

**RESOLUTION NO. 1258**

**A RESOLUTION CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES FOR THE CITY OF CANBY.**

**WHEREAS**, on February 15, 2006 the Canby City Council adopted Ordinance 1200 which adopted a revised code of the City of Canby entitled the "Canby Municipal Code". Since that time the Council has adopted Resolutions 956, 1012, 1051, 1070, 1100, 1138, 1172, 1204, and 1224 codifying supplements.

**WHEREAS**, since that time Ordinances have been adopted affecting the Canby Municipal Code, causing the present general and permanent ordinances of the City to be inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety and general welfare of the municipality and for the proper conduct of its affairs; and

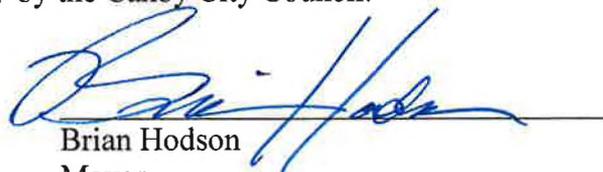
**WHEREAS**, the Acts of the Legislature of the State of Oregon empower and authorize the City to revise, amend, restate, codify and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one ordinance in book form; and

**WHEREAS**, the League of Oregon Cities, Ordinance Services Program, in its efforts to promote better and more efficient municipal governing, is willing to undertake the codification of the City's ordinances;

**NOW THEREFORE, IT IS HEREBY RESOLVED** by the City Council of the City of Canby that the City hereby authorizes a general compilation, revision and codification of the ordinances of the City of a general and permanent nature and publication of such ordinances in book form, at a cost according to the standard rates and billing procedures for services under the program. A copy of the 2016 S-10 Supplement (codifying ordinances 1420-1454) is attached hereto as Exhibit "A".

This resolution will take effect on February 1, 2017.

ADOPTED this 1<sup>st</sup> day of February 2017 by the Canby City Council.

  
Brian Hodson  
Mayor

ATTEST:

  
Kimberly Scheafer, MMC  
City Recorder

**CHAPTER 2.04: COUNCIL MEETINGS**

Section

- 2.04.010 Regular meetings.
- 2.04.020 Special meetings.

**§ 2.04.010 Regular meetings.**

Regular meetings of the Council shall be held on the first and third Wednesdays of every month at 7:30 p.m. in the council chambers of the City Hall. In the event that the first or third Wednesday of the month is a holiday, the Council meeting shall be held on the following day.

**§ 2.04.020 Special meetings.**

Special meetings of the Council may be called by the Mayor or at the request of any 3 members of the Council on 24 hours' reasonable notice to the public and at least 24 hours' actual notice to the Council members.

**CHAPTER 2.05: PETITIONS**

Section

- 2.05.010 Filing deadline for initiative petitions.
- 2.05.020 Chief petitioners for initiative, referendum, or recall petitions to be electors of the City of Canby.

**§ 2.05.010 Filing deadline for initiative petitions.**

No later than the 180 days after the initiative is approved for circulation, an initiative petition relating to a city measure or Charter amendment shall be deposited with the City Recorder for signature verification. All other procedures for an initiative shall follow the requirements set forth in the State of Oregon election laws.

(Ord. 1303, passed 2-4-2009)

**§ 2.05.020 Chief petitioners for initiative, referendum, or recall petitions to be electors of the City of Canby.**

No petition for initiative, referendum, or recall filed with the city shall be valid unless all Chief Petitioners are electors of the city at the time of filing and remain electors of the city through the entire initiative, referendum, or recall process, including the election.

(Ord. 1303, passed 2-4-2009)

**CHAPTER 2.10: CANDIDATE NOMINATIONS FOR ELECTIVE OFFICE**

Section

- 2.10.010 Nominations.
- 2.10.020 Authorization to submit explanatory statements relating to municipal legislation referred or initiated by petition.

**§ 2.10.010 Nominations.**

A. A petition nominating a qualified elector to be a candidate for election to the Canby City Council or to the office of Mayor shall be signed by not fewer than 50 electors. No elector shall sign more than 1 nomination petition for each office to be filled. No elector shall sign more than 1 nomination petition for the office of Mayor. If an elector signs more nomination petitions than permitted by this division, the elector's signature shall be valid only on the first petition filed for the office.

B. The form of petition for nomination for all candidates for elective positions within the city shall be submitted on forms provided by the Secretary of State. The City Recorder shall approve completed forms prior to the candidate obtaining elector signatures.

C. Once candidates have obtained the required number of signatures, they shall submit the signature sheets to the Clackamas County Elections Official to be verified. Once the required number of verified signatures have been obtained, all pages comprising a petition for nomination shall be assembled and filed

with the City Recorder as 1 instrument in the manner provided by the Secretary of State not less than 75 days before the election.

D. Within 5 days after the filing, the City Recorder shall notify the candidate whether or not the petition is valid. If it is found insufficient, the City Recorder shall return it immediately to the candidate with a statement certifying that the petition for nomination is insufficient and stating the reason(s).

E. Within the time allowed for the filing of petitions for nomination, an insufficient petition may be amended and filed again as a new petition, or a different petition may be filed for the same candidate.

F. The City Recorder shall notify any qualified candidate of their valid petition. Within 5 days of notification, the candidate shall complete an acceptance of nomination form.

