

ORDINANCE NO. NS-2142

AN ORDINANCE UPDATING CHAPTER FIVE TO BECOME TITLE V – VIOLATIONS OF THE BEND CODE AND DECLARING AN EMERGENCY

Findings:

- A. Chapter Five of the Bend Code has not received a complete review for over thirty years.
- B. A staff review of Chapter Five, comprised of a multi-discipline team, evaluated the current language and made modifications to reflect current statutory requirements, court decisions, and relevance to current conditions.
- C. The staff proposal includes reformatting the Code to allow greater flexibility for future changes to the Code by establishing a Title / Chapter / Section / Subsection structure.
- D. The changes to the Code are in the best interests of the citizens of Bend.

The City of Bend ordains as follows:

Section 1. Bend Code Chapter 5 is amended to read as shown in the attached Exhibit A.

Section 2. The code amendments made by this ordinance supersede any inconsistent material in any previous ordinance or other enactment of the City.

Section 3. The code amendments adopted by this ordinance protect the public health, safety and welfare and it is necessary and desirable that they take effect as soon as possible. Therefore an emergency is declared and this ordinance shall take effect immediately upon passage.

Read for the first time the 5th day of May, 2010.

Read for the second time the 19th day of May, 2010.

Placed upon its passage the 19th day of May, 2010.

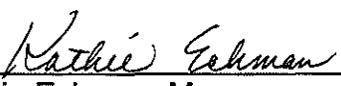
YES: 6 NO: 0

Authenticated by the Mayor the 19th day of May, 2010.

Approved as to form:



Gary Firestone, Assistant City Attorney



Kathie Eckman, Mayor

ATTEST:



Patricia Stell, City of Bend Recorder

Exhibit A
TITLE V - PUBLIC PROTECTION

CHAPTER 5.10 AIRPORT

5.10.000 Regulations Any person using the Bend Municipal Airport and its facilities shall do so in compliance with the City's Airport Regulations. For the purpose of this section, "Airport Regulations" includes any lawful order of the City Manager implementing a duly adopted regulation.

5.10.005 Violation A violation of this chapter is a Class B Civil Infraction. Any persons violating this section may be removed from the property as a trespasser following procedures required by state law.

CHAPTER 5.15 ALCOHOLIC LIQUOR

5.15.000 Definitions For purposes of this chapter, the following words and phrases mean:

- (1) **Alcoholic beverage** Liquids containing more than one-half of one percent alcohol by volume intended or used for human consumption.

5.15.005 Drinking on Unlicensed Premises

- (1) No person shall drink, or be in possession of an open container of alcoholic beverages in a public place or premises open to the public unless the place or premise has been licensed by the Oregon Liquor Control Commission to sell intoxicating liquor for consumption or on premises for which a permit has been issued by the City.
- (2) Except when authorized by the Bend Metropolitan Park and Recreation District, no person shall drink, or be in possession of an open container of alcoholic beverages in a park under the control of Bend Metro Park and Recreation District without having first obtained an alcohol consumption permit referenced in Chapter 5.55.
- (3) A violation of this section is a Class B Civil Infraction.

5.15.010 Prohibition of Possession or Consumption of Alcoholic Beverages on or in the Deschutes River

- (1) No person may possess or consume any alcoholic beverage while on or in the Deschutes River within the city limits of Bend. This prohibition applies to both open and closed containers of alcoholic beverages but does not apply to persons crossing the river on a bridge.
- (2) Violation of this section is a Class A Civil Infraction.

CHAPTER 5.20 ANIMALS

5.20.000 Definitions As used in this chapter, the following definitions apply:

- (1) "Animal" means dogs, horses, cattle, sheep, goats, livestock or any animals generally found on a farm or considered an exotic pet, excluding domestic cats.
- (2) "Dangerous Animal" means any animal that has been found, by the Municipal Court Judge to have:
 - (A) Without provocation, placed a person in reasonable fear of imminent physical injury; or
 - (B) Attacked a person or domestic animal without provocation; or
 - (C) Been trained for or used in animal fighting

- (3) "Exotic Pet" means an animal, other than livestock kept and maintained as a pet excluding domestic dogs and cats, includes swine or pigs specifically bred as household pets as long as they are less than 18 inches measured at the shoulder and weigh less than 100 pounds.
- (4) "Keeper" means, in addition to its ordinary meaning, a person, firm, association or corporation which is in possession of, in temporary control of, or who is responsible for the care of an animal. The term "Keeper" also means the parent or guardian of the owner of an animal, if the owner is under the age of 18 years and the owner resides with the parent or guardian on the date of the alleged violation.
- (5) "Off Leash Area" means an area designated by the Bend City Council pursuant to Section 5.20.030 of the Bend Code as an area where dogs are not required to be leashed.
- (6) "Owner" means a person, firm, association or corporation that owns an animal.
- (7) "Physical injury" means impairment of physical condition or substantial pain.
- (8) "Run at Large" means to be off the private premises where the animal is allowed to be by the person in charge of those premises and not under the complete, tethered control of the owner or keeper by adequate leash or bridle. Any animal in a vehicle shall not be considered to be "at large".

5.20.005 Exemption for Law Enforcement Animals. An animal owned by a law enforcement agency is exempt from the provisions of this Chapter, provided that the animal is under the care and control of a law enforcement officer.

5.20.010 Owner/Keeper Responsibility for Animal. The owner or keeper of an animal which violates the provisions of this chapter is responsible for the animal's acts and condition and the owner or keeper is subject to the penalties provided in Section 5.20.065 for the animal's violations of any provision of this chapter.

5.20.015 Animal Waste. It shall be unlawful for an owner or keeper of an animal to allow it to deposit solid waste matter on any property other than the property of the owner or keeper of the animal. It shall be a defense to this action if the owner or keeper of the animal promptly removes the solid waste deposited by the animal.

5.20.020 Dog Licensing

- (1) Every dog within the city that has a set of permanent canine teeth shall be licensed. The license tag shall be attached to a collar worn by the dog. The owner and/or keeper of the dog shall be found in violation of this ordinance if the dog is not wearing its collar and tag or if the tag is not present on the dog's collar at any time.
- (2) An owner or keeper of a dog within the city shall license the dog not later than 30 days after the person becomes the owner or keeper of the dog or establishes residence within the city.
- (3) Licenses shall not be required for dogs owned by dealers, breeders or exhibitors if the dogs are kept in kennels exclusively for sale or exhibition purposes, or while such dogs are being transported by dealers, breeders, or exhibitors to and from a dog show or fair. Licenses are not required for dogs that are used as service animals for persons with disabilities. A companion or therapy animal is not a service animal unless the animal has been individually trained to perform one or more tasks for a person with disabilities and trained to behave in public.

