the city council which shall cover the costs of the work including, but not limited to, labor, supervision, inspection, billing, overhead, interest on warrants or overhead, and additional costs for any extraordinary aspect the project entails. The city

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manager or the manager's designee may collect the cost of the repair or reconstruction from the owner or cause the cost of the repair or reconstruction to be assessed against the property and made subject to lien and foreclosure. (Ord. 763 § 5-654, 1989)

9.20.090

Public responsibilities—Hauling waste.

When a person transports waste to a disposal site or transfer station, such person shall not:

A. Dispose of waste at any place other than a lawful and authorized disposal site or transfer station;

B. Fail to enclose waste in a receptacle, container, box, trailer or vehicle, or otherwise allow waste to drop, sift, leak or escape onto any private or public property. (Ord. 763 § 5-655, 1989)

Chapter 9.24

THEFT, FRAUD AND RELATED OFFENSES

Sections:

- 9.24.010** **Buying, receiving or concealing stolen property.**
- 9.24.020** **Obtaining property by false pretenses.**
- 9.24.030** **Defrauding of innkeepers.**
- 9.24.040** **Lodging accommodations.**

9.24.010

Buying, receiving or concealing stolen property.

No person shall buy, receive, conceal or attempt to buy property that is known or reasonably should be known to such person to have been stolen. (Ord. 763 § 5-303, 1989)

9.24.020

Obtaining property by false pretenses.

A. No person shall, by any false pretenses or any privity or false token, and with intent to defraud, obtain or attempt to obtain from any other person, any money or property, nor shall any person obtain or attempt to obtain with like intent the signature of any person to any writing, the false making of which would be punishable as forgery.

B. The making of a bill of sale, assignment or mortgage of personal property by any person not the owner thereof for the purpose of obtaining money or credit or to secure an existing indebtedness, is a false pretense within the meaning of this section.

C. The presentation by any person of a bill, invoice, statement, account or claim in writing to another knowing the same to contain items of overcharge, false items, or wrongful charges, with intent to obtain payment thereof, whether obtained or not, is a false pretense, and the account, bill, invoice or claim without the signature thereon of the person presenting it, is a false token within this section. (Ord. 763 § 5-421, 1989)

9.24.030

Defrauding of innkeepers.

A. No person shall, with intent to defraud, obtain any food, lodging or other accommodations at a hotel, motel, apartment house, boardinghouse, tourist park, trailer park or restaurant.

B. No person shall, after having obtained food, lodging or other accommodations at a hotel, motel, apartment house, boardinghouse, tourist park, trailer park or restaurant, leave or surreptitiously remove his or her baggage and clothing from the premises without first paying or tendering paying for such food, lodging or other accommodations. (Ord. 763 § 5-410, 1989)

9.24.040

9.24.040

Lodging accommodations.

No person shall write, cause to be written, or knowingly permit to be written, in a register in a hotel, motel, lodging house, rooming house or other place where transients are accommodated in the city, any other or different name or designation than the true name or designation of the person so registered, or the name or designation by which such person is generally known. (Ord. 763 § 5-411, 1989)

Chapter 9.28

OFFENSES BY OR AGAINST MINORS

Sections:

- 9.28.010** **Curfew.**
- 9.28.020** **Soliciting delinquent acts by a minor.**
- 9.28.030** **Unattended children in vehicles.**
- 9.28.040** **Parental supervision and responsibility.**

9.28.010

Curfew.

A. No minor under the age of eighteen (18) years shall be in or upon any street, highway, alley, park or other public place between the hours of eleven p.m. and five a.m. of the following morning between Sunday evening and Friday morning, or between the hours of twelve midnight and five a.m. between Friday evening and Sunday morning, unless:

1. Such a minor is accompanied by a parent, guardian, or other person eighteen (18) years of age or over and authorized by the parent or by law to have care and custody of the minor;
2. Such minor is then engaged in a lawful pursuit or activity which requires the presence of the minor in such public places during the hours specified in this subsection.

B. No parent, guardian or other person having the care and custody of a minor under the age of eighteen (18) years shall allow such minor to be in or upon any street, highway, park, alley or any other public place between the hours specified in subsection A of this section, except as otherwise provided in that subsection.