G. The City Recorder shall notify Clackamas County Elections of those candidates successfully completing the nomination process, causing their names to appear on the ballot.

H. Election records shall be kept for the required retention period as required by the Secretary of State, Archives Division City General Retention Schedule. (Ord. 1312, passed 7-15-2009; Am. Ord. 1434, passed 3-2-2016)

**§ 2.10.020 Authorization to submit explanatory statements relating to municipal legislation referred or initiated by petition.**

When directed by the City Council, the City Attorney is required to prepare an impartial explanatory statement for the Clackamas County Voters Pamphlet for matters relating to municipal legislation referred or initiated by petition. (Ord. 1355, passed 5-2-2012)

**CHAPTER 2.16: CONTRACT REVIEW BOARD**

Section

2.16.010 Established.

- 2.16.020 Temporary rules.
- 2.16.030 Conduct of business.

**§ 2.16.010 Established.**

Pursuant to O.R.S. Chapter 279, the City Council is hereby designated as the City Contract Review Board. Relative to contract concerns of the city, the Contract Review Board shall have all the powers granted by Oregon law under the Oregon Attorney General's Public Contracting Manual. (Ord. 1170, passed 2-16-2005)

**§ 2.16.020 Temporary rules.**

There is hereby adopted by the city for the purpose of establishing temporary rules governing public contracts in the city, the Model Rules of the Oregon Attorney General for Public Contracting to be effective on March 1, 2005. These temporary rules shall remain in effect until the time that the City Contract Review Board adopts, by resolution, rules to supersede any portion or all of the temporary rules. (Ord. 1170, passed 2-16-2005)

**§ 2.16.030 Conduct of business.**

The City Council acting as the City Contract Review Board shall conduct its business in a manner consistent with the requirements of this chapter and in the same manner as it conducts other Council business. The requirements of this section may be modified at the time that the Board adopts rules to supersede the Board's temporary rules adopted by § 2.16.020. (Ord. 1170, passed 2-16-2005)

**CHAPTER 2.20: PUBLIC LIBRARY**

Section

- 2.20.010 Establishment.
- 2.20.020 Governing body.
- 2.20.030 Library Board.
- 2.20.040 Term of office; vacancies.
- 2.20.050 Officers.

- 2.20.060 Powers and duties.
- 2.20.070 Gifts and bequests.
- 2.20.080 Library Director.
- 2.20.090 Meeting place and time.
- 2.20.100 Library property.

**§ 2.20.010 Establishment.**

The Canby Public Library is established for the purpose of maintaining a free public library in accordance with O.R.S. 357.400-621. (Am. Ord. 1433, passed 3-2-2016)

**§ 2.20.020 Governing body.**

The city's public library as established by § 2.20.010 shall be governed by the City Council. A Library Board shall be appointed to serve in an advisory role to the Council.

**§ 2.20.030 Library Board.**

The Library Board shall consist of 5 members appointed by the City Council upon recommendation of the Board Chairperson and the City Council liaison to the Library Board. The Mayor may vote only to break a tie, if necessary. Not less than 3 members of the Board shall be residents of the city. No member of the Library Board shall have any financial interest, either directly or indirectly, in any contracts to which the library is a party, nor shall any member receive a salary or any payment for any materials or for any services rendered the Board. Board members may be reimbursed for expenses incurred in the performance of their duties. (Am. Ord. 1137, passed 4-21-2004)

**§ 2.20.040 Term of office; vacancies.**

Appointees shall hold office for 4-year terms from July 1 in the year of their appointment. At the expiration of the term of a Board member, the City Council shall appoint a new member or may reappoint a member for a term of 4 years. Members shall be limited to 2 consecutive terms. If a vacancy occurs, the City Council shall appoint a new member to complete the unexpired term. Procedure for all appointments by the City Council shall follow § 2.20.030 above. Any Board member failing to

attend 3 consecutive Board meetings without approval of the Board chairperson may be removed by the City Council and a new member appointed to complete the unexpired term. Library Board members serve at the pleasure of the City Council and are subject to removal at any time by the Council with or without cause.

(Am. Ord. 1137, passed 4-21-2004; Am. Ord. 1433, passed 3-2-2016)

**§ 2.20.050 Officers.**

At the first meeting of each fiscal year, the Board shall elect a Chairperson and a Vice-Chairperson who shall serve for a term of 1 year. The Library Director or their designee shall serve as Secretary to the Board and keep the record of its action. Three members of the Board shall comprise a quorum. The Board shall have authority to make and alter rules, with approval of the City Council, for its government and procedures.

(Am. Ord. 1433, passed 3-2-2016)

**§ 2.20.060 Powers and duties.**

The duties of the Library Board shall include:

- A. Keeping informed about current trends in the library services and administration;
- B. Studying library growth and needs in the city and its vicinity;
- C. Developing long-range plans for library service and facilities, consistent with city priorities and with state, regional and national goals pertinent to libraries;
- D. Recommending types of library service for the city and its vicinity;
- E. Investigating sources of funding for library service and facilities;
- F. Recommending policies for the acceptance and use of gifts for library purposes;
- G. Participating in the annual budgetary process of the city as that process pertains to the library;
- H. Recommending policies and procedures conducive to efficient and effective operation of the library;
- I. Reviewing and recommending terms for contracts and working relationships with other public agencies regarding library service;
- J. Encouraging widespread public support and use of the library;

K. Submitting an annual report to the City Council and the state library; and

L. Performing other duties as authorized by the City Council.

**§ 2.20.070 Gifts and bequests.**

The Board may solicit and receive gifts and bequests and real or personal property or funds (other than fees and fines) to benefit the library. Gifts are subject to Council acceptance. All property or funds shall be held in the name of the city, and each donation shall be administered in accordance with its terms. Funds donated to the library shall be turned over to the City Treasurer immediately upon receipt and expended only in accordance with the terms and conditions of the bequest.

