

# TITLE 6

## PUBLIC PROTECTION

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## Chapter 6.01

### 6.01 CURFEW

#### 6.01.010 Purpose

ORS 419C.680(4) authorizes the Board of Commissioners of any county to adopt an ordinance for a curfew restriction on minors applicable to areas not within a city, which has the same terms provided in ORS 419C.680(1), except for providing that the period of curfew may include hours in addition to those specified therein, and except for further providing for different periods of curfew for different age groups, and enacting such an ordinance is in the interests of the people of Clackamas County. [Codified by Ord. 05-2000, 7/13/00]

#### 6.01.020 Curfew Regulation, Restriction, and Hours for Minors

The County of Clackamas, outside incorporated cities, hereby provides the following curfew regulations, restrictions and hours for minors, unless a minor is emancipated pursuant to ORS 419B.550 to 419B.558:

- A. It shall be unlawful for any minor under 18 years of age to be, or remain, in or upon any street, highway, park, alley or other public place between the hours specified herein, unless such minor is accompanied by a parent, guardian or other person 21 years of age or over, and authorized by the parent or by law to have the care and custody of the minor, or unless such minor is then and there engaged in a lawful pursuit or activity which requires his presence in or upon such street, highway, park, alley or other public place during the hours specified herein. For the purpose of this chapter, the applicable hours of curfew shall be:
    1. As to minors under 14 years of age who have not begun high school, the hours shall be between 9:15 o'clock p.m. and 6:00 o'clock a.m. of the following morning, except that during the months of June, July and August, the hours shall be between 10:15 p.m. and 6:00 a.m. of the following morning.
    2. As to minors 14 years of age or over or who have begun High school, the hours shall be between 10:15 o'clock p.m. Sunday, Monday, Tuesday, Wednesday or Thursday, and 6:00 o'clock a.m. of the following morning, and between 12 midnight on Friday or Saturday, or any day prior to a legal holiday when no school is scheduled for said legal holiday, and 6:00 o'clock a.m. of the following morning, except that during the months of June, July and August, the hours shall be between 12 midnight and 6:00 o'clock a.m. Any minor violating any of the provisions of this chapter may be apprehended and taken into custody as provided in ORS 419C.080, 419C.085 and 419C.088 and may be subjected to further proceedings as provided in ORS Chapter 419C. [Codified by Ord. 05-2000, 7/13/00]
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## Chapter 6.02

### 6.02 PROHIBITED TOUCHING; NUDITY IN MASSAGE

#### 6.02.010 Purpose

The Clackamas County Board of Commissioners has made the following finding of fact that the activity prohibited in this chapter is contrary to the public peace, morals, health, safety and welfare, and that the activity prohibited in the proposed chapter constitutes a nuisance. [Codified by Ord. 05-2000, 7/13/00]

#### 6.02.020 Prohibited Touching

- A. A person commits the offense of prohibited touching if:
1. He/she engages in or agrees to engage in sexual contact in return for a fee; or
  2. He/she pays or offers or agrees to pay a fee to engage in sexual contact.

Sexual contact means any touching of the sexual or other intimate parts of a person not married to the actor, or causing such person to touch the sexual or other intimate parts of the actor, for the purpose of arousing or gratifying the sexual desire of either party.

[Codified by Ord. 05-2000, 7/13/00]

#### 6.02.030 Promoting Prohibited Touching

A person commits the offense of promoting prohibited touching if, with intent to promote prohibited touching, he/she knowingly:

- A. Owns, controls, manages, supervises or otherwise maintains a place or enterprise where prohibited touching takes place; or
- B. Induces or causes a person to engage in prohibited touching or remain in a place where prohibited touching takes place; or
- C. Receives or agrees to receive money or other property, other than compensation for personally rendered prohibiting touching services, pursuant to an agreement or understanding that the money or other property is derived from a prohibited touching activity; or
- D. Engages in any conduct that institutes, aids or facilitates an enterprise of prohibited touching. [Codified by Ord. 05-2000, 7/13/00]

#### 6.02.040 Nudity in Massage.

A person commits the offense of nudity in massage if:

- A. He/she appears in a state of nudity while engaged in the practice of massage; or
  - B. He/she, as a principal, agent, officer or employee of a massage business, appears in a state of nudity in any portion of a massage establishment where massage is given or where there is any patron of the establishment; or
  - C. He/she, as a principal, agent, officer or employee of a massage business, causes, permits, aids or abets any violation of this section by any agent or employee of the massage business. [Codified by Ord. 05-2000, 7/13/00]
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**6.02.050 Definitions**

- A. MASSAGE means pressure on, friction against, stroking and kneading the body by manual or mechanical means, and gymnastics, with or without appliances such as vibrators, infrared heat, sunlamps and external baths for the purpose of maintaining good health and establishing and maintaining good physical condition;
- B. MASSAGE BUSINESS means the operation of an establishment where massage is given;
- C. PRACTICE of MASSAGE means the performance of massage for compensation, either as the owner of or as an employee in a massage business; and,
- D. NUDITY means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For the purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered. [Codified by Ord. 05-2000, 7/13/00]

**6.02.060 Penalties**

The violations of any of the above sections shall be punishable upon conviction by a fine in an amount set by resolution of the Board of County Commissioners, for each violation. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 5-2003, 3-13-03]

**6.02.070 Nuisances**

- A. Any place where prohibited touching, promoting prohibited touching or nudity in massage is conducted or carried on as described in section 6.02.030, 6.02.040 or 6.02.050 above is declared a nuisance and may be enjoined and abated as described below.
  - B. Whenever a nuisance exists under section 6.02.060 A, the District Attorney may maintain a suit in equity in the name of Clackamas County perpetually enjoining such nuisance and for its abatement. Such suit may be brought regardless of whether any individuals have been convicted under Section 6.02.050 above. [Codified by Ord. 05-2000, 7/13/00]
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## **Chapter 6.03**

### **6.03 EMERGENCY REGULATIONS**

#### **6.03.010 Purpose**

The purpose of this chapter is to provide a procedure to minimize injury to persons, the environment, and property. In addition, to preserve the established civil authority in the event a state of emergency exists within the unincorporated areas of Clackamas County or within the incorporated areas of Clackamas County if assistance is requested by such incorporated jurisdiction. [Codified by Ord. 05-2000, 7/13/00]

#### **6.03.020 Definition Of Emergency**

For the purposes of this ordinance, emergency is defined as any man-made or natural event or circumstance causing or threatening loss of life; injury to persons, the environment, or property; human suffering; or financial loss to the extent that extraordinary measures must be taken to protect the public health, safety, and welfare. Such event shall include, but not be limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills of oil or other hazardous substances, disease, blight, infestation, utility or transportation service disruptions, civil disturbance, riot, sabotage, terrorism, war or any other such emergency as defined under Oregon Revised Statute, Chapter 401. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2006, 6-29-06]

#### **6.03.030 Authority Of County**

Under the provisions of ORS Chapter 401, the authority, and responsibility for responding to emergencies is placed at the local government level. ORS Chapter 401 further mandates that the County shall establish an emergency management agency to perform emergency program management functions to include, but not limited to, program development, fiscal management, coordination with non-governmental agencies and organizations, public information, personnel training and development and implementation of exercises to test the system. [Codified by Ord. 05-2000, 7/13/00]

#### **6.03.040 Declaration Of Emergency**

When, in the judgment of the Board of County Commissioners, a state of emergency exists, it shall declare in writing and publicize the existence of it. At the earliest practical opportunity, a written declaration of emergency shall be adopted by the Board and made a part of the County's official records. If circumstances prohibit the timely action of the Board of County Commissioners, the Chair of the Board may declare a state of emergency provided that the approval of a majority of the Board of County Commissioners is sought and obtained at the first available opportunity. Upon that declaration of emergency, the Chair of the Board is empowered to assume centralized control of, and have authority over, all departments, divisions, and offices of Clackamas County in order to implement the provisions of this chapter. The state of emergency

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declared pursuant to this section shall specify the factors which warrant the exercise of emergency controls. [Codified by Ord. 05-2000, 7/13/00]

#### **6.03.050 Succession Of Authority**

In the event that the Chair of the Board of County Commissioners is unavailable or unable to perform his or her duties under the ordinance, the duties shall be performed by:

- a. The Vice-Chair of the Board of County Commissioners; if the Vice-Chair is unable to perform, then:
- b. The remaining members of the Board of County Commissioners; if the remaining members of the Board are unable to perform, then:
- c. The Clackamas County Administrator or designee. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2006, 6-29-06]

#### **6.03.060 Regulation And Control**

Whenever a state of emergency has been declared to exist within unincorporated Clackamas County, or on the request of a municipality's governing body, the Board of County Commissioners is empowered to order and enforce the measures listed herein below. However, if circumstances prohibit the timely action of the Board of County Commissioners, the Chair of the Board may order emergency measures, provided that approval from a majority of the Board of County Commissioners is sought and obtained at the first available opportunity, or the Chair's order will become invalid. Such emergency measures shall include but not be limited to:

- a. Establish a curfew for the area designated as an emergency area which fixes the hours during which all persons other than officially authorized personnel may be upon the public streets or other public places;
  - b. Prohibit or limit the number of persons who may gather or congregate upon any public street, public place, or any outdoor place within the area designated as an emergency area;
  - c. Barricade streets and roads, as well as access points onto streets and roads. In addition, prohibit vehicular or pedestrian traffic, or restrict or regulate the same in any reasonable manner in the area designated as an emergency area for such distance or degree of regulation as may be deemed necessary under the circumstances.
  - d. Evacuate persons from the area designated as an emergency area;
  - e. Close taverns or bars and prohibit the sale of alcoholic beverage throughout Clackamas County or a portion thereof;
  - f. Commit to mutual aid agreements;
  - g. Suspend standard competitive bidding procedures to obtain necessary goods, services and/or equipment, utilizing the procedures in the Clackamas County Local Control Review Board rules, Appendix "B", Section B110.030, et seq.;
  - h. Redirect funds for emergency use; and
  - i. Order such other measures as are found to be immediately necessary for the protection of life and/or property. [Codified by Ord. 05-2000, 7/13/00]
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**6.03.070 Acquisition Of Resources**

Under this section, the Board of County Commissioners is authorized to extend government authority to non-governmental resources (i.e.: personnel, equipment) which may support regular government forces during an emergency and may enter into agreements with other public and private agencies for use of resources. When real or personal property is taken under power granted by this section, the owner of the property shall be entitled to reasonable compensation.

