

**TITLE FIVE  
PUBLIC PROTECTION**

**5.01.00 Offenses, General.** Unless otherwise indicated, Ordinance 99-100 enacts Sections 5.01.01 through 5.05.04.

**5.01.01 Criminal Code of Oregon Adopted.** The City of Turner will enforce the Criminal Code of the State of Oregon within the incorporated boundaries of the City and cite offenders into the appropriate courts having jurisdiction over the cited offense. Penalties for violations of the Criminal Code of the State of Oregon will be as prescribed in the Criminal Code.

**5.02.00 Offenses, Specific.**

**5.02.01 Alcohol Consumption and open containers prohibited – Exceptions.**

(1) No person shall drink, consume or possess an open container of intoxicating liquor in or upon a public street, park, sidewalk, way, playground, school or public building, except as provided in subsection (2) or (3) of this section.

(2) This section shall not apply to the drinking, consumption or possession of liquor on a sidewalk or portion of a sidewalk immediately outside a business premises licensed by the Oregon Liquor Control Commission for the on-premises sale of alcohol, where such sidewalk constitutes a part of the licensed premises under and subject to the terms and conditions of such license, and subject to such conditions and limitations as the City Administrator, or the City Administrator's designee, may require.

(3) The City Administrator, upon application by an individual, for a

noncommercial event, or by a nonprofit entity, may issue a temporary special event permit authorizing the possession and consumption of intoxicating liquor containing no more than 14 percent alcohol by volume, in Turner Lake Park, Burkland Park and David Sawyer Park, provided the Oregon Liquor Control Commission has issued or will issue a special event permit to the applicant, authorizing the possession and consumption of such intoxicating liquor. The special event permit shall be subject to the following conditions, and any other conditions the City Administrator deems necessary or appropriate to ensure the protection of the public health, welfare and safety:

(a) The applicant shall obtain a liquor liability insurance policy in an amount deemed appropriate by the City Administrator and shall name the City as an additional insured thereon.

(b) The applicant shall provide security, to be approved by the City Administrator, sufficient to prohibit the sale or furnishing of intoxicating liquor to minors, to prevent, monitor and deal with visibly intoxicated persons, and to prevent others from furnishing intoxicating liquor to minors.

(c) The permit shall specify the date, time, location and duration of the event, which shall be approved by the City Administrator.

(d) The applicant shall provide a cleaning deposit to the City.

The City Administrator or Chief of Police may, for a violation of the conditions of the special event permit, or for any other reason the City Administrator or Chief of Police deems sufficient, terminate the permit before or during the event.

(4) A person aggrieved by a decision of the City Administrator under subsection (3) of this section may appeal the City Administrator's decision to the City Council by filing a notice of appeal in writing with the City Recorder, within 10 days after the City Administrator's decision that is the subject of the appeal. The City Council shall hear the appeal at the next City Council meeting that is more than three business days after the filing of the notice of appeal.

(5) The City Council shall establish, by resolution, the cleaning deposit and a fee for a special event permit authorized under subsection (3) of this section. *(Amended 5/23/24 Ordinance 24-02)*

**5.02.02 Relating to Fire Control.** No person shall:

- (a) Intentionally give a false alarm or aid and abet another in giving a false alarm of a fire and/or medical emergency.
- (b) Drive a vehicle over or upon any fire hose, or otherwise disturb or injure in any manner any hose, engine, appliance or apparatus belonging to or used by the fire department.
- (c) Refuse or fail to promptly obey an order of a member of the fire department or other emergency response organization, or otherwise obstruct or hinder actions of emergency response personnel during a fire or other emergency.
- (d) Unfasten, open, draw water from, or otherwise tamper with a fire hydrant without the prior permission of the fire department or city.

**5.02.03 Vagrancy.** Except as allowed by TRC 5.24.00, it shall be unlawful for any person to lodge or sleep in or upon any public highway, street, alley, public park, parking lot, or any other public place; or to lodge or sleep in any barn, shed, shop, warehouse, railroad car, automobile, vessel, or place other than those used for lodging purposes, without the permission of the owner or party entitled to possession thereof.

**5.02.04 Public Property; Defacing or Injuring.** It shall be unlawful for any person to:

- (a) Deface or injure any public property, or
- (b) To remove any part of any tree, fence, gate, or building, located on any public property without the express consent of the owner of the property; or
- (c) To place any sign, card, bill, mark or paint upon public property without the express consent of the owner of the property. *(Amend. Ord. 04-101, 10/28/04)*

**5.02.05 Garage Sale Limitation.**

- (a) For the purposes of this section, the term "garage sale" shall mean the public sale of new or used goods within the corporate limits of the City of Turner by any individual or group of individuals from any private property, including but not limited to garages, porches, carports, yards, when said individual or group of individuals is not in the business of selling such goods or not licensed as a secondhand dealer, junk dealer or when the property from which such sale is to be conducted is not within a zone permitting and being used for commercial business or otherwise permitted under provisions of this code. The offering for sale of one item by public display with a sign indicating the item is for sale, and sale of more than one individual item not offered

by public display and where no signs are posted concerning a sale or place of sale are transactions exempt from provisions of this section.

(b) It shall be unlawful to conduct within the City more than three garage sales upon the same property in any calendar year, each of said sales to extend no longer than three days.

(c) Signs advertising the time and location of a garage sale may be placed in the public right-of-way with the following restrictions.

(1) Signs must be no larger than 24 inches by 36 inches.

(2) Signs must be placed on a freestanding stake or stand, well clear of vehicle movement areas.

(3) Signs must be placed no earlier than five (5) days before the date of the garage sale and removed within 24 hours of completion of the garage sale.

(4) Signs must be placed in a manner so as not to impact vision clearance at street intersections and private driveways.

(d) Signs advertising the time and location of a garage sale may only be placed on private property with the permission of the property owner, occupant or person otherwise having legal control over the property.

**5.02.06 Iceboxes, Refrigerators and other Containers.** It shall be unlawful for any person to place, leave or maintain any abandoned, unattended, or discarded icebox, refrigerator, or other container of any kind which has an air-tight door without first removing the door.

**5.02.07-5.02.50** *Reserved for expansion.*

**5.02.51 Penalties.** Penalties for violation of TRC Section 5.02.00 are not to exceed \$500.00. TRC 1.42.00 applies.

### **5.03.00 Curfew.**

#### **5.03.01 Minors Nighttime Curfew.**

(a) No minor under the age of 18 years shall be in or upon any street, highway, park, alley, or other public place between the hours specified in subsection (b) of this section unless:

(1) The minor is accompanied by a parent, guardian, or other person 18 years of age or over and authorized by the parent or by law to have care and custody of the minor;

(2) The 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;

(3) The minor is lawfully emancipated pursuant to Oregon Revised Statutes

(b) For minors under the age of 16 years, the curfew is between 10:00 p.m. to 4:00 a.m. of the following morning. For minors 16 years of age or older, the curfew is between 12:00 a.m. and 4:00 a.m.

#### **5.03.02 Parental Responsibility.**

(a) No parent, guardian, or person having care and custody of a minor under the age of 18 years shall knowingly allow such minor to be in or upon any street, highway, park, alley, or other public place between the hours specified in TRC 5.03.01, except as otherwise provided in that section.

(b) It shall be unlawful and shall be considered a separate offense for any parent, guardian, or any other adult person having the legal care and custody of any person under the age of 18 years to refuse to take the minor person under his or her care into his or her immediate physical custody upon being notified to do so by the police department.

**5.03.03 Enforcement.** Any police officer or any other law enforcement officer is hereby authorized and empowered to take charge of any person under the age of 18 years violating the provisions of TRC 5.03.01 and it shall be the duty of any such officer taking charge of any such person to thereafter cause to be notified the parent or guardian of such person of such violation and advise the parent or guardian the location that such person will be held in the police custody. The officer, at his or her discretion, may elect to deliver the minor to the minor's residence.

**5.03.04 Penalties.** The penalty for curfew violation is a fine not to exceed \$100. Each occurrence is a separate violation.

#### **5.04.00 Littering and Handbills.**

**5.04.01 Definitions.** For the purposes of this section, the following definitions apply:

(a) "Litter" means metal, cans, glass, bottles, plastics, wood, nails tacks, cardboard, paper, leather or any sort of garbage, rubbish, refuse, trash, or debris.