(Am. Ord. 1433, passed 3-2-2016; Am. Ord. 1437, passed 4-20-2016)

§ 2.20.080 Library Director.

The Library Director shall be appointed as per the Charter of the City of Canby. (Am. Ord. 1433, passed 3-2-2016)

§ 2.20.090 Meeting place and time.

Unless and until another place is assigned to it by the City Council, the Library Board shall maintain its office, hold its meetings, transact its business and keep its records at the library. The Library Board shall meet at least once every other month.

§ 2.20.100 Library property.

The library operates best when all patrons cooperate for the timely checkout and return of items. Depending on the preference noted on the patron's account, patrons will receive an email, phone call, or written notification via the U.S. Postal Service from the LINCC system, 5 days after an item is due and then again 30 days after the due date. Bills for lost items are sent via the U.S. Postal Service 45 days after an item is due. Fines begin accruing the day after the material is due. In accordance with LINCC policies, fines remaining on an account after 30 days will be deemed "uncollectible". The library may impose fines or charges as provided in O.R.S. 357.975 and as set forth by the City of Canby's fee schedule adopted annually by the City Council in the event that a person willfully refuses to return library items.

(Am. Ord. 1433, passed 3-2-2016)

CHAPTER 2.28: EVIDENTIARY HEARING PROCEDURES

Section

2.28.010 Procedures.

§ 2.28.010 Procedures.

In all evidentiary hearings before the City Council, Planning Commission, Design Review Board or other board, commission, committee or city agency, the following procedures for the conduct of the hearings are prescribed:

A. All interested persons in attendance shall be heard on the matter for hearing, and this fact shall be communicated to those in attendance;

B. A summary of the application or other matter for hearing shall be given by the presiding officer or someone appointed by him or her;

C. The staff report, if any shall be made;

D. Questions, if any, by the hearing body of the staff;

E. Testimony shall be received in the following order:

1. Applicant;
2. Proponents;
3. Opponents;
4. Rebuttal by proponents; and
5. Others.

F. Close public hearing;

G. Questions, if any, by the hearing body;

H. Discussion by the hearing body;

I. A decision shall be made by the hearing body; except, however, that further discussion and/or decision by the hearing body may be postponed to another meeting, the time, date and place of which shall be announced before adjournment;

J. All persons who speak at a hearing shall identify themselves by name, address and interest in the matter. Attorneys or others shall be allowed to speak on behalf of proponents or opponents;

K. Written briefs by any interested party if filed with the secretary or clerk of the hearing body at least 5 days prior to the hearing; and

L. A record made at any prior evidentiary hearing may be accepted, considered and used by the hearing body at any subsequent hearing; and the body by majority vote of a quorum present may deny to accept or hear any repetitious matter.

CHAPTER 2.32: COMPENSATION FOR MAYOR AND COUNCIL

Section

2.32.010 Amounts designated.

2.32.020 Time of payments.

2.32.030 No payment for attendance at committee meetings.

§ 2.32.010 Amounts designated.

The duly elected and qualified Mayor for the city shall be paid from funds of the city budgeted for those purposes the sum of \$200 per month, and each duly elected and qualified Council member shall also be paid from those funds the sum of \$100 per month. (Ord. 989, passed 4-1-1998)

§ 2.32.020 Time of payments.

The payments to be made to the Mayor and Council members as authorized by § 2.32.010 shall commence May 1, 1998, and continue thereafter until changed by ordinance. These payments shall be made monthly in the regular course of business and no further order, authorization or approval for the payments shall be required. (Ord. 989, passed 4-1-1998)

§ 2.32.030 No payment for attendance at committee meetings.

Neither the Mayor nor any Council member shall be paid for attendance at any committee meeting or other meeting of the city's officials, except as noted in § 2.32.010. (Ord. 989, passed 4-1-1998)

CHAPTER 2.36: SEARCH AND CERTIFICATION SERVICES INCIDENT TO CITY LIEN DOCKET

Section

- 2.36.010 Fee for lien search.
- 2.36.020 Deposit of fees.

§ 2.36.010 Fee for lien search.

For each certificate of lien or non-lien of the city requested by anyone and issued by the City Recorder, after first searching the city's lien docket to determine whether or not a lot, tract or parcel of real property located within the city is subject to any city lien, there

shall be paid to the City Recorder a fee in an amount to be established by Council resolution. This fee shall accompany the request to the City Recorder for the lien search or, at the discretion of the City Recorder, shall be invoiced to the person, firm or corporation requesting the lien search upon delivery to the requesting party of the lien or non-lien certificate. (Am. Ord. 1093, passed 3-20-2002)

§ 2.36.020 Deposit of fees.

