

Title VI

POLICE REGULATIONS

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HISTORY:

CHAPTER 6 (*Ord. 177, 11-18-38*) made bill posting unlawful. CHAPTER 7 (*Ord. 145, 11-14-30*) regulated radio interference. CHAPTER 8 (which came with the 1963 Code) prohibited "abandoned containers." CHAPTER 9 (which came with the 1963 Code) prohibited concealed weapons and discharge of firearms, including air guns. CHAPTER 10 (*Ord. 530, 9-24-68*) prohibited junk, including junk vehicles. CHAPTER 11 (*Ord. 542, 4-28-70*) dealt with "discarded" vehicles; CHAPTER 12 (*Ord. 543, 4-28-70*), with "abandoned" ones. Chapters 6, 7, 8, and 10 were "melded" into the general-nuisance ordinance in 1978 (Chapter 5 of Title IV); Chapter 9 became part of Chapter 1 of this Title.

Chapter 1

GENERAL OFFENSES

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6.1.1 DISORDERLY CONDUCT

A person commits the crime of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

- (A) Engages in fighting or in violent, tumultuous or threatening behavior; or
- (B) Makes unreasonable noise; or
- (C) Uses abusive or obscene language, or makes an obscene gesture in a public place; or
- (D) Disturbs any lawful assembly of persons without lawful authority; or
- (E) Obstructs vehicular or pedestrian traffic on a public way; or
- (F) Congregates with other persons in a public place and refuses to comply with the lawful order of the police to disperse; or
- (G) Initiates or circulates a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency; or

- (H) Creates a hazardous or physical offensive condition by any act which he is not licensed or privileged to do.

6.1.2 FIREARM, DISCHARGING OF

It shall be unlawful for any person to intentionally discharge any type of firearm within the City; *provided however*, that nothing herein contained shall prevent the discharge of firearms by peace officers in the performance of their duties, or to any person lawfully using a firearm in defense of his property or person. Any firearm in possession of the person that was used in committing a violation of this Section may be confiscated and forfeited to the City of Vale.

Wherever the term "firearm" is used in this Section, the term shall mean any instrument used in the propulsion of shot, shell or bullets or other harmful objects by the action of gunpowder exploded within it, or by the action of compressed air within it, or by the power of springs and including what are commonly known as air rifles, B-B guns and pellet guns.

Provided however, the City Council may at any time, upon receipt of proper application, grant permits to shooting galleries, gun clubs and others for shooting in fixed localities and under specified rules. Such permits shall be in writing, attested by the Manager, conforming to such requirements as the City Council shall demand, and the permit thus issued shall be subject to revocation at any time by action of the City Council. (*Ord. 832, 3-11-2003*)

6.1.3 HARASSMENT

It shall be unlawful for any person to harass, annoy or alarm another person. A person commits the offense of harassment if, with intent to harass, annoy or alarm another person, he:

- (A) Subjects another to offensive physical contact; or
- (B) Publicly insults another by abusive or obscene words or gestures in a manner likely to provoke a violent or disorderly response; or
- (C) Communicates with a person anonymously or otherwise, by telephone, mail or other form of written communication, in a manner likely to cause annoyance or alarm; or
- (D) Engages in a course of conduct that alarms or seriously annoys another person and which serves no legitimate purpose.

6.1.4 MINORS; POSSESSION OF AND SALE OR GIFT OF ALCOHOL TO

- (A) No person under the age of twenty one (21) years shall attempt to purchase, purchase or acquire alcoholic liquor. Except when such minor is in a private residence accompanied by his parent or guardian and with such parent's or guardian's consent, no person under the age of twenty one (21) years shall have in his possession alcoholic liquor.
- (B) For the purposes of this Section, possession of alcoholic liquor includes the acceptance or consumption of a bottle of such liquor, or any portion thereof or a drink of such liquor.
- (C) No person shall sell, give or otherwise make available any alcoholic liquor to any person who is visibly intoxicated.
- (D) No person other than his parent or guardian shall sell, give or otherwise make available any alcoholic liquor to any person under the age of twenty one (21) years. A person violates this subsection if he sells, gives or otherwise makes available alcoholic liquor to a person with the knowledge that the person will violate this subsection.

- (E) However, this Section does not prohibit the acceptance or consumption by any person of sacramental wine as part of a religious rite or service.

6.1.5 RESISTING ARREST

- (A) A person commits the crime of resisting arrest if he intentionally resists a person known by him to be a peace officer in making an arrest.
- (B) "Resists", as used in this Section, means the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person.
- (C) It is no defense to a prosecution under this Section that the peace officer lacked legal authority to make the arrest, provided he was acting under color of his official authority.

6.1.6 THEFT

A person commits theft when, with intent to deprive another of property or to appropriate property to himself or to a third person, he:

- (A) Takes, appropriates, obtains or withholds such property from an owner thereof; or
- (B) Commits theft of property lost, mislaid or delivered by mistake as hereinafter described.
- (C) Commits theft by deception as hereinafter described.
- (D) Commits theft by receiving as hereinafter described.
- (E) The total value of the property in a single or aggregate transaction is under two hundred dollars (\$200.00).
- (F) As used in this Section unless the context requires otherwise:
- (1) "Appropriate property of another to oneself or a third person" or "appropriate" means to:
 - (a) Exercise control over property of another, or to aid a third person to exercise control over property of another, permanently or for so extended a period or under such circumstances as to acquire the major portion of the economic value or benefit of such property; or
 - (b) Dispose of the property of another for the benefit of oneself or a third person.
 - (2) "Deprive another of property" or "deprive" means to:
 - (a) Withhold property of another or cause property of another to be withheld from him permanently or for so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to him; or
 - (b) Dispose of the property in such manner or under such circumstances as to render it unlikely that an owner will recover such property.
 - (3) "Obtain" includes, but is not limited to, the bringing about of a transfer or purported transfer of property or of a legal interest therein, whether to the obtainer or another.
 - (4) "Owner of property taken, obtained or withheld" or "owner" means any person who has a right to possession thereof superior to that of the taker, obtainer or withholder.
 - (5) "Property" means any article, substance or thing of value, including, but not limited to, money, tangible and intangible personal property, real property, choses-in-action, evidence of debt or of contract.

- (G) *Theft of Lost or Mislaid Property:* A person who comes into control of property of another that he knows or has good reason to know to have been lost, mislaid or delivered under a mistake as to the nature or amount of the property or the identity of the recipient, commits theft if, with intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to the owner.
- (H) *Theft by Deception:*
- (1) A person, who obtains property of another thereby, commits theft by deception when, with intent to defraud, he:
 - (a) Creates or confirms another's false impression of law, value, intention or other state of mind which the actor does not believe to be true; or
 - (b) Fails to correct a false impression which he previously created or confirmed; or
 - (c) Prevents another from acquiring information pertinent to the disposition of the property involved; or
 - (d) Sells or otherwise transfers or encumbers property, failing to disclose a lien, adverse claim or other legal impediment to the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record; or
 - (e) Promises performance which he does not intend to perform or knows will not be performed.
 - (2) "Deception" does not include *[sic]* falsity as to matters having no pecuniary significance, or representations unlikely to deceive ordinary persons in the group addressed.
 - (3) In a prosecution for theft by deception the defendant's intention or belief that a promise would not be performed shall not be established by or inferred from the fact alone that such promise was not performed.
 - (4) In a prosecution for theft by deception committed by means of a bad check, it is *prima facie* evidence that the check or order would not be honored if:
 - (a) The drawer has no account with the drawee at the time the check or order is drawn or uttered; or
 - (b) Payment is refused by the drawee for lack of funds, upon presentation within thirty (30) days after the date of utterance, and the drawer fails to make good within ten (10) days after receiving notice of refusal.
- (I) *Theft by Receiving:*
- (1) A person commits theft by receiving if he receives, retains, conceals or disposes of property of another knowing or having good reason to know that the property was the subject of theft.
 - (2) "Receiving" means acquiring possession, control or title, or lending on the security of the property.
- (J) *Theft of Services:*
- (1) A person commits the crime of theft of services if:
 - (a) With intent to avoid payment therefor, he obtains services that are available only for compensation by force, threat, deception or other means to avoid payment for the services; or
 - (b) Having control over the disposition of labor or of business, commercial or industrial equipment or facilities of another, he uses or diverts to the use of himself or a third person such labor, equipment or facilities with intent to derive a commercial benefit for himself or a third person not entitled thereto.