(b) "Public place" means public rights-of-way, roads, streets, alleys, lanes, trails, parks, recreational and transportation facilities, and any area or structure owned, operated or maintained by the City.

(c) "Handbill" is any printed or written matter, sample, device, circular, leaflet, flyer, pamphlet, booklet, or other literature used for the purpose of advertising, announcing, or otherwise making known any product, commodity, service, business, meeting, sale or event of any kind.

**5.04.02 Littering in Public Places.** It shall be unlawful for any person to throw, scatter, or deposit any litter in or upon any public place.

**5.04.03 Litter on Private Property.** Property owners, tenants and/or those otherwise using or occupying private property shall not allow litter to blow or otherwise migrate from private property to a public place.

#### **5.04.04 Debris from Hauling.**

(a) No person shall haul sand, gravel, rock, wood, mud or solid waste in a manner that allows the sand, gravel, rock, wood, mud or solid waste to fall on the public streets of the City.

(b) No person shall drive or move any vehicle or truck within the city, the wheels, tires or frame of which carry onto and deposit in any street, alley or other public place, mud, dirt or rocks.

(c) No person shall drive or move any vehicle or truck within the city which leaks liquid material, including muddy water, onto any street, alley or other public place.

**5.04.05 Handbills Deposited in or on Motor Vehicles.** It shall be unlawful for any person, except duly authorized officers of the city, county or state, without the consent of the owner or person lawfully in charge of a motor vehicle, to place, deposit, throw distribute or dump handbills in or upon any automobile whether such vehicle is at rest or in motion, attended or unattended, on any street, public park, parking lot, public place or alley within the boundaries of the City.

**5.04.06 Fastening Handbills to Public Property.** Except as provided else where in this code, it shall be unlawful for any person, except for a public officer or employee in the performance of a public duty, to stick, stamp, paint, paste, nail, tack, or otherwise fasten any handbill of

any kind, or cause the same to be done, on any sidewalk, crosswalk, curb, pavement, lamppost, pole, hydrant, bridge, tree or other location upon public property of the City. Signs authorized elsewhere in this code and placed on a freestanding stake or stands are exempt from this section.

**5.04.07 Penalties.** The penalty for violation of this section is a fine not to exceed \$500. Each occurrence is a separate violation.

**5.05.00 Graffiti.**

**5.05.01 Definitions.**

(a) “Graffiti” means any inscription, word, figure, design, painting, writing, drawing or carving that is marked, etched, scratched, drawn, painted or otherwise applied to property without the prior authorization of the owner, occupant or other person exercising legal authority over the property regardless of the graffiti content, or nature of material used in the commission of the act, or the material of the property.

(b) “Graffiti Nuisance Property” means property to which graffiti has been applied, if the graffiti is visible from any public right-of-way, from any other public or private property or from any premises open to the public, and if the graffiti has not been removed within the time provided in TRC 5.05.03.

**5.05.02 Graffiti Prohibited.**

(a) It shall be unlawful for any person to apply graffiti.

(b) It shall be unlawful for any person to solicit or command another person to apply graffiti.

(c) It shall be unlawful for any person to aid or abet or agree to aid or abet another person to plan to apply or apply graffiti.

**5.05.03 Graffiti Removal.**

(a) It shall be the responsibility of the property owner, occupant and/or other person exercising legal authority over the property to remove graffiti placed on the property.

(b) Graffiti must be removed within 48 hours of receipt of written or verbal notice by a police officer or employee of the City to remove the graffiti.

**5.05.04 Penalties.**

(a) For violations of TRC 5.05.02, TRC 1.45.00 applies. In addition, the Municipal Court may order restitution for the actual cost to remove the graffiti.

(b) Violations of TRC 5.05.03 shall result in a fine not to exceed \$250.

**5.06.00 Smoking in City Owned Buildings.** Unless otherwise indicated, Ordinance 95-101 enacts Section 5.06.01 through 5.06.02.

**5.06.01 Oregon Indoor Clean Air Act Adopted.**

The City of Turner ordains that the Oregon Indoor Clean Air Act be adopted and applied to all buildings owned or operated by the City of Turner.

**5.06.02 Act Defined.** The Oregon Indoor Clean Air Act for purpose of this Code Section is defined by Oregon Revised Statutes 433.835 through 433.990. Where references to the State of Oregon or the Oregon Health Division apply in the Oregon Revised Statutes listed above, the term City of Turner shall be substituted.

**5.07.00 Nuisance, Park Exclusion**

(a) In addition to other measures provided in other sections of the Turner Revised Code or any of the laws of the State of Oregon, any person who, within any park, violates any provision of the Turner Revised Code or any non-felony criminal

laws of the State of Oregon may be excluded from any park for a period of thirty days, and any person who violates any felony law of the State of Oregon may be excluded from any or all parks for a period of ninety days.

(b) Written notice shall be given to any person excluded from any park. Such notice shall specify the reason for the exclusion, and the dates and places of exclusion. The notice shall prominently display warning of the consequences of failure to comply, right of appeal and opportunity to apply for temporary waiver from the effects of the notice. Exclusion shall commence immediately upon delivery of the notice to the excluded person.

(c) A person who has received written notice of exclusion and who violates the notice restrictions may be charged with Trespass. In addition, the person may be excluded from any or all parks for an additional period of not more than ninety days.

(d) Any person receiving a second written notice of exclusion within six months of receiving another such notice may be excluded from any or all parks for a period of not more than ninety days.

(e) For the purposes of this section a person "violates" a provision of law if based on the evidence reason exists to believe that more likely than not an offense was committed and the person committed it.

(f) Persons with authority to enforce this section are any peace officer, any official or employee designated by the Director to enforce this section, and any individuals under contract with the City for park security services. (*Ord 16-101, 7/23/16*)

**5.08.00-5.09.00** *Reserved for expansion.*

## NUISANCES

**5.10.00 Nuisances, General.** Unless otherwise indicated, Ordinance 98-114 enacts Sections 5.10.01 through 5.18.07. *Ordinance 07-102 amends and/or enacts Sections 5.12.00 through 5.26.01.*

**5.10.01 Definitions.** For purposes of section 5.10.00 through 5.17.00, the following mean:

(a) Person in charge of property. An agent, occupant, lessee, contract purchaser, or other person having possession or control of property or supervision of a construction project.

(b) Person responsible. The person responsible for abating a nuisance is:

(1) The owner; and

(2) The person in charge of the property, as defined in this subsection; and

(3) the person who caused a nuisance, as defined in this section or another code provision or ordinance of the city, to come into or continue in existence.

(c) Public place. A building, way, place of accommodation, publicly or privately owned, open and available to the general public.

**5.11.00 Nuisances, Animal.**

**5.11.01 Communicable Disease.** No person shall permit an animal or bird owned or controlled by him to be at large within the city if the animal or bird is afflicted with a communicable disease.

**5.11.02 Domestic Animals, Livestock, Poultry, and Bees.**

(a) No person shall:

(1) Maintain a pigsty, slaughterhouse, tannery or other facility which processes animals or animal parts;

(2) House any farm or wild animals or allow farm or wild animals to run at large within the City unless otherwise provided in this code.

(3) Keep a stand or hive of bees on any property within 20 feet of the boundary line of the premises.

(4) Stake or picket any animal in or upon any of the streets, alleys, or public places of the city, or stake or picket an animal so that it may go or graze upon a public right-of-way or the property of another, unless with the consent of the owner or occupant of the other property.

(5) Be engaged in the commercial for-profit sale of animals in a residential zone.

(b) The Council may exempt any person from the terms and provisions of this section, either in whole or in part, and may attach conditions to the exemption that the Council considers reasonable under the circumstances.

(c) Chickens are allowed on any residential property with the following conditions:

(1) Roosters are prohibited.

(2) Chicken must be confined at all times in a coop/facility.

(3) The coop/facility must be located in the rear yard.

(4) The coop/facility must be twenty (20) feet from any other dwellings and meet any setback requirements.

(5) The coop/facility must not create a nuisance as described in TRC 5.12.00 and 5.20.00.

*(Amend. Ord. 11-101 09/22/2011)*

(6) There shall be a limit of six (6) chickens on any single parcel.