All fees received by the City Recorder under the provisions of § 2.36.010 shall be deposited in the General Fund of the city.

CHAPTER 2.40: ANNEXATION AND BOUNDARY CHANGE FEES AND CHARGES

Section

- 2.40.010 Definitions.
- 2.40.020 Administrative cost to be paid.
- 2.40.030 Boundary change deposit fee.
- 2.40.040 Payment required notwithstanding boundary change action.
- 2.40.050 Exclusions.
- 2.40.090 Enforcement.
- 2.40.110 Public service and utility priority.

§ 2.40.010 Definitions.

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

Application includes a petition or any other form of initiatory action for an annexation or boundary change.

Boundary Change means a major or minor boundary change.

Boundary Change Procedure means the procedure defined and required by O.R.S. 199.460 to 199.534 inclusive.

materials or for any services rendered the Board. Board members may be reimbursed by the city for expenses incurred in the performance of their duties. (Am. Ord. 1133, passed 2-18-2004)

**§ 2.56.040 Terms of office; vacancies.**

Terms of office shall be for 3 years from July 1 in the year of their appointment. At the expiration of the term of any Board member, the Council shall appoint a new member or reappoint an existing member for a term of 3 years. If a vacancy occurs, the Council shall appoint a new member to complete that unexpired term. All new members shall be appointed by the Council upon the recommendation of the Board Chairperson and Council liaison. Any Board member failing to attend 3 consecutive meetings without approval of the Board Chairperson may be removed by the Council and a new member appointed to complete the unexpired term.

(Am. Ord. 1133, passed 2-18-2004)

**§ 2.56.050 Officers; procedures.**

At the first meeting of each year, the Board shall elect a Chairperson, Vice-Chairperson and a Secretary who shall serve for a term of 1 year. Four members of the Board shall constitute a quorum. The Board shall have authority to make and alter rules, with approval of the Council, for its government and procedures.

(Am. Ord. 1133, passed 2-18-2004)

**§ 2.56.060 Duties and powers.**

The duties of the Parks and Recreation Advisory Board shall include:

A. Keeping informed about current trends in parks and recreation services and administration;

B. Studying growth and needs in the city and its vicinity for parks and recreation services;

C. Developing long-range plans for parks and recreation services and facilities, consistent with city priorities;

D. Recommending types of parks and recreation services for the city and its vicinity, including marketing of those services;

E. Investigating sources of funding for parks and recreation services and facilities;

F. Recommending policies for the acceptance and use of gifts for parks and recreation purposes;

G. Participating in the annual budgetary process of the city as that process pertains to parks and recreation services;

H. Recommending policies and procedures conducive to efficient and effective operation of parks and recreation services;

I. Reviewing and recommending terms of contracts and working relationships with other public agencies regarding parks and recreation services;

J. Encouraging widespread public support and use of park and recreation services and facilities;

K. Submitting an annual report to the City Council;

L. Advising the Planning Department regarding park land dedication and other park planning issues to meet the public needs identified in the park master plan and park acquisition plan; and

M. Performing other duties as authorized by the City Council.

(Am. Ord. 1133, passed 2-18-2004)

**§ 2.56.070 Location of meetings.**

Unless and until another place is assigned to it by the City Council, the Board shall maintain its office, hold its meetings, transact its business and keep its records at City Hall. The Board shall meet at least once every other month. Advisory Board meetings are subject to public meeting law and shall be open to the public.

(Am. Ord. 1133, passed 2-18-2004)

**§ 2.56.080 Fees and charges.**

Fees and other parks and recreation charges shall be determined by the City Council with consideration given to recommendations from the Board. Current fees and lists of charges shall be set by Council resolution and conspicuously displayed at each facility.

(Am. Ord. 1133, passed 2-18-2004)

**CHAPTER 2.64: BICYCLE AND PEDESTRIAN COMMITTEE**

Section

- 2.64.010 Established.
- 2.64.020 Bicycle and Pedestrian Committee.
- 2.64.030 Terms of office; vacancies.
- 2.64.040 Officers; procedures.
- 2.64.050 Duties and powers.
- 2.64.060 Location of meetings.

**§ 2.64.010 Established.**

A Bicycle and Pedestrian Advisory Committee shall be appointed to serve in an advisory role to the Council.

**§ 2.64.020 Bicycle and Pedestrian Committee.**

The Bicycle and Pedestrian Committee shall consist of 7 members appointed by the City Council upon recommendation of the Committee Chairperson and the City Council liaison to the Committee. The Mayor may vote only to break a tie, if necessary. No member of the Committee shall receive a salary or any payment for any services rendered by the Committee. Committee members may be reimbursed by the city for expenses incurred and pre-approved in the performance of their duties. (Am. Ord. 1136, passed 4-21-2004; Am. Ord. 1426, passed 11-4-2015)

**§ 2.64.030 Terms of office; vacancies.**

Appointees shall hold office for 3-year terms from July 1 in the year of their appointment. At the expiration of the term of a Committee member, the City Council shall appoint a new member or may reappoint a member for a term of 3 years. If a vacancy occurs, the City Council shall appoint a new member to complete the unexpired term. Procedure for all appointments by the City Council shall follow § 2.64.020 above. Any Committee member failing to attend 3 consecutive Committee meetings without approval of the Committee Chairperson may be removed by the City Council and a new member appointed to complete the unexpired term. Bicycle and Pedestrian Committee members serve at the

pleasure of the City Council and are subject to removal at any time by the Council with or without cause.