C. Any minor who violates this section may be taken into custody and subjected to further proceedings as provided in ORS Chapters 419A through 419C. (Ord. 875 § 2 (part), § 3(H) (part), 1997; Ord. 763 § 5-181, 1989)

9.28.020

Soliciting delinquent acts by a minor.

No person shall solicit, aid, abet or cause a minor under the age of eighteen (18) years to:

- A. Violate a law of the United States or of a state, or to violate a city or county ordinance;
- B. Do an act which endangers the health, safety or welfare of the minor or of another person;
- C. Run away or conceal himself from a person or institution having lawful custody of the minor. (Ord. 763 § 5-183, 1989)

9.28.030

9.28.030

Unattended children in vehicles.

A. No person having custody or control of a child under ten years of age shall leave the child unattended in any vehicle on a public street or alley, or a parking area that is open to the public for a period of time longer than fifteen (15) consecutive minutes.

B. For the purposes of this section, to “leave a child unattended” means to leave a child without the custody or control of a person sixteen (16) years of age or older.

C. Any officer of the Sutherlin police department, finding a minor left unattended in violation of the terms of this section, is authorized to enter the vehicle and remove the child, using such force as is reasonably necessary to effect an entrance to the vehicle in order to remove the child. (Ord. 763 § 5-210, 1989)

9.28.040

Parental supervision and responsibility.

A. A person commits the offense of failing to supervise a minor if:

1. The person is the parent or legal guardian responsible for the safety and welfare of a child under eighteen (18) years of age;

2. The child has been found in violation of a curfew or any other provision of this code or Oregon Revised Statutes which is punishable as either a felony, misdemeanor or infraction; and

3. The person has been found by clear and convincing evidence to have been neglectful or negligent in his or her responsibilities, in allowing the child to be unsupervised at the time of the offense.

B. The following are affirmative defenses for a person charged with violation of subsection A of this section:

1. If that person took reasonable steps to control the conduct of the child at the time the child committed the offense;

2. If the child is exonerated or otherwise found after a trial to be not guilty; or

3. If the parent did not have physical custody of the child, pursuant to a court order or a marital settlement agreement, at the time of the offense.

C. In interpreting and implementing this section it shall be presumed that the father and mother of a child are equally responsible for the supervision and control of such child.

D. In addition to any fine or penalty imposed pursuant to this section, the judge of the Sutherlin municipal court may order the person to pay any restitution to a victim of the minor’s unlawful conduct where the child does not have the ability to provide financially for such restitution. The amount of restitution ordered pursuant to this section shall not exceed two thousand five hundred dollars (\$2,500.00).

E. The first time a person is convicted of an offense described in subsection A of this section, the person shall not be required to pay a fine exceeding one hundred dollars (\$100.00) if the person successfully participates and completes a parent effectiveness program to the satisfaction of the court.

F. The offense described in this section is a Class A infraction punishable by a maximum fine of one thousand dollars (\$1,000.00). (Ord. 841 §§ 1–6, 1996)

Chapter 9.32

WEAPONS

Sections:

- 9.32.010 Discharge of weapons.**
- 9.32.020 Inspection of firearms.**
- 9.32.030 Carrying concealed weapons.**
- 9.32.040 Pointing a firearm.**
- 9.32.050 Seizure and disposition of weapons.**

9.32.010

Discharge of weapons.

A. As used in this section “firearm” means a pistol, revolver, gun, rifle or other ordnance, including a miniature weapon, which projects a missile or shot by force of gunpowder or any other explosive, by spring or by compressed air.

B. Except for a peace officer acting within the scope of his duty; any government employee authorized or required by his employment or office to carry or use firearms; and any person having a valid permit issued to him by lawful authority to carry or use firearms, it is unlawful for any person to carry a firearm, loaded or unloaded, in a park, school ground or public building.

C. Except for a peace officer acting within the scope of his duty and any government employee authorized or required by his employment or office to carry or use firearms, it is unlawful for any person to use, fire, or discharge a slingshot, cross-bow, bow and arrow, or a firearm within the city or on or across city-owned property.