*(Amend. Ord. 12-101 08/23/2012)*

**5.11.03 Removal of Carcasses.** No person shall permit a fowl or animal carcass owned by him or under his control to remain upon the public streets or places, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of the carcass.

**5.12.00 Nuisances, Affecting Public Health.** No person shall cause or permit a nuisance affecting public health on property owned or controlled by him. The following are nuisances affecting public health and may be abated as provided in this subchapter:

(a) Open vaults or privies constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with State Health Division regulations.

(b) Accumulations of debris, rubbish, manure, and other refuse that are not removed within a reasonable time and that affect the health of the city.

(c) Stagnant water that affords a breeding place for mosquitoes and other insect pests.

(d) Pollution of a body of water, well, spring, stream, or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.

(e) Decayed or unwholesome food offered for human or animal consumption.

(f) Premises that are in such a state or condition as to cause an offensive odor or that are in an unsanitary condition.

(g) Drainage of any water or sewer utility waste into open soils creating the potential

for ground water contamination. (*Amend. Ord 14-102; 11/13/2014*)

(h) Cesspools, septic tanks or septic drain fields that are in an unsanitary, unsafe or malfunctioning condition or that cause an offensive odor.

(i) Mastics, oil, grease or petroleum products allowed to be introduced into the sewer system by a user connected to the sewer system. (*Amend. Ord. 07-102 07/14/2007*)

### **5.13.00 Nuisances, Affecting Public Safety**

**5.13.01 Creating a Hazard.** No person shall create a hazard by:

(a) Maintaining, leaving, abandoning, discarding or storing in the open, in a place accessible to children, a container with a compartment of more than 1½ cubic feet capacity and a door or lid that locks or fastens automatically when closed and that cannot be easily opened from the inside, including but not limited to ice boxes, refrigerators or freezers.

(*Amend. Ord. 07-102 07/14/2007*)

(b) Being the owner or otherwise having possession of property on which there is a well, cistern, cesspool, excavation, or other hole of a depth of four feet or more, and a top width of 12 inches or more, fail to cover or fence it with a suitable protective construction.

### **5.13.02 Attractive Nuisances.**

(a) Definition. The following definition shall apply to this section.

1. PERSON. Any natural person, firm, corporation, partnership, association or other legally identifiable group, whether he or it is acting for himself or as the clerk, servant, employee or agent of another.

(b) Unlawful activity. It shall be unlawful for any owner, lessee, occupant or any person having control, custody or

management of any premises to suffer or permit to remain unguarded upon the premises any machinery, equipment or other device having the characteristics of an attractive nuisance or which is liable to attract children. It shall further be unlawful for any of the aforementioned persons to suffer or permit to remain unguarded upon the premises any pit, quarry, cistern, well or other excavation.

(c) This section does not apply to authorize construction projects with reasonable safeguards to prevent injury or death. (*Amend. Ord. 07-102 07/14/2007*)

**5.13.03 Scattering Rubbish.** No person shall deposit, on public or private property, rubbish, trash, debris, refuse, or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property, or would be likely to injure a person, animal or vehicle traveling on a public way.

### **5.13.04 Trees.**

(a) Any owner or person responsible for property that abuts on a street or public sidewalk shall: (1) maintain a clearance area 8-foot in height above the sidewalk and street. (*Amend. Ord. 09-104 11/08/09*)

(b) No owner or person in charge of property shall allow a dead or decaying tree to stand if it is a hazard to the public or to persons or property on or near the property.

### **5.13.05 Surface Waters, Drainage.**

(a) No owner or person in charge of a building or structure shall permit rainwater, ice, or snow to fall from the building or structure onto a street or public sidewalk or to flow across the sidewalk or street.

(b) The owner or person in charge of property shall install, and maintain in a proper state of repair, adequate drainpipes



or a drainage system, so that overflow water accumulating on the roof or about the building is not carried across or on the sidewalk or street.

**5.13.06 Defective Sidewalks; Snow and Ice.**

(a) No owner or person in charge of property, improved or unimproved, abutting on a public sidewalk, shall permit:

(1) Snow to remain on the sidewalk.

(2) Ice to remain on the sidewalk unless the ice is covered with sand, ashes or other suitable material to assure safe travel.

(b) No owner of property, improved or unimproved, abutting on a public sidewalk, shall permit the sidewalk to deteriorate to such a condition that, because of cracks, chipping, weeds, settling, covering by dirt, or other similar occurrences, the sidewalk becomes a hazard to persons using it.

(c) The city shall not be liable to any person for loss or injury to a person or property suffered or sustained by reason of any accident on sidewalks, public or private, caused by ice, snow, encumbrances, obstructions, cracks, chipping, weeds, settling, holes covered by dirt, or other similar conditions. Owners of abutting property shall maintain sidewalks free from such conditions and are liable for any and all injuries to persons or property arising as a result of their failure to so maintain the sidewalks.

**5.14.00 Nuisances, Affecting Public Peace**

**5.14.01 Radio and Television Interference.**

(a) No person shall operate or use an electrical, mechanical, or other device, apparatus, instrument, or machine that

causes reasonably preventable interference with radio or television reception by a radio or television receiver of good engineering design.

(b) This section does not apply to devices licensed, approved, and operated under the rules and regulations of the Federal Communications Commission.

**5.14.02 Junk.**

(a) No person shall, for more than seven days, keep junk outdoors within public view on a street, lot, or premises or in a building that is not wholly or entirely enclosed except for doors used for ingress and egress.

(b) The term "junk" as used in this section, includes a motor vehicle or vehicles, unless currently registered and operable, or an accumulation of any of the following: old motor vehicle parts, old machinery, old machinery parts, old appliances or appliance parts, old iron or other metal, glass, paper, lumber, wood, or other waste or discarded material.

*(Amend. Ord. 07-102 07/14/2007)*

(c) This section does not apply to junk kept in a licensed junkyard or automobile wrecking yard.

**5.14.03 Discarded Vehicles.**

(a) A discarded vehicle shall mean any vehicle which does not have lawfully affixed thereto an unexpired license plate and is in one or more of the following conditions: Inoperative, Wrecked, Dismantled, or Partially Dismantled. Discarded vehicles may be deemed to include major parts thereof including, but not limited to bodies, engines, transmissions and running gear.

(b) No person shall store or permit the storing of a discarded vehicle on any private property for more than 72 hours, unless it is completely enclosed within a building or in a space entirely enclosed by

a solid fence, hedge or screen, not less than six feet in height, or unless it is in connection with a business enterprise dealing in junked vehicles lawfully conducted within the City.

(c) In addition to or in lieu of the procedures contained in Sections 5.16.00 through 5.16.05 of this Code for abating nuisances, vehicles found in violation of subsection (b) of this section may be removed in accordance with the Section 6.06. (*Amend. Ord. 99-115*)

#### **5.14.04 Exterior Lighting.**

(a) No person shall permit direct light glare beyond the property of origin, when perceptible without instruments on neighboring residentially zoned property and when the direct light glare causes distress or discomfort to the residents of the property.

(b) Temporary lighting used for emergency purposes are exempt from the provisions of this section.

#### **5.15.00 Nuisances, Unenumerated**

(a) The acts, conditions or objects specifically enumerated and defined in sections 5.11.00 to 5.14.00 are declared public nuisances and may be abated by the procedures set forth in section 5.16.00.

(b) In addition to the nuisances specifically enumerated in sections 5.11.00 to 5.14.00, every other thing, substance, or act that is determined by the council to be injurious or detrimental to the public health, safety, or welfare of the city may be declared a nuisance and may be abated as provided in section 5.16.00.

#### **5.16.00 Abatement Procedures**

##### **5.16.01 Notice to Abate.**

(a) On determination by the City Administrator, or his or her designate, that a nuisance exists, the City Administrator

shall cause a notice to be posted on the premises or at the site of the nuisance, directing the person responsible to abate the nuisance. (*Amend. Ord. 07-102 07/14/2007*)

(b) At the time of posting, the City Administrator shall cause a copy of the notice to be forwarded to the person responsible at the person's last known address.

(c) The notice to abate shall contain:

(1) A description of the real property, by street addresses or otherwise, on which the nuisance exists.