- (2) As used in this Section, "services" includes, but is not limited to, labor, professional services, toll facilities, transportation, telephone or other communications service, entertainment, the supplying of food, lodging or other accommodations in hotels, restaurants or elsewhere, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water.
- (3) Absconding without payment or offer to pay for hotel, restaurant or other services for which compensation is customarily paid immediately upon the receiving of them is *prima facie* evidence that the services were obtained by deception.

(K) *Right of Possession:*

- (1) A person who has obtained possession of property by theft or other illegal means shall be deemed to have a right of possession superior to that of a person who takes, obtains or withholds the property from him by means of theft.
- (2) A joint or common owner of property shall not be deemed to have a right of possession of the property superior to that of any other joint or common owner of the property.
- (3) In the absence of a specific agreement to the contrary, a person in lawful possession of property shall be deemed to have a right of possession superior to that of a person having only a security interest in the property, even if legal title to the property lies with the holder of the security interest pursuant to a conditional sale contract or other security agreement.

(L) *Value of Stolen Property:* For the purposes of this Ordinance, the value of property shall be ascertained as follows:

- (1) Except as otherwise specified in this Section, value means the market value of the property at the time and place of the crime, or if such cannot reasonably be ascertained, the cost of replacement of the property within a reasonable time after the crime.
- (2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value, shall be evaluated as follows:
 - (a) The value of an instrument constituting an evidence of debt, including, but not limited to, a check, draft or promissory note, shall be considered the amount due or collectible thereon or thereby.
 - (b) The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be considered the greatest amount of economic loss which the owner might reasonably suffer because of the loss of the instrument.
- (3) When the value of property cannot reasonably be ascertained, it shall be presumed to be an amount less than two hundred dollars (\$200.00).

(M) *Defenses to Theft:*

- (1) In a prosecution for theft it is a defense that the defendant acted under an honest claim of right, in that:
 - (a) He was unaware that the property was that of another; or
 - (b) He reasonably believed that he was entitled to the property involved or had a right to acquire or dispose of it as he did.
- (2) In a prosecution for theft by receiving, it is a defense that the defendant received, retained, concealed or disposed of the property with the intent of restoring it to the owner.

- (3) It is a defense that the property involved was that of the defendant's spouse, unless the parties were not living together as man and wife and were living in separate abodes at the time of the alleged theft.
- (N) Shoplifting:
- (1) It shall be *prima facie* evidence of an intent to deprive another of property or to appropriate property to his own use or to the use of a third person if such property is taken from the premises of a retail or wholesale store or other mercantile establishment without having paid for the same and without having made arrangement for payment with the owner, manager or agent thereof.
- (2) Notwithstanding any other provision of law, a peace officer, merchant or merchant's employee who has probable cause for believing that a person has committed theft of property of a store or other mercantile establishment, may detain and interrogate the person in regard thereto in a reasonable manner and for a reasonable time.
- (3) If a peace officer, merchant or merchant's employee, with probable cause for believing that a person has committed theft of property of a store or other mercantile establishment, detains and interrogates the person in regard thereto, and the person thereafter brings against the peace officer, merchant or merchant's employee, any civil or criminal action based upon the detention and interrogation, such probable cause shall be a defense to the action, if the detention and interrogation were done in a reasonable manner and for a reasonable time.

6.1.7 NOISES, UNNECESSARY

It shall be unlawful for any person to create, assist in creating, permit, continue or permit the continuance of any loud, disturbing or unnecessary noise in the City.

The following acts are declared to be violations of this Section, but such enumeration shall not be deemed to be exclusive:

- (A) The keeping of any animal which by frequent or continued loud noise shall disturb the comfort and repose of any person in the vicinity.
- (B) The use of any automobile, motorcycle or other vehicle, any engine, stationary or moving instrument, device or thing so out of repair, or loaded or operated so as to create loud or unnecessary noise.
- (C) The sounding of any horn or signal device on any automobile, motorcycle or other vehicle on any street or public place within the City except as necessary warning of danger to property or person.
- (D) The erection, including excavation, demolition, alteration or repair or any building, other than between the hours of seven o'clock (7:00) A.M. and six o'clock (6:00) P.M., except upon special permission granted by the Chief of Police or City Manager.
- (E) The use of any gong or siren upon any vehicle other than police, fire or other emergency vehicle or by special permission.
- (F) The operation of any internal combustion engine without having the same equipped with, and using thereon, an effective muffler.
- (G) The use of a muffler "cut-out" on any motor vehicle upon any street.
- (H) The use or operation of any automobile or electric piano, phonograph, radio, loud speaker, or any sound amplifying device so loudly as to disturb persons in the vicinity thereof, or in such manner as renders the same a public nuisance; provided, however, that upon application to the Chief of Police or City Manager, permits may be granted to responsible persons or organizations to broadcast programs of music, news, speeches or general entertainment. (*Ord. 832, 3-11-2003*)

6.1.8 TENT SHOWS, REVIVAL MEETINGS, ROCK CONCERTS

It shall be unlawful for any person, firm or corporation to erect or cause to be erected, any temporary structure composed wholly or partly of canvas or similar material to be used as a place of amusement, or for any religious, educational or recreational purposes, or for any other public assemblages whatsoever, or to stage or conduct any open air concert, festival, revival meeting, circus or any other type of amusement or religious, educational or recreational assemblage of more than two hundred fifty (250) person *[sic]* at which sound amplification equipment, temporary stages, platforms or seating will be used within the limits of the City of Vale without first having made application to, and received permission to do so, in accordance with the conditions and limitations as set out in this Section:

- (A) The applicant for such permission shall file an application in writing with the City Manager, which shall clearly indicate:
 - (1) The name of the person, firm or corporation that will use the structure or sponsor the event.
 - (2) The location of the principal place of business of such person, firm or corporation.
 - (3) The names and addresses of the officers of such firm or corporation.
 - (4) The length of time the structure is intended to be used for the purpose applied for.
 - (5) The hours of the day or night during which such structures are intended to be used as a place of assembly or during which the event is to be conducted .
 - (6) Such other relevant information as the City Manager may require.
- (B) The applicant shall furnish evidence that a public liability insurance policy in amounts of not less than fifty thousand dollars (\$50,000.00) for one person and one hundred thousand dollars (\$100,000.00) for any one accident, shall be in force and effect at the time such structure is to be occupied, or at the time the event is to be conducted.
- (C) The applicant shall deposit with the City Treasurer a cash bond in the sum of one thousand dollars (\$1,000.00), conditioned upon saving harmless the City of Vale from any and all liabilities or causes of action, which might arise by the virtue of the granting of a permit to the applicant and conditioned further that no damage will be done to the streets, sewers, trees or adjoining property and that no dirt, paper, litter or other debris will be permitted to remain upon the streets or upon any private property by the applicant. Such cash bond shall be returned to the applicant upon certification by the Chief of Police that all conditions of this Section have been complied with.
- (D) Upon completion of such structure or prior to commencement of an open air assemblage, the place shall not be used as a place of assembly until the applicant shall furnish evidence to the City Manager that the applicant has caused the entire premises to be inspected and approved by the State Fire Marshal, the County Sanitarian and the Chief of Police.