Under the provisions of ORS Chapter 401, State resources are available when the appropriate response to an emergency is beyond the capability of the county in which it occurs. [Codified by Ord. 05-2000, 7/13/00]

**6.03.080 Penalty**

- A. Any person, firm, corporation, association or entity who violates any emergency measure taken by the Board of County Commissioners under authority of this chapter shall be subject, upon conviction, to a fine in an amount set by resolution of the board of County Commissioners.
- B. Each day of violation shall be deemed a separate offense for purposes of imposition of penalty up to the maximum allowed by law.
- C. Where the Oregon Revised Statutes provide for a penalty for the act, commission, or omission, the penalty prescribed herein shall be no greater than prescribed by said Oregon Revised Statutes. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03]

**6.03.090 Responsibility For Emergency Management**

For purposes of this Ordinance, in accordance with ORS Chapter 401, the Emergency Management Agency for Clackamas County shall be the Clackamas County Department of Emergency Management. The Clackamas County Administrator is hereby designated as the Emergency Program Manager. Day-to-day management of the emergency program may be delegated to the Emergency Management Director. The National Incident Management System (NIMS) shall be used as the foundation for incident command, coordination and support activities. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 04-2006, 6-29-06]

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## Chapter 6.04

### 6.04 SMOKING REGULATIONS IN AND AROUND COUNTY FACILITIES

[The Title of Chapter 6.04 changed by Ord. 04-2008, 12/18/08]

#### 6.04.010 Purpose

The purpose of this chapter is to protect the health and welfare of the public, County employees and of all Clackamas County by providing a place that is free of tobacco smoke for all employees, clients, contractors and visitors to County facilities, and to reduce costs for the repair, maintenance and cleaning of County property, and to reduce the risk of fire. [Codified by Ord. 05-2000, 7/13/00; Repealed and Replaced by Ord. 04-2008, 12/18/08]

#### 6.04.020 Definitions

As used in this chapter:

- A. COUNTY FACILITY means an enclosed area that is operated, owned, leased, or rented by Clackamas County, or any of its departments or agencies. It includes, but is not limited to buildings, portions of buildings, meeting rooms, elevators, stairways, and motor vehicles that are operated in the course of County business that are not operated exclusively by one employee.
- B. DESIGNATED SMOKING AREA means a location sheltered or unsheltered that is designated by Clackamas County and posted with signage that indicates it is a permissible smoking area.
- C. ENCLOSED AREA means all space between a floor and a ceiling that is enclosed on three or more sides by permanent or temporary walls or windows, exclusive of doors or passageways that extend from the floor to the ceiling.
- D. SMOKING means inhaling, exhaling, burning or carrying any smoking instrument.
- E. SMOKING INSTRUMENT means any cigar, cigarette, pipe or other smoking equipment.

[Codified by Ord. 05-2000, 7/13/00; Repealed and Replaced by Ord. 04-2008, 12/18/08]

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**6.04.030 Policy**

- A. Smoking is prohibited inside all County facilities. Smoking is restricted to designated smoking areas outside County facilities on County property. These prohibitions shall apply to all employees, clients, contractors, and visitors.
- B. A person may not smoke or carry any lighted smoking instrument within 25 feet of the following parts of a County facility:
  - 1. Entrances;
  - 2. Exits;
  - 3. Windows that open; and
  - 4. Ventilation intake that serves an enclosed area.
- C. A conspicuous sign stating that smoking is prohibited shall be posted at the entrance of every County facility where smoking is prohibited by this chapter.  
[Codified by Ord. 05-2000, 7/13/00; Repealed and Replaced by Ord. 04-2008, 12/18/08]

**6.04.040 Violation**

It is a violation of this chapter for any person to smoke in any area where smoking is prohibited by this chapter.  
[Codified by Ord. 05-2000, 7/13/00; Repealed and Replaced by Ord. 04-2008, 12/18/08]

**6.04.050 Severability**

If any clause, section or provision of this chapter is declared unconstitutional or invalid for any reason or cause, the remaining portion of this chapter shall remain in full force and effect and be valid as if the invalid portion had not been incorporated herein.  
[Codified by Ord. 05-2000, 7/13/00; Repealed and Replaced by Ord. 04-2008, 12/18/08]

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## Chapter 6.05

### 6.05 NOISE CONTROL

#### 6.05.010 Declaration Of Findings And Policy

The Board of Commissioners for Clackamas County finds that excessive sound can and does constitute a hazard to the health, safety, welfare, and quality of life of residents of the County. While certain activities essential to the economic, social, political, educational and technical advancements of the citizens of the County necessarily require the production of sounds which may offend, disrupt, intrude or otherwise create hardship among the citizenry, the Board is obliged to impose some limitation and regulation upon the production of excessive sound as will reduce the deleterious effects thereof.

Now, therefore, it is the policy of this Board to prevent and regulate excessive sound wherever it is deemed to be harmful to the health, safety, welfare, and quality of life of citizens of Clackamas County. This chapter shall be liberally construed to effectuate that purpose. [Codified by Ord. 05-2000, 7/13/00]

#### 6.05.020 Definitions

The following terms and definitions shall apply herein unless the context requires otherwise:

- A. INDUSTRIAL or COMMERCIAL ORGANIZATIONS or WORKERS those industrial or commercial sources of sound which are subject to noise regulation by the State of Oregon Department of Environmental Quality;
  - B. NOISE SENSITIVE UNIT any building or portion thereof, currently and regularly used for the overnight accommodation of persons, including, but not limited to individual residential units, individual apartments, hospitals, and nursing homes;
  - C. PERSON includes, in addition to any individual, any public or private corporation, association, partnership, or other legally recognized public or private entity;
  - D. SHERIFF the Sheriff of Clackamas County or the Sheriff's designee; and
  - E. SOUND SOURCE includes, but is not limited to,
    - 1. Loudspeakers, public address systems;
    - 2. Radios, tape recorders and/or tape players, phonographs, television sets, stereo systems including those installed in a vehicle;
    - 3. Musical instruments, amplified or un-amplified;
    - 4. Sirens, bells;
    - 5. Vehicle engines or exhausts, when the vehicle is not on a public right-of-way;
    - 6. Motorboats;
    - 7. Vehicle tires, when caused to squeal by excessive speed or acceleration;
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8. Tools, including drills, chain saws, lawnmowers, saws, hammers, and similar tools, but only between 10 p.m. and 6 a.m. of the following day;
  9. Heat pumps, air conditioning units, generators and refrigeration units, including those mounted on vehicles; and,
  10. Animals located in urban residential zoning districts.
- F. URBAN RESIDENTIAL ZONING DISTRICTS means that those zoning districts defined in the Clackamas County Zoning and Development Chapter. The Urban Low Density Residential (R-7/R-30), Medium Density Residential (MR-1), High Density Residential (HJDR), Special High Density Residential (SHD), Planned Medium Density (PMD), Medium High Density Residential (MR-2), and any other similar urban residential zoning district defined after the enactment of this chapter.
- G. VEHICLE means automobiles, motorcycles, motorbikes, go-karts, trucks, buses, and snowmobiles. [Codified by Ord. 05-2000, 7/13/00]

#### **6.05.030 Sound Measurement**

- A. Measurements shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. For purposes of this chapter, a sound level meter shall contain at least an A weighted scale, and both fast and slow meter response capability.
- B. Personnel making measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.
- C. Measurements may only be made at, or within, three (3) feet of a window or door of a noise sensitive unit, occupied by a person making a complaint under this chapter.
- D. All measurements made pursuant to this chapter shall comply with the provisions of this section. [Codified by Ord. 05-2000, 7/13/00]

#### **6.05.040 Prohibitions**

- A. It shall be a violation of this chapter for any person to produce or permit to be produced, from a sound source either owned and operated by them or under their control, sound which, when measured at or within three feet of a window or door of a noise sensitive unit occupied by a person making a complaint under this chapter, exceeds:
    1. 50 dBA at any time between 10 p.m. and 7 a.m. the following day; or,
    2. 60 dBA at any time between 7 a.m. and 10 p.m. the same day.
  - B. When the sound is emitted from a motorboat it shall not be subject to the standards above but a violation shall be established where the sound exceeds 75 dBA as measured on shore, provided that the measurement be taken no closer than 150 feet from the boat. Where a measurement is taken from a distance close than 150 feet, a violation shall be established where the sound exceeds 84 dBA measured no closer than 50 feet from the boat. Motorboats shall not be operated on public waterways within the County unless equipped with a functioning underwater exhaust, muffler, or system which continuously pipes water into the
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exhaust line, except as may be permitted under ORS 830.260. [Codified by Ord. 05-2000, 7/13/00]

#### **6.05.050 Exceptions**

Notwithstanding 6.08.040, the following exceptions from this chapter are permitted when conditions therefor are met:

- A. Sounds caused by organized athletic, religious, educational, civic or racing activities on property generally used for such purposes, including stadiums, parks, schools, churches, athletic fields, race tracks, airports and waterways, between the hours of 7:00 a.m. and 11:00 p.m. the same day;
- B. Sounds caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, whether or not such work is performed by a public or private agency, upon public or private property;
- C. Sounds caused by sources regulated as to sound production by federal law, including, but not limited to, sounds caused by railroad, aircraft or commercially licensed watercraft operations;
- D. Sounds caused by bona fide use of emergency warning devices and alarm systems authorized by the Clackamas County Burglary and Robbery Alarm Chapter 6.09 or successor provisions;
- E. Sounds caused by blasting activities when performed under a permit issued by appropriate governmental authorities and only between the hours of 9 a.m. and 4 p.m. excluding weekends, unless such permit expressly authorizes otherwise;
- F. Sounds caused by industrial, commercial, timber-harvesting, or utility organizations or workers during their normal operations;
- G. Sounds caused by animals, animal husbandry, or agricultural operations, when the source of such sound is located outside of urban residential zoning districts;
- H. Sounds caused by motor vehicles operated on public roads, which are regulated by state law (ORS 815.250) which the Sheriff has a mandate to enforce; or,
- I. Sounds caused by construction activity or by tools, including drills, chain saws, lawnmowers, saws, hammers, and similar tools, between the hours of 6 a.m. to 10 p.m. of the same day. [Codified by Ord. 05-2000, 7/13/00]

#### **6.05.060 Variances**

Any person who is planning the operation of a sound source which may violate any provision of this chapter, may apply to the Sheriff for a variance from such provision.