(2) A direction to abate the nuisance within 10 days from the date of the notice.

(3) A description of the nuisance.

(4) A statement that, unless the nuisance is removed, the city may abate the nuisance and the cost of abatement will be charged to the person responsible.

(5) A statement that failure to abate a nuisance may result in a fine against the person responsible.

(6) A statement that the person responsible may protest the order to abate by giving written notice to the City Administrator within 10 days from the date of the notice.

(7) A statement that the cost of abatement may be assessed to and become a lien on the property.

(d) Upon completion of the posting and mailing, the persons posting and mailing shall execute and file certificates stating the date and place of the mailing and posting.

(e) An error in the name or address of the person responsible shall not make the notice void, and in such case the posted notice shall be sufficient.

##### **5.16.02 Abatement by the Person Responsible.**

(a) Within 10 days after the posting and mailing of notice as provided in section 5.16.02, the person responsible shall remove the nuisance or file a protest, as described in (b) below.

(b) A person responsible, protesting that no nuisance exists, shall file a written statement that specifies the basis for the protest with the City Administrator.

(c) Upon the City Administrators determination that a nuisance does in fact exist, the owner or agent in charge shall within a reasonable as determined by the City Administrator, remove or abet the nuisance. (*Amend. Ord. 07-102 07/14/2007*)

**5.16.03 Joint Responsibility.** If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the City in abating the nuisance.

**5.16.04 Abatement by the City.**

(a) If within the time fixed, as provided in this chapter, the nuisance has not been abated by the owner or agent in charge of the property, the City shall cause the nuisance to be abated.

(b) The total cost, including the administrative overhead, shall thereupon be assessed to the property as hereinafter provided and shall include a charge equal to \$25.00 or 20 percent of those expenses for administrative costs, whichever is greater.

(c) The City employee or contractor personnel charged with abatement shall have the right to enter into or upon property at reasonable times to investigate or cause the removal of a nuisance.

**5.16.05 Assessment of Costs.**

(1) A notice of the assessment shall be forwarded by certified mail with return

receipt to the owner or agent in charge of the property by the Recorder. The notice shall contain:

(a) The total cost of abatement, including the administrative overhead, of the abatement.

(b) A statement that the cost as indicated will become a lien against the property unless paid within 30 days.

(c) A statement that if the owner or agent in charge of the property objects to the cost of the abatement as indicated, he may file a notice of objection with the Recorder within 30 days from the date of the notice.

(d) Notice that fee for recording in County Deed Records may be added.

(2) Objections to the proposed assessment shall be heard and determined by the City Administrator or his designate.

(3) An assessment for the cost of the abatement as determined by the City Administrator or his designate and adopted as a matter of record by resolution of the Council shall thereupon be entered in the docket of city liens, and upon the entry being made, it shall constitute a lien against the property from which the nuisance was removed or abated. Also, it may be recorded in the County Deed Records.

(4) The lien shall be collected in the same manner as improvement liens are collected and shall bear interest at a rate as established by resolution of the City Council. The interest shall commence to run 30 days after the entry in the lien docket.

(5) An error in the name of the owner or agent in charge of the property shall not void the assessment nor will a failure to receive the notice of the assessment render the assessment void but, it shall remain a valid lien against the property.

## **5.17.00 Nuisances, General**

**5.17.01 Summary Abatement.** The procedure provided in Section 5.16.00 is not exclusive, but is in addition to procedure provided by other code provisions and ordinances. The Chief of Police or any other city official may proceed summarily to abate a health or other nuisance that imminently endangers human life or property. (*Amend. Ord. 04-101, 10/28/04*)

### **5.17.02 Penalties.**

(a) A violation of a provision of sections 5.11.00 to 5.16.00 is a civil infraction punishable in accordance with Section 1.45.00.

(b) The abatement of a nuisance is not a penalty for violation of sections 5.11.00 to 5.16.00, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance.

(c) Section 1.42.00 applies.

## **5.18.00 Noxious Vegetation.**

**5.18.01 Definitions.** For purposes of section 5.18.00, except where the context indicates otherwise, the following mean:

### **(a) Noxious vegetation.**

(1) Poison oak.

(2) Poison ivy.

(3) Blackberry bushes that extend into a public thoroughfare or across a property line.

(4) Vegetation that is:

(A) A health hazard,

(B) A fire hazard,

(C) A traffic hazard because

it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous.

(5) Weeds or grass more than 12 inches high.

(6) Weeds or grass going to seed.

(7) Noxious vegetation does not include an agricultural crop, unless that crop is a health, traffic, or fire hazard.

(b) **Person in charge of property.** An agent, occupant, lessee, contract purchaser, or person, other than the owner, having possession or control of the property.

**5.18.02 Owner Responsibility.** No owner or person in charge of property within 100 feet of a public access, roadway, adjacent or abutting streets, alleys, other adjacent or abutting properties, or from any combustible structure, including a fence, shall permit weeds or other noxious vegetation to grow upon his property over 12 inches high. The owner or person in charge of property shall cut down, destroy or remove grass, shrubbery, brush, weeds or other noxious vegetation as often as necessary to prevent them from becoming as fire hazard, or from maturing or going to seed. (*Amend. Ord. 07-102 07/14/2007*)

### **5.18.03 Public Notice of Intent to Abate.**

The City Administrator will publish in a spring edition of the Turner Community Newsletter or in a newspaper of general circulation after April 1<sup>st</sup> of each year a notice containing a copy of Section 5.18.02. The notice shall also state that the City intends to abate noxious vegetation within not less than 10 days of a final notice to abate such vegetation sent to the property owner and that all costs of doing so will be charged to the owner of the property being abated. (*Amend. Ord. 07-102 07/14/2007*)

### **5.18.04 Notice to Abate.**

(a) Upon determination by the City Administrator, or his or her designate, that a nuisance exists, a notice shall be posted on the premises, or at the site of the

nuisance, directing the person responsible to remove or abate the nuisance.

(b) At the time of posting, the City shall cause a copy of the notice to be mailed by certified mail to the person responsible at the person's last known address.

(c) The notice to abate shall contain:

(1) A description of the real property, by street addresses or otherwise, on which or adjacent to which the noxious vegetation exists.

(2) A direction to abate the noxious vegetation within 10 days from the date of the notice or by a certain date.

(3) A description of the nuisance.

(4) A statement that, unless the noxious vegetation is removed, the City may abate the nuisance and the cost of abatement will be charged to the person responsible..

(5) A statement that failure to abate a nuisance may result in a fine against the person responsible.

(6) A statement that the person responsible may protest the abatement by giving written notice to the City Administrator within 10 days from the date of the notice.

(7) A statement that the cost of abatement may be assessed to and become a lien on the property.

(d) Upon completion of the posting and mailing, the persons posting and mailing shall execute and file certificates stating the date and place of the mailing and posting.

(e) An error in the name or address of the person responsible shall not make the notice void and in such case the posted notice shall be sufficient. (*Amend. Ord. 07-102 07/14/2007*)

#### **5.18.05 Abatement by the Owner.**

(a) Within 10 days after the posting and mailing of notice as provided in Section 5.18.04, the person responsible shall

remove the nuisance or file a protest, as described in (b) below or show that no nuisance exists.

(b) A person responsible, protesting that no nuisance exists, shall file a written statement that specifies the basis for the protest with the City Administrator.

(c) Upon the City Administrators determination that a nuisance does in fact exist, the owner or agent in charge shall within a reasonable time as determined by the City Administrator, remove or abet the nuisance. (*Amend. Ord. 07-102 07/14/2007*)

#### **5.18.06 Abatement by the City.**

(a) If, within the time permitted by Section 5.18.04 or 5.18.05, the noxious vegetation has not been abated by the owner or person in charge of the property, the City shall cause the noxious vegetation to be abated.

(b) The city employee or contractor personnel charged with abatement shall have the right to enter into or upon any property at reasonable times to investigate or cause the removal of the noxious vegetation.

(c) The charge for abatement shall be the actual cost to abate the property plus administrative fees for processing abatement actions in the amount of \$25.00 or 20% of the actual cost to abate, whichever is greater.

#### **5.18.07 Assessment of Costs.**

(1) A notice of the assessment shall be forwarded by certified mail with return receipt to the owner or agent in charge of the property by the Recorder. The notice shall contain:

(a) The total cost, including the administrative overhead, of the abatement.