It shall be unlawful for any person, firm or corporation to cause or permit the occupancy of such structure or to conduct an open air assembly as aforesaid without first obtaining the inspections and approvals as aforesaid.

- (E) Any person, firm or corporation whose application for a permit has been denied, or whose permit has been revoked for non-compliance with this Section, as aforesaid, may, within ten (10) days after receipt of a notice thereof, appeal to the City Council for a hearing thereon, and the decision of the Council in this regard shall be final.
- (F) In no event shall a performance be conducted that would constitute a nuisance due to noise. Public address or sound amplification systems will be so tuned that words are not audible a distance of two hundred fifty feet (250') from the place of assembly.

All performances, meetings or shows shall be concluded by eleven o'clock (11:00) P.M. (*Ord. 832, 3-11-2003*)

6.1.9 POSTERS, UNAUTHORIZED

It shall be unlawful for any person to affix a placard, bill or poster upon any personal or real property, private or public, without first obtaining permission from the owner or proper public authority.

Within ten (10) days after the event has occurred for which the placard, bill or poster was displayed, the same shall be removed, the person displaying such placard, bill or poster and the person who gave permission for the posting, shall each be responsible for the removal thereof.

6.1.10 PROPERTY, MALICIOUS DESTRUCTION

It shall be unlawful for any person, with intent to cause substantial inconvenience to the owner, or to another person, and having no right to do so, nor reasonable grounds to believe that he has such right, to tamper or interfere with the property of another, or having no right to do so, nor reasonable ground to believe that he has such right, he intentionally or recklessly damages property of another in an amount not exceeding one thousand dollars (\$1,000.00).

6.1.11 VEHICLES, CHILDREN LEFT UNATTENDED IN

- (A) No person having the care, custody, control or guidance of a child under the age of eight (8) years shall leave or permit such child to be left unattended in any motor vehicle for a period of more than ten (10) minutes.
- (B) For the purpose of this Section, a child under eight (8) years of age shall be considered "unattended" unless there is another person over the age of twelve (12) years physically present in the motor vehicle with said child at all times.
- (C) Whenever a peace officer has probable cause for believing that a child has been left unattended in a motor vehicle in violation of this Section, such peace officer may enter said vehicle and remove said child to a place of safety. A peace officer may use such force as may be reasonably necessary to effect an entry in order to remove such child.
- (D) If a peace officer with probable cause for believing that a child has been left unattended in a motor vehicle, enters and removes a child therefrom, and the parent, guardian or other custodian responsible for such child thereafter brings against the police officer any civil or criminal action in any court, based upon the entry and removal of such child, such probable cause shall be a defense to the action, if the entry and removal of the child was done in a reasonable manner.

6.1.12 CRIMINAL TRESPASS

A person commits the crime of criminal trespass if he remains or enters unlawfully in or upon a premises, including a dwelling.

- (A) "Dwelling" means a building which regularly or intermittently is occupied by a person lodging therein at night, whether or not a person is actually present.
- (B) "Premises" includes any building and any real property, whether privately or publicly owned.

6.1.13 LITTERING

- (A) No person shall create an objectionable stench or degrade the beauty or appearance of property or detract from the natural cleanliness or safety of property by intentionally:
 - (1) Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission of the owner or upon any public way.

- (2) Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank or other contaminated source upon the land of another without permission of the owner, or upon any public way.
 - (3) Permitting any rubbish, trash, garbage, debris or other refuse to be thrown from a vehicle which he is operating; except that this subsection shall not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Interstate Commerce Commission or the Public Utility Commissioner of Oregon or a person operating a school bus subject to ORS 485.010 to 485.060.
- (B) As used in this Section, "public way" includes, but is not limited to, roads, streets, alleys, lanes, trails, beaches, parks and all recreational facilities operated by the City, State, special service districts or County for use by the general public. (*Ord. 603, 9-26-78*)

6.1.14 OFFENSIVE LITTERING

- (A) No person shall create an objectionable stench or degrade the beauty or appearance of property or detract from the natural cleanliness or safety of property by intentionally:
- (1) Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission of the owner or upon any public way.
 - (2) Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank or other contaminated source upon the land of another without permission of the owner, or upon any public way.
 - (3) Permitting any rubbish, trash, garbage, debris or other refuse to be thrown from a vehicle which he is operating; except that this subsection shall not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Interstate Commerce Commission or the Public Utility Commissioner of Oregon or a person operating a school bus subject to ORS 485.010 to 485.060.
- (B) As used in this Section, "public way" includes but is not limited to roads, streets, alleys, lanes, trails, beaches, parks and all recreational facilities operated by the City, State, special service districts or county for use by the general public. (*Ord 584, 4-12-77; renumbered Ord. 607, 11-7-78*)

6.1.15 DRINKING IN PUBLIC PLACES; VEHICLES

- (A) It shall be unlawful for any person to drink any intoxicating liquor upon any street, alley, sidewalk, doorway, or alcove, or any public or private parking lot or vacant lot within the City.
- (B) It shall be unlawful for any person to drink any intoxicating liquor while in any motor vehicle upon any street or alley or in any public or private parking lot within the City. (*Ord. 702, 10-10-89*)

6.1.16 POSSESSION OF MARIJUANA

It shall be unlawful for any person to possess any quantity of the dried leaves, stems and flowers of the plant Cannabis family Moraceae. It shall be an affirmative defense to a charge under this section that such possession was authorized pursuant to state law. (*Ord. 709, 6-9-92*)

6.1.17 FAILURE TO APPEAR ON A CITATION; PENALTY

- (A) A person commits the crime of failure to appear on a citation if the person knowingly fails to appear before the Municipal Court pursuant to a citation issued and served for a violation of this Code, and a complaint or information is filed.
- (B) A person convicted of the crime of failure to appear on a citation pursuant to this section shall be subject to a sentence including a fine not to exceed \$1,000.00 and/or a term of imprisonment not to exceed six (6) months. (*Ord. 711, 9-8-92. NOTE: This Section had been numbered 6.1.16 upon passage, but a 6.1.16 already existed.*)

Chapter 2

DOGS

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6.2.1 DEFINITIONS

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

ADEQUATE LEASH: No more than six feet (6') in length and a tensile strength adequate to restrain the dog.

AT LARGE: Off the premises of the owner or person having control, custody or possession of the dog while the dog is not under the complete control of the owner or person by adequate leash. However, a dog in obedience or field training exercise under the direct supervision of a handler shall not be considered to be "at large".

DOG: A dog is defined, under this ordinance as any canine including but not limited to domestic dogs (canis familiaris), wolves (canis lupis) and wolf hybrids of any percentage. Admission by the owner is all that is required to prove wolf hybrid status.

OWNER: A person, firm, association or corporation owning, keeping or harboring a dog.