- A. Application. The application shall state the provision from which a variance is being sought, the period of time for which the variance is to apply, the reason for which the variance is sought and any other supporting information which the Sheriff may reasonably require.
  - B. Review Considerations. The Sheriff shall consider:
    1. The nature and duration of the sound emitted;
    2. Whether the public health, safety or welfare is endangered;
    3. If compliance with this chapter would produce a benefit to the public; and,
    4. Whether previous permits have been issued and the applicant's record of compliance.
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- C. Time Duration of Variance. A variance may be granted for a specific time interval only.
- D. The Sheriff shall within ten (10) days deny the application, approve it, or approve it subject to conditions.
- E. The Sheriff's decision may be appealed to the Board of County Commissioners. Notice of Appeal must be delivered to the Board of County Commissioners within thirty (30) days from the date of the Sheriff's decision. The Board shall review the application de novo and within fifteen (15) days, deny the application, approve it, or approve it subject to conditions.
- F. The authority granting the variance may at any time before or during the operation of any variance revoke the variance for good cause. [Codified by Ord. 05-2000, 7/13/00]

**6.05.070 Chapter Is Additional To Other Law.**

The provisions of this chapter shall be cumulative and non-exclusive. It shall not affect any other claim, cause of action or remedy; nor, unless specifically provided, shall it be deemed to repeal, 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 such subject.

Such existing legislation includes exhaust system and sound emission standards for motor vehicles operated on public roads set forth by ORS 815.250 and OAR 340-35-030. Existing legislation also includes exhaust system standards for motorboats set forth by ORS 830.260. The Sheriff has a mandate to enforce ORS 815.250 and 830.260. [Codified by Ord. 05-2000, 7/13/00]

**6.05.080 Administration And Enforcement.**

- A. The Sheriff for Clackamas County shall administer, supervise, and perform all acts necessary to enforce this chapter.
  - B. Citation: whenever a person produces or permits to be produced sound which is found in violation of, or contrary to, any provision of this chapter, that person may be issued a citation.
  - C. Unsworn persons may be utilized, as the Sheriff deems necessary, to issue citations for violation of this chapter, under the provisions of ORS 204.635.
  - D. Forms of Citation: the form for the citation to be issued under this chapter shall contain the following: a description of the specific violation alleged, the name and address of the person producing or permitting the violation, the description of the sound source, the time and place of the occurrence of the violation, the name and address of the office of the Sheriff, a form for admitting or denying the violation as provided by subsection F of this section, and a schedule of the forfeiture amounts for specific violations.
  - E. Upon citation of a person for a violation of this chapter, the person issuing the citation may seize the offending sound source as evidence. It is the intent of this chapter to avoid such seizures except where the person being cited has received two previous citations within the previous six- (6) months for the same or similar
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- sound source. The previous citations may, but need not, occur on the same date as the citation, which prompts the seizure.
- F. A person who receives a citation for violation of this chapter shall respond within fourteen (14) days of the issuance of the citation by payment of any penalties established under this chapter, or by requesting a hearing as provided in subsections G and H of this section.
- G. Notice of Hearing: a person who receives a citation for violation of this chapter may deny all or part of the alleged violation by completing an appropriate response form, attached to the citation, and mailing or delivering it to the Sheriff's office, as indicated on the citation. Upon receipt, the Sheriff's office shall forward the form to the office of the hearing officer, who shall establish a time and place for the hearing and provide notice of it to the person who received the citation. Notice of the time and place of the hearing shall be made by mailing the notice to the address designated by the person who received the citation. The notice shall be sent by regular first class mail.
- H. Hearings Officer: the Board of County Commissioners shall appoint a quasi-judicial hearing officer or officers to hear and determine cases of alleged violations of this chapter. The hearing officer may establish a schedule of the amounts of forfeiture for violations with the approval of the Board of County Commissioners.
1. Every hearing to determine whether this chapter has been violated shall be held before a hearing officer. The hearing officer may prescribe procedures for the conduct of such hearings.
  2. Evidence, including rebuttal evidence, may be presented at the hearing and shall be limited to that which is relevant to the violation alleged.
  3. The hearing officer has the authority to administer oaths and take the testimony of witnesses. The hearings officer may issue subpoenas in accordance with Oregon Rule of Civil Procedure 55, provided that if the person who receives a citation desires that witnesses be ordered to appear by subpoena, he must so request in writing either at the time response is made to the citation or subsequently by mail at any time before five (5) days prior to the scheduled hearing. A deposit for each witness in an amount set by resolution of the Board of County Commissioners shall accompany the request, such deposit to be refunded if no forfeiture is assessed or if the total witness cost is less than the amount deposited. Witnesses appearing by subpoena shall be allowed the same fees and mileage as allowed in civil cases in district court. If a forfeiture is declared, the person ordered to forfeit shall also be ordered to pay all witness fees.
  4. The parties shall have the right to cross-examine witnesses who testify.
  5. After due consideration of the evidence and arguments, the hearings officer shall determine whether the violation as alleged in the complaint the complaint has been established. If the violation has been established, the hearings officer shall issue a decision including a brief statement of the findings of fact necessary to establish a violation and ordering the person to pay an appropriate forfeiture and witness costs, to be paid into the County General Fund. The decision and order may be oral and issued at the
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conclusion of the hearing, but in all cases must be recorded in the record of the hearing.

- I. In addition to any other enforcement procedures, the Board of County Commissioners may, upon its own motion, or upon receipt of a petition requesting hearing by the Board, issue its order to the person producing or permitting to be produced, the sound which allegedly violates this chapter, to appear before the Board and show cause why the Board should not declare the sound a violation of this chapter and order the violation abated. Noncompliance with the order may result in the Board referring the matter to the County Counsel for enforcement.
- J. An attorney at any hearing may represent a person who receives a citation or an order to show cause, provided that in the case of representation by an attorney, the person gives one (1) day of written notice to the hearings officer or Board of County Commissioners so that the County may, at its option, arrange for representation by an attorney on its behalf.
- K. County Counsel may prosecute or bring a civil action against violators of this chapter, or those who fail to comply with the hearing procedure, or an order of the Hearings Officer or Board. Such action shall be brought or pursued in the District or Circuit Court of the State of Oregon. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03]

#### **6.05.090 Penalties**

Violation of this chapter shall be punishable by a penalty or fine in an amount set by resolution of the Board of County Commissioners. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 5-2003, 3-13-03]

#### **6.05.100 Payment**

Payment of all fines under this chapter shall be made by mailing or delivering the response form attached to the citation accompanied by a check or money order for the amount of the fine to the Sheriff's Office at 2223 5. Kaen Road, Oregon City, Oregon 97045. [Codified by Ord. 05-2000, 7/13/00]

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## Chapter 6.06

### 6.06 PARK RULES

#### **6.06.02 Policy and Purpose**

The purpose of this chapter is to protect County park, forest and recreational areas, protect the health, safety and welfare of the public using such areas, and insure the best use of and benefits from such areas. The numbering system for this chapter is necessarily *unique* because of the requirements of the County and State criminal justice systems. [Codified by Ord. 05-2000, 7/13/00]

#### **6.06.03 Definitions**

**6.06.03.01** APPROVED CAMPING SHELTER means tents, motorhomes, travel trailers, vans and camper units designed specifically for overnight, outdoor camping, such as Class A, B or C vehicles, towables, and truck campers. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.03.02** BOARD means the Board of County Commissioners of Clackamas County. [Codified by Ord. 05-2000, 7/13/00]

**6.06.03.03** DIVISION means the Clackamas County Parks Division of the Business and Community Services Department and its employees. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.03.04** ANIMAL, as per ORS 167.310, means any non-human mammal, bird, reptile, amphibian or fish. LIVESTOCK, as per ORS609.125 means any ratites (large flightless birds), psittacines (parrot & macaw type birds), horses, mules, jackasses, cattle, lamas, alpacas, sheep, goats, swine, domesticated fowl and any fur bearing animal bred and maintained commercially or otherwise, within pens, cages and hutches. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.03.05** PARK AREA means any County park, forest or recreational area under the jurisdiction of the board, but not any residence located thereon. [Codified by Ord. 05-2000, 7/13/00]

**6.06.03.06** PARKS EMPLOYEE means the individual in charge of and/or responsible for a County park area. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.03.07** PARKS DIRECTOR AND/OR THEIR DESIGNATE means the person designated by the Board or the Department to administer the County's programs and

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policies for County parks, forests, and recreation areas. [Codified by Ord. 05-2000, 7/13/00]

**6.06.03.08** PEACE OFFICER means a Sheriff, deputy sheriff, constable, marshal, municipal police officer, Oregon State Police officer, and such other persons as may be designated by law. [Codified by Ord. 05-2000, 7/13/00]

**6.06.03.09** RESERVATION includes, but is not limited to, calling or conveying in writing (fax, email, US mail) in advance to obtain a campsite or day-use area. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.03.10** Other terms shall be defined as set forth in the Oregon Vehicle Code, ORS Chapter 801, unless specifically provided otherwise in this Chapter. [Codified by Ord. 05-2000, 7/13/00]

#### **6.06.04 Opening, Closing, Entry Into Parks, Other Rules**

**6.06.04.01** A. The Division is hereby authorized to close to the public use of any County Park area or portion thereof, restrict the times when any County park area shall be open to such use, and limit or prohibit a recreation use whenever such action is necessary to protect the health or safety of the public, or the safety of the park area or its facilities. Cause for park area closure or limitation, or prohibition, on park area or recreational use includes, but is not limited to: Fire hazard, dangerous weather, water conditions, sanitary protection of the watershed, park area construction or repairs, conservation of fish and wildlife, excessive traffic; unsafe or overcrowded shoreline, ramp, parking or road conditions; the prevention of damage to the park or any of its facilities; or any dangerous, unsafe or unhealthful conditions. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 08-2007, 7/18/07, Amended by Ord. 03-2010, 2/25/10]