(b) A statement that the cost as indicated will become a lien against the property unless paid within 30 days.

(c) A statement that if the owner or agent in charge of the property objects to the cost of the abatement as indicated, he may file a notice of objection with the Recorder within 30 days from the date of the notice.

(d) Notice that fee for recording in County Deed Records may be added.

(2) Objections to the proposed assessment shall be heard and determined by the City Administrator or his designate.

(3) An assessment for the cost of the abatement as determined by the City Administrator or his designate and adopted as a matter of record by resolution of the Council shall thereupon be entered in the docket of City liens, and upon the entry being made, it shall constitute a lien against the property from which the nuisance was removed or abated. Also, it may be recorded in the County Deed Records.

(4) The lien shall be collected in the same manner as improvement liens are collected and shall bear interest at a rate as established by resolution of the City Council. The interest shall commence to run 30 days after the entry in the lien docket

(5) An error in the name of the owner or agent in charge of the property shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

#### **5.19.00 Regulations on Burning.**

**5.19.01 Definition of Open Burning.** Open burning shall constitute any outdoor burning other than:

A) fires with standard barbeque equipment

B) Recreational fires that are of a standard campfire setting, and in a pit less than 3 feet in diameter

#### **5.19.02 Open Burning Ban Regulation.**

Open Burning shall be banned during the time periods in which DEQ or the Marion County Fire Defense Board institutes a burning ban.

**5.19.03 Enforcement.** Violations of 5.19.02 shall be enforceable under 1.45.00 of the Turner Revised Code.

*(Amend. Ord. 13-105, 11/14/13)*

### NOISE.

**5.20.00 Excessive Noise.** Section 5.20.00 to 5.23.00 was adopted by Ordinance 97-107 and amended by Ordinance 05-103.

*(Amend. Ord. 05-103, 12/08/05)*

**5.20.01 Declaration of Policy.** It is hereby declared that at certain levels, noise is detrimental to the health, comfort, convenience, safety and welfare of the citizens of Turner. This ordinance is enacted to protect, preserve and promote the health, welfare, safety, peace and quiet of the citizens of Turner. It is the intent of this ordinance to prohibit certain noises and to establish noise standards and sound levels that will promote the use and enjoyment of property; protect the enjoyment of sleep and repose; promote commerce; and protect and improve the quality of life. *(Amend. Ord. 05-103 12/08/05)*

#### **5.20.02 Definitions.**

(a) **Terminology.** All terminology used in this ordinance, not defined below, shall be in accordance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

(b) Measurement of Sound

(1) All measurements called for in this ordinance shall be made with a sound level meter in good operating condition, meeting the requirement of a Type 1, Type 2, Type S1A or Type S2A meter, as specified in ANSI Standard 1.4-1971. The meter shall possess both fast and slow response capability.

(2) When the location or distance prescribed in this ordinance for measurement of sound is impractical or would provide misleading or inaccurate results, measurements may be taken at other locations or distances using appropriate correction factors.

(3) Procedures and tests required by this ordinance and not specified herein, shall be placed on file with the City Administrator.

(c) Definitions. Terms in this ordinance shall have the meanings ascribed to them in this section or in OAR 430-35-015:

(1) Dwelling Unit: A building or portion thereof designed for, or regularly used for residential occupancy.

(2) Emergency Work: Work made necessary to restore property to a safe condition following a public calamity, work to restore public utilities, or work required to protect persons or property from imminent exposure to danger.

(3) Motor Vehicle: Any vehicle which is, or is designed to be self-propelled.

(4) Noise Disturbance: Any sound which causes or tends to cause an adverse psychological or physiological effect on a person with normal sensitivities.

(5) Noise Sensitive Building: A building which is devoted, in whole or in part, to a noise sensitive use.

(6) Noise Sensitive Use: The employment of real property by people for residential occupancy, schools, churches, public libraries, or hospitals. This

definition includes any place where people normally sleep except those located in industrial or commercial zones. (*Amend. Ord. 07-102 07/14/2007*)

**5.20.03 Responsibilities and Authorities.**

(a) City Administrator. The City Administrator, or his designate, shall administer the noise control program required by this ordinance. (*Amend. Ord. 07-102 07/14/2007*)

(b) Responsibilities: The responsibilities of the City Administrator shall include:

(1) The enforcement of the provisions of this ordinance.

(2) The development of methods and procedures to be used in the measurement of sound.

(3) The investigation of citizen complaints of violations of this ordinance.

(4) The review of land use applications to insure new uses are in consonance with this ordinance; ie, new uses do not encroach on noise sensitive uses or noise sensitive uses encroach on high impact areas such as industrial zones or incompatible existing uses.

(b) Authorities: The authorities of the City Administrator shall include:

(1) The request to inspect any noise source upon any property, premises or place, or within any building.

(2) The issuance of citations of violation.

(3) The review of any permit, license, petition, zone change, plan change or other similar document, subject to review by the city, wherein a noise disturbance may be a factor, for compliance with the provisions of this ordinance.

(4) Requiring the owner or operator of any noise source to monitor and record sound levels and operating times of any equipment, facilities,

operations and activities, and to submit such data in the form and on the schedule requested by the City.

(c) Delegation: The City Administrator may delegate responsibilities and authority for administration and enforcement of this ordinance to other staff or may use outside consultants with the approval of the City Council.

(d) City Council: The City Council has the following authority and responsibilities:

(1) Establishing and amending this ordinance as required.

(2) Approving variances as specified in Chapter 5.22.02.

(3) Conducting public hearings on the above actions as required.

#### **5.21.00 Noises Prohibited.**

**5.21.01 General Prohibition.** It shall be unlawful for any person to make, continue, cause, or permit to be made or continued any noise disturbance within the City of Turner.

**5.21.02 Specific Prohibitions.** It shall be unlawful for any person to produce or permit to be produced, with any sound producing device, sound which:

(A) When measured at or within the boundary of the property on which a noise sensitive unit it located which is not the source of the sound, or within a noise sensitive unit which is not the source of the sound, exceeds:

(1) 80 dBA at any time from 10 p.m. until 7:00 a.m.; OR

(2) 100 dBA at any time from 7:00 a.m. until 10:00 p.m.

(B) Any person knowingly creating, assisting in creating, continuing, or permitting the creation of any of the following noise disturbances shall be deemed in violation of this subchapter,

regardless of this decibel level of disturbance:

(1) Use of dynamic braking devices on any motor vehicle except to avoid imminent danger to persons or property. A dynamic braking device is one used primarily on trucks and buses to convert a motor from an internal combustion engine to an air compressor for the purpose of vehicle braking without the use of wheel brakes.

(2) Repair and testing of motor vehicle or other engine which is plainly audible within a noise sensitive unit between the hours of 10:00 p.m. and 7:00 a.m.

(3) Operation of a motor vehicle, air compressor or similar mechanical device without a muffler or with a muffling device as defined in ORS 815.025.

(4) The sounding of any horn or signal device on any vehicle, except as a necessary warning of danger to property or person.

(5) The use of any gong, bell or siren upon any vehicle other than a police, fire or emergency vehicle.

(6) The operation of any vehicle in a manner to cause the tires to squeal or skid, except to avoid imminent danger to persons or property.

(7) The detonation of a blasting or explosive device, except as allowed when performed under a permit issued by appropriate governmental authorities.

(8) The playing, using or operation of any radio, musical instrument, phonograph, television set, tape recorder, loud speaker or sound amplifier, either stationary or mobile, or reproducing of sound in such a manner as to project sound upon public streets, or other public property, or upon private property owned by someone other than the owner or operator of the sound producing device in



such a manner as to disturb any other person.

### **5.21.03 Maximum Permitted Sound Levels.**

(a) Noise Sensitive Building. Except as specifically provided for elsewhere in this ordinance, no person shall cause or permit the creation or continuance of any sound in excess of the limits set forth in Table 9, Chapter 340, Oregon Administrative Rules as measured within 25 feet of any noise sensitive building.

(b) Noise Limits for Existing Industrial and Commercial Activities. Except as specifically provided for elsewhere in this ordinance, no person shall cause or permit the creation or continuance of any sound in excess of the limits set forth in Table 7, Chapter 340, Oregon Administrative Rules as measured at the property line of the activity.