(Am. Ord. 1136, passed 4-21-2004)

**§ 2.64.040 Officers; procedures.**

At the first meeting of each year, the Committee will elect a Chairperson and Vice-Chairperson who shall serve for a term of 1 year. Three members of the Committee shall comprise a quorum. The Committee shall have authority to make and alter rules, with approval of the City Council, for its own governance and procedures.

**§ 2.64.050 Duties and powers.**

The duties of the Committee shall include:

- A. Recommending policies and procedures conducive to efficient and effective operation of the bicycle and pedestrian transportation system;
- B. Keeping informed about current trends in bicycle and pedestrian services and administration;
- C. Studying growth and needs in the city and its vicinity for bicycle and pedestrian facilities;
- D. Developing long-range plans for bicycle and pedestrian services and facilities, consistent with city priorities;
- E. Investigating sources of funding for bicycle and pedestrian services and facilities;
- F. Recommending policies for the acceptance and use of gifts for bicycle and pedestrian purposes;
- G. Participating in the annual budgetary process of the city as that process pertains to the bicycle and pedestrian facilities and services;
- H. Reviewing and recommending terms of contracts and working relationships with other public agencies regarding bicycle and pedestrian facilities and services;
- I. Encouraging widespread public support and use of bicycle and pedestrian facilities and services; and
- J. Performing other duties as authorized by the City Council.

(Am. Ord. 1372, passed 3-20-2013)

**§ 2.64.060 Location of meetings.**

Meetings shall be held at least once a quarter,

B. In the event it is determined by the officers or their agents that any such place of business violates state or local codes or ordinances; is dangerous to public health, safety or welfare; or is likely to become or is at that time a menace or public nuisance and if the concerned business refuses to correct all violations within a reasonable time as determined by the officials or their agents, no business license shall be issued. If the concerned business requests, in writing, a public hearing before the City Council, a report of the determination of denial and reasons therefor shall be made in writing to the city.

C. The City Council, upon receipt of the determination of denial and reasons therefor, and written request by the concerned business for a public hearing, shall direct the City Recorder to send by certified mail to the concerned business notification of a public hearing to be held before the City Council.

D. The purpose of the hearing shall be to determine whether the concerned business shall be permitted to receive a city business license, or if the concerned business had previously been issued a city business license, should be suspended or revoked by the City Council.

E. The notification to the concerned business shall set forth the time and place of the public hearing and will cite specific incidents which constitute the basis for the determination by the Chief of Police, Chief of the Fire Department, Building Official or their subordinates, that the concerned business is in violation of state or local laws; is dangerous to either public health, safety or welfare; or is likely to become or is at the present time a public menace or nuisance.

#### § 5.04.090 Public hearing.

A. Public hearing for the purpose of determining whether a business license should be issued, or if previously issued whether it should be suspended or revoked, shall be conducted as a quasi-judicial proceeding before the City Council.

B. Evidence or testimony shall be received and considered by the City Council only when the evidence or testimony is relevant to the cited incidents or offenses contained in the notification to the concerned business.

C. If the City Council determines that all or a portion of the incidents or offenses set out in the

notification to the concerned business are supported by substantial evidence, the City Council may refuse to issue a business license to the concerned business or, if a business license has previously been issued, may suspend or revoke the license.

#### § 5.04.100 Issuance.

Upon application being made, any investigation required by this chapter to be made having been satisfactorily completed without a determination by the city officials set out in § 5.04.080 that the business is dangerous to public health, safety, welfare or likely to become or is now a public menace or nuisance or, if the determination has been so made, and if the City Council finds that the determination is not supported by substantial evidence, and if the fee is paid as provided in § 5.04.220, a license shall be issued by the City Recorder.

#### § 5.04.110 Effect of issuance.

A. The issuing of a license pursuant to this chapter or the collection of fee shall not permit any person to engage in any unlawful business.

B. The fees levied and fixed by this chapter shall be in addition to the general ad valorem taxes now or hereafter levied pursuant to law.

C. All ordinances of the city in force on the effective date of the ordinance codified in this chapter pertaining to or covering any business, pursuit or occupation shall remain in full force and effect and in the event of a conflict or duplication of a license fee, then the other ordinance shall take precedence over the provisions of this chapter to the end that there will be no duplication of license fees for the same business, occupation, profession or pursuit. Zoning ordinance fees are in addition to business license fees.

#### § 5.04.120 Effect of suspension or revocation.

A. If a business license is suspended or revoked, the concerned business shall immediately cease conducting any and all businesses within the city.

B. Any business which continues to conduct business within the city subsequent to action by the City Council to suspend or revoke the city license for the business shall be subject to the same fine and penalties as if the business had never obtained a city

business license and was carrying on business within the city without a business license.

**§ 5.04.130 Rehearing upon suspension or revocation.**

A. Any business which has been denied a city business license or has had a city license suspended or revoked by action of the City Council under the provisions of this chapter shall have the right of a rehearing before the City Council for the purpose of reconsideration of the action of the City Council if, in the opinion of the City Council, the concerned business has presented substantial new evidence relevant to the refusal of the city to issue a business license or to the suspension or revocation of a previously issued business license.