6.2.2 ANIMAL CONTROL OFFICER

- (A) Definition. An Animal Control Officer shall mean the Chief of Police, a duly appointed deputy, police officer and/or any person with whom the City enters into an agreement for the control of dogs within the City.
- (B) Powers and Duties. In addition to the powers and duties set forth in the Oregon Revised Statutes, the Animal Control Officer shall have the following powers and duties:
- (1) To have police power in the enforcement of all the provisions of this Chapter relating to the licensing and impounding of dogs.
 - (2) To maintain and keep or contract with a private provider of a small animal shelter or other place where all dogs subject to impoundment may be kept and held safely and provided with proper and sufficient food and water.
 - (3) To impound and keep safely any dog which is found doing any of the activities set forth in this Chapter, apparently Abandoned [sic].
 - (4) To issue citations and complaints, appear as a witness and to perform all other acts necessary for the enforcement of this Chapter.
 - (5) To receive any costs and charges hereinafter provided in this Chapter.
 - (6) To investigate reports of biting dogs as hereinafter set forth in this Chapter.
 - (7) To investigate livestock claims. (*Ord. 715, 3-23-93*)

6.2.3 LICENSE REQUIRED, EXCEPTIONS; TAG AND COLLAR

Persons owning, possessing, or keeping a dog which has a set of permanent canine teeth shall, as of January 1 of each year, or immediately after such person becomes the owner, possessor, or keeper of such a dog, procure from the City a license for the dog.

It is unlawful to keep, maintain, harbor or possess upon any one premises more than three (3) dogs unless the owner makes special application to do so. This does not, however, permit the operation of a kennel or other commercial operation. Application to house more than three (3) dogs on a noncommercial basis must be made to the City and must be accompanied by the written consent of at least seventy five percent (75%) of all persons in possession of premises within three hundred feet (300') of the premises upon which application is being made. Application shall be accompanied by a fee of ten dollars (\$10.00) per dog. All dogs covered by the provisions of this Code Section shall be confined upon the property or under leash at all times; provided, however, that this Section shall not apply to dogs under three months of age.

No license shall be required to be paid for a dog owned by a blind person or disabled person who uses it as a guide or trained assistance animal. A license shall be issued for such dog upon filing with the City an affidavit by the disabled person showing the dog to come within this exemption.

Every individually licensed dog must wear a collar with the license tag attached.

In addition to the other sections of this chapter, any wolf or wolf hybrid shall be subject to Sections 6.2.17 and 6.2.18 which shall supersede any other section in case of conflict. (*Ord. 715, 3-23-93*)

6.2.4 LICENSE FEES

The fees for the licenses required by the preceding Section shall be five dollars (\$5.00) per year for a dog which has been spayed or neutered, for which a veterinarian's certificate of operation for the spaying or neutering of the dog is presented to the City. The fee for the license of any other dog shall be ten dollars (\$10.00) per year. These licenses shall be required of all dogs which have a set of permanent canine teeth. Proof of rabies vaccination will be required prior to issuance of a license.

A penalty of twenty dollars (\$20.00) shall apply to:

(A) A person who becomes the owner, possessor, or keeper of a dog required to be licensed under this Section who fails to apply for a license within thirty (30) days after he or she becomes the owner or keeper of the dog; and

(B) The owner, possessor, or keeper of a dog which has gained permanent canine teeth during any calendar year who shall neglect to procure a license for the dog at the time it gains permanent canine teeth.

A fee of one dollar (\$1.00) shall be charged for replacement of lost license tags. (*Ord. 715, 3-23-93*)

6.2.5 RUNNING AT LARGE

It shall be unlawful for a dog to run at large. It shall also be unlawful for the dog to be on elementary or secondary school properties, City parks, golf courses or other municipally-owned property except on an adequate leash.

(A) It is unlawful for any owner, possessor, or person who keeps any dog, to permit the same to be, remain, or run at large off or away from the premises of the owner, possessor or keeper thereof, unless the dog is:

- (1) Upon the private premises of another with the prior consent of the person in possession of such premises; or
- (2) Controlled by a leash, not to exceed six feet (6') in length which shall be securely fastened to a collar or harness worn by the dog; provided, that the dog is not allowed in any case to enter without prior permission upon the private property of another; and provided the dog is not permitted to cause damage to any public property; or
- (3) Confined in a motor vehicle.

(B) Any owner, possessor or person who keeps any dog, violating the provisions of this Section, shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars (\$25.00) for the first occurrence, fifty dollars (\$50.00) for the second occurrence, and one hundred dollars (\$100.00) for each occurrence thereafter. (*Ord. 715, 3-23-93*)

6.2.6 IMPOUNDING DOGS, EXCEPTION

A dog which is running at large or is a nuisance as herein defined or is unlicensed is in violation of this Chapter and may be impounded by the Animal Control Officer, or a representative of Malheur County or a representative of a City-approved animal shelter. (*Ord. 715, 3-23-93*)

6.2.7 IMPOUNDING REGULATIONS, FEES

(A) Whenever a dog, licensed according to Section 6.2.3 of this Chapter, is impounded pursuant to the provisions of this Chapter, the Animal Control Officer or a representative of a City-approved animal shelter, shall forthwith give notice of the impounding by personal service or by registered mail to the owner, possessor or keeper, and if the owner, possessor, or keeper does not, within five (5) days after date of service of personal notice upon him/her or from date of the receipt of said registered mail, claim the dog and pay the required fines and any boarding fees, the dog may be humanely killed or disposed of to a person agreeing to provide it a suitable home. The owner, possessor or keeper of an impounded dog shall be required to pay all fines and boarding fees regardless of whether or not the dog is claimed. If the dog is unlicensed, the owner shall also purchase a license and pay the applicable penalty for failure to have a license.

(B) If the owner, possessor or keeper of the dog is not known to the impounding officer, notice of impoundment shall be placed on the bulletin board at the City Hall. If at the expiration of three (3) days after the notice is posted, neither the owner nor possessor nor keeper claims the dog and pays the required fines and any boarding fees, it may be humanely killed or redeemed by a

person agreeing to provide it a suitable home, except that destruction may be made in less time when the dog is sick or injured and should be disposed of for humanitarian reasons.

- (C) The City is hereby authorized to charge and collect for impounding dogs a fee sufficient to cover the City's direct costs for impounding, confining, transporting and boarding any dogs impounded under this Section, plus an administrative fee of five dollars (\$5.00). Such fees may be amended from time to time by resolution of the City Council. (*Ord. 715, 3-23-93; amended by Ord. 805, 8-24-99*)

6.2.8 RIGHT OF APPEAL

A dog owner, whose dog is impounded, within five (5) days of the date of service of personal notice upon him or from date of receipt of registered mail or from the date of placement of notice on the bulletin board of the City Hall or believing himself aggrieved by the seizure and impounding of his dog, may apply to the Municipal Judge for the release of the dog and the Municipal Judge shall thereupon set a time and place for hearing the application and notify the impounding officer, and upon a summary hearing at such time and place the Municipal Judge shall have full power to determine whether the dog has been wrongfully impounded and whether it shall be returned to its owner and upon what terms. Payment of the impoundment fee shall not prejudice an owner's right of appeal of an alleged wrongful impoundment. (*Ord. 715, 3-23-93*)

6.2.9 SALE, DESTRUCTION OF DOGS

- (A) Upon the sale of an unlicensed dog, the purchaser shall be required to obtain a license for the current year.
- (B) If after the expiration of the applicable time as set forth in subsection 6.2.7(A) or (B), a period of three (3) days has elapsed during which an impounded dog cannot be sold, the City or its agent is hereby authorized and empowered to kill the dog by lethal injection of sodium pentobarbital or other substance approved by the Oregon State Veterinary Medical Examining Board.
- (C) If a particular dog to be destroyed poses an imminent threat to human or animal life, making use of lethal injection of sodium pentobarbital inappropriate, a reasonable and appropriate alternative may be used. (*Ord. 715, 3-23-93*)

6.2.10 CONFINEMENT OF BITING DOGS

In order to permit observation of dogs, skunks and other animals for rabies, the owner or keeper of an animal which is known to have bitten a human being, must confine the animal immediately after such biting for a period of ten (10) days in one of the following ways.

- (A) Confine indoors or if outdoors upon a leash.
- (B) Confine in a veterinary hospital or kennel.