(c) Noise Limits for New Industrial and Commercial Activities. After the effective date of this ordinance new industrial and commercial activities shall provide evidence that sounds will not be created in excess of the limits set forth in Table 8, Chapter 340, Oregon Administrative Rules as measured at the property line of the activity as a condition of approval of a Site Plan Application for new development or building permit approval for expansion of existing activities.

(d) Narrow Band Sound. When the City Administrator has reasonable cause to believe that the statistical noise levels in the above Tables do not adequately protect the health, safety or welfare of the citizens of Turner, the City Administrator may require the noise source to meet the requirements of Table 10, Chapter 340, Oregon Administrative Rules for allowable octave band sound, as measured from the property line of the activity.

*(Amend. Ord. 05-103, 12/08/05)*

### **5.22.00 Exceptions and Variances.**

**5.22.01 Exceptions.** The following activities shall be exempted from the provisions of this ordinance:

(a) Sounds caused by emergency equipment in the performance of emergency work.

(b) Sounds made by warning devices operating continuously for five minutes or less.

(c) Sounds caused by organized athletic and entertainment events other than motor vehicle racing events, conducted out of doors on property designated areas used for such purposes, provided however, that the exceptions shall not impair the power of any duly authorized law enforcement officer or designated municipal employee to require the curtailment of any sound producing device at the location id complaints are received from surrounding properties.

*(Amend. Ord. 05-103, 12/08/05)*

*(Amend. Ord. 07-102 07/14/2007)*

(d) Sounds caused by construction activity between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday, excluding legal holidays.

(e) Sounds created by lawn or garden tools, mechanically powered drills, saws, sanders and grinders, or similar devices used outdoors in residential areas between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and between 9:00 a.m. and 10:00 p.m. on weekends and legal holidays.

(f) Any activity to the extent regulation thereof has been pre-empted by federal law pursuant to Noise Control Act of 1972 (PL 92-574).

(g) Collection of commercial or industrial garbage between 5:00 a.m. and 7:00 a.m.

(h) Sounds caused by sources regulated as to sound production by federal law, including sounds caused by railroad or aircraft operations. (*Amend. Ord. 07-102 07/14/2007*)

#### **5.22.02 Variances**

(a) The owner or operator of a noise source which violates any of the provisions of this ordinance may apply for a variance from the regulations designated in this ordinance to the City Council. Any variance granted by the City Council herewith shall contain all conditions upon which said variance has been granted and shall specify a reasonable time period that the variance shall be effective. The City Council may grant the variance only if it is found that:

(1) Additional time is reasonably necessary for the applicant to alter or modify his activity or operation to comply with this ordinance; or

(2) The activity, operation, or noise source will be of temporary duration, and cannot be done in a manner that would comply with this ordinance; or

(3) No other reasonable alternative is available to the applicant.

(b) The City Council may prescribe any reasonable conditions or requirements it deems necessary to minimize adverse effects upon the community or the surrounding neighborhood, such as the hours during which the rules can be exceeded.

(c) The application shall be accompanied by a fee in the amount of \$250. The application shall be in a form of a letter addressed to the City Council and must state clearly the need for the variance. A separate application shall be filed for each noise source; provided, however, that several mobile sources under common ownership, or several fixed sources on a

single property may be combined into one application.

(d) An applicant for a variance shall remain subject to prosecution under the terms of this ordinance until a variance is granted.

#### **5.22.03 Existing Violations on the Effective Date of this Ordinance.**

Activities that are not in compliance with this ordinance on its effective date must comply within 90 days of the effective date. If compliance is not possible within 90 days, the producer of the noise shall apply for a variance under Section 7.2. It is the responsibility of any producer of noise to determine whether or not a noise generating activity is in compliance with this ordinance.

#### **5.23.00 Enforcement and Penalties.**

**5.23.01** The City Administrator or designated municipal employee, and any Police Officer shall citation authority for purposed of enforcing this ordinance.

**5.23.02** It is unlawful for any person to violate any provision or to fail to comply with any requirement of this ordinance. Any person violating any provision or failing to comply with any requirement of this ordinance, unless provision is otherwise made herein, shall receive a citation to appear in Turner Municipal Court and upon conviction thereof, be punished by a fine of not more than on thousand (\$1,000) dollars. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this ordinance is committed, continued, or permitted by such person and may be punished accordingly. (*Amend. Ord. 07-102 07/14/2007*)

**5.23.03** In addition to any fine, a person found guilty of violation of this ordinance will be required to pay all reasonable enforcement costs to the City created by the violation, such costs to be made available to the Municipal Court and defendant at the time of arraignment.

**5.23.04** The City Attorney, acting in the name of the City, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this ordinance or any other remedy allowed by law to enforce this ordinance.

**5.23.05** Ordinance additional to other law.

(a) The provisions of this subchapter shall be cumulative and nonexclusive and shall not affect any other claim, cause of action or remedy nor, amend or modify any law, ordinance or regulation relating to noise or sound, but shall be deemed additional to existing legislation and common law on the subject. (*Amend. Ord. 05-103, 12/08/05*) (*Amend. Ord. 07-102 07/14/2007*)

(b) In addition to the penalties outlined above, a person who deposits trash within 100 yards of a waterway is subject to the penalties listed in ORS 164.775. (*Amend. Ord. 07-102 07/14/2007*)

**5.24.00 CAMPING OR OCCUPANCY, PARKING AND STORAGE OF RECREATIONAL VEHICLES.** Unless otherwise indicated, Ordinance 15-100 enacts Section 5.24.01 through 5.24.08.

**5.24.00 Camping Within City Limits; Parking and Occupancy of Recreational Vehicles.**

**5.24.01. Camping Prohibited on Public Property.**

As used in this Section:

1. "To camp" or "camping" mean to set up, or to remain in or at a campsite, for the purpose of establishing or maintaining a temporary place to live.

2. "Campsite" means any place where any bedding, sleeping bag, or other sleeping matter, or any stove or fire is placed, established, or maintained, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.

3. "Recreational Vehicle" means a vehicle that has a bathroom, kitchen, and/or beds for use during travel and camping. This includes vehicles as described in Oregon Revised Statutes 801.180, 801.350 and 801.565.

4. "Responsible Party" means the owner of the land upon which an RV is located.

(*Amended by Ord. 23-101 Option B, 07/07/23*)

1. "Camp" or "camping" means to set up, or to remain in or at a campsite, for the purpose **of sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to the public.**

2. "Campsite" means any place where any bedding, sleeping bag, or other sleeping matter, established, or maintained, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure.

3. **"Keeping warm and dry" does not include using any measure that involves fire or flame.**

4. "Recreational Vehicle" means a vehicle that has a bathroom, kitchen, and/or beds for use during travel and camping. This includes vehicles as described in Oregon

Revised Statutes 801.180, 801.350 and 801.565.

5. “Responsible Party” means the owner of the land upon which a recreational vehicle is located.

**5.24.02 Prohibited Camping on Public Property.** It is unlawful for any person to camp in or upon any public property or public right of way, unless otherwise specifically authorized by this Code or by declaration by the Mayor in emergency circumstances.

**5.24.02(b) Permitted Camping on Public Property.**

Persons experiencing homelessness may camp for a maximum of three consecutive nights in a sleeping space site on public property as designated by the City Administrator or their designee. No person may occupy a sleeping space site for more than one 72-hour period per year.

**5.24.02(c) Regulations for Camping on Public Property**

All persons camping on a sleeping space site on public property shall comply to the following regulations:

**Sleeping Space Site Use.**

A sleeping space site is an area of 10 feet by 10 feet.

Persons using a sleeping space site. (Campers) must vacate the site by 7:30 a.m. and may not return until 7 p.m. each day.

The use of tents or a similar temporary overnight cover is allowed within a sleeping space site.

Tents erected may not exceed the dimensions of the sleeping space site, nor may any tent be combined with a tent placed on any adjoining sleeping space.

All camping gear and personal belongings must be contained in a sleeping space site allotted and removed from the area by 7:30 a.m. each day.

Any camping gear and/or personal belongings of value left on site after 7:30 a.m. will be removed and stored by the city. Campers will have 30 days to retrieve belongings.