B. Section 06.06.07.01 permits possession of alcoholic beverages in reserved campsites and group areas, but not in day-use areas. Violations shall be treated as a rule violation for the purposes of Section 6.06.15, and any person authorized to enforce park rules is authorized to confiscate and destroy any alcohol and its container. [Added by Ord. 08-2007, 7/18/07; Amended by Ord. 03-2010, 2/25/10]

**6.06.04.02** No person shall enter or use any County park area or any of its facilities without first paying the required fee, if any, unless such entry or use is otherwise authorized by a valid existing permit in the name of said person. [Codified by Ord. 05-2000, 7/13/00]

**6.06.04.03** Any County employee designated by the Director of Business and Community Services Department or any peace officer may revoke any permit that has been issued erroneously. Where there is reasonable cause to believe the permit holder or any person in his or her custody, control, or family, has violated any of the provisions of these rules or any State, County or federal law. Any person whose permit has been revoked and all

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other persons in his or her custody, control, and family shall immediately leave the park. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.04.04** Any person who violates any of the Rules herein, or who violates any state statute (including the vehicle chapter), County ordinance or code while in a County park, may be ordered to leave the park area. [Codified by Ord. 05-2000, 7/13/00]

**6.06.04.05** No person who has been ordered to leave a County Park area shall remain therein or return thereto. [Codified by Ord. 05-2000, 7/13/00]

**6.06.04.06** The Division may refuse to admit into a park area any person who has been previously ordered to leave a County park. [Codified by Ord. 05-2000, 7/13/00]

**6.06.04.07** Except for authorized overnight camping in accordance with these rules, no person, other than peace officers or authorized County personnel, shall enter or remain in any park area after the daily closing time and before the daily opening time. [Codified by Ord. 05-2000, 7/13/00]

**6.06.04.08** The daily opening and closing times for each Clackamas County Park (Barton, Boones Ferry Marina, Carver, Eagle Fern, Feyrer, Hebb, Metzler, Ed Latourette, Feldheimer Boat Ramp, Oak Grove Boat Ramp, Wagon Wheel, and Wilhoit) shall be established by the Parks Director and/or their designate and posted at the entrance to the park. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.04.09** No person shall park a vehicle on any Clackamas County park property before the posted opening time or after the posted closing time. Vehicles parked in violation of this section shall be towed or booted in accordance with the Clackamas County Parking and Towing Chapter. [Codified by Ord. 05-2000, 7/13/00]

**6.06.04.10** No person shall expose his or her genitalia while in a public place or place visible from a public place, if the public place is open or available to persons of the opposite sex. [Codified by Ord. 05-2000, 7/13/00]

**6.06.04.11** No person shall, while in, or in view of, a public place, perform an act of sexual intercourse or deviate sexual intercourse, as defined in the Oregon Revised Statutes (ORS Chapter 163). [Codified by Ord. 05-2000, 7/13/00]

### **6.06.05 Fires**

**6.06.05.01** Fires in park areas shall be confined to:

- A. Fire rings, fire pits, or fireplaces provided for such purposes;
- B. Portable stoves in established campsites and picnic areas where fires are permitted.

[Codified by Ord. 05-2000, 7/13/00]

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**6.06.05.02** No person shall leave any fire unattended, and every fire user shall extinguish the fire before leaving the park area. [Codified by Ord. 05-2000, 7/13/00]

**6.06.05.03** No person shall build, light or maintain any fire so as to constitute a hazard to any pile of wood, grass, tree, underbrush, or other flammable material. [Codified by Ord. 05-2000, 7/13/00]

**6.06.05.04** No person shall move a park fire ring, fire pit, or fireplace from its designed location in any day use area or campground. [Codified by Ord. 05-2000, 7/13/00]

### **6.06.06 Fireworks and Weapons**

**6.06.06.01** No person shall hunt, pursue, trap, kill, injure, or molest any bird or animal in any park area. [Codified by Ord. 05-2000, 7/13/00]

**6.06.06.02** No person shall discharge in any park area any firearm, pellet gun, bow and arrow, slingshot, paintball gun, or other weapon capable of injuring any person, bird, or animal. [Codified by Ord. 05-2000, 7/13/00]

**6.06.06.03** No person shall possess in any park area any: loaded firearm, loaded pellet gun; paintball gun; bow and arrow; slingshot; other weapon capable of injuring any person, bird or animal; provided however that the prohibition of loaded firearms does not apply to or affect (A) a law enforcement officer in the performance of official duty, (B) a member of the military in the performance of official duty, (C) a person licensed to carry a concealed handgun, or (D) a person authorized to possess a loaded firearm while in a public building under ORS 166.370. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.06.04** No person shall possess or use fireworks or other explosives in any park area, except as designated, without written permission from the Parks Director and/or their designate. [Codified by Ord. 05-2000, 7/13/00]

### **6.06.07 Alcoholic Beverages**

**6.06.07.01** No person shall possess alcoholic beverages in any county park without first obtaining a permit from the County Parks Department. Permits will be issued upon payment for use of designated campsites and group picnic areas. Permits for possession of alcohol will not be issued for day-use areas. Persons requesting an alcohol permit when reserving a group picnic area must also deposit with a park employee a refundable security deposit in an amount set by resolution of the board of County Commissioners. The purpose of the deposit is to guarantee that litter from consumption of alcoholic beverages is not left in the park area, to defray damage costs, if any, and to designate the person responsible. Upon leaving the park area, the depositor may ask the park employee to check his or her area and refund the deposit. If, in the opinion of the park employee, the area used is not in an orderly, clean and/or undamaged condition, the deposit shall be

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forfeited to defray cleanup or restoration expenses. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 03-2010, 2/25/10]

**06.06.07.02** [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Deleted by Ord. 03-2010, 2/25/10]

#### **6.06.08 Park Property & Property Destruction**

**6.06.08.01** No person shall mutilate, deface, damage, or remove any table, bench, building, sign, marker, monument, fence, barrier, fountain, faucet, traffic recorder, or other structure or facility of any kind in any park area. [Codified by Ord. 05-2000, 7/13/00]

**6.06.08.02** No person shall dig up, deface, or remove any dirt, stones, rock or other substance whatever, make any excavation, quarry any stone, lay or set off any blast, roll any stones or other objects, or cause or assist in doing any of said things, in any park area. [Codified by Ord. 05-2000, 7/13/00]

**6.06.08.03** No person shall erect temporary signs, markers, or inscriptions of any type in any park area, without written permission from the Parks Director and/or their designate or designate. [Codified by Ord. 05-2000, 7/13/00]

**6.06.08.04** No person shall set up or use a public address system in any park area without written permission from the Parks Director and/or their designate. [Codified by Ord. 05-2000, 7/13/00]

**6.06.08.05** No person shall wash any clothing or other materials, or clean any fish, in a lake, stream, river, or pond, in any park area. [Codified by Ord. 05-2000, 7/13/00]

**6.06.08.06** No person shall use abusive or threatening language or gestures, create any public disturbances, or engage in riotous behavior, in any park area. [Codified by Ord. 05-2000, 7/13/00]

**6.06.08.07** No person shall operate or use any noise-producing machine, vehicle, device, or instrument in any park area in a manner that is disturbing to other park area visitors. [Codified by Ord. 05-2000, 7/13/00]

**6.06.08.08** No person shall pick, cut, mutilate, or remove any flowers, shrubs, foliage, trees, or plant life or products of any type in any park area. [Codified by Ord. 05-2000, 7/13/00]

#### **6.06.09 Concessions and Solicitations**

**6.06.09.01** No person shall operate a concession, either fixed or mobile, in any park area without written permission from the Parks Director and/or their designate. [Codified by Ord. 05-2000, 7/13/00]

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**6.06.09.02** No person shall solicit, sell or offer for sale, peddle, hawk, or vend any goods, wares, merchandise, food, liquids, or services in any park area without the written consent of the Parks Director and/or their designate. [Codified by Ord. 05-2000, 7/13/00]

**6.06.09.03** No person shall advertise any goods or services in any park area without written permission from the Parks Director and/or their designate. [Codified by Ord. 05-2000, 7/13/00]

**6.06.09.04** No person shall distribute any circulars, notices, leaflets, pamphlets, or written or printed material of any kind in any park area by leaving or placing the material on a person's vehicle or property without the owner's express permission. [Codified by Ord. 05-2000, 7/13/00]

### **6.06.10 Animals**

**6.06.10.01** No person shall ride, drive, lead, or keep livestock or animals, other than cats and dogs, in any park area not designated for their use (eg: equestrian trails/facilities) without written permission from the Parks Director and/or their designate. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.10.02** No dog or cat shall be brought into or kept in a park area unless confined or controlled on a maximum 6-foot long leash. A County Parks employee may undertake, or require the person keeping the animal to take any measures, including removal of the animal from the park area, deemed necessary to prevent interference by the animal with the safety, comfort, and well being of park area users, and the appearance or sanitary condition of the park area. No animals, other than service dogs for the disabled, shall be allowed in any park area building. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.10.03** No person shall allow any animal in his or her custody or control to annoy, molest, attack, or injure any person or animal in the park area. [Codified by Ord. 05-2000, 7/13/00]

**6.06.10.04** No person shall tie up any animal in his or her custody or control and leave such animal unattended. [Codified by Ord. 05-2000, 7/13/00]

**6.06.10.05** All animal fecal matter shall be put in a bag or container and left in a designated waste receptacle. [Codified by Ord. 05-2000, 7/13/00]

**6.06.10.06** No person shall allow more than two (2) domestic pets in any campsite. [Added by Ord. 06-2007, 6/28/07]

### **6.06.11 Motor Vehicles**

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**6.06.11.01** No person shall operate any vehicle in any park area in violation of the Oregon State Vehicle Code, County ordinance, code or other laws. [Codified by Ord. 05-2000, 7/13/00]

**6.06.11.02** No person shall operate any motor vehicle in any park area at a speed in excess of 10 miles per hour, unless otherwise designated. In addition, no person shall operate any motor vehicle in any park area at a speed greater than is reasonable and prudent, having due regard to all of the following:

- A. The traffic;
- B. The surface and width of the highway;
- C. The hazard at intersections;
- D. Weather;
- E. Visibility; and
- F. Any other conditions then existing.