5.20.025 **Animal at Large.** No animal shall run at large. The owner or keeper of an animal is responsible for an animal at large.

5.20.030 **Off Leash Areas.**

- (1) The Bend City Council may, in its discretion, designate certain areas of public parks which are owned and operated by the Bend Metropolitan Parks and Recreation District (BMPRD) as areas where dogs are not required to be leashed, subject to the other provisions of this section.
- (2) A designation of an area as an Off Leash Area by the Bend City Council shall not be effective unless the BMPRD Board provides prior written notice to the Bend Chief of Police. Owners must comply with the BMPRD regulations applicable to all off leash areas.
- (3) The owner or keeper of a dog that is in an Off Leash Area must control the dog at all times. The owner or keeper of a dog shall not allow a dog to engage in fighting with other dogs, or harass, bark at, bite, threaten or injure a person or animal.
- (4) If a dog or an owner or keeper is found to be in violation of this section, the dog may be excluded from the Off Leash Area for up to twenty-four hours. If a citation is issued for animal nuisance under Bend Code 5.20.040, the dog shall be excluded from all Off Leash Areas, pending a review of and determination on the citation by the Bend Municipal Court Judge. Returning an animal to an Off Leash Park after being excluded is a Class A civil infraction.
- (5) Animals which have been designated as a Dangerous Animal under Bend Code 5.20.065(4) shall not be permitted in an Off Leash Area under any circumstances.
- (6) Any owner or keeper of a dog shall be subject to a Class A civil penalty for violation of the terms and conditions of an Off Leash Area as provided in this section.

5.20.035 **Dangerous Animals** An animal may be designated as a Dangerous Animal by order of the Bend Municipal Court Judge. If an animal is designated as a Dangerous Animal, then the following restrictions shall apply to the animal:

- (1) The owner or keeper of the dangerous animal shall cause the animal to be confined on the premises of the owner or keeper, either securely indoors or confined in a securely enclosed and locked pen or similar structure; such pen or structure must be securely constructed and must be adequate to ensure the confinement of the animal.
- (2) No owner or keeper of a dangerous animal shall permit the animal to go beyond the premises of the person unless the animal is humanely muzzled and either securely leashed or otherwise securely restrained and led by a person physically capable of handling the animal.
- (3) A requirement that the animal's owner or keeper post signs on the premises where the animal is kept indicating that the animal is a dangerous animal.
- (4) If the animal designated as a dangerous animal is a dog, then the dog shall at all times be required to wear a special dog tag indicating that the dog is a dangerous animal and will be required to be micro-chipped. The owner shall be responsible for payment for the special tag and microchip.
- (5) Dangerous animals are prohibited in all public parks.

5.20.040 **Animal Nuisances** An animal is a nuisance if it:

- (1) Bites, injures or attacks a person without provocation;
- (2) Places a person in fear of imminent physical injury, without provocation, said fear being reasonable under the circumstances;
- (3) Injures or kills an animal or fowl belonging to a person other than the owner or keeper of the animal;
- (4) Is trained for or used in animal fighting;
- (5) Disturbs any person by frequent or prolonged noises;
- (6) Chases vehicles or obstructs traffic;
- (7) Chases people;
- (8) Damages property belonging to a person other than the owner or keeper of the animal;
- (9) Scatters garbage;
- (10) Attends a special event as defined in Chapter 7.
- (11) Its owner or keeper has failed to comply with Section 5.20.030(3) or off leash regulations at an Off Leash Area.

5.20.045 Impound

- (1) An animal that has violated Bend Code 5.20.025, 5.20.040 or that lacks a required license may be seized and impounded by an officer of the Bend Police Department.
- (2) If an officer of the Bend Police Department is unable to apprehend such animals without risking injury to the officer or other people, the officer may kill the animal if other means to control the animal are ineffective or likely to be.
- (3) An impounded animal shall be placed in the animal shelter under contract with the City of Bend Police Department and shall be held by that animal shelter until the release has been authorized by the Bend Police Department, any citations issued to the animal's owner or keeper have been resolved by the court system or until the shelter has received a court order directing the shelter to release or humanely destroy the animal.

5.20.050 Unclaimed Animals

- (1) If an animal has been impounded and no citations have been issued to an impounded animal's owner or keeper within three business days of the animal's impoundment, the animal may be handled according to Oregon law and the animal shelter's policies, rules and regulations, including humane destruction of the animal.
- (2) If an animal has been impounded and one or more citations have been issued to the animal's owner or keeper, but the animal's owner or keeper does not make a personal or written appearance on the citation(s) in the Bend Municipal Court within the time required by the citation(s), then the Court may issue an order terminating the rights of the owner to the animal and requiring that the animal may be handled according to Oregon law and the animal shelter's policies, rules and regulations, including humane destruction of the animal. Prior to issuing a forfeiture order, the Court shall cause a written notice to be delivered or mailed to the owner or keeper of the animal. The notice shall advise the owner or keeper that the owner or keeper's rights to the impounded animal will be forfeited unless the owner

or keeper makes a personal appearance in the Bend Municipal Court within five business days of the date of the notice. The notice shall be mailed or delivered to the owner or keeper of the animal at the address shown on the citation or at any address provided to the Court by the animal's owner or keeper.

- (3) If an animal has been impounded and the owner or keeper of the animal makes a first appearance in the Bend Municipal Court, but the owner or keeper later fails to appear as required by the Municipal Court, then the Court may proceed as provided in Section 5.20.050(2).

5.20.055 **Warrant for Seizure of Animals**

- (1) Any member of the Bend Police Department, including community service officers, may apply to the Bend Municipal Court for a warrant authorizing the search for and seizure of any animal that has violated Bend Code 5.20.040. The Bend Municipal Court Judge may issue the warrant based on a prima facie case that the violation has occurred.
- (2) Nothing in this section is intended to limit the search and seizure authority of City police officers otherwise provided by law.

5.20.060 **Rabid Animals** Management and disposition of rabid animals shall be as prescribed by Oregon Law.

5.20.065 **Civil Penalties**

- (1) The following violation are Class A civil infractions:
 - (A) Owning or keeping an animal that is a nuisance under Section 5.20.040.
 - (B) Bend Code 5.20.070 violating an order terminating animal owner's rights.
- (2) All other violations of this Chapter are Class B Civil infractions:
- (3) Reimbursement of Impound Costs. The Bend Municipal Court Judge may order the owner or keeper of an animal that violates any provision of this Chapter to reimburse the City of Bend for any and all impound costs incurred by the City.
- (4) Exclusion from Off Leash Areas. If an animal that is found in violation of the provisions of this Chapter and the violation occurred in an Off Leash Area, the Bend Municipal Court Judge may order that the animal be excluded from all Off Leash Areas.