Care shall be exercised to avoid neglect of, or injury to such animals during confinement pursuant to this Section. (*Ord. 715, 3-23-93*)

6.2.11 DOGS A NUISANCE

- (A) A dog is a public nuisance if it:
- (1) Bites a person.
 - (2) Chases vehicles or persons.

- (3) Damages or destroys property of persons other than the owner of the dog.
- (4) Scatters garbage.
- (5) Trespasses on private property of persons other than the owner of the dog.
- (6) Barks or howls or whines for five (5) or more total minutes in any fifteen (15) consecutive minutes and thereby disturbs one or more persons not then residing in the residence of the owner, possessor or keeper of the dog.
- (7) Makes unprovoked attacks on other animals.

No person shall permit or allow a dog which they own or over which they have control to be a public nuisance. (*Ord. 748, 8-22-95, eff. 9-22-95*)

- (B) Exception to Dog as Public Nuisance. A dog shall not be considered a public nuisance if the dog bites:
 - (1) A person assaulting the dog's owner or the owner's spouse or children or persons legally residing with the owner, or
 - (2) A person wrongfully assaulting the dog, or
 - (3) A person trespassing upon premises owned, leased, or rented by the dog's owner or the owner's spouse or children, or
 - (4) A person entering a fully fenced area, regardless of where located, if that area is conspicuously posted with signs warning of the presence of the dog within the fenced area.

6.2.12 DOG WASTE MATTER

It shall be unlawful for a person owning or keeping a dog to allow the dog to deposit solid waste matter on any property other than that of the person owning or keeping the dog, but it shall be a defense to this action if the owner or keeper removes the solid wastes. (*Ord. 715, 3-23-93*)

6.2.13 UNLAWFUL ACTS OF RELEASING

It is unlawful for any person, except those responsible for the enforcement of this Chapter, to release any dog without the consent of the owner, or to release his own or any other dog from the pound or from any place where a dog may be held for observation as set forth in this Chapter. (*Ord. 715, 3-23-93*)

6.2.14 CLASSIFICATION OF DOGS

- (A) Classification of Levels of Dangerousness: A dog shall be classified as potentially dangerous based upon specific behaviors exhibited by the dog. For purposes of this section, behaviors establishing various levels of potential dangerousness are as follows:
 - (1) *Level 1* behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any person or domestic animal;
 - (2) *Level 2* behavior is established if a dog, while confined in accordance with Section 6.2.16(A), or while at large, aggressively bites a person or a person's clothing or aggressively bites a domestic animal;
 - (3) *Level 3* behavior is established if:
 - (a) A dog, whether or not confined, causes the serious injury or death of any person;

- (b) A dog, while at large, causes serious injury to or kills any domestic animal;
 - (c) A dog engages in fighting or is found to have been trained to engage in exhibitions of fighting;
 - (d) A dog that has been classified as a Level 2 potentially dangerous dog, repeats the behavior described in Subsection (2) of this Section, after the owner receives notice of the Level 2 classification.
- (4) Notwithstanding Subsections (1) through (3) of this Section, the Animal Control Officer shall have discretionary authority to refrain from classifying a dog as potentially dangerous even if the dog has engaged in the behavior specified in Subsections (1) through (3) of this section, if the Animal Control Officer determines that the behavior was the result of a person injured having abused or tormented the dog or other extenuating circumstances tending to prove that the behavior was not the fault of the dog. In any case, no dog shall be classified as potentially dangerous if the behavior in question was directed against a trespasser inside any fully enclosed building on private property, if all exterior doors of the building were locked at the time the trespassing occurred, or against a trespasser inside any fully fenced yard, if all gates and entrances were locked at the time the trespassing occurred. (*Ord. 715, 3-23-93*)

6.2.15 IDENTIFICATION OF POTENTIALLY DANGEROUS DOGS; APPEAL; RESTRICTIONS PENDING APPEAL

- (A) The Animal Control Officer shall have the authority to determine whether any dog has engaged in any of the behaviors specified in Section 6.2.14. This determination shall be based upon an investigation that includes observation of and testimony about the dog's behavior, including the dog's upbringing and the owner's control of the dog. These observations and testimony can be provided by the Chief of Police, a duly appointed deputy, police officer and/or any person with whom the City enters into an agreement for the control of dogs within the City or by other witnesses who personally observed the relevant behaviors.
- (B) The Animal Control Officer shall give the owner written notice, by certified mail or personal service, of:
- (1) The dog's specific behaviors;
 - (2) The dog's classification as a potentially dangerous dog.
 - (3) The additional restrictions applicable to that dog by reason of its classification.

The owner may appeal the Animal Control Officer's decision to the Municipal Court by filing a written request for a hearing with the Court within ten (10) days of the date the notice was mailed to the owner by certified mail or the owner was personally served.

- (C) The Municipal Court shall hold a public hearing on any appeal from the Animal Control Officer's decision to classify a dog as potentially dangerous. The owner and any other persons having relevant evidence concerning the dog's behavior as specified in Section 6.2.14 shall be allowed to present testimony. The Municipal Court shall determine whether any of the behaviors specified in Section 6.2.14 was exhibited by the dog in question. The Municipal Court shall issue an order containing a determination of the dog's classification, which determination shall be final.
- (D) Once the owner has received notice of the dog's classification as a Level 1, 2 or 3 potentially dangerous dog pursuant to Subsection B of this section, the owner shall comply with the restrictions specified in the notice until such time as the Animal Control Officer's decision shall be reversed or modified on appeal. Failure to comply with the specified restrictions, pending the completion of all appeals, shall be a violation of this Chapter, for which a fine can be imposed. Additionally, the Animal Control Officer shall have authority to impound the dog pending completion of all

appeals. Liability for the cost of impounding the dog will be the same as provided in Section 6.2.15(E).

- (E) If the Animal Control Officer finds that a dog has engaged in Level 3 behavior, the dog shall be impounded pending completion of any appeal to the Municipal Court. If the Animal Control Officer's decision is upheld by the Municipal Court, the dog's owner shall be liable and reimburse the City for the costs of the dog's impoundment. If the dog is found not to be a potentially dangerous dog, the City shall be liable for the costs of impoundment.
- (F) The Municipal Court shall adopt procedural rules governing the conduct and scheduling of the appeals provided for in this Section.
- (G) The imposition of regulations pursuant to this Section shall not prevent the Animal Control Officer from also issuing a citation for a violation of any provision of this Chapter. (*Ord. 715, 3-23-93*)

6.2.16 REGULATION OF POTENTIALLY DANGEROUS DOGS

In addition to the other requirements of this Chapter, the owner of a potentially dangerous dog shall comply with the following regulations:

- (A) If the dog has engaged in Level 1 behavior, the owner shall confine the dog within a secure enclosure whenever the dog is not on a leash or inside the home of the owner or otherwise confined. The "secure enclosure" must be located so as not to interfere with the public's legal access to the owner's property, and have a "Beware of Dog" sign plainly visible.
- (B) If the dog has engaged in Level 2 behavior, the owner shall meet the requirements of Subsection (A) of this Section and shall also comply with the following restrictions:
 - (1) The owner shall post warnings on the property where the dog is kept in conformance with administrative rules to be adopted by the Animal Control Officer.
 - (2) The owner shall not permit the dog to be off the owner's property unless the dog is muzzled and restrained by an adequate leash and under the control of a capable person.
 - (3) The owner shall provide proof to the City Manager of the public liability insurance in a single incident amount of one hundred thousand dollars (\$100,000.00) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days' written notice is first given to the City Manager.
 - (4) The owner shall provide to the City Manager two (2) color photographs of the dog clearly showing the color and approximate size of the dog.
- (C) If the owner of a Level 2 dog fails to comply with the restrictions set forth herein, the City Manager shall have the authority to reclassify the dog as a Level 3 dog and order that it be humanely killed.
- (D) Any dog that has been found to have engaged in Level 3 behavior as described in Section 6.2.14(A)(3) shall be humanely killed. In addition, the Animal Control Officer may suspend for a period of time specified by the Animal Control Officer (not to exceed one year) that dog owners' right to be the owner of any dog within the City limits of Vale, Oregon, including dogs currently owned by that person.
- (E) To insure correct identification, all dogs which have been classified as potentially dangerous shall be marked with a permanent identifying mark. The Animal Control Officer shall adopt regulations specifying the character, location and manner of this marking.