[Codified by Ord. 05-2000, 7/13/00]

**6.06.11.03** No person shall park a vehicle:

- A. In violation of any “No Parking” signs or markings authorized by the Parks Director and/or their designate;
- B. In any location within a park, other than officially designated parking lots and parking spaces;
- C. On grass, dirt, or landscaped areas that have not been graveled and designated for parking;
- D. Beyond the edges of curbing or parking lots; or
- E. In any designated staging area or timed parking area for longer than the maximum time limit stated on the posted sign.

[Codified by Ord. 05-2000, 7/13/00]

**6.06.11.04** No vehicle shall be parked in an emergency access area or travel lane of any park. Any vehicle parked in an emergency access area or travel lane of any park will be towed under the provisions of the Clackamas County Parking and Towing Chapter.

[Codified by Ord. 05-2000, 7/13/00]

**6.06.11.05** No person shall operate a motor vehicle on any park trail, or on any area within a park, which is not paved or graveled unless specifically marked as an area for motor vehicles. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.11.06** No person shall operate any Off Highway Vehicle (OHV), All Terrain Vehicle (ATV) or any other vehicle not legal for street riding in any park area not designated for their use without written permission from the Parks Director and/or their designate.

[Added by Ord. 06-2007, 6/28/07]

**6.06.12 Waste Disposal**

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**6.06.12.01** All bottles, cans, ashes, waste, paper, garbage, sewage, and other rubbish or refuse shall be left only in receptacles designated for that purpose. [Codified by Ord. 05-2000, 7/13/00]

**6.06.12.02** No person shall bring into a park area any trash, refuse, garbage, litter, waste material, or vehicles for the purpose of disposing them there. [Codified by Ord. 05-2000, 7/13/00]

**6.06.12.03** No person shall use kitchen or toilet facilities in a camping vehicle in the park unless the person makes provision for holding sewage and other waste materials in watertight and sanitary containers. Such containers shall not be emptied in the park except at an officially designated dump station. [Codified by Ord. 05-2000, 7/13/00]

### **6.06.13 Camping Rules**

**6.06.13.01** No person may camp overnight in a park area other than in an officially designated and numbered overnight camping space. [Codified by Ord. 05-2000, 7/13/00]

**6.06.13.02** No person may camp in any one park area for more than ten (10) days in one 14-day period of time. No person may camp for more than 20 days total in the County Parks system as a whole, in any one camping season from May 1 to September 30, without written permission from the Parks Director and/or their designate. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.13.03** User fees for campsites are due and shall be paid each day. The fee covers use of facilities and services until the vacating time of 1:00 p.m. the following day. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.13.04** The person registering for the campsite is responsible for all persons using the campsite adhering to all park area rules, but this shall not provide a defense to any person who actually causes, or participates in causing, a violation of said rules. [Codified by Ord. 05-2000, 7/13/00]

**6.06.13.05** Campers must maintain campsites in a clean, sanitary, and safe manner. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.13.06** Unless otherwise posted at the entrance to the park campground, campsites may be occupied only as assigned by a reservation or at the campground registration area. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.13.07** No more than two (2) vehicles are allowed in a single campsite. The first vehicle is included in the campsite fee. All excess vehicles will be charged an additional fee and may need to be parked in designated overflow parking. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

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**6.06.13.08** In order to avoid unnecessary congestion of campground roadways and overloading of campground water and sanitation facilities, a park employee may prohibit entry of non-camper vehicles into the campground area. The park employee may issue temporary entry permits to non-camper vehicles when, in their opinion, such entry will not unnecessarily disrupt the operation, safety, and sanitation facilities of the campground. [Codified by Ord. 05-2000, 7/13/00]

**6.06.13.09** Unless a campsite is designated RV only, the site may be accommodated with any approved camping shelter. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.13.10** Campers are required to maintain reasonable quiet between the hours of 10:00 p.m. and 7:00 a.m. and to respect the rights of other campers to peace and quiet during these hours. [Codified by Ord. 05-2000, 7/13/00]

**6.06.13.11** Individual campsites are designed to serve one family unit. The following capacities shall apply:

A. Not more than two (2) tents OR one (1) recreation vehicle and one (1) tent per campsite.

B. A maximum occupancy of 8 persons per site.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.13.12** No person under the age of 18 shall camp overnight unless accompanied by an adult. [Codified by Ord. 05-2000, 7/13/00]

**6.06.13.13** No person shall camp overnight without an approved camping shelter. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.13.14** No person shall wash a vehicle or trailer in any campsite. [Codified by Ord. 05-2000, 7/13/00]

**6.06.13.15** No swimming pools of any size shall be filled with water in the campground without written permission of the Parks Director and/or their designate. [Codified by Ord. 05-2000, 7/13/00]

**6.06.13.16** ADA accessible campsites are designed for campers with mobility challenges. Campers with DMV placards or license plates are given priority in these sites. Unless otherwise noted below persons registering for, or occupying, accessible campsite(s) must clearly display an appropriate placard or plate during their stay. *Note: Large group reservations of all campsites in a campground loop or park are exempt from this rule.*

Parks with accessible campsites for Persons with Disabilities shall:

A. Hold all reserved site(s) for the date(s) of reservation unless notified by the Parks Office to release the site;

B. Hold unreserved accessible sites site(s) for qualified drop-in campers until 7:00 p.m. daily;

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C. Release unreserved accessible site(s) for first come, first served use after 7:00 p.m. for one (1) night only stay if no qualified users have registered.  
[Codified by Ord. 05-2000, 7/13/00]

#### **6.06.14 Reservations And Check In/Out Times**

**6.06.14.01** Reservations for camping and picnicking must be made a minimum of two (2) weeks in advance. The Division reserves the right to cancel any reservation, without notification, that has not been paid as per contract. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.14.02** Reservations for picnic shelters and areas may be made if the required fees are paid to the Division within 14 days after the date the reservation is made or 14 days prior to the arrival date, whichever comes first. Cancellations must be made at least three (3) weeks prior to the reserved date in order for the deposit to be refunded. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.14.03** Reservations for campsites may be made if the required fees are paid to the Division within 14 days after the date the reservation is made or 14 days prior to the arrival date, whichever comes first. Cancellations or reductions in the number of reserved campsites must be made at least three (3) weeks prior to the reserved date in order for the deposit to be refunded. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.14.04** Check-in time for all overnight camping sites is established at 3:00 p.m. and check-out time is established at 1:00 p.m. the following day. Campsites not vacated by 1:00 p.m. shall be subject to charge of fees for an additional night, if the campsite is available and not reserved for that time period. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.14.05** If a campsite has been reserved for use by another party for that night, and the campsite has not been vacated by the non-reserved party by check-out time:

- A. The non-reserved party shall vacate the site immediately or be subject to eviction;
- B. The non-reserved party shall be subject to exclusion from Clackamas County parks per 6.06.04.04 of this chapter;
- C. Any vehicle occupying the campsite after check-out time other than a vehicle of the reserved party is parked in violation of this chapter, and may be immediately towed away without prior notice at the owner's expense under the provisions of the Clackamas County Vehicle Parking and Towing Chapter; and
- D. Park employees may remove any personal property remaining on the campsite other than property of the reserved party. [Codified by Ord. 05-2000, 7/13/00]

[Codified by Ord. 05-2000, 7/13/00]

**6.06.14.06** Individual campers or small groups reserving ADA accessible sites must provide documentation upon making the reservation or the reservation may be forfeited.

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*Note: Large group reservations of all campsites in a campground loop or park are excluded from this rule. [Codified by Ord. 05-2000, 7/13/00]*

### **6.06.15 Enforcement and Penalties**

**6.06.15.01** Any County employee designated by the Director of the Business and Community Services Department, and any peace officer may enforce these rules, order any person violating these rules to leave the park areas, and issue citations for violations of these rules. Except that only a person expressly authorized under the Clackamas County Parking and Towing Chapter may enforce the towing or booting provision of that chapter. Caretakers and Camp hosts who are appointed by the County may notify persons of the requirements of these rules, seek voluntary compliance, and order any person violating the rules to leave the park areas. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 06-2007, 6/28/07]

**6.06.15.02** Violation of any of the foregoing rules is punishable by a fine as set forth below. [Codified by Ord. 05-2000, 7/13/00]

**6.06.15.03** The form for the citation to be issued under this chapter shall contain:

- A. Description of the specific violation alleged;
- B. The date, time and location of its occurrence;
- C. The maximum amount of the fine for the violation alleged;
- D. A statement that the fine must be paid or a hearing requested within 20 days, and that upon failure to do so within 20 days opportunity for a hearing is forfeited and the fine doubles;
- E. A form for either admitting the violation alleged and paying the fine, or denying the violation alleged, paying the equivalent ball, and requesting a hearing;
- F. The address to which the form should be sent;
- G. The telephone number of the person or facility which may be contacted for information;
- H. The name and address of the violator, or in the case of a parking violation where the operator of the vehicle is not present, the license plate and vehicle number of the vehicle (if visible); and

[Codified by Ord. 05-2000, 7/13/00]

**6.06.15.04** Upon receiving a citation under this chapter, a person may:

- A. Within 20 days, deliver to the Sheriff the form provided with the citation, admitting the violation(s), forfeiting and paying the amount of the fine(s) indicated on the citation. Forfeiture may be made by mail but must be actually received by the Sheriff within 20 days from the date of the citation.
  - B. Within 20 days, deliver to the Sheriff the form provided with the citation, denying all or part of the violation(s), and posting bail by paying a refundable deposit equivalent to the amount of fine(s) indicated on the citation. If a maximum fine and minimum fine are indicated, the maximum fine shall be
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posted as bail. Response may be made by mail, but must be actually received by the Sheriff within 20 days from the date of the citation.