5.20.070 **Destruction of Animals**

- (1) If an animal has been found to have violated Bend Code 5.20.040(1), the Bend Municipal Court Judge shall enter an order terminating the animal owner's rights to the animal and/or requiring that the animal be humanely destroyed.
- (2) If an animal has been found to have committed two or more violations of Bend Code 5.20.040(2), (3) or (4) within a five-year period, the Bend Municipal Court Judge shall enter an order terminating the animal owner's rights to the animal and/or requiring that the animal be humanely destroyed.
- (3) If the Judge determines that an animal's violation of Bend Code 5.20.040 (1), (2), (3) or (4) was caused by the neglect, abuse or tormenting of the animal by its owner, the Judge may enter an order terminating the animal owner's rights to the animal and prohibiting the owner from owning or

possessing animals within the City of Bend. Further, if the Judge determines that the neglect, abuse or torment was the primary cause of the animal's violation of Bend Code 5.20.040 (1), (2), (3) or (4) then the Judge may allow the abused animal to be placed with an animal shelter for possible adoption. A person who violates an order entered pursuant to this subsection commits a Class A civil infraction.

- (4) If the Bend Municipal Court Judge determines that an animal is unlikely to be a repeat offender of the provisions of this Chapter, then the Judge may suspend any orders in subsection (A) or (B) for a period of up to five years, subject to conditions, which may include:
 - (A) A requirement that neither the animal nor the animal's owner or keeper commit any further violations of this Chapter;
 - (B) A requirement that the animal's owner or keeper pay Court ordered fines resulting from the animal's violation of this code.
 - (C) A designation of the animal as a Dangerous Animal that is subject to the Dangerous Animal Restrictions described in Bend Code 5.20.035(4).
 - (D) A provision that allows law enforcement officers, upon a future violation of Sections 5.20.025, 5.20.035 or 5.20.040 by the animal, to take the animal into custody pending further review and order by the Bend Municipal Court Judge.
 - (E) Any other condition that the judge deems appropriate.

5.20.075 **Undertaking on Appeal** If an animal has been impounded and the owner or keeper has filed an appeal of an order of the Bend Municipal Court, then the owner or keeper of the animal must provide a bond, deposit or other security to assure payment of the cost incurred by the City for housing the animal pending appeal. The bond, deposit or other security shall be set in an amount not less than the cost of impounding the animal for six months at the rate charged the City by the animal shelter.

Chapter 5.25 **EQUAL RIGHTS**

5.25.005 **Definitions**

- (1) **Employer** Any person who directly or through an agent, engages or uses the personal service of one or more employees, within the City of Bend, reserving the right to control the means by which such service is or will be performed.
- (2) **Gender Identity** A person's actual or perceived sex, including a person's identity, appearance, expression, or behavior with respect to actual or perceived sex, whether or not that identity, appearance, expression or behavior is different from that traditionally associated with the person's sex at birth.
- (3) **Sexual Orientation** Actual or perceived heterosexuality, homosexuality, or bisexuality.
- (4) Any terms used but not defined in Chapter 5.710 are to be defined as in Oregon Revised Statutes, Chapter 659A.

5.25.010 **Discrimination in Employment Prohibited**

- (1) It shall be unlawful to discriminate in employment on the basis of an individual's race, religion, color, sex, national origin, marital status, age (if the individual is 18 years of age or older), or physical or mental impairment by committing any of the acts made unlawful under the provisions of ORS 659A.030 and 659A.112.

- (2) In addition, it shall be unlawful to discriminate in employment on the basis of an individual's sexual orientation or gender identity by committing against any such individual any of the acts already made unlawful under ORS 659A.030 when committed against the categories of persons listed therein.

5.25.015 Discrimination in Selling, Renting or Leasing Real Property

Prohibited It is an unlawful real property transaction practice for any person to discriminate on the basis of race, religion, color, sex, marital status, familial status, domestic partnership, national origin, age, mental or physical disability, sexual orientation or gender identity by committing against any such individual any of the acts made unlawful under ORS 659A.145 or 659A.421.

5.25.020 Discrimination in Places of Public Accommodation Prohibited It

is-an unlawful public accommodation practice for a person to discriminate on the basis of an individual's race, religion, color, sex, marital status, familial status, domestic partnership, national origin, age, mental or physical disability, sexual orientation or gender identity by committing against any such individual any of the acts made unlawful under ORS 659A.142 or ORS 659A.400 to 659A.409.

5.25.025 Exceptions:

- (1) The prohibitions in this ordinance do not apply to an organization whose primary purpose and function is religious.
- (2) The housing prohibitions in this chapter do not apply to renting space in a single housing unit or to renting of space in a building which is owner occupied and which has fewer than four units.
- (3) Nothing herein shall be construed to prevent an employer from enforcing an otherwise valid dress code.

5.25.030 Enforcement.

- (1) Any person claiming to be aggrieved by an unlawful discriminatory act under the provisions of the equal rights ordinance may file a complaint with the Commissioner of the Bureau of Labor and Industries under procedures established in ORS 659A.820. The Commissioner shall have the same power to enforce the provisions of this equal rights ordinance as the Commissioner has to enforce alleged violations within the Commissioner's statutory authority.
- (2) Any person claiming to be aggrieved by an unlawful discriminatory act under the provisions of the equal rights ordinance shall have a cause of action in any court of competent authority. Election of remedies and other procedural issues relating to the interplay between administrative proceedings and private rights of action shall be handled as provided for in ORS 659A.870 through 659A.880. The court may grant such relief as is provided in ORS 659A.885.

CHAPTER 5.30 FIRE REGULATIONS

5.30.000 Fireworks

- (1) The use of fireworks shall conform to Oregon law.
- (2) No person under the age of 18 may sell, keep possess, use, or explode any fireworks within the City.
- (3) No person shall sell or provide fireworks to a person under the age of 18 years.
- (4) The City may confiscate, destroy, remove, or have removed at the owner's expense, all stocks of fireworks in violation of this section, when necessary for the preservation of the public safety.

- (5) Violation of this section is a Class A Civil Infraction for persons over the age of 18 and a Class C Civil Infraction for persons under the age of 18.

5.30.005 Open Burning Prohibited

- (1) Except as authorized by this section, no person shall start or maintain an outdoor fire within the boundaries of the City of Bend for the following purposes:

- (A) The burning of any refuse, garbage, or other waste products as described in the City of Bend Fire Department Outdoor Burning Regulations;
- (B) The burning of any yard debris including but not limited to branches, leaves and pine needles;
- (C) The burning of any construction or demolition waste;
- (D) Field, ditch or weed burning.