D. The prohibition in subsection C of this section does not apply to:

1. Any person justified in using deadly physical force under the provisions of ORS 161.195 or 161.219;
2. The member or guest of any licensed organization who, for the purpose of shooting practice, discharges a firearm at a target upon an established target range of that organization;
3. A person conducting an athletic contest who fires blank ammunition toward the sky;
4. Members of the armed forces firing blank ammunition at military ceremonies;
5. Persons authorized by permit of the city manager to discharge blank ammunition for a lawful purpose; or
6. Hunter safety instructors of the Oregon State Game Commission or their pupils who are engaged in hunter safety training classes sponsored by the Commission. (Ord. 875 § 3(H) (part), 1997; Ord. 763 § 5-511, 1989)

9.32.020**Inspection of firearms.**

It is unlawful for any person carrying a firearm upon his person, or in a vehicle under his control or in which he is an occupant, to refuse to permit a peace officer to inspect that firearm after the peace officer has identified himself as such where that officer has reason to believe that the weapon is unlawful or is being carried unlawfully. (Ord. 763 § 5-512, 1989)

9.32.030**Carrying concealed weapons.**

A. It is unlawful for any person, not authorized by law to carry any dangerous or deadly weapon in a concealed manner.

B. Any such weapon taken from the person or vehicle of any person unlawfully carrying the same are nuisances, and shall be surrendered to the chief of police. (Ord. 763 § 5-513, 1989)

9.32.040**Pointing a firearm.**

No person except a police officer in the performance of his or her duties shall, with or without malice, purposely point any loaded or empty firearm at or toward any other person within range of the firearm, except in self defense. (Ord. 763 § 5-514, 1989)

9.32.050**Seizure and disposition of weapons.**

A. It is the duty of the Sutherlin police department to seize and take possession of any dangerous or deadly weapon being carried or used unlawfully or for an unlawful purpose. The weapon shall be held subject to disposal as provided in this section.

B. If the weapon was not possessed, carried or used unlawfully by the owner, it shall be released to him if he files a written claim with the chief of police:

1. Within ninety (90) days after it was seized, if it was not held for use as evidence; or
2. Within ninety (90) days after it was released by directive of the chief of police or court order, if it was held for use as evidence.

C. If there is a question as to ownership or right to possession, the weapon shall be released as ordered by the court in proceedings initiated under ORS 133.633 to 133.663 by any person claiming ownership or right to possession.

D. If no person claiming ownership comes forward and:

1. The name and address of a person entitled to claim possession of a dangerous or deadly weapon under subsection B of this section is known to the Sutherlin police department, the property control officer shall give that person notice of the provisions of subsection B of this section when the ninety (90) day claim period begins to toll.

2. The name and address of a person entitled to claim possession of a dangerous or deadly weapon under subsection B of this section is not known to the Sutherlin police department, the property control officer shall cause to be placed in a newspaper of general circulation in the area a public notice generally describing the finding, the property found and the final date before which the property may be claimed once each week for four consecutive weeks.

E. If the dangerous or deadly weapon is not claimed under the provisions of subsection B of this section or was possessed, carried or used unlawfully by the owner, it is a nuisance. Subject to a court order to the contrary, the weapon shall be disposed of as provided in subsections F through H of this section.

F. Subject to approval of the property control officer, if the weapon is a firearm suitable for use by the Sutherlin police department, it shall become the property of the Sutherlin police department, and shall be added to the inventory of the department.

G. Subject to subsection F of this section if the weapon is a shotgun or rifle which may be legally sold in the state of Oregon, it shall be delivered to the property control officer, who shall dispose of it by auction in the same manner as surplus property. However, bids shall be accepted only from bidders who have prequalified with the property control officer as being licensed to sell firearms at retail.

H. Any weapon described in subsection E of this section that is not disposed of as ordered by the court, or as provided in subsection F or G of this section, shall be destroyed by the property control officer.