- C. Failure to perform any part of either Subsection 1 or 2, including failure to respond within 20 days, shall be deemed an admission of the violation(s) cited, the fine(s) for the violation(s) shall be doubled, and there shall be no further hearing or appeal.
- D. A person may also obtain an administrative review by submitting a written request for administrative review within ten (10) days from the date of the citation, setting forth mitigating circumstances or the reasons why the person believes no violation has occurred. Payment of bail or fines is not required in order to obtain administrative review. When an administrative review is requested, the citation shall be reviewed by a person other than the one who wrote the citation. The reviewer is authorized to undertake whatever investigation is necessary, to reduce the fine to the minimum, or dismiss the citation, if such action is warranted, and to order a prompt refund of any bail which has been posted. The reviewer shall respond to the requester by mail or telephone within ten (10) days of receiving the request. A request for administrative review will not delay the 20-day time limit for admitting or denying the violation and requesting a hearing as set forth in subsections A and B and C above.

[Codified by Ord. 05-2000, 7/13/00]

**6.06.15.05** Upon receipt of a denial, the Sheriff's Department shall inform the Hearing Officer, who shall set a hearing within 30 days of the Sheriff's receipt of the denial and bail, and shall notify the person who requested the hearing. Notification of the hearing date, time and place shall be mailed by regular first class mail within 15 days of the Sheriff's receipt of the denial and bail. [Codified by Ord. 05-2000, 7/13/00]

**6.06.15.06** The Board shall appoint a quasi-judicial hearings officer or officers to hear and determine cases of alleged violations of this chapter where the allegations have been denied under 6.06.15.04. [Codified by Ord. 05-2000, 7/13/00]

**6.06.15.07** A vehicle registered to a person who has failed to respond or pay fines as required by this chapter to three or more vehicle parking citations, may be towed from any park area or booted, without prior notice, in accordance with the Clackamas County Parking and Towing Chapter, and held until the amounts owing have been paid.

[Codified by Ord. 05-2000, 7/13/00]

### **6.06.16 Hearings**

**6.06.16.01** Every hearing pursuant to section 6.06.15.06 to determine whether this chapter has been violated shall be held before a hearing officer. The hearing officer may prescribe procedures for the conduct of such hearings. [Codified by Ord. 05-2000, 7/13/00]

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**6.06.16.02** Evidence, including rebuttal evidence, may be presented at the hearing and shall be limited to that which is relevant to the violation alleged. [Codified by Ord. 05-2000, 7/13/00]

**6.06.16.03** The hearing officer has the authority to administer oaths and take the testimony of witnesses. The hearing officer may issue subpoenas in accordance with Oregon Rule of Civil Procedure 55, provided that if the person who receives a citation desires that witnesses be ordered to appear by subpoena, he must so request in writing either at the time response is made to the citation or subsequently by mail at any time more than five (5) days before the scheduled hearing. A deposit for each witness in an amount set by resolution of the Board of County Commissioners, shall accompany the request, such deposit to be refunded if no fine is assessed or if the total witness cost is less than the amount deposited. Witnesses appearing by subpoena shall be allowed the same fees and mileage as allowed in civil cases in circuit court. If a fine is ordered, the person ordered to pay the fine shall also be ordered to pay all witness fees. [Codified by Ord. 05-2000, 7/13/00]

**6.06.16.04** The parties shall have the right to cross-examine witnesses who testify. [Codified by Ord. 05-2000, 7/13/00]

**6.06.16.05** After due consideration of the evidence and arguments, the hearings officer shall issue a decision at the hearing or within three business days of the conclusion thereof as to whether the violation as alleged in the complaint has been established. If the violation has been established, the hearings officer shall issue a decision including a brief statement of the findings of facts necessary to establish a violation and ordering the person to pay an appropriate fine and witness costs, to be paid into the County General Fund. The fine ordered by the hearings officer shall not be greater than the maximum nor less than the minimum listed below. If the violation is not established, the hearings officer shall order that any bail which has been posted be refunded within three business days. Bail shall be refunded by regular first class mail, or if requested at the hearing may be picked up at the County offices on the third business day after the hearing. [Codified by Ord. 05-2000, 7/13/00]

**6.06.16.06** The Hearings officer may enter an order for payment of bail or fines to the County. The County may file and record the order for payment in the County Clerk Lien Record if bail or fines are not paid within 60 days after payment is ordered, as provided in ORS 30.460. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03]

**6.06.17 Fines** All fines shall be set by resolution of the Board of County Commissioners. [Added by Ord. 5-2003, 3-13-03]

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## **Chapter 6.07**

### **6.07 CONTRACTING TO PROVIDE LAW ENFORCEMENT SERVICES**

#### **6.07.010 Purpose**

The Clackamas County Board of Commissioners has determined that the operation by private organizations of public events involving large numbers of people is a matter of County concern. It is in the best interest of the citizens of Clackamas County for the Sheriff to provide temporary law enforcement services by contract to the private organizations. [Codified by Ord. 05-2000, 7/13/00]

#### **6.07.020 Authority to Contract**

The Sheriff of Clackamas County is authorized to enter into contracts with private individuals, or public or private organizations, to provide temporary law enforcement services for short-term public events. The authority to execute such a contract is hereby delegated to the Sheriff. [Codified by Ord. 05-2000, 7/13/00]

#### **6.07.030 Contract Terms**

- A. Application for a temporary law enforcement service contract shall be made upon standard forms issued and kept by the Sheriff's Office.
  - B. Contracts authorized by this Chapter shall comply with all public contracting laws pursuant to ORS 279.310 through ORS 279.320 and Article XI, Section 10 of the Oregon Constitution.
  - C. The Sheriff shall have full discretion in determining the type of law enforcement service to provide, and the number of law enforcement officers appropriate, taking into account, but not limited to, the consideration of factors such as the size and type of the event, and the availability of officers and resources in the Sheriff's Office.
  - D. The law enforcement services shall encompass duties and enforcement functions of the type coming within the jurisdiction of, and customarily rendered by, the Clackamas County Sheriff under the statutes of the State of Oregon.
  - E. The rendition of such service, standards of performance, the discipline of officers, and other matters incident to the performance of such services, and control of personnel so employed, shall remain in Clackamas County and the Sheriff of Clackamas County.
  - F. Clackamas County, its officers and employees shall not be deemed to have assumed any liability for acts of the particular contractor, or of any officer, employee, or agent thereof, and that contractor shall covenant and agree to hold and save Clackamas County and all of its officers, agents and employees harmless from all claims whatsoever that might arise against Clackamas County, its officers, agents, and employees, by reason of any act of the contractor, its officers,
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agents and employees. Each contractor will secure and maintain throughout the term of its contract with the Sheriff comprehensive liability insurance in form and amount acceptable to Clackamas County. [Codified by Ord. 05-2000, 7/13/00]

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## Chapter 6.08

### 6.08 CHRONIC NUISANCE

#### 6.08.010 Chronic Nuisance Property – Violations.

- A. Any property within Clackamas County, that becomes a chronic nuisance property, as defined herein, is in violation of this Chapter and subject to its remedies.
- B. Any person who permits property under his or her ownership or control to be a chronic nuisance property, as defined herein, shall be in violation of this Chapter and subject to its remedies. [Added by Ord. 08-2001, 7-12-01; Amended by Ord. 13-2002, 10/17/02]

#### 6.08.020 Definitions.

- A. Abate.

Affirmative actions to remove, to stop, to prevent a nuisance including but not limited to:

- 1. Restricting or limiting use of the Property, including posting the property with signs indicating such restrictions.
  - 2. Limiting the hours of operation of a business.
  - 3. Closing the Property for not less than six (6) months or more than one (1) year.
  - 4. Entering premises for purposes of removing, compelling the removal or destruction of the structure, thing, substance, condition or property constituting a nuisance.
  - 5. Filing a civil complaint in a court of competent jurisdiction.
- B. Board of Commissioners.  
The Board of Commissioners for Clackamas County.
  - C. Chronic Nuisance Property.
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1. Property on which three (3) or more Nuisance Activities exist or have occurred during any sixty (60) day period or on which twelve (12) or more Nuisance Activities exist or have occurred during any twelve (12) month period; or
2. Property within 200 feet of which three (3) or more Nuisance Activities exist or have occurred during any sixty (60) day period or twelve (12) or more Nuisance Activities exist or have occurred during any twelve (12) month period, and the Nuisance Activities were engaged in by any Person Associated with the Property.

D. Control.

The authority to regulate, restrain, dominate, counteract or govern Property, or conduct that occurs on a Property.

E. Good Cause.

Circumstances beyond the ability of a person acting with reasonable care and diligence to control.

F. Nuisance Activities.

1. Any of the following activities, behaviors or conduct:
    - a. Harassment as defined in ORS 166.065(1)(a).
    - b. Intimidation as defined in ORS 166.155 through 166.165.
    - c. Disorderly conduct as defined in ORS 166.025.
    - d. Homicide, Aggravated Murder, Manslaughter, Criminal Negligent Homicide, Assault, Menacing or Recklessly Endangering Another Person as defined in ORS 163.005 through ORS 163.195.
    - e. Rape, Sodomy, Unlawful Sexual Penetration, Sexual Abuse, Contributing to the Delinquency of a Minor or Sexual Misconduct as defined in ORS 163.160 through 163.445.
    - f. Public Indecency as defined in ORS 163.465.
    - g. Endangering the Welfare of a Minor as defined in ORS 163.575.
    - h. Prostitution or related offenses as defined in ORS 167.007 through 167.017.
    - i. Alcoholic liquor violations as defined in ORS 471.105 through 471.482.
    - j. Criminal Trespass as defined in ORS 164.243 through 164.265.
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- k. Theft or related offenses as defined in ORS 164.015 through 164.140, where the act or acts have negatively affected the surrounding neighborhood or caused a burden on the resources of the County.
  - l. Arson or related offenses as defined in ORS 164.315 through 164.335.
  - m. Possession, Manufacture, or Delivery of a Controlled Substance or related offenses as defined in ORS 167.222, ORS 167.262 and ORS 475.991 through 475.999, except acts which constitute violations under ORS 475.992(2)(b) and (4)(f).
  - n. Criminal Mischief as defined in ORS 164.345 through 164.365.
  - o. Weapons related offenses as defined in ORS 166.180, ORS 166.190, ORS 166.220, ORS 166.384 through 166.410 and ORS 166.630.
  - p. Curfew as defined in ORS 419C.680, and Clackamas County Code Sections 6.01.010 through 6.01.020.
  - q. Robbery as defined in ORS 164.395 through 164.415.
  - r. Kidnapping as defined in ORS 163.225 through 163.235.
  - s. Criminal Mistreatment as defined in ORS 163.200 through 163.206.
  - t. Any attempt to commit (as defined in ORS 161.405), Solicitation to Commit (as defined in ORS 161.435), and/or Conspiracy to Commit (as defined in ORS 161.450), any of the activities, behaviors or conduct listed in this section.
  - u. Noise violations as prohibited in Clackamas County Code Sections 6.05.010 through 6.05.100.
  - v. Prohibited touching and nudity in massage as prohibited in Clackamas County Code Sections 6.02.010 through 6.02.070.
2. To qualify, all Nuisance Activities must be based on either:
- a. Personal observation of the Sheriff or designee; or
  - b. A determination by the Sheriff or designee, either after an investigation or following a sworn statement of a person who personally witnessed the alleged incident and a determination that there are reasonable grounds to conclude that the alleged Nuisance Activities did, in fact, occur.
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G. Permit.

To suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the doing of an act.

H. Person.

Any natural person, agent, association, firm, partnership, corporation or other entity capable of owning, occupying or using Property in Clackamas County.

I. Person Associated With the Property.

Any Person who, on the occasion of a Nuisance Activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a Property or any Person present on a Property. Person Associated With the Property includes, without limitation, any officer, director, customer, agent, employee, or any independent contractor of a Property, the Person in Charge, or an owner of a Property.

J. Person in Charge.

Any Person with 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.

K. 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 units of Property including without limitation other structures erected on the Property and areas used for parking, loading and landscaping.

L. Sheriff.

The Clackamas County Sheriff.

[Added by Ord. 08-2001, 7/12/01; Amended by Ord. 13-2002, 10/17/02]

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**6.08.030 Procedure.**

- A. When the Sheriff or designee receives information documenting the existence of activities which qualify as nuisance activities:
1. The Sheriff or designee shall independently review such report(s) to determine whether a Chronic Nuisance Property as defined in 6.08.020.C. is established by the information.
  2. Upon such determination, the Sheriff shall notify a Person in Charge in writing that the Property has been determined to be a Chronic Nuisance Property and request an abatement plan from the Person in Charge.
  3. The notice shall contain the following information:
    - a. The street address or a legal description sufficient for identification of the Property.
    - b. A statement that the Sheriff has determined the Property to be a Chronic Nuisance Property with a concise description of the Nuisance Activities leading to this determination.
    - c. A demand that the Person in Charge respond within ten (10) days to the Sheriff by either describing the actions the Person in Charge intends to take to abate the Nuisance Activities (abatement plan), or indicating good cause as to why the Person in Charge cannot abate the Nuisance Activities, or contesting the determination of the Sheriff to the Board of Commissioners.
    - d. That an agreed abatement plan must be reached with the Sheriff or designee within thirty (30) days from the date of the notice of determination of Chronic Nuisance Property
    - e. That if the Nuisance Activities are not abated and good cause for failure to abate is not shown, the matter may be referred by the Sheriff to the Board of Commissioners with a recommendation that the Board of Commissioners authorize the County Counsel to seek any remedy deemed to be appropriate to abate the Nuisance Activities.
    - f. That permitting Chronic Nuisance Property is a violation of this Chapter.
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- A. Failure to respond, failure to abate the Nuisance Activities, or failure to propose an abatement plan shall be prima facie evidence of lack of cooperativeness of the Person in Charge. Failure to execute or comply with any abatement plan shall be prima facie evidence of lack of good faith in mitigating or correcting the situation.
  - B. When a Person in Charge makes a response to the Sheriff or designee as required in Section 6.08.030, conduct or statements made in connection with the response does not constitute an admission that any Nuisance Activities have occurred or are occurring. This subsection does not require exclusion of any evidence that is otherwise admissible or offered for any other purpose.

[Added by Ord. 08-2001, 7/12/01; Amended by Ord. 13-2002, 10/17/02]

**6.08.040 Commencement of Actions; Remedies; Burden of Proof.**

- A. After receiving a referral from the Sheriff or a request for a hearing from the Person in Charge, the Board of Commissioners shall give notice of the hearing in accordance with Section 6.08.030.A.4. to the Person in Charge, and post notice of the hearing on the main entrance of the property. At the time set for hearing the Person in Charge may appear and be heard. The Board of Commissioners shall determine whether the property is Chronic Nuisance Property, whether the nuisance has been abated and whether the owner has shown good cause or otherwise has a valid defense.
  - B. The Board of Commissioners, after adopting findings that a Chronic Nuisance Property exists, may authorize the County Counsel to commence legal proceedings in the Circuit 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.
  - C. If the Court determines a Property to be Chronic Nuisance Property, the County shall request that the court order that the Property be immediately closed and secured against all unauthorized access, use and occupancy for a period of not less than six (6) months, nor more than one (1) year. The order shall be entered as part of the final judgment. The Court shall retain jurisdiction during any period of closure.
  - D. If the Court determines a Property to be Chronic Nuisance Property, the Court may impose a civil penalty in an amount set by resolution of the Board of County Commissioners, for each day Nuisance Activities occurred on the Property, following notice of determination by the Sheriff; or, the cost to the County 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 County's money judgment.
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- E. When establishing the amount of any civil penalty, the Court may consider any of the following factors and shall cite those found applicable based on the evidence presented:
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. Continuous or repeated nature of the problem;
  4. The magnitude or gravity of the problem;
  5. The cooperativeness of the Person in Charge with the County;
  6. The cost to the County of investigating and correcting or attempting to correct the Nuisance Activities;
  7. The effect upon the surrounding neighborhood during the history of the Nuisance Activities;
  8. The good faith of the Person in Charge in executing and complying with any abatement plan; and
  9. Any other factor deemed relevant by the Court.
- F. The County shall have the initial burden of proof to show by a preponderance of the evidence that the Property is a Chronic Nuisance Property.
- G. Evidence of a Property's general reputation and/or the reputation of persons residing in or frequenting it shall be admissible.

[Added by Ord. 08-2001, 7/12/01; Amended by Ord. 05-2003, 3/13/03]

**6.08.050 Summary Closure.**

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 County is not required to comply with the notification procedures set forth in Section 6.08.030.A.3, nor the Board of Commissioners

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hearing procedure provided by Section 6.08.040. [Added by Ord. 08-2001, 7/12/01]

**6.08.060 Entering Closed Property.**

It is unlawful for any person to enter, use or remain in or on property that has been ordered closed pursuant to this Chapter. [Added by Ord. 08-2001, 7/12/01]

**6.08.070 Enforcement.**

- A. The Court may authorize the County 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.
- B. In the event that the County is authorized to secure the Property, the County shall recover all costs reasonably incurred by the County to physically secure the Property. The County shall prepare and submit a statement of costs incurred in physically securing the Property to the Court for review as provided by ORCP 68.
- C. 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 Sheriff pursuant to Section 6.08.030.A.3.; or
  - 2. A Person in Charge received notice of an action brought pursuant to Section 6.08.040 and 6.08.050.
- D. A lien shall be created against the Property for the amount of the County's money judgment. In addition, any Person who is assessed penalties under this chapter shall be personally liable for payment thereof to the County. Judgments imposed by this Chapter shall bear interest at the statutory rate. [Added by Ord. 08-2001, 7/12/01]

**6.08.080 Liability.**

Nothing herein shall be relied on or construed as establishing any County responsibility, obligation or liability to any third party, for damages or otherwise, arising from the actions or inaction of the County in applying this Chapter. Nothing herein lessens or otherwise alters the Person in Charge's responsibility to third parties arising from use and condition of the Property. [Added by Ord. 08-2001, 7/12/01]

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**6.08.090 Attorney Fees.**

The Court may, in its discretion, award attorney fees to the prevailing party.  
[Added by Ord. 08-2001, 7/12/01]

**6.08.100 Sunset Clause.**

[Added by Ord. 08-2001, 7/12/01; Amended by Ord. 13-2002, 11/17/02; Deleted by Ord. 14-2004, 12/16/04]

**6.08.110 Severability.**

The provisions of this Chapter are intended to be consistent with any applicable provisions of state law. If any provisions of this Chapter, or its application to any person, or circumstances is held to be invalid for any reason, the remainder of the Chapter, or the application of its provisions to other persons or circumstances shall not in any way be affected. [Added by Ord. 08-2001, 7/12/01]

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## CHAPTER 6.09

### 6.09 LIBRARY EXCLUSION PROCESS

#### 6.09.010 EXCLUSION FROM LIBRARY

- A. A person is subject to exclusion or may otherwise have their library privileges restricted or suspended for a period of up to ninety (90) days in the event they (or a person under their control or direction) have been issued at least two (2) Library Warning Notices within any ninety (90) day period. Library Warning Notices may be given for any of the following conduct:
1. Sleeping using bedding, sleeping bag or other sleeping matter in the library unless such use has been approved in advance by the Library Director;
  2. Use of Library facilities and/or equipment for activities unrelated to the purposes of the Library;
  3. Loud or excessive noise or use of amplified recording or sound production equipment including but not limited to radios, tape recorders and compact disc (CD) players such that the sound produced is audible five (5) feet from the device, unless such use has been approved in advance by the Library Director.
  4. Violating ORS 339.010, which requires children between the ages of 7 and 18 years who have not completed the 12<sup>th</sup> grade to attend regularly a public full-time school, unless the child is exempt from compulsory school attendance by ORS 339.030.
  5. Disruptive behavior, which includes, but is not limited to:
    - a. any illegal activity;
    - b. damaging library materials or equipment;
    - c. smoking;
    - d. intoxication or drinking alcoholic beverages;
    - e. littering;
    - f. soliciting;
    - g. running; or
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Director, or designee may issue a written warning notice. The notice shall specify that in the event a second notice is issued to the individual within ninety (90) days of the first notice, that person shall be subject to exclusion from the Library and/or lose such other Library privileges as the Library Director may determine to be appropriate for a period of up to ninety (90) days. The warning notice shall also contain information concerning the right of the individual to seek its vacation by appealing to the County Administrator within five (5) days of issuance.