- (2) The following open burning is allowed subject to compliance with the provisions in the most recent fire code as adopted by the City of Bend and the Fire Department's Outdoor Burning Regulations:

- (A) Fires initiated by the Fire Department for training purposes which are approved by the Oregon Department of Environmental Quality;
- (B) Campfires, warming fires, cooking fires, outdoor fireplaces, outdoor kiln fires and other approved similar type fires that are not more than 3 feet in diameter;
- (C) Cooking pits approved by the City of Bend Fire Department;
- (D) Weed control by the City, County, or State within developed streets.

- (3) A violation of this section is a Class B Civil Infraction.

CHAPTER 5.35 GENERAL INFRACTIONS

5.35.000 Diving and Ice Skating on Deschutes River

- (1) No person shall operate a motor propelled boat on the Deschutes River within the limits of the City of Bend.
- (2) Diving, jumping, or otherwise launching oneself or any other person or object off a bridge into a river or canal is prohibited. This prohibition does not apply to normal fishing activities.
- (3) Ice skating on the Deschutes River is prohibited.
- (4) No person shall place, leave or abandon a duck or goose along the banks of the Deschutes River or in any park along the Deschutes River.
- (5) The prohibitions in this section do not apply to government employees in the commission of their duties or to others with the written permission of the City Manager.
- (6) Violation of this section is a Class B Civil Infraction.

5.35.005 Curfew for Minors

- (1) No minor under the age of 18 years shall be in or on a street, highway, park, alley, or other public place between the hours of 10:00 p.m. and 4:00 a.m. of the following morning if the following morning is that of a

school day in the Bend public school system, and between the hours of 12:00 a.m. and 4 a.m. on other days.

- (2) No parent, guardian, or person having the care and custody of a minor under the age of 18 years shall allow the minor to be in or on any street, highway, park, alley or other public place in violation of subsection (1).
- (3) **Enforcement.** Peace officers and other law enforcement officers may take or send the minor to the minor's residence and notify the parents, guardian or person having care and custody of the minor concerning the violation.
- (4) **Exceptions.** This section shall not apply:
 - (A) If the minor is accompanied by a parent or legal guardian or other person 21 years of age or older and authorized by the parent or by law to have care and custody of the minor;
 - (B) If the minor is engaged in a lawful pursuit or activity which requires his presence in public places during the hours specified in this section;
 - (C) To minors in motor vehicles engaged in direct intrastate or interstate travel
 - (D) The minor is emancipated pursuant to ORS 419B.550 to ORS 419B.558
- (5) A violation of this section is a Class B Civil Infraction.

5.35.010 Persons Confined in Vehicles

- (1) No person, who has under their control or guidance a minor child, under eight years of age, or any other person who is incapable of exiting the vehicle by them self, shall at any time lock or confine, or permit to be locked or confined, or leave the person unattended in a vehicle for a period of time longer than 10 minutes. It is lawful for a peace officer, finding a person confined in violation of this section, to enter the vehicle and remove the person. The officer may, if necessary, break the doors or windows of the vehicle in order to save the life of the person or to save the person from mental or physical suffering.
- (2) A violation of this section is a Class A Civil Infraction.

5.35.015 Public Urination or Defecation

- (1) No person shall urinate or defecate in areas open to the public or in public view except in urinals and washrooms provided for that purpose.
- (2) A violation of this section is a Class B Civil Infraction.

5.35.020 Snow and Ice. No owner or person in charge of property improved or unimproved, abutting a public sidewalk shall allow:

- (1) Snow to remain on the sidewalk for a period longer than the first six hours of daylight after the snow has fallen or otherwise accumulated in commercial areas and one day in all other areas.
- (2) Ice to remain on the sidewalk for more than six hours of daylight in commercial areas and one day in all other areas after the ice has formed unless the ice is covered with a suitable material to assure safe travel.
- (3) A violation of this section is a Class B Civil Infraction for violation in all areas except for residential property. The penalty in residential areas is a C Civil Infraction.

5.35.025 Tobacco-use prohibited on City Campuses

(1) Definitions: The following definitions shall apply to this chapter:

(A) City Campuses Any City or Bend Urban Renewal Agency (BURA) owned/leased facility where official business is conducted. This includes the interior and exterior of City/BURA buildings including but not limited to City Hall, Public Works/Police, Fire Departments, Municipal Airport, Riverfront Plaza and Hawthorne Station site and the exterior of buildings from the edge of the building to the public sidewalk including parking lots. City Campuses do not include the public sidewalk within the public right of way and areas specified as a designated smoking area.

(B) Tobacco Product Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco, or any other form of tobacco which may be utilized for smoking, chewing, inhalation, or other means of ingestion.

(2) The City of Bend prohibits the use of tobacco products of any form throughout all City campuses.

(3) "Tobacco Free Campus" signs will be posted at all City campus entrances.

(4) Tobacco receptacles will be placed at the "Tobacco Free Campus" sign locations at entrances to City Campuses as a receptacle for tobacco products.

(5) Any City Police Officer, City Code Enforcement Officer, City Manager or his/her designated representative shall have the authority to request that City employees or members of the public discontinue use of tobacco products on City campuses. Any person who fails to discontinue the use of their tobacco products immediately upon request is required to immediately leave the City campus. Failure to comply with an order to discontinue tobacco use or leave a City campus constitutes Criminal Trespass in the Second Degree ORS 164.245.

(6) Violation of this section is a Class C Civil infraction.

5.35.030 Watershed Protection Area It shall be a Class A Civil infraction for any person, firm or corporation to impair the purity of the City's Bridge Creek water source. The following actions are prohibited:

(1) Causing pollution or causing or allowing any waste to be placed in a location where such wastes are likely to escape or be carried into the waters of Bridge Creek or the City's water distribution system.

(2) Engaging in any activity on the City's Bridge Creek watershed that will or may tend to reduce the water quality within the Bridge Creek watershed.

(3) Each day a violation continues shall constitute a separate offense.

(4) Any violation of this section shall also constitute a public nuisance and may be abated as provided by law.

CHAPTER 5.40 MAJOR INFRACTIONS

5.40.005 Acquisition and Retention of Articles Missing Serial Numbers

(1) No person shall knowingly buy, sell, receive, dispose of, conceal, or possess any item of value from which the manufacturer's nameplate, serial number or any other distinguishing number or identification mark has been intentionally removed, defaced, covered, altered or destroyed.

(2) It shall be an affirmative defense to a charge brought under Section (1) of this ordinance that the defendant is the owner of the property.

- (3) The Bend Police Department shall treat the property described in subsection (1) as stolen. Prior to being disposed of or being returned to the owner, the Police Department may attach an identification mark on the item.
- (4) Subsection (1) does not apply if the identification has become illegible or unattached through normal wear.
- (5) A violation of this section is a Class A civil infraction.

5.40.010 Civil Exclusion Zones Civil exclusion zones are designated to protect the public from those whose illegal conduct poses a threat to safety and welfare.