I. For purposes of this section, the property control officer shall be the chief of police or his or her designee. (Ord. 763 § 5-515, 1989)

Chapter 9.34**DRUG PARAPHERNALIA****Sections:**

- 9.34.010** **Definitions.**
- 9.34.020** **Prohibitions.**
- 9.34.030** **Affirmative defense and exemption.**
- 9.34.040** **Enforcement, civil penalties and forfeiture.**
- 9.34.050** **Severability.**

9.34.010**Definitions.**

For the purpose of this Chapter, the following words, terms and phrases shall mean:

1. Controlled Substance. ORS 475.005(6) is adopted for the purpose of defining the term “controlled substance.”

2. “Drug Paraphernalia” means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of state law. It includes, but is not limited to:

(a) Kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used or intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substance;

(c) Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance;

(d) Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(e) Scales and balances used or intended for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting controlled substances;

(g) Separation gins and sifters used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

(h) Blenders, bowls, containers, spoons and mixing devices used or intended for use in packaging small quantities of controlled substances;

(i) Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled substances;

9.34.010

(j) Containers and other objects used or intended for use in storing or concealing controlled substances;

(k) Hypodermic syringes, needles, and other objects used or intended for use in injecting controlled substances into the human body;

(l) Objects used or intended for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

(1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish head, or punctured metal bowls;

(2) Water pipes;

(3) Carburetion tubes and devices;

(4) Smoking and carburetion masks;

9.34.020

(5) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(6) Miniature cocaine spoons and cocaine vials;

(7) Chamber pipes;

(8) Carburetor pipes;

(9) Electric pipes;

(10) Air-driven pipes;

(11) Chillums;

(12) Bongs;

(13) Ice pipes or chillers;

(m) In determining whether an object is drug paraphernalia, a court or other authority may consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use;

(2) The proximity of the object, in time and space, to a direct violation of this Section;

(3) The proximity of the object to controlled substances;

(4) The existence of any residue of controlled substances on the objects;

(5) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of this Section; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this Section should not prevent a finding that the object is intended for use as a drug paraphernalia;

(6) Instructions, oral or written, provided with the object concerning its use;

(7) Descriptive materials accompanying the object which explain or depict its use;

(8) National and local advertising concerning its use;

(9) The manner in which the object is displayed for sale;

(10) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(11) Direct or circumstantial evidence of the ratio of sale of the object(s) to the total sales of the business enterprise;

(12) The existence and scope of legitimate uses for the object in the community;

(13) Expert testimony concerning its use. (Ord. 1027 § 1 (part), 2013)

9.34.020

Prohibitions.

1. Possession of Drug Paraphernalia. No person shall use or possess with intent to use drug paraphernalia, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance except upon prescription of a licensed physician, dentist, or other person authorized to prescribe the same under the law of the State of Oregon.

9.34.020

2. Manufacture or Delivery of Drug Paraphernalia. No person shall deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance except upon the authority granted to a licensed physician, dentist, or other person authorized to prescribe the same under the law of the State of Oregon.

3. Delivery of Drug Paraphernalia to a Minor. No person 18 years of age or over shall to a person under 18 years of age who is at least 3 years his or her junior deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance except upon the authority granted to a licensed physician, dentist, or other person authorized to prescribe the same under the law of the State of Oregon. (Ord. 1027 § 1 (part), 2013)

9.34.030

Affirmative defense and exemption.

1. It shall be an affirmative defense to any alleged violation of this Chapter that the using or possessing of drug paraphernalia by such person is authorized by virtue of an existing, current and valid registration by such person pursuant to the Oregon Medical Marijuana Act of 1998 and any amendments thereto then in effect. No affirmative defense is available under this chapter if the person is engaged in the prohibited conduct in a public place as the term is defined in ORS 161.015(10), or in public view. When an affirmative defense is raised at trial, the defendant has the burden of proving the defense by a preponderance of the evidence.

2. The provisions of this Chapter do not apply to persons registered under the provisions of ORS 475.125 or to persons specified as exempt from registration under the provisions of that statute. (Ord. 1027 § 1 (part), 2013)

9.34.040

Enforcement, civil penalties and forfeiture.

1. Any person who violates Section 9.34.020(1) shall incur a civil penalty in an amount of not more than \$500.00.

2. Any person who violates Section 9.34.020(2) shall incur a civil penalty in an amount not more than \$750.00.

3. Any person who violates Section 9.34.020(3) shall incur a civil penalty in an amount not more than \$1,000.00.

4. A violation of a provision of this Chapter that is identical to a state statute with a lesser civil penalty shall be limited to the lesser penalty prescribed in state law.

5. The City Manager or his or her designee may bring a civil action in the Sutherlin Municipal Court to enforce this Chapter.