Items determined to pose a health or safety risk to the users of this site are subject to immediate removal and/or disposal.

Children must be accompanied by a parent or guardian.

Any pet brought to the site must remain under the control of the camper. Any pet determined by City to not be under the control of the camper may be determined a stray and removed.

**Conduct of Persons Using a Sleeping Space Site**

Campers must treat other guests and members of the public with kindness, dignity, and respect.

Disrespectful, violent, disruptive, vulgar, or combative behavior will not be tolerated, nor will racism or bullying.

Campers must respect the allowable space of each camper.

All campers must pick up after themselves and their pets and dispose of all refuse, including cigarette butts in the appropriate receptacles provided.

Campers must adhere to a noise curfew from 10 p.m. to 7 a.m.

Campers must adhere to any posted speed limits and traffic rules while on the property.

No visitors are allowed on this site, only overnight campers.

No weapons of any kind are allowed on this site.

No cooking, campfires or open flames are allowed on this site.

No illegal drug use, or legal recreational drug use including marijuana and/or alcohol use, is allowed on site.

Persons found not following the rules are subject to immediate expulsion. Failure to remove personal belongings by 7:30 a.m. constitutes a breach of the rules and persons not removing personal belongings by 7:30 a.m. are subject to expulsion or exclusion from the site.

**5.24.03 Recreational Vehicle Parking Restrictions.** The following standards apply to the off-street parking, storage, and occupancy of recreational vehicles within the City of Turner:

- (a) Recreational vehicles shall not be parked or stored on any portion of a property when such parking of the vehicle inhibits the necessary view of oncoming traffic.
- (b) No portion of a parked recreational vehicle may block any portion of a sidewalk, street, alley, lane, or public right-of-way.

**5.24.04 Occupancy of Recreational Vehicles.**

- (a) Long Term Occupancy of a Recreational Vehicle Defined. As used in this ordinance, “long term occupancy” of a recreational vehicle is occupancy for a period exceeding 21 days.
- (b) Occupancy Not Exceeding 21 Days. Any person may occupy any recreational vehicle on public right of way or private property within the City of Turner for a period not exceeding 21 days without a permit. All conditions listed under TRC 5.24.03 shall be followed during this occupancy. Such an allowance can only occur twice in any 12-month period.
- (c) Occupancy Exceeding 21 Days Prohibited. It is unlawful for any person to occupy a recreational vehicle on any

property within the city for a period of more than 21 days without a permit for that occupancy issued by the City of Turner. No permit shall be required for the long-term occupancy of a campsite or recreational vehicle in an established trailer park or commercial campground.

(d) Occupancy Exceeding 21 Days with Permit. The City Council or city official designated by the City Council may issue a permit for occupancy of a recreational vehicle on private property within the City of Turner for more than 21 days.

**5.24.05 Long Term Occupancy Permit Conditions.** A permit issued under this section may be issued subject to the following conditions:

(a) Any person seeking to occupy a recreational vehicle for a period exceeding 21 days as provided herein must file a written application for a permit for long term occupancy. The person occupying the recreational vehicle shall be the applicant. The application shall provide the following information:

- (1) Documentation for proof of identity of the applicant who will reside in the permitted RV.
- (2) Letter from the property owner stating support for permit.
- (3) Start date, end date and time period for which the permit is requested. Address and site plan for the recreational vehicle location.
- (4) Information on how the following essential services will be provided:
  - A. Method for supplying clean, domestic water.
  - B. Method and schedule for disposal of garbage.
  - C. Method for disposal of sewage.

(b) Only 1 permit shall be allowed for any property at the same time.

(c) Permits shall be granted for a maximum of 90 days from the date the RV was in use on the property and shall be good for a total use of 90 days during the 12 months after permit issuance. The permit holder may notify the City of any period of time when the RV is not being occupied, such that the permit is not in use. The City will track these periods to ensure that the full 90 day use limit is available. If the City is not notified, the City hereby determines the RV permit has been in use. (*Amend. Ord. 16-101, 7/23/16*)

(d) One permit extension of 90 days may be granted by the City Council for good cause and at the City Council's sole discretion.

(e) Non-compliance with the stated methods for providing essential services shall be considered a violation of this ordinance.

(f) Applicant must notify the City, in writing, at least 30 days prior to the expiration of the original 90 day permit, of intent to request an extension of the permit from the City Council. Within 10 days the City shall send notices of the proposed permit to all property owners within 250 feet of the property boundary. Owners shall have a minimum of at least 10 business days to respond. (*Amend. Ord. 18-102, 8/9/18*)

(g) The Council may, by resolution, set an application fee for the permit for temporary occupancy of a recreational vehicle.

(h) For any applicant, a nine month waiting period shall be required between the end of any RV permit that an applicant has obtained and the initiation of any subsequent permit.

**5.24.06 Littering.** Violation of ORS 164.775 through 164.805, inclusive, as

now constituted, is an offense against the city.

**5.24.07 Operation of Recreational Vehicle with Unsealed Disposal System.**

(a) A person commits the offense of operation of a recreational vehicle with unsealed disposal system if:

(1) The person has the use, possession or control of any recreational vehicle or structure constructed for movement on highways;

(2) The vehicle or structure is equipped with a plumbing, sink or toilet fixture; and

(3) The disposal system for the vehicle or structure is unsealed or uncapped while the vehicle or structure is in use in an area open to the public.

(b) This section does not apply to disposal systems being discharged into or connected with a sewage disposal system approved by the Health Division.

**5.24.08 Penalty.** Any responsible party who violates any of the provisions of this section, or who is not full compliance with the terms of the issued permit, or whose permit is canceled, or who shall fail to remove any recreational vehicle, as defined herein, after being ordered to do so by the City, will have a fine imposed of not more than \$100.00 per day the violation exists.

**5.24.09** If after, the fine is imposed and the recreational vehicle is not removed, the City Administrator is authorized to take the necessary steps for removal of any such recreational vehicle.

**5.25.00 CHRONIC NUISANCE PROPERTY** Unless otherwise indicated,

Ordinance 07-102 enacts Sections 5.25.01 through 5.25.06

#### 5.25.01 DEFINITIONS

For the purposed of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

##### (A) CHRONIC NUISANCE PROPERTY

(1) Property on which three or more nuisance activities exist or have occurred during any 90-day period; or

(2) Property on which or within 400 feet of which any person associated with the property has engaged in three or more nuisance activities during any 90-day period; or

(3) Property which, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause does exist that possession, manufacture or delivery of a controlled substance or related offenses as defined in ORS 167.203, 475.005 through 475.285 and/or ORS 475.940 through 475.995 has occurred within the previous 90 days and the city Police Department has determined that the search warrant was based on evidence of continuous or repeated nuisance activities at the property; or

(4) Property on which continuous or repeated “nuisance activities” as defined in divisions (7), (8), (13) and (14) of that definition, exist or have occurred.

(B) CONTROL. The ability to regulate, restrain, dominate, counteract or govern property, or conduct that occurs on a property.

(C) NUISANCE ACTIVITIES. Any of the following activities, behaviors or conduct:

(1) Harassment as defined in ORS 166.065(1)(a).

(2) Intimidation as defined in ORS 166.155 through 166.165.

(3) Disorderly conduct as defined in ORS 166.025.

(4) Assault or menacing as defined in ORS 163.160 through 163.190.

(5) Sexual abuse, contributing to the delinquency of a minor or sexual misconduct as defined in ORS 163.415 through 163.465.

(6) Public indecency as defined in ORS 163.465.

(7) Prostitution or related offenses as defined in ORS 167.007 through 167.017.

(8) Alcoholic liquor violations as defined in ORS Chapter 471.105 through 471.482

(9) Offensive littering as defined in ORS 164.805.

(10) Criminal trespass as defined in ORS 164.243 through 164.265.

(11) Theft as defined in ORS 164.015 through 164.140.

(12) Arson or related offenses as defined in ORS 164.315 through 164.335.

(13) Possession, manufacture or delivery of a controlled substance or related offenses as defined in ORS 167.203, ORS 475.005 through 475.285, and/or ORS 475.940 through 475.995.

(14) Illegal gambling as defined in ORS 167.117 and/or ORS 167.122 through 167.127.