- (1) Civil exclusion zones include, but are not limited to the following places:
 - (A) **Public Places:** The Breezeway between the western terminus of Minnesota Street to and through the Riverfront Plaza; and all publicly owned property from the eastern side of Brooks Alley to Drake Park between Franklin Avenue and Oregon Avenues.
 - (B) **Public Parks:** All public parks, including parks owned and/or managed by the Bend Metro Park and Recreation District or Oregon State Park and Recreation Department.

5.40.015 Civil Exclusion A person is subject to exclusion for a period of 90 days from entering or remaining in the area within 500 feet of a civil exclusion zone if that person has been cited to appear, arrested or otherwise taken into custody within a civil exclusion zone for:

- (1) Any Assault, as defined by ORS 163.160 - 185 and 163.208,
- (2) Menacing, as defined by ORS 163.190,
- (3) Harassment, as defined by ORS 166.025,
- (4) Disorderly Conduct, as defined by ORS 166.025,
- (5) Recklessly endangering, as defined by ORS 163.195,
- (6) Coercion, as defined by ORS 163.275,
- (7) Any sexual offense, as defined by ORS 163.355 - 465,
- (8) Endangering the Welfare of a Minor, as defined by ORS 163.575,
- (9) Any offense under State law governing the possession, distribution, sale or manufacture of a controlled substances,
- (10) Any offense under State law governing the possession, use, distribution or sale of alcoholic beverages,
- (11) Possession or using a weapon in violation of ORS 166.180, 166.190, 166.220, 166,240, 166.250 or 166.272 or Bend Code Chapter 5.35.005,
- (12) Being under the influence of intoxicating liquor or controlled substances, as defined by ORS 426,460.
- (13) Any degree of criminal mischief, as defined by ORS 164.305 through 164.365.
- (14) Possession of tobacco by a minor in violation of ORS 167.400
- (15) Two or more citations for drinking at an unlicensed premise.

5.40.020 **Exclusion Enforcement** If a person excluded from a civil exclusion zone is found within the perimeter of the civil exclusion zone and its 500 foot protective buffer zone during the exclusion period, that person may be arrested for trespass in the second degree, as defined by ORS 164.245.

5.40.025 **Issuance of Exclusion Notices** The Chief of Police is designated as the person in charge of civil exclusion zones for the purpose of issuing exclusion notices in accordance with this ordinance. The Chief of Police may authorize employees of the Police Department to issue exclusion notices in accordance with this ordinance.

5.40.030 **Procedure for Exclusion**

- (1) At the time a person is cited to appear, arrested or otherwise taken into custody within a civil exclusion zone for any of the offenses specified herein, the officer making such arrest may deliver to that person a written notice excluding that person from the civil exclusion zone and the area within 500 feet of the civil exclusion zone. Any exclusion notice shall not take effect until the sixth day after the notice is issued.
- (2) The notice shall specify the area from which the person is excluded, the length of the exclusion, the penalty for entering the excluded area and contain information concerning the right to appeal the exclusion to the Judge of the Municipal Court.
- (3) The person to whom the exclusion is issued shall sign a written acknowledgement of receipt of the notice. If that person refuses to sign the acknowledgement, the arresting officer shall make a written record of the refusal.

5.40.035 **Appeal and Variance**

- (1) The person to whom an exclusion notice is issued shall have the right to an appeal from the issuance of the notice. The exclusion notice will notify the person of the right to appeal and process for appeal.
 - (A) An appeal of the exclusion must be filed, in writing, within 5 calendar days of the issuance of the notice. The appeal must be filed with the Municipal Court. A hearing on the appeal shall be held before the Judge of the Municipal Court within 20 calendar days of the appeal. The exclusion shall be stayed during the pendency of the appeal.
 - (B) The City shall have the burden to show by a preponderance of evidence that the exclusion was based upon the conduct proscribed by Section 5.60.020 chapter. Copies of documents in its control and which are intended to be used by the City at the hearing shall be made available to the appellant at least 2 days prior to the hearing.
 - (C) A determination by a court having jurisdiction of the matter, that the officer who issued the exclusion notice, at the time had probable cause to arrest the person to whom the exclusion notice was issued for the conduct described in Section 5.40.015, shall be prima facie evidence that the exclusion was based on conduct prohibited by those statutes.
- (2) Any variances from the exclusion may be granted at any time during the exclusion period by the Chief of Police, or by the Municipal Court.
- (3) The Chief of Police or the Municipal Court shall grant a variance to any person who can establish that he or she was a bona fide resident of the zone of exclusion prior to receipt of the exclusion notice. A variance may also be granted when, in the discretion of the Chief of Police or the

Municipal Court, the exclusion order is no longer necessary to preserve public safety.

- (4) All variances shall be in writing, for a specific period of time and only to accommodate a specific purpose, all of which shall be stated on the variance.
- (5) The person shall keep the variance on his or her person at all times the person is within the zone of exclusion.
- (6) In the event a person is found to be outside the scope of the terms of the variance, the variance shall immediately become void and that person is subject to arrest for trespass.
- (7) In the event a person holding a variance is arrested for trespass or any conduct prohibited in this chapter, while in the zone of exclusion, that person shall be ineligible for any new variances for a period of one year from the date of arrest.

5.40.040 Discharge of Weapons

- (1) No person other than an authorized peace officer shall fire or discharge any gun or other weapon, including spring or air-actuated pellet guns, or a weapon which propels a projectile by use of a bow or sling, explosives, or jet or rocket propulsion.
- (2) It shall be an affirmative defense to subsection (1) that the person was acting in defense of life or property and under circumstances that would warrant the use of deadly force under Oregon law.
- (3) It shall be an affirmative defense to subsection (1) that the person was test firing or discharging the weapon, as a necessary part of the person's lawful business operations, at a firing range or while utilizing a bullet trap, under circumstances that did not present an unreasonable risk of harm to any person.
- (4) A violation of this section is punishable as a Class A Civil Infraction.

5.40.045 Interfering with a Police Dog

- (1) Definitions: For purposes of this code section, the following definitions applies:
 - (A) "Peace officer" means a municipal police officer, sheriff, constable, marshal, member of the Oregon State Police or investigator of the Criminal Justice Division of the Department of Justice and such other persons as may be designated by law.
 - (B) "Police dog" means a dog used in police work under the control of a peace officer.
- (2) A person commits the offense of interfering with a police dog if the person intentionally or knowingly kills, disables, tortures, injures, torments, kicks, strikes, chokes, throws an object at or in any other way tampers or interferes with any police dog, knowing the dog to be a police dog, while the dog is being caged, kenneled, transported, exhibited, exercised or used in discharging or attempting to discharge any lawful duty or function as a police dog.
- (3) A violation of this section is a Class A civil infraction.