- (F) The Animal Control Officer shall disseminate the City's marking information to other agencies and shall maintain a file of and honor the markings of other agencies which are designed to identify dangerous dogs. (*Ord. 715, 3-23-93, amended by Ord. 843, 4-12-2005*)

6.2.17 REGULATION OF WOLVES AND WOLF HYBRIDS

- (A) No city license shall be issued for any canine known to have any percentage of wolf in its breeding.
- (B) Before any license is issued the owner must sign a statement verifying the canine is not known to have any wolf heritage in its breeding.
- (C) Any canine known to be a wolf hybrid kept or brought into the City limits and not licensed and inspected according to Oregon Revised Statutes and Oregon Department of Agriculture rules governing Exotic Animals, or which is running at large, will be confiscated and euthanized as soon as is reasonably possible after confiscation or, in the event an owner is known, after the expiration of the time allowed for filing of an application for release of the animal pursuant to Section 6.2.18(B), or if such an application is filed, after the ruling of the Municipal Judge.
- (D) No wolf or wolf hybrid may be kept or brought within the City of Vale city limits except those properly licensed and inspected according to Oregon Revised Statutes and Oregon Department of Agriculture rules governing Exotic Animals.

6.2.18 NOTICE OF DISPOSITION OF WOLVES AND WOLF HYBRIDS; APPEAL

- (A) The Animal Control Officer shall give the owner, if known, of any wolf or wolf hybrid written notice by certified mail or personal service of the impoundment or confiscation and the pending euthanization of the wolf or wolf hybrid.
- (B) An owner whose animal has been confiscated or impounded as a wolf or wolf hybrid, believing the impoundment or confiscation to be wrongful, may, within five (5) days of the date of service of personal notice, or from the date of mailing by certified mail, may apply to the Municipal Judge for the release of the animal and the Municipal Judge shall thereupon set a time and place for hearing the application and notify the Animal Control Officer, and upon a summary hearing at such time and place the Municipal Judge shall have full power to determine whether the animal has been wrongfully impounded or confiscated and whether it shall be returned to its owner and on what terms. (*Ord. 715, 3-23-93*)

6.2.19 PENALTY

Except where penalty provisions have been provided otherwise in this Chapter, violation of any provision of this Chapter shall be punishable by a fine as provided in Section 1.4.1 of this Code. (*Ord. 715, 3-23-93; replaced Ord. 558, 4-3-73, Eff. 4-13-73*)

Chapter 3

ANIMALS

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6.3.1 ANIMALS RUNNING AT LARGE:

The provisions of Oregon Revised Statutes, Chapter 607, Sections 607.005, 607.007 and 607.303 through 607.339 as now or hereinafter constituted, are hereby adopted as the law of the City and entitled "Animals Running at Large", as if said provisions were herein fully set forth.

In addition to the persons entitled to take up animals running at large, as hereinabove provided, the members of the City Police Force may also take up such animals. (Ord. 607, 11-7-78)

6.3.2 [Repealed by Ord. 607, 11 -7-78]

6.3.3 [Repealed by Ord. 607, 11 -7-78]

6.3.4 FOWL RUNNING AT LARGE

It shall be unlawful for the owner or keeper of any fowl to allow the same to run or be at large, out of his own enclosure, within the corporate limits. (Ord. 22, 4-16-1906)

6.3.5 DRIVING OR RIDING ANIMALS ON SIDEWALKS

It shall be unlawful for any person to ride or drive any horse, cattle, sheep, or hog on or across any public sidewalk in any public street or avenue within the corporate limits. (Ord. 29, 9-26-1906)

6.3.6 PERMIT REQUIRED

No person shall cause or allow the keeping of any livestock on real property within the City limits without a current, valid livestock permit. "Livestock" includes, but is not limited to, a horse, mule, jackass, cattle, sheep, goat, chicken, goose or other poultry, llama, ostrich, rabbit, bees or other domestic animal, excluding swine, but including fur-bearing animals bred and maintained commercially or otherwise. (*Ord. 842, 4-12-2005*)

6.3.7 SWINE PROHIBITED

No person shall cause or allow the keeping of swine on real property. (*Ord. 842, 4-12-2005*)

6.3.8 ANNEXED PROPERTY

If any real property where livestock is kept is annexed to the City, provided that no corrals, stables or other structures housing the livestock, other than fences, are located within two hundred feet of a dwelling owned or occupied by another person, the owners of the annexed property shall be allowed to maintain the livestock on such property without purchasing a livestock permit for a time not to exceed five years from the date of annexation or until the property is sold, whichever occurs first. After such period of exemption, the person owning the livestock must apply for the required permit. (*Ord. 842, 4-12-2005*)

6.3.9 ISSUANCE OF PERMIT

The City Manager or his designee shall issue a permit for keeping livestock upon application on a form prescribed by the City and payment of the permit fee as set by Council resolution, if he finds that:

- A. The premises where the livestock will be kept are sanitary and adequately enclosed from other persons' property.
- B. The premises lie not less than two hundred feet from any structure used for human occupancy or, in the alternative, the occupant and owner of such structure have agreed in writing to the applicant's keeping of the livestock.
- C. As a condition of the issuance of a permit, the premises shall remain open for inspection at reasonable times by the City Manager or his designee for compliance with this Chapter. (*Ord. 842, 4-12-2005*)

6.3.10 PERMIT REVOCATION

A livestock permit shall be revoked if the City Manager finds that the premises are no longer sanitary or adequately enclosed, or reasonably open to inspection, or that fifty percent or more of the owners of abutting property now object in writing to the permittee's keeping of livestock, or that the livestock presents an unreasonable risk of danger to other persons or property. Any permittee whose permit is revoked shall have ten days to relocate or otherwise dispose of the livestock, unless the City Manager finds that the livestock pose an unreasonable threat to the health or safety of the public, in which case any revocation shall be effective immediately. (*Ord. 842, 4-12-2005*)

6.3.11 APPEAL FROM PERMIT REVOCATION

- A. Any person whose application for a permit is denied or whose permit is revoked by the City Manager may seek review of the denial or revocation by filing with the City Manager a written notice of appeal not more than ten days after receiving notice of denial or revocation. The written notice of appeal shall state:

1. The name and address of the appellant;
 2. A description of the livestock being kept or desired to be kept and the facilities for livestock;
 3. A map showing the location of the livestock in relation to the permittee's property lines, abutting properties and all structures used for human occupancy;
 4. The reason given by the City Manager for denying the application or revoking the permit; and
 5. The reason the determination is incorrect.
- B. If a written appeal from a revocation is timely filed, the permittee shall be allowed to continue to keep the livestock for which the permit was obtained, pending the determination of the appeal, unless the City Manager determines that the livestock present an unreasonable threat to the public health or safety, in which case the revocation of the permit shall become effective immediately.
- C. The City Council shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the Council deems appropriate. If the City Council decides to take oral argument or evidence at the hearing, the appellant may present testimony and oral argument personally or by counsel. The rules of evidence as used by courts of law do not apply.
- D. The appellant shall have the burden of proving the error in the City Manager's determination.
- E. A permit revocation may be reversed only by majority vote of the Council. Unless the City Council votes to reverse the decision, the City Manager's revocation of the permit shall stand, and the City Manager may order the immediate removal of the livestock from the real property at the livestock owner's expense.
- F. Until the appeal is heard by the City Council, the City Manager may, within his discretion, reconsider his decision denying or revoking the permit. (*Ord. 842, 4-12-2005*)