B. A request for rehearing shall be presented in writing by the concerned business to the City Council and shall set out the new evidence that the concerned business seeks to bring before the City Council.

C. If the City Council grants a rehearing, it will be conducted in the same manner set forth in § 5.04.090 to determine whether a business license should be initially issued or whether, if one had previously been issued, if it should be suspended or revoked, except that the only evidence or testimony which the City Council shall hear in the rehearing is that which is relevant or material to the new evidence set forth in the request for rehearing by the concerned business.

**§ 5.04.140 Agents responsible for compliance.**

The agents or other representatives of businesses doing business in the city shall be personally responsible for the compliance of their principals and of the businesses they represent with the provisions of this chapter.

**§ 5.04.150 Contractors' and subcontractors' responsibility.**

It shall be the responsibility of all general contractors, utility companies and subcontractors working in the city to obtain a business license. All construction contractors shall be required to be registered with the Oregon Construction Contractors Board (CCB) and be in good standing. It shall further be the responsibility of all general contractors and utility companies working in the city to provide a list

of all names and addresses of subcontractors under their direction. Failure of any subcontractor to obtain a license may result in a stop work order on any project within the city's jurisdiction.  
(Am. Ord. 1399, passed 6-4-2014)

**§ 5.04.160 Separate fee for branch establishments.**

A fee shall be paid in the manner prescribed in this chapter for each branch establishment or location of the business engaged in, as if each branch establishment or location were a separate business; provided that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments. Separately franchised operations shall be deemed separate businesses even if operated under the same name.

**§ 5.04.170 Joint businesses.**

A person engaged in 2 or more businesses at the same location shall be required to pay separate fees for conducting each business; but, when eligible, shall be issued 1 receipt which shall specify on its face all such businesses.

**§ 5.04.180 No license required for mere delivery.**

No license shall be required for any person for any mere delivery in the city of any property purchased or acquired in good faith from the person at the regular place of business outside the city.

**§ 5.04.190 Exemptions.**

- The provisions of this chapter shall not apply to:
- A. Garage sales, as described in this chapter.
  - B. Participants of all official city-sponsored or sanctioned events and the Canby Farmers Market.
  - C. (Reserved).
  - D. Any person engaged as a landlord in leasing or renting property to others, unless the person leases at any 1 time more than 2 separate rental units, spaces or parcels, whether it be land, buildings or both, or residential, commercial or both.
  - E. Municipal, state, or federal agencies.

F. All non-profit organizations are exempt from the business license fee, but are still required to complete an application.

G. Businesses that are participating in an event sponsored by a non-profit organization.

H. Any person who carries on or engages in a business that is illegal under applicable city, state, or federal laws is prohibited from being issued a business license.

I. Any business which is exempt from a license by virtue of state or federal law.

## Canby - Business Licenses and Regulations

J. Any business who is in operation for 3 or fewer consecutive days at the same location and operates less than a total of 30 days per calendar year within C-1 Downtown Commercial Zone of the city. This exemption does not apply to contractors, landscapers, or any business engaged in a contract with the city or Canby Urban Renewal Agency. (Ord. 1396, passed 3-5-2014; Am. Ord. 1447, passed 9-7-2016)

**§ 5.04.200 Display of license.**

All licenses issued in accordance with this chapter shall be openly displayed in the place of business or kept on the person or on the vehicle of the person licensed and shall be immediately produced and delivered for inspection to the Chief of Police, Chief of the Fire Department and their agents or subordinates when requested by the individuals to do so. Failure to carry the license or produce the same on request shall be deemed a violation of this chapter.

**§ 5.04.210 Transfer or assignment of license.**

If any person licensed to do business within the city shall sell or transfer such business to another, the license for such business shall be transferred to such other person upon application being made and payment of a license transfer fee. The anniversary date of the business shall then be changed to the date of the new application. The license fee for this transfer or assignment shall be set forth by resolution. (Am. Ord. 1327, passed 5-19-2010)

**§ 5.04.220 Fee schedule.**

The annual license fee and penalties for delinquency required in this chapter shall be set forth by resolution.

**§ 5.04.230 Penalty.**

A. Any person violating any of the provisions of this chapter shall, upon conviction thereof in the Municipal Court of the city, be punished by a fine not to exceed an amount set by resolution. Each day of the violation of this chapter shall constitute a separate violation.

B. A finding that a person has committed a violation of this chapter shall not act to relieve the

person from payment of any unpaid business fee, including delinquent charges, for which the person is liable. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the city.

C. If a provision of this chapter is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this section.

(Am. Ord. 1399, passed 6-4-2014)

**§ 5.04.240 Delinquency charge.**

The fee required by resolution shall be paid within 30 days after the anniversary date of the original issuance of a business license. A delinquency charge in an amount to be set by resolution will be charged on overdue licenses thereafter at 30-day intervals until the license fee and delinquency charges are paid in full. The total amount paid, including delinquency charges shall not exceed the license fee plus 5 months' delinquency charges.