5.40.050 Misrepresentation of City of Bend Affiliation

- (1) No person or business shall market their business in any way that implies endorsement by or connection with the City of Bend.
 - (A) Use or depiction of Bend Police Department uniforms, vehicle(s), images or badges without approval of the Chief of Police is prohibited.
 - (B) No person shall create or use a uniform, vehicle or badge that is similar to those of the Bend Police Department in marketing a business.
 - (C) No unauthorized person shall take any action or represent themselves as being affiliated with the City of Bend.
- (2) For purposes of this section, "City of Bend" means the governmental entity that is the City of Bend.
- (3) A violation of this section is a Class A civil infraction.

5.40.055 Chronic Nuisance Property For the purposes of this code section, the following definitions apply:

- (1) Chronic Nuisance Property Property upon which or within 200 feet of which any person associated with the property has three or more of the below listed offenses occur during any 30 day period as a result of three separate factual incidents that have been independently investigated by any law enforcement agency:
 - (A) All felony drug offenses as enumerated in ORS 475.840 to 475.980
 - (B) Assault, strangulation or menacing as defined in ORS 163.160 through 163.190.
 - (C) Harassment as defined in ORS 166.065 (1) (a).
 - (D) Disorderly conduct as defined in ORS 166.025.
 - (E) Alcohol violations as defined in ORS 471.410 (1), (2) and (3) and ORS 471.430(1) and (2)
 - (F) Intimidation as defined in ORS 166.155 through 166.165
 - (G) Public or private Indecency as defined in ORS 163.465 and 163.467
 - (H) Any Sexual offense as defined in ORS 163.305 through 163.445
 - (I) Theft as defined in ORS 164.015 through 164.140
 - (J) Prostitution or related offenses as defined in ORS 167.007, 167.012, and 167.017.
 - (K) Any attempt to commit as defined in ORS 161.405, or conspiracy to commit, as defined in ORS 161.455, any of the above offenses.
 - (L) Violation of the City of Bend noise ordinance Chapter 5.50
 - (M) Unlawful Discharge of a Weapon as defined in Bend Offense 5.40.045
- (2) Control The ability to regulate, restrain, dominate, counteract or govern conduct that occurs on that property.

- (3) **Owner** Any person, agent, firm or corporation having a legal or equitable interest in a property. Owner includes, but is not limited to:
 - (A) A mortgagee in possession in whom is vested:
 - (1) All or part of the legal title to the property; or
 - (2) All or part of the beneficial ownership and a right to present use and enjoyment of the premises; or
 - (3) An occupant who can control what occurs on that property.
- (4) **Permit** To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.
- (5) **Person** Any natural person, agent, association, firm, limited liability company, partnership, corporation, or other entity capable of owning or using property in the City of Bend.
- (6) **Property** Any real property including land and that which is affixed, incidental or appurtenant to land, including but not limited to any premises, room, house, building or structure or any separate part or portion thereof, whether permanent or not.

5.40.060 Remedy

- (1) In the event a court determines property to be chronic nuisance property, the court may order that the property be closed and secured against all use and occupancy for a period of not less than 30, but not more than 180 days, or the court may employ any other remedy deemed by it to be appropriate to abate the nuisance.
- (2) In addition to the remedies provided for in paragraph (a) above, the court may impose upon the owner of the property a civil penalty in any amount up to \$100 a day, payable to the City, for each day the owner had actual knowledge that the property was chronic nuisance property and permitted the property to remain chronic nuisance property.
- (3) In determining what remedy or remedies to employ, the court may consider evidence of other conduct which has occurred on the property.

5.40.065 Procedure When the Chief of Police believes in good faith that the property within the City of Bend has become chronic nuisance property, he/she shall:

- (1) Notify the owner(s) of record in writing that the property has been determined to be chronic nuisance property. The notice shall contain the following information:
 - (A) The street address and a legal description sufficient for identification of the property.
 - (B) A statement that the Chief of Police has found the property to be chronic nuisance property with a concise description of the conditions leading to his/her findings.
 - (C) A statement that the owner shall have the opportunity to respond to the notice, within 15 days from the date of the notice, describing what steps the owner has taken or will take to remedy the chronic nuisance on the property.

- (D) If the owner's response to the notice is not satisfactory to the Chief of Police, or if the owner does not respond, then another copy of the notice shall be served on the owner and their agent, if known, at least 10 days prior to the commencement of any judicial action by the City. Service shall be mailed certified mail, return receipt requested, postage prepaid, addressed to such person at the address of the property believed to be a chronic public nuisance property, and to such other address as shown on the tax rolls of the county in which the property is located or such other place which is believed to give the owner actual notice of the determination by the Chief of Police.
- (E) A copy of the notice shall be served on the occupant of the property if that person is different than the owner and shall occur not less than 10 days prior to the commencement of any judicial proceedings and be made either personally or by mailing a copy of the notice by certified mail, return receipt requested, postage prepaid, to them at the property.
- (F) A copy of the notice shall be posted at the property prior to the commencement of any judicial proceedings.
- (G) The failure of any person or owner to receive actual notice of the determination by the Chief of Police shall not invalidate or otherwise affect the proceedings under this chapter.

5.40.070 Commencement of Actions; Burdens of Proof; Defenses; Mitigation of Civil Penalty

- (1) In an action seeking the closure of a chronic nuisance property, the City shall have the initial burden of proof to show by a preponderance of the evidence that the property is chronic nuisance property.
- (2) It is a defense to an action seeking the closure of chronic nuisance property that the owner of property at the time in question could not, in the exercise of reasonable care or diligence, determine that the property had become chronic nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the finding that the property is chronic nuisance property.
- (3) In an action seeking civil penalties pursuant to Section 5.45.015(2) the City shall have the initial burden of proof to show by a preponderance of the evidence that the conditions of that subsection are satisfied.
- (4) In establishing the amount of any civil penalty requested, the court may consider any of the following factors, as they may be appropriate, and shall cite those found applicable:
 - (A) The actions taken by the owner(s) to mitigate or correct the problem at the property;
 - (B) Whether the problem at the property was repeated or continuous;
 - (C) The magnitude or gravity of the problem;
 - (D) The cooperativeness of the owner(s) with the City;
 - (E) The cost to the City of investigating and correcting or attempting to correct the condition;
 - (F) Any other factor deemed by the court to be relevant.

5.40.075 Closure During Pendency of Action; Emergency Closures

In the event that it is determined that the property is an immediate threat to the public safety and welfare, the City may apply to the court for such interim relief that is deemed by the City Attorney to be appropriate. In such an event the notification procedures set forth in Section 5.45.020 need not be complied with.