Any violations of 6.3.6 or 6.3.7 shall be punishable by a fine not to exceed \$100 for each day of the violation. (*Ord. 842, 4-12-2005*)

Chapter 4

CURFEW

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6.4.1 CURFEW HOURS

It shall be unlawful for any child under the age of eighteen (18) years to be in or remain in or upon any street, alley, park, or other public place or public way, within the City between the hours of 12:00 A.M. and 5:00 A.M. of the following morning, unless such child is accompanied by a parent, guardian, or other proper companion of the age of twenty-one (21) having the care and custody of the child, or unless such child is then engaged in employment, or going to or from employment, which makes it necessary to be in upon such street, alley, park, or other public place during the nighttime between such specified hours. (*Ord. 431, 1-9-58; amended by Ord. 850, 8-8-2006*)

6.4.2 PARENT RESPONSIBLE

It shall be unlawful for any parent or guardian or the person having the care and custody of any child under the age of eighteen (18) years, to allow or permit the child to be in, or remain in or upon any street, alley, park, dance hall, or other public place, between the hours designated in Section 6.4.1 hereof, contrary to the provisions of Section 6.4.1 of this Chapter.

The Marshal or other peace officer, is authorized to arrest any child violating any of the provisions of this Chapter, and, for the first violation, to take or send such child home and notify the parent, guardian, custodian, or person in control or charge of such child, of the violation. In the event any child under the age of eighteen (18) years shall the second time violate any of the provisions of this Chapter, such child shall be apprehended by the Marshal, or other peace officer, as a juvenile delinquent, or dependent, as the case may be, and shall be brought before the Juvenile Court of the State, for the County, to be dealt with in the court in accordance with the Laws of the State; and in the event any parent, guardian, custodian, or person in control or charge of the child under the age of eighteen (18) years, and who shall have had the notice provided for in this Section, shall knowingly or negligently permit such child to again violate Section 6.4.1 of this Chapter, such parent, guardian, custodian, or person in control or charge of such child shall be deemed guilty of a violation of Section 6.4.2 of this Chapter as provided for by the General Penalty Chapter of this Code. (*Ord. 174, 11-18-38*)

Chapter 5

FIREWORKS CODE

Sections

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SECTION

6.5.1 FIREWORKS CODE ADOPTED

The provisions of Oregon Revised Statutes, Chapter 480, Sections 480.110 through 480.170 *et seq.* as now or hereafter constituted are hereby adopted as the "Fireworks Code" of the City, as if said provisions were herein fully set forth. (*Ord. 607, 11-7-78*)

Chapter 6

[Repealed by Ord. 607, 11-7-78]

Chapter 7

[Repealed by Ord. 607, 11-7-78]

Chapter 8

[Repealed by Ord. 607, 11-7-78]

Chapter 9

[Repealed by Ord. 603, 9-26-78]

Chapter 10

[Repealed by Ord. 607, 11-7-78]

Chapter 11

*[Repealed by Ord. 776, 8-12-97 eff.
9-12-97]*

Chapter 12

[Repealed by Ord. 714, 2-23-93]

Chapter 13

IMPOUNDING VEHICLES

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6.13.1 DEFINITIONS

As used in this Ordinance, unless the context requires otherwise:

- (A) *'Abandoned'* shall mean left unoccupied and unclaimed or in a damaged or dismantled condition upon the streets or alleys of the City for a period in excess of 24 hours without authorization by statute or ordinance.
- (B) *'City'* shall mean the City of Vale.
- (C) *'Chief of Police'* includes any authorized law enforcement officer of the City.
- (D) *'Vehicle'* shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks. (*Ord. 714, 2-23-93*)

6.13.2 IMPOUND

- (A) A vehicle may be towed without prior notice when:
 - (1) the Chief of Police reasonably believes that the vehicle is stolen;
 - (2) the Chief of Police reasonably believes that the vehicle or its contents constitute contraband, evidence of any criminal offense, or property that has been used or is possessed for the purpose of being used to commit or conceal the commission of an offense, if such towing is reasonably necessary to obtain or preserve such evidence or property;

- (3) the vehicle was in possession of a person taken into custody by a law enforcement officer;
 - (4) the vehicle is illegally parked on a public or private street in a conspicuously restricted space, zone or traffic lane where parking is limited or prohibited to designated classes of vehicles or periods of time, or at any time when the vehicle interferes with the intended use of such space, zone or traffic lane;
 - (5) the vehicle obstructs the entrance of any post office or postal station, or is within 10 feet of a private mailbox during the hours of delivery;
 - (6) the Chief of Police reasonably believes the vehicle operator:
 - (a) is driving without possessing a valid operator's license; or
 - (b) is driving on a suspended or revoked license; or
 - (c) is the holder of an instruction driver permit and does not have the permit in his or her possession or is not accompanied by a licensed person 21 years of age or older; or (*Ord. 724, 3-22-94*)
 - (d) is driving without proof of such liability insurance as is required by the Oregon Vehicle Code; or
 - (e) has failed to transfer title of the vehicle, register the vehicle, or carry a valid registration card.
- (B) A vehicle may be towed after notice, as provided by Section 6.13.3 when:
- (1) the Chief of Police reasonably believes that the vehicle is abandoned; or
 - (2) the vehicle is parked in violation of a temporary or permanent parking restriction where there is no reasonable need to immediately remove the vehicle; or
 - (3) the vehicle is parked on City owned or operated property without City permission.
- (C) A vehicle may be towed under subsection (B) five days after notice by certified mail of the intent to impound has been sent to the registered owner. The notice may, in the discretion of the Chief of Police, be served by personal service in lieu of mailing. (*Ord. 724, 3-22-94*). If notice by certified mail is not reasonably possible, the vehicle may be towed five days after it is posted with the notice of intent to impound.
- (D) A vehicle impounded pursuant to this section shall be taken into custody by the Chief of Police and shall be held at the expense of the owner or person entitled to possession of the vehicle. The City Manager may direct that the personnel, equipment and facilities of the City be used for the removal and storage of such vehicles, or may contract with a private garage for that purpose. (*Ord. 714, 2-23-93; amended by Ord. 832, 3-11-2003*)

6.13.3 IMPOUND PROCEDURES

- (A) *Pre-Impound Investigation.* When a vehicle is subject to being towed pursuant to Section 6.13.2(B), the Chief of Police shall:
- (1) make a routine investigation to discover the driver or registered owner, when the vehicle is required by law to be registered with the Motor Vehicles Division of this or any other state, and request immediate removal of the vehicle; or
 - (2) if the registered owner or driver cannot be located, make a reasonable inquiry as to the name and address of the owner;
 - (3) if the registered owner is identified, mail a notice to the registered owner at the address listed with the Motor Vehicles Division; and place a notice of intent to impound upon the windshield or some other conspicuous part of the vehicle which is easily seen by the passing public.