**CHAPTER 5.06: SECONDHAND DEALERS**

|          |                                                                                           |
|----------|-------------------------------------------------------------------------------------------|
| Section  |                                                                                           |
| 5.06.010 | Purpose.                                                                                  |
| 5.06.020 | Definitions.                                                                              |
| 5.06.030 | Permit required.                                                                          |
| 5.06.035 | Minimum standards.                                                                        |
| 5.06.040 | Application for permit.                                                                   |
| 5.06.050 | Issuance and renewal of permit.                                                           |
| 5.06.060 | Permit fees.                                                                              |
| 5.06.070 | Additional locations.                                                                     |
| 5.06.080 | Reporting of secondhand dealer regulated property transactions and seller identification. |
| 5.06.090 | Regulated property sale limitations.                                                      |
| 5.06.092 | Release of held or seized property.                                                       |
| 5.06.095 | Exceptions to regulated property sale limitations.                                        |

- 5.06.100 Tagging regulated property for identification, Chief's inspection.
- 5.06.110 Prohibited acts.
- 5.06.120 Citation.
- 5.06.130 Revocation or suspension of permit.
- 5.06.140 Appeals.
- 5.06.150 Maintenance of regulated business activity in violation declared a nuisance, abatement.

**§ 5.06.010 Purpose.**

The purpose of this chapter is to strictly regulate certain business activities that present an extraordinary risk of being used by criminals to dispose of stolen property. This risk is present despite the best effort of legitimate secondhand dealer and pawnbroker businesses, because these businesses process large volumes of goods and materials that are frequently the object of theft. This chapter is intended to reduce this type of criminal activity by facilitating timely police notification of such property transactions, and by regulating the conduct of persons engaged in this business activity. The need for these regulations outweighs any anti-competitive effect that may result from their adoption.

(Ord. 1386, passed 11-6-2013)

**§ 5.06.020 Definitions.**

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

A. Acceptable Identification means either a current driver license, an identification card issued by the Department of Motor Vehicles of a United States state, or 2 current United States federal, state or local government-issued identification 1 of which has a photograph of the seller.

B. Acquire means to take or transfer any interest in personal property in a voluntary transaction, including but not limited to: sales, consignments, memoranda between a dealer and a private party seller, leases, trade-ins, loans, refinements and abandonments. Any acquisitions of regulated property by a dealer will be presumed to be an acquisition on behalf of the secondhand dealer business. Notwithstanding the foregoing, Acquire does not include:

1. Any loans made in compliance with state laws by persons licensed as pawnbrokers by the State of Oregon for the purposes of making a pawn loan; or

2. Memoranda between a dealer and a person engaged in the business of selling regulated property.

C. Council means the City of Canby City Council or its designee.

D. Criminal Convictions Related to Fraud, Deception, Dishonesty, or Theft means any conviction for a criminal violation of this chapter; O.R.S. 162.015 to 162.121; 162.265 to 162.385; 164.005 to 164.235; 164.377; 164.395 to 164.415; Chapter 165, or any similar provision of previous or later Oregon statutes, or statutes of another state, or of the United States.

E. Dealer or Secondhand Dealer:

1. Means any sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business and that either:

a. Acquires regulated property on behalf of a business, regardless of where the acquisition occurs, for the purpose of reselling the property; or

b. Offers for sale regulated property in the City of Canby.

2. Notwithstanding division 1. above, Dealer or Secondhand Dealer does not include any of the following:

a. A business whose acquisitions of regulated property consist exclusively of donated items and/or purchases from 501(c)(3) organizations;

b. An individual or business whose only transactions involving regulated property in the City of Canby consist of the acquisition of regulated property for personal use, or the sale of regulated property that was originally acquired by the seller for personal use; or

c. A person whose only business transactions with regulated property in the City of Canby consist of a display space, booth, or table maintained for displaying or selling merchandise at

not unreasonably disturb the peace and tranquility of this city and its neighborhoods.

**§ 5.16.020 Definitions.**

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

Application means the written request to the City Council to grant, modify or renew a liquor license.

Commission means the Oregon Liquor Control Commission.

Special Retail Beer Licenses (SRB) means a temporary dispenser license, issued by the Commission, pursuant to O.R.S. 471 and OAR 845-04-025(2) and (5), for the purposes of serving beer or other malt beverage in exchange for some financial consideration and as part of a picnic, convention, fair, civil or community enterprise or similar special event, such as a spectator sports event, musical concert or festival, and for which approval by the city must be obtained.

Special Retail Wine License (SRW) means a temporary dispenser license, issued by the commission, pursuant to O.R.S. 471 and OAR 845-04-025(2) and (5), for the purpose of serving wine or similarly regulated fermented beverage in exchange for some financial consideration and as part of a picnic, convention, fair, civic or community event, musical concert or festival, and for which approval from the city must be obtained.

**§ 5.16.030 License application.**

A. Any person or business, requesting a city recommendation to the Commission on a liquor license application shall make application upon suitable forms, furnished by the city.

B. The application shall contain the following:

1. The type of license applied for and a description of the nature of the business for which the application is made;

2. The name of the applicant, with address; if the business is a partnership, the names and addresses of all partners; if the business is a corporation, the name and address of the home office, and the name and address of the designated agent in the state; if a foreign corporation, the name and address of the local agent or representative who will

be in charge of the business in the city;

3. The address where the business will be located in the city;

4. The date of application;

5. Any other information the Council deems necessary for review;

6. A verification that the information submitted within the application is true and accurate;

7. The signature of the applicant or agent making the application; and

8. The application shall be accompanied by the appropriate fee. The fees shall be non-refundable. These fees shall be set forth by resolution.