5.40.080 Enforcement of Closure Order; Costs; Civil Penalty

- (1) In the event that a court finds that property constitutes chronic nuisance property as defined in this Chapter, the court may order the remedies set out in Section 5.45.015(1). In addition, in the event that it also finds that the owner had knowledge of activities or conditions at the property constituting a violation of this Chapter and nonetheless permitted the activities to occur, the court may utilize the penalties provided for in Section 5.45.015(2).
- (2) The court may authorize the City to physically secure the property against use or occupancy in the event that the owner(s) fail to do so within the time specified by the Court. In the event that the City is authorized to secure the property, all costs reasonably incurred by the City to affect a closure shall be made an assessment lien upon the property.
 - (A) The City Department(s) affecting the closure shall prepare a statement of costs and the City shall submit that statement to the court for its review. If no objection to the statement is made within the period prescribed by Oregon Rules of Civil Procedure 68, a certified copy of the statement, including a legal description of the property, shall be entered in the City's lien docket.
 - (B) Liens imposed by this Chapter shall be collected in all respects as provided for street improvement liens, and shall bear interest at the rate of 9% per year from 10 days after the entry in the lien docket.
 - (C) Any person who is assessed the costs of closure and/or a civil penalty by the court shall be personally liable for the payment to the City.

5.40.085 Trespass to Vehicle

- (1) A person commits trespass to a vehicle if, without having a right to do so or having reasonable grounds to believe to have such a right:
 - (A) Knowingly or intentionally climbs upon or enters the vehicle either bodily or with an instrument capable of damaging or removing property from the vehicle; or,
 - (B) Knowingly or intentionally tampers with the locks, latch mechanisms, hood release, engine, body, trim, undercarriage, running gear, fuel tank or fuel intake, antenna, electric or electronic equipment, wheels, steering mechanism, brakes, or any part of any such equipment.
- (2) It is an affirmative defense to a prosecution under this section that the person engaged in the conduct described in order to prevent imminent damage to the vehicle, persons, animals or other property.
- (3) A violation of the provisions of this section is a Class A misdemeanor.

CHAPTER 5.50 NOISE

5.50.000 Noise Regulations This section is adopted pursuant to the provisions of ORS 467.100 and the City of Bend Charter

5.50.005 Prohibition on Excessive Noises No person shall make, assist in

making, permit, continue, or permit the continuance of, any noise within the City of Bend in violation of this chapter. No person shall cause or permit any noise to emanate from property under that person's control in violation of this section.

5.50.010 Sound Measurement While sound measurements are not required for the enforcement of this section, should measurements be made, they shall be made with a sound level meter using the A weighting network on a Type I or Type II meter.

5.50.015 Definitions As used in this chapter:

- (1) "dBA" means the sound pressure level in decibels measured using the A weighting network on a sound level meter.
- (2) "Noise-Sensitive unit" shall include any building or portion of a building containing a residence, place of overnight accommodation, place of worship, day care center, hospital, school, or nursing care facility.
- (3) "Plainly Audible" means any sound for which the information content of that sound is unambiguously communicated to the listener, such as, but not limited to, understandable spoken speech, comprehensible musical rhythms or vocal sounds.
- (4) "Unnecessarily Loud" means any sound that interferes with normal spoken communication or that could reasonably disturb sleep.
- (5) "Daytime" for subsection A of the noise limits section is anytime between the hours of 7:00 a.m. and 10:00 p.m.
- (6) "Nighttime" for subsection A of the noise limits section is anytime not listed as a daytime.

5.50.020 Noise Limits

- (1) The following are maximum allowable chronic or recurring noise limits anywhere when measured at the boundary of or within a property on which a noise sensitive unit, not the source of the sound, is located:

	<u>Daytime</u>	<u>Nighttime</u>
Residential	55 dBA	50 dBA
Commercial	60 dBA	55 dBA
Industrial	75 dBA	70 dBA

- (2) It is prohibited to produce sound that is unnecessarily loud or plainly audible in a noise sensitive unit.
- (3) The following are maximum allowable chronic or recurring noise limits when measured at the boundary of or within a property on which no noise sensitive unit is located, and the noise originates from outside the property:
 - (A) Seventy dBA at any time between 10:00 P.M. and 7:00 A.M. of the following day; or,
 - (B) Seventy-five dBA at any other time.
- (4) If within a park, street or other public place, sound that is plainly audible outside a vehicle at a distance of 50 feet. The City Manager may designate areas of parks, streets or other public places as exempt from this restriction and may grant revocable permits to exceed this restriction.

5.50.025 Prohibited Noises

- (1) The use of exhaust brakes (jake brakes), except in an emergency or except when used by a person operating an emergency services vehicle equipped with a muffled compression braking system, is prohibited at all times within the city, regardless of noise level.
- (2) Except as provided in Section 5.50.035 Permits, the following acts are violations of this chapter if they exceed the noise limits specified in Section 5.50:
 - (A) The excessive sounding of any horn or signal device or any other device on any automobile, motorcycle, truck, bus or other vehicle while in motion, except as a danger signal.
 - (B) The operation of sound-producing devices such as, but not limited to, musical instruments, loudspeakers, amplifying devices, public address systems, electronic sound reproduction devices including those installed in or on vehicles that are unnecessarily loud. The ability to hear the sound plainly audible more than 50 feet from the source of the sound or property on which it is being produced is evidence of a violation of this section.
 - (C) The operation of any gong or siren upon any vehicle, other than police, fire or other emergency vehicle, except during sanctioned parades.
 - (D) The use of any automobile, motorcycle or other vehicle so out of repair, without a proper exhaust system, or in such a manner as to create loud or unnecessary sounds, grating, grinding, rattling or other noise.
 - (E) The use of any automobile, motorcycle, all-terrain vehicle or other vehicle outside of public rights-of-way where the use is unnecessarily loud unless the user has a permit issued under subsection 5.50.035 of this section allowing a person to operate outside of public rights-of-way and the noise falls within the terms of the permit.
 - (F) The operation of air conditioning or heating units, heat pumps, refrigeration units (including those mounted on vehicles), swimming pool or hot tub pumps, blower, power fan, internal combustion engine, electric motor, compressor or similar machinery that is not sufficiently muffled so as not to be unnecessarily loud.
 - (G) Constructing or repairing buildings, streets, etc. Constructing (including excavating), demolishing, altering or repairing a building, street, sidewalk, driveway, sewer or utility line during the hours of 10:00 p.m. and 7:00 a.m., except as provided in sections 5.50.030 and 5.50.035.
 - (H) Using, operating or permitting to be used or operated a mechanical or electrical loud speaker or sound amplifier, either stationary or mobile, for producing or reproducing sound that is cast on the public streets or other public property if it is unnecessarily loud and can be heard more than 50 feet from the source. This section does not prohibit the reasonable use of mechanical loud speakers or sound amplifiers as authorized by the Council or emergency announcements required by public safety. However, repetitive mechanically or electrically amplified sound shall not be allowed from 10:00 p.m. to 7:00 a.m. without authorization of the City Manager
 - (I) Any yelling, shouting, hooting, whistling, singing or other human-

produced noise that is unnecessarily loud.