(B) *Notice Generally.*

- (1) Notice is deemed given when a certified letter addressed to the registered owner of the vehicle and the legal owner, if any, return receipt requested and postage prepaid, is mailed within 48 hours after the vehicle is taken into possession by or at the direction of the Chief of Police.
- (2) If the vehicle is registered with the Motor Vehicles Division of the State of Oregon, notice may be addressed to the registered owner, and the legal owner, if any, at the last respective addresses of each as shown by the records of the Motor Vehicles Division. If the vehicle is not so registered, reasonable efforts shall be made to ascertain the name and address of the legal owner or person entitled to possession of the vehicle so that notice may be mailed, if reasonably possible, within 48 hours of impound. (*Ord. 714, 2-23-93*)
- (3) Any notice may be given by personal service in lieu of mailing. (*Ord. 724, 3-22-94*)

(C) *Pre-Impound Notice.*

- (1) The notice required by Section 6.13.3(A)4 shall state the following:
 - (a) the name and badge number of the officer or identification of other city employee issuing the notice;
 - (b) that if the vehicle is not removed within the prescribed time limit, the vehicle will be impounded;
 - (c) the number of the ordinance violated and under which the vehicle will be removed;
 - (d) the place where the vehicle will be held in custody or the telephone number and name of the person who will provide that information;
 - (e) that the City, or any person who, at the request of the Chief of Police, impounds a vehicle, shall have a lien on the vehicle and its contents for the towing and storage charges and the City impound fee authorized by the City Code or by resolution of the City Council, may retain possession of the vehicle until the charges and fee are paid, and may have the vehicle sold at public auction to satisfy the lien; and
 - (f) that a hearing on the validity of the proposed impound, or on the reasonableness of any towing and storage charges, may be held, if timely requested within five calendar days of receipt of notice by the owner. (*amended by Ord. 810, 5-9-2000*)

(D) *Post-Impound Notice.* After a vehicle has been impounded pursuant to either Section 6.13.2(A) or (B), notice must be provided to the registered owner, if known, indicating:

- (1) the location of the vehicle;
- (2) that a lien has arisen on the vehicle and its contents in favor of the person who towed and is storing the vehicle;
- (3) that the vehicle may be sold at public auction to satisfy the lien; and
- (4) that a hearing on the validity of the tow may be held, if requested within five calendar days of receipt of notice by the owner. (*Ord. 714, 2-23-93*)

6.13.4 HEARING(A) *Request for Hearing.*

- (1) The owner must request a hearing within five calendar days after receipt of the notice. The request may be made in person or in writing to the City Manager. Failure to make a timely request for a hearing shall constitute a waiver of the right to a hearing. (*Ord. 832, 3-11-2003*)
 - (2) If the owner of the vehicle timely requests a hearing before the vehicle is taken into custody, the vehicle shall not be impounded until a hearing is set and held in accordance with this section.
- (B) *Hearing Procedures.*
- (1) When timely request for a hearing is made, a hearing shall be held before the Municipal Judge.
 - (2) The hearing shall be set and conducted within 72 hours of receipt of the request, excluding holidays, Saturdays and Sundays. The hearing can be set for a later date if the owner or person entitled to possession so requests.
 - (3) At the hearing, the owner may contest the validity of the impound.
 - (4) The City shall have the burden of proving the validity of the impound by a preponderance of the evidence.
- (C) *Decision of the Municipal Judge.* If the Municipal Judge finds that:
- (1) Impound of the vehicle was proper, the Municipal Judge shall:
 - (a) enter an order supporting the removal; and
 - (b) find that the owner or person entitled to possession is liable for the City impound fee of \$50.00 plus any towing and storage charges resulting from the impound.
 - (2) Impound of the vehicle was improper, the Municipal Judge shall:
 - (a) order the vehicle released to the owner or person entitled to possession;
 - (b) find that the owner or person entitled to possession is not liable for the impound fee or any towing or storage charges resulting from the impound; and
 - (c) order the city to satisfy the towing and storage lien.
 - (3) The decision of the Municipal Judge is final.
- (D) *Failure to Appear at the Hearing.* If the person requesting the hearing does not appear at the scheduled hearing, the Municipal Judge may enter an order supporting the impound and assessment of the City impound fee and towing and storage costs. (*Ord. 714, 2-23-93; amended by Ord. 810, 5-9-2000; amended by Ord. 832, 3-11-2003*)

6.13.5 RELEASE OF VEHICLE

A vehicle which has been impounded under this section may be released to the registered owner or legal owner, if different, or to the person operating the vehicle at the time of impound if:

- (A) the owner or driver of the vehicle has paid to the City the City impound fee, and has paid all of the accrued towing and storage costs, unless otherwise ordered by the hearings officer; and
- (B) the Vale Police Department has released its hold, if any, on the vehicle. (*Ord. 714, 2-23-93, amended by Ord. 810 5-9-2000*)

6.13.6 TOWING AND STORAGE LIENS

A person who, at the request of the Chief of Police, takes a vehicle into custody under the provisions of this Chapter shall have a lien on the vehicle and its contents for the just and reasonable towing and storage charges, may retain possession of the vehicle and its contents until the charges are paid, and may have the vehicle and its contents sold at public auction to satisfy the lien. The lien that attaches to the vehicle and its contents shall be a possessory chattel lien in accordance with ORS 87.142 and shall be foreclosed in the manner provided in ORS 87.152 to 87.212. If the appraised value of the vehicle is \$1,000 (*Ord. 724, 3-22-94*) or less, the vehicle shall be disposed of in the manner provided in ORS 819.220. (*Ord. 714, 2-23-93*)

6.13.7 ROTATING LIST OF ON-CALL TOWING COMPANIES

The City Manager shall establish a list of towing companies authorized to tow vehicles pursuant to this chapter. The Chief of Police shall request towing services pursuant to this chapter, on a rotating basis, from the businesses listed. In the event that a towing company is unavailable or unable to respond to a request for services within 30 minutes, the Chief of Police may request services from the next business on the rotating list. In the event that no businesses on the list are available, or if no listed business has equipment sufficient for a particular towing request, the Chief of Police may request services from a towing business not on the list.

6.13.8 QUALIFICATIONS FOR TOWING LIST; APPEAL

- (A) The City Manager shall add the name of an applicant business to the rotating list established in Section 6.13.7 provided that the applicant demonstrates to the satisfaction of the City Manager that the applicant meets all of the following qualifications.
- (1) The applicant possesses a valid towing business certificate pursuant to ORS 822.205, and meets the insurance and vehicle safety requirements of that statute;
 - (2) The applicant has the ability to respond to towing requests within 30 minutes on a 24-hour per day basis;
 - (3) The applicant's towing business is located within a five-mile radius of the City of Vale.
 - (4) The applicant has facilities for secure storage of towed vehicles through means such as fencing or enclosed structures.
- (B) The City Manager may from time to time require that listed towing businesses provide evidence of continued compliance with the requirements of subsection (A), and shall remove any business from the rotating list which fails to meet such requirements.
- (C) A decision denying an application or removing a business from the rotating list may be appealed to the city council by giving a written Notice of Appeal to the City Manager within ten (10) days of the date of the decision. The City Council shall hear the appeal at the next regularly scheduled Council meeting. (*Ord. 750, 10-10-95; amended by Ord. 832, 3-11-2003*)

6.13.9 IMPOUND FEE

Businesses towing vehicles pursuant to this chapter shall charge \$60 for towing, plus storage charges of \$10 per day for each day, or portion thereof, of storage after the first 24 hours following the towing of the vehicle. The City shall charge an impound fee of \$60. If a towing company retains an impounded vehicle for more than 30 days, or disposes of an impounded vehicle for its towing and storage charges, it shall pay to the City the City's impound fee. The City Council may amend the approved towing and storage charges, and the City impound fee, from time to time by resolution (*Ord. 768, 3-10-97, eff. 4-10-97; amended by Ord. 810, 5-9-2000*)