6. If, at the trial or upon a hearing, the trier of fact finds any item received into evidence at the trial or hearing to be drug paraphernalia, the court may order the item forfeited upon motion of the City Manager or his or her designee. The drug paraphernalia may then be destroyed or, if the paraphernalia is of substantial value and is not contraband, may be sold, the proceeds to be deposited in the General Fund. (Ord. 1027 § 1 (part), 2013)

9.34.050

9.34.050

Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. (Ord. 1027 § 1 (part), 2013)

9.36.010

Chapter 9.36

PENALTIES

Sections:

- 9.36.010** **Violations–Penalties.**
- 9.36.020** **Separate violations.**
- 9.36.030** **Working prisoners.**

9.36.010

Violations–Penalties.

A. The penalty for a violation of Sections 9.04.030 and 9.04.040 shall be the same penalty as the penalty for the underlying offense.

B. Violation of any provision of Chapter 9.08 shall be the state law penalty for the same offense unless that penalty exceeds the jurisdictional maximum of the municipal court, in which case, the penalty shall be that jurisdictional maximum.

C. Violation of Sections 9.12.010, 9.12.040, 9.12.050(B), 9.16.050 through 9.16.080, 9.16.120(B) and (C), 9.20.020, 9.20.090, 9.24.010, 9.24.020, 9.28.020 and 9.32.010(C) is punishable by a fine not to exceed two thousand five hundred dollars (\$2,500.00) or confinement in jail not to exceed one year, or both fine and imprisonment.

D. Violation of Sections 9.12.020, 9.12.070, 9.12.080, 9.16.120(C) and (D), 9.16.130, 9.20.050 and 9.20.070 is punishable by a fine not to exceed one thousand dollars (\$1,000.00) or confinement in jail not to exceed six months, or both fine and imprisonment.

E. Violation of Section 9.32.040 and Section 9.16.140 is punishable by a fine not to exceed five hundred dollars (\$500.00) or confinement in jail not to exceed six months, or both.

F. Violation of Sections 9.12.030, 9.12.060, 9.12.090, 9.16.010, 9.16.030, 9.16.090, 9.20.010, 9.20.030, 9.20.040, 9.24.040, 9.28.010(B), 9.28.030, 9.32.010(B) and 9.32.020 is punishable by a fine not to exceed five hundred dollars (\$500.00) or confinement in jail not to exceed thirty (30) days, or both fine and imprisonment.

G. Violation of Sections 9.12.100, 9.16.020, 9.16.100 and 9.20.060 is punishable by a fine not to exceed two hundred fifty dollars (\$250.00).

H. Violation of Sections 9.12.050(A) and 9.16.040 is punishable by a fine not to exceed one hundred dollars (\$100.00).

I. Where the value of food, lodging or other accommodations obtained in violation of Section 9.24.020 is fifty dollars (\$50.00) or less, a violation is punishable by a fine not to exceed five hundred dollars (\$500.00) or confinement in jail not to exceed thirty (30) days, or both fine and imprisonment. Where the value of food, lodging or other accommodations obtained in violation of Section 9.24.020 exceeds fifty dollars (\$50.00), a violation is punishable by a fine not to exceed two thousand five hundred dollars (\$2,500.00) or confinement in jail not to exceed one year, or both fine and imprisonment.

9.36.020

Except as otherwise specified, violation of any other section in this chapter is punishable by a fine not to exceed one thousand dollars (\$1,000.00), or confinement in jail not to exceed six months, or both fine and imprisonment; provided however, if there is a violation of any such provision identical to a state statute with a lesser penalty attaching, punishment shall be limited to the lesser penalty prescribed in the state law. (Ord. 912 § 2, 1999; Ord. 763 §§ 5-901 (part), 5-902, 1989)

9.36.020

Separate violations.

Each violation of a provision of this chapter shall constitute a separate offense. (Ord. 763 § 5-904, 1989)

9.36.030

Working prisoners.

In any conviction for violation of this chapter or any other ordinance of the city where the penalty fixed by the court is confinement in a local correctional facility for any term, the court additionally may order that such convicted person, during the term of imprisonment, labor upon the streets or public works of the city under the direction of the proper authorities. (Ord. 763 § 5-903, 1989)