- (J) Any other action that creates or allows sound in excess of the level allowed by Section 5.50.020 Noise Limits.

5.50.030 **Exceptions** The following shall not be considered violations of this chapter, even if the sound limit specified in Section 5.50.020 Noise Limits is exceeded:

- (1) Amplified or non-amplified sounds created by organized athletic or other group activities, when such activities are conducted on property generally used for such purposes, such as stadiums, parks, schools, and athletic fields, during normal hours for such events except during from 10:00 p.m. to 7:00 a.m.
- (2) Sounds caused by emergency work, or by the ordinary and accepted use of emergency equipment, caused by a public or private agency, or upon public or private property.
- (3) Sounds caused by bona fide use of emergency warning devices and alarm systems for no more than 15 minutes or while the emergency remains in effect. All audible alarms shall automatically silence themselves after 15 minutes.
- (4) Sounds regulated by federal law, including, but not limited to, sounds caused by railroads, interstate motor carriers or aircraft.
- (5) Sounds caused by regular vehicular traffic upon premises open to the public in compliance with state law. Regular vehicle traffic does not include a single vehicle that creates noise in excess of the standard set forth in this chapter.
- (6) Sounds caused by air, electrical, or gas driven domestic tools, including, but not limited to, lawn mowers, lawn-edgers, chain saws radial arm, circular and table saws, drills, and/or other similar lawn or construction tools, except during the hours of 10:00 p.m. to 7:00 a.m.
- (7) Sounds created by community events, such as parades, public fireworks displays, street fairs, and festivals that the City Manager has determined in writing to be community events for the purposes of this section, and any sounds created at a school sporting event, including amplified sounds. The city manager's decision shall be based on the anticipated number of participants or spectators, the location of the event and other factors the city manager determines to be appropriate under the circumstances.
- (8) Sounds made by legal fireworks on the third of July, Fourth of July, between the hours of 7:00 A.M. and 11:00 P.M.
- (9) Sounds made by City of Bend franchisees that provide solid waste removal.
- (10) Sounds made by the removal of snow or ice from public or private property.
- (11) Sounds made by the cleaning of or routine maintenance of City streets by City employees or agent
- (12) Sounds made by the cleaning of commercial or industrial parking facilities or private roadways between the hours of 7:00 am and 2:00 am as long as the noise from the equipment does not exceed 65 dBA (decibels) at 50 feet from the edge of the property that is being cleaned.
- (13) Sounds that are produced as a result of activity that would be a violation

for which a permit has been issued by the City Manager authorizing the activity.

- (14) A violation of this section is a Class A Civil Infraction. Continued violation of this section shall constitute a separate violation.

5.50.035 **Permits**

- (1) In cases of emergency or other public necessity, the City Manager may issue a permit allowing activities described in subsection 5.50.025 to take place at any hour. The permit may be for the duration of the permitted activity.
- (2) The City Manager may also issue a permit for a concert or similar event allowing noise otherwise prohibited by this chapter, provided the concert or event is permitted under the applicable provisions of this code.
- (3) Denial of permits by the City Manager may be appealed to the City Council within 15 days after denial. The date of a denial shall be the date a permit is orally denied or the date a written denial is made, whichever is later. Granting the permit may be appealed at any time by a person who resides or works within hearing of the noise generated as a result of the granting of the permit.
- (4) Permits may include such restrictions or conditions necessary to safeguard the public peace.

CHAPTER 5.55 **PARKS**

5.55.000 **Definitions** For purposes of this chapter, the following mean:

- (1) **Public parks.** All property owned or controlled by the City or by the Bend Metropolitan Park & Recreation District and operated for the public's recreational use.
- (2) **Person.** A person, firm, or corporation, not including City or Bend Metropolitan Park & Recreation District personnel or their agents.

5.55.005 **Violations**

- (1) Persons using public parks and other city property shall obey the following rules and regulations:
 - (A) No unauthorized person shall cut, remove or damage vegetation except property owners may engage in normal landscaping activities in adjacent rights of way.
 - (B) No person shall build a fire. Portable propane camp stoves and propane barbeques may be used in the parks only if in safe operating condition and only if operated in a safe manner and in such a way as to avoid damage to park property.
 - (C) No person shall camp except in areas designated for camping or in connection with activities authorized by the City or the District.
 - (D) No person shall damage or injure a building, installation, equipment or other property in public parks.
 - (E) No person shall sell merchandise or services, or operate a concession in public parks without permission of the Bend Metropolitan Park & Recreation District and shall possess, on their person, evidence of the permission.

- (F) No person shall litter in the parks or city owned property. Garbage and refuse shall be deposited in proper receptacles provided for this purpose or carried off for disposal. Garbage and refuse shall not be brought to parks or city owned property.
 - (H) No person shall operate or park a motor vehicle except on roads or designated parking areas unless a special permit has been issued by the Park District.
 - (I) Except as authorized by the Park District, no person shall ride or lead a horse in a public park except on a designated bridle path, except with a special permit. Horses or other animals shall not be tied to a tree or shrub in such a manner as to cause damage to the tree or shrub.
 - (J) No person shall project items into the air that may harm parks or people, such as golf equipment, archery equipment, discus, javelin, or shot put in parks except as permitted by the Park District.
 - (K) Except as authorized by the Oregon Department of Fish and Wildlife or the Bend Metropolitan Park and Recreation District, no person shall feed, hunt, pursue, trap, kill, injure or disturb the habitat of a bird or animal.
 - (L) Except as authorized by State or Federal law, no person shall possess a loaded firearm in a park.
 - (M) No person shall dig up, deface or remove dirt, stones, rock or other substances nor make any excavation.
 - (N) No person shall erect signs, markers or instructions without city or District permission.
 - (O) No person shall wash clothing or materials or clean fish in streams or pools.
 - (P) No one may use any rolling device such as a bicycle, skateboard, scooter, inline skates, etc., in a manner that is likely to cause potential harm to other people, pets, wildlife or District property; or on sports fields, playgrounds, tennis courts, off-leash areas or in areas reserved for special events. This does not prohibit the use of rolling devices in designated areas.
 - (Q) All public parks and adjacent parking lots, with the exception of Brandis Square, shall be open from 5:00 a.m. until 10:00 p.m. and closed from 10:00 p.m. until 5:00 a.m. unless otherwise authorized. Transitory use shall be exempt.
 - (R) Alcohol use in parks is prohibited except when allowed by a permit issued by the Park District and or the Bend Police Department. The fee for an alcohol consumption permit when issued by the Bend Police Department shall be set by Council resolution. The permit must be available for inspection during the term of use.
- (2) A violation of this section is a Class B Civil Infraction.