(15) Criminal mischief as defined in ORS 164.345 through 164.365.

(16) Any attempt to commit (as defined in ORS 162.405), and/or conspiracy to commit (as defined in ORS 161.450), any of the above activities, behaviors or conduct.

(17) Unlawful use of a weapon as defined in ORS 166.220.

(18) Unlawful operation of sound producing or reproducing equipment as defined in 5.20.00-5.21.03.

(19) Curfew as defined by ORS 419C.680.

(20) Curfew as defined in Turner Revised Code (TRC) 5.03.00 to TRC 5.03.04.

(D) PERSON. Any natural person, agent, association, firm, partnership, corporation or other entity capable of owning, occupying or using property in the city.

(E) PERSON ASSOCIATED WITH. Any person who, on the occasion of a nuisance activity, has entered, patronized, visited or attempted to enter, patronize or visit a property or person present on a property, including without limitation any officer, director, customer, agent, employee or any independent contractor of a property, person in charge, or owner of a property.

(F) PERSON IN CHARGE. Any person, in actual or constructive possession of a property, including but not limited to an owner or occupant of property under his or her ownership or control.

(G) PROPERTY. Any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent. For property consisting of more than one unit, property may be limited to the unit or the portion of the property on which any nuisance activity has occurred or is occurring, but includes areas of the property used in common by all unites of property and areas used for parking, loading and landscaping.

### **5.25.02 VIOLATIONS.**

(A) Any property determined by the Police Department to be chronic nuisance

property is in violation of this chapter and subject to its remedies.

(B) Any person in charge of property determined by the Police Department to be chronic nuisance property is in violation of this chapter and subject to its remedies.

### **5.25.03 PROCEDURES.**

When the Police Department receives two or more reports documenting the occurrence of nuisance activities on or within 400 feet of a property, the reports shall be reviewed to determine whether they describe the activities, behaviors or conduct enumerated under 5.25.01 “nuisance activities” (1) through (20). Upon such a finding, the Police Department may notify the person in charge in writing that the property is in danger or becoming chronic nuisance property. The notice shall contain the following information:

- (1) The street address or a legal description sufficient for identification of the property.
- (2) A statement that the Police Department has information that the property may be chronic nuisance property, with a concise description of the nuisance activities that exist, or that have occurred. The Police Department shall offer the person in charge an opportunity to propose a course of action that the Police Department agrees will abate the nuisance activities giving rise to the violation.
- (3) Demand that the person in charge respond to the city Police Department within ten days to discuss the nuisance activities.

(B) When the Police Department receives a police report documenting



the occurrence of additional nuisance activity on or within 400 feet of a property after notification as provided by division (A); or, in the case of “chronic nuisance property” as defined in 5.25.01, division (3) or (4), for which notice under division (A) is not required, the Police Department shall notify the person in charge in writing that the property has been determined to be a chronic nuisance property. The notice shall contain the following information:

(1) The street address or a legal description sufficient for identification of the property.

(2) A statement that the Police Department has determined the property to be a chronic nuisance property with a concise description of the nuisance activities leading to his/her determination.

(3) Demand that the person in charge respond within ten days to the city Police Department and propose a course of action that the Police Department agrees will abate the nuisance activities giving rise to the violation.

(4) Service shall be made either personally or by first class mail, postage prepaid, addressed to the person in charge at the address of the property determined to be a chronic nuisance property, or such other place which is likely to give the person in charge notice of the determination by the Police Department.

(5) A copy of the notice shall be served on the owner at the address shown on the tax rolls of the county in which the property is located, and/or the occupant at the address of the property, if these person are different than the person in charge, and shall be

made either personally or by first class mail, postage prepaid.

(C) If the person in charge fails to respond as required by division (B)(3), the Police Department may refer the matter to the City Attorney. Prior to referring the matter to the City Attorney, the notice required by division (B) shall also be posted at the property.

(D) If the person in charge responds as required by division (B)(3) and agrees to abate nuisance activities giving rise to the violation, the Police Department may postpone referring the matter to the City Attorney. If an agreed course of action does not result in the matter to the City Attorney. If an agreed course of action does not result in the abatement of the nuisance activities within 60 days; or, if no agreement concerning abatement is reached within 60 days, the Police Department may refer the matter to the City Attorney.

(E) When a person in charge makes a response to the Police Department as required by divisions (A)(3) or (B)(3) any conduct or statements made in connection with the furnishing of that response shall not constitute an admission that any nuisance activities have occurred or are occurring. This section does not require the exclusion of any evidence which is otherwise admissible or offered for any other purpose.

(F) The failure of any person to receive notice as provided by divisions (A) or (B) shall not invalidate or otherwise affect the proceedings under this chapter.

#### **5.25.04 COMMENCEMENT OF ACTIONS; REMEDIES; BURDEN OF PROOF.**

(A) The city Police Department may request the City Attorney to commence legal proceedings in a court to abate chronic nuisance property and to seek closure, the imposition of civil penalties against any or all of the persons in charge thereof, and, any other relief deemed appropriate.

(B) If the court determines the property to be a chronic nuisance property, the court shall order that the property be closed and secured against all unauthorized access, use and occupancy for a period of not less than 30 days, or more than one year. The order shall be entered as part of the final judgment, The court shall retain jurisdiction during any period of closure.

(C) If the court determines a property to be chronic nuisance property, the court may impose a civil penalty of up to \$100 per day for each day nuisance activities occurred on the property, following notice pursuant to division 3(B); or the cost to the city to abate the nuisance activities at the property whichever is greater. The amount of the civil penalty shall be assessed against the person in charge and/or the property and may be included in the city's money judgment.

(D) If satisfied of the good faith of the person in charge, the court shall not award civil penalties if the court finds that the person in charge at all material times could not, in the exercise of reasonable care or diligence, determine that the property had become chronic nuisance property.

(E) In establishing the amount of any civil penalty, the court may consider any of the following factors and shall cite those found applicable:

(1) The actions taken by the person in charge to mitigate or correct the nuisance activities at the property;

(2) The financial condition of the person in charge;

(3) Repeated or continuous nature of the problem;

(4) The magnitude or gravity of the problem;

(5) The cooperation of the person in charge with the city;

(6) The cost to the city of investigating and correcting or attempting to correct the nuisance activities;

(7) Any other factor deemed relevant by a court.

(F) The city shall have the initial burden of proof to show by a preponderance of the evidence that the property is chronic nuisance property.

(G) Evidence of a property's general reputation and/or reputation of persons residing in or frequenting it shall be admissible.

#### **5.25.05 SUMMARY CLOSURES.**

Any summary closure proceeding shall be based on evidence showing that nuisance activities exist or have occurred on the property and that emergency action is necessary to avoid an immediate threat to public welfare and safety. Proceedings to obtain an order of summary closure shall be governed by the provisions of ORCP 79 for obtaining temporary restraining orders. In the event of summary closure, the city is not required to comply with the notification procedures set forth in division 3(A) and (B).

#### **5.25.06 ENFORCEMENT.**

(A) The court may authorize the city to physically secure the property against all unauthorized access, use or occupancy in the event that the person in charge fails to

do so within the time specified by the court. In the event that the city is authorized to secure the property, the city shall recover all costs reasonably incurred by the city to physically secure the property as provided by the section. The City department(s) physically securing the property shall prepare a statement of costs, and the city shall thereafter submit that statement to the court for its review as provided by ORCP 68.

(B) The person in charge shall pay reasonable relocation costs of a tenant as defined by ORS 90.100(28), if, without actual notice, the tenant moved into the property after either:

(1) A person in charge received notice of the determination of the Police Department pursuant to division 3(B); or

(2) A person in charge received notice of an action brought pursuant to division 5.

(C) A lien shall be created against the property for the amount of the city's money judgment. In addition, any person who is assessed penalties under division 4(C) and/or costs under division 6(A) shall be personally liable for payment thereof to the city. Judgments imposed by this chapter shall bear interest at the statutory rate.

**5.26.00 ATTORNEY FEES.** Unless otherwise indicated, Ordinance 07-102 enacts Section 5.26.00 and 5.26.01.

**5.26.01** In any action under this title, the court may, in its discretion, award attorney's fees and costs for the abatement of any nuisance.