B. Exclusion Notice.

After an individual receives two (2) warning notices within any ninety (90) day period, the Library Director may issue a written exclusion notice excluding the person from the Library. The notice shall specify that the person is to be excluded from the Library, the period of the exclusion, the time the exclusion is to commence as well as contain information concerning the right to appeal the exclusion notice to the County Administrator. The person to whom the exclusion notice is issued shall sign a written acknowledgment of the receipt of the exclusion notice. If the person refuses to sign, the person issuing the notice shall make a written record of the refusal.

[Added by Ord. 03-2002, 3/7/02]

**6.09.040 RIGHT TO APPEAL.**

- A. The individual to whom a warning or exclusion notice is issued shall have the right to an appeal from the issuance of the notice.
  - B. An appeal of the exclusion must be filed, in writing, with the County Administrator within five (5) calendar days of the notice's issuance. The notice of appeal shall state the following:
    - 1. The appellant's name;
    - 2. The appellant's address and a telephone number where they can be reached.
    - 3. A concise statement as to why the issuance of the notice was in error; and
    - 4. Attach a copy of the notice.
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- C. A hearing on the appeal shall be held no more than thirty (30) calendar days after the filing of the appeal, except in the event the County Administrator determines otherwise. The hearing shall afford a reasonable opportunity for the person requesting it to present and rebut evidence that the warning or exclusion is invalid or unjustified. The decision of the County Administrator is final and shall be in writing. The written decision shall state how it can be appealed.
- D. The warning or exclusion shall not take effect during the pendency of the appeal. In the event no appeal is properly and timely filed, then the warning or exclusion shall take effect on the sixth calendar day following the issuance of the notice.
- E. The County shall have the burden to show by a preponderance of evidence that the warning is based on conduct described in Section 6.09.010 or the exclusion is based on the issuance of two warning notices for the conduct identified in Section 6.09.010.
- F. Copies of any and all County documents which are to be used by the County at the hearing shall be made available to the appellant at least two (2) days prior to the hearing.

[Added by Ord. 03-2002, 3/7/02]

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## 6.10 Removal of Person from Unlawful Campsite

### 6.10.010 Definitions for Chapter 6.10:

- A. "Camp," "camps," "camped" or "camping" means to set up, or to remain in or at a campsite for the purpose of establishing or maintaining a temporary place to live.
- B. "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.
- C. "Personal Property" means, for the purpose of this chapter, any item that is reasonably recognizable as belonging to a person and that has apparent utility.
- D. "Public Property" means public lands, premises and buildings, including but not limited to any building used in connection with the transaction of public business or any lands, premises or building owned or leased by the state or any political subdivision of the state, including any park, or under any bridge or viaduct.
- E. "Unlawful campsite" means a campsite where a notice of unlawful camping has been posted as provided in this Chapter, and where persons remain camped, or personal property remains at the campsite, five days after the posting of the notice. [Added by Ord. 02-2007, 2/8/07]

### 6.10.020 Unlawful Camping; Removal from Public Property

It is unlawful for any person who camps in or upon any public property to remain camped for 5 days after having been provided a notice of unlawful camping as set forth in this chapter. Any person found to be camping unlawfully on public property may be removed from the unlawful campsite as provided by this Chapter. [Added by Ord. 02-2007, 2/8/07]

### 6.10.030 Notice of Unlawful Camping

Subject to the exceptions set forth in this chapter, a notice of unlawful camping must be posted before the County removes persons from a campsite on public property, or before the County removes personal property from a campsite on public property. The notice must meet the following requirements:

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- A. The notice must be posted at the campsite in English and Spanish and must:
  - 1. State that personal property will be removed five (5) days after the notice is posted.
  - 2. State that anyone remaining at the campsite five (5) days after the notice is posted may be subject to removal.
  - 3. Indicate the location where personal property can be retrieved if property was removed from the site for storage, and that it must be retrieved within thirty (30) days.
  - 4. Include the telephone number for Clackamas County Social Services Information and Referral.
- B. The notice must be provided in writing to persons present at the campsite, allowing the person a minimum of five (5) days to vacate the area.
- C. Officials posting and providing such notice shall inform Clackamas County Social Services at the time notice is posted that notice has been provided to the persons and/or has been posted on the public property, and the location of the posting.
- D. The notice required by this section may be reduced to not less than twenty-four (24) hours when expressly authorized in a particular case by the County Administrator or his designee.
- E. Following the removal of persons from public property under the provisions of this chapter, law enforcement officials, local agency officials and outreach workers may meet to assess the notice and removal policy, to discuss whether the removals are occurring in a humane and just manner, and to determine if any changes are needed in the policy. [Added by Ord. 02-2007, 2/8/07]

#### 6.10.040 Enforcement

After the notice period provided in the notice of unlawful camping has elapsed, the County may remove any person from an unlawful campsite on public property, and may remove personal property left at the campsite as provided in section 6.10.060. [Added by Ord. 02-2007, 2/8/07]

#### 6.10.050 Exceptions

- A. The notice described in sections 6.10.030 and 6.10.040 is not required:
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1. When there are grounds for law enforcement officials to believe that illegal activities other than unlawful camping are occurring;
2. In the event of an emergency such as possible site contamination by hazardous materials, or when there is immediate danger to human life or safety, or when the Governor has declared an emergency under the provisions of ORS 131.715;
3. For a campground designated by the County, state or federal government which is occupied under an agreement between the occupant and the campground; or
4. For an area temporarily designated by the County Administrator for camping during an emergency or special event. [Added by Ord. 02-2007, 2/8/07]

#### 6.10.060 Personal Property

Personal property may be removed by the County from an unlawful campsite on public property. All unclaimed personal property removed from the campsite shall be given to law enforcement officials. The property shall be stored for a minimum of thirty (30) days during which it will be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed for thirty (30) days may be disposed of in accordance with the provisions of County Code Chapter 2.02, Unclaimed Property. Personal property that has no apparent utility or is in unsanitary condition may be immediately discarded. Weapons, drug paraphernalia and items that appear to be stolen or evidence of a crime shall be given to law enforcement officials. [Added by Ord. 02-2007, 2/8/07]

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## **Chapter 6.11 GRAFFITI**

### **6.11.010 Definitions**

- A. “Graffiti” means any inscriptions, words, figures or designs that are marked, etched, scratched, drawn, painted, pasted or otherwise affixed to the surface of real or personal property, without the prior authorization of a responsible person, and that is visible from premises open to the public.
- B. “Permit” means to knowingly allow graffiti to remain by any failure, refusal or neglect to remove.
- C. “Responsible person” means any person, organization, or entity having a legal or equitable interest in real or personal property. [Adopted by Ord. 07-2008, 12/18/08]

### **6.11.020 Administration**

The Director of the Clackamas County Department of Transportation and Development or his/her designee (the director) shall administer and enforce the provisions of this chapter. [Adopted by Ord. 07-2008, 12/18/08]

### **6.11.030 Violations**

It shall be unlawful for any responsible person to permit any graffiti to remain on real or personal property within Clackamas County for more than fifteen (15) calendar days from the date that notice of the presence of graffiti is mailed.

[Adopted by Ord. 07-2008, 12/18/08]

### **6.11.040 Procedures**

- A. Notice of Graffiti – Upon discovery that graffiti exists, the director shall provide prompt written notice to a responsible person informing them of the presence of graffiti. The notice shall be sent by regular mail and shall contain:
  - 1. The legal description of the property and/or address where the graffiti exists.
  - 2. A description of the graffiti to be removed.
  - 3. A statement that the graffiti must be removed within fifteen (15) days from the date the written notice is mailed.
  - 4. A statement that unless the graffiti is removed within the given length of time, the director may issue a citation and may refer the matter to the County Code Compliance Hearings Officer. The Code Compliance Hearings Officer may order the graffiti to be removed pursuant to Chapter 2.07 of the Clackamas County Code and may impose costs of enforcement, administrative fees, and/or civil penalties upon a responsible person.

5. A statement that, if necessary, the County costs of removing the graffiti and/or civil penalties shall be collected from a responsible person and if left unpaid may be made a lien against the property or responsible person.
- B. Enforcement – If the responsible person does not remove the graffiti to correct the violation within the time specified, the director may:
1. Order the violation referred to the Clackamas County Code Compliance Hearings Officer or undertake other enforcement actions pursuant to Chapter 2.07 of the Clackamas County Code; or,
  2. Order Clackamas County Counsel to institute appropriate suit or legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of this chapter or any Order of the Compliance Hearings Officer pursuant to Section 2.07.090.5 and any costs or fees imposed pursuant to Sections 2.07.090.A.6 and 2.07.090.A.7 of the Clackamas County Code.
- C. Hearings – Hearings regarding the existence of a violation, the identity of a responsible person, or any other legal or factual issue shall take place pursuant to Chapter 2.07 and may result in any of the remedies provided in that chapter as well as an order allowing the County to enter the property and remove the graffiti.
- D. Removal of Graffiti by County - If the Compliance Hearings Officer orders removal of the graffiti and the responsible person does not remove the graffiti within the time specified, then the Hearings Officer may order that the removal be done by the County. If removal by the County is ordered by the Hearings Officer:
1. The Director shall keep an accurate record of expenses incurred by the County in removing the graffiti and shall submit a copy of this record to the County Clerk for filing.
  2. After removal of the graffiti by the County the Director shall forward to the responsible person by certified mail a notice stating:
    - a. The total cost of the graffiti removal.
    - b. That costs will be assessed and become a lien against the property unless paid within thirty (30) days from the date of the notice.
  3. If the costs of the removal are not paid within thirty (30) days from the date of the notice, an assessment of the costs stated shall thereupon be entered in docket of County Clerk Lien Record and upon such entry being made, shall constitute a lien on the property from which the graffiti was removed. The lien provided for herein shall be foreclosed in the manner prescribed by state law for the enforcement of liens.  
[Adopted by Ord. 07-2008, 12/18/08]

#### **6.11.050 Severability**

If any clause, section, or provision of this chapter is declared unconstitutional or invalid for any reason, the remaining portion of this chapter shall remain in full force and effect and be valid as if the invalid portion had not been incorporated herein. [Adopted by Ord. 07-2008, 12/18/08]

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