9. The applicant shall have a city business license, or have applied for a license whose issuance is contingent upon obtaining a temporary or final certificate of occupancy.

10. If the applicant for a temporary sales license can demonstrate that it is organized and operating as a nonprofit organization, no application fee to the city shall be required.

(Am. Ord. 1327, passed 5-19-2010; Am. Ord. 1454, passed 12-7-2016)

**§ 5.16.040 Chief of Police's duties.**

The city shall provide application forms and shall maintain a record of all applications. The Chief of Police shall coordinate and conduct an investigation of each application for the purpose of determining what recommendation shall be made by the Chief of Police to the Council or, in the case of special retail beer and special retail wine licenses, to the Commission. The investigation may include those subjects contained in the chapter of the city, as well as the statutes of the state. The Chief of Police may require the applicant to supply any relevant additional information to determine the qualifications of the applicant. Upon completion of the review and for all applications except special retail beer and special retail wine licenses, the Chief of Police shall make a recommendation to the City Council. For special retail beer and special retail wine licenses upon completion of review, the Chief of Police shall determine and advise the applicant and the Commission what the recommendation of the city shall be in accordance with the standards, criteria and procedures contained in this chapter.

**§ 5.16.050 Hearing procedure.**

A. For all applications for which Council approval is required under this chapter, and where the Chief of Police recommends approval of an application, the matter will be scheduled as an agenda item at the next regular Council meeting.

B. Prior to City Council consideration of a liquor license application, a Council member may review the application and the investigation materials gathered by the Chief of Police, but only to the extent that disclosure of the application and investigation materials is not prohibited by law. Upon the request of a Council member or where the Chief of Police's recommendation is adverse to the application, by the applicant, a public hearing will be scheduled.

C. Notice of public hearing before the Council shall be given in the following manner:

1. The notice shall contain the business name of the applicant, the location of the business, the nature of the license applied for, and the time and location at which the hearing will take place.

2. Notice shall be mailed to the applicant or applicant's agent at the address shown on the application not less than 7 days before the date set for the hearing.

3. Notice shall be published in a newspaper of general circulation in the city not less than 5 days before the date set for the hearing.

4. The public hearing shall be conducted as follows:

a. The Chief of Police shall present the police report. Any other written or oral evidence which is supportive of the Chief of Police's recommendation may also be presented at this time.

b. The applicant may present evidence and/or witnesses in support of the application.

c. Interested members of the public shall be given an opportunity to present evidence or testimony bearing upon the application, whether the evidence is supportive or adverse to the application.

d. The applicant shall be afforded an opportunity to rebut evidence presented in opposition to the application.

e. Any relevant evidence shall be admitted, if it is the type of evidence on which

reasonable persons are accustomed to relying on in the conduct of their serious affairs, regardless of the existence of any law or rule which might make improper the admission of the evidence over objection in civil actions in courts of competent jurisdiction in this state. Evidence of past transactions and occurrences shall not be excluded solely on the basis of having occurred in the past and may be relied upon by the Council in making its recommendation. However, irrelevant and unduly repetitious evidence shall be excluded.

5. In the case of special retail beer and special retail wine license applications, after due consideration of all pertinent information, the Chief of Police shall make a recommendation. The recommendation shall be based on substantial evidence relative to the criteria in this chapter, O.R.S. Chapter 471 and the public health, safety and welfare. The Chief of Police may attach reasonable conditions upon the recommendation, which conditions shall be consistent with the purposes of this chapter. Where the Chief of Police recommends approval of an application, the City Administrator shall cause the applicant to be notified of the recommendation. Where the Chief of Police's recommendation is for denial or otherwise adverse to the applicant, it may be appealed to the City Council in accordance with the procedures provided in this section.

**§ 5.16.060 Standards and criteria.**

A. The Council shall make its recommendation for approval, denial or modification of the liquor license application based on the Council's evaluation of the relevant standards and criteria, as set forth herein. The applicant shall be held strictly accountable for the conditions of the premises.

B. The Council may recommend against the applicant if any of the following conditions exist:

1. The application is incomplete;

2. The applicant neglects or refuses to provide in a timely manner any information reasonably requested by the Chief of Police or City Council;

3. The applicant provides false or misleading information to the Chief of Police, City Council or to any city employee;

4. The applicant does not possess a current city business license nor applied for one when new construction is involved;

5. The zoning district in which the applicant proposes to locate the business does not allow the business either as a permitted or conditional use;

6. The record of the applicant shows a conviction(s) of criminal law(s) or ordinance(s) connected in time, place and manner with a liquor establishment;

7. The applicant has maintained or allowed to exist an establishment which creates or is a public nuisance under the ordinances of the city or laws of the state, or in which any violations of the provisions of the city, ordinances or federal or state law relating to minors, gambling, obscenity, controlled substances, prostitution or alcoholic beverages, or O.R.S. Chapters 163, 164, 165 or 166 have occurred, or which creates an increase in disorderly or violent acts, litter, noise, vandalism, vehicular or pedestrian traffic congestion or other location problems in the reasonable proximity of the premises;

8. The applicant's premises are not maintained in reasonable repair, both interior and exterior, and kept clean and free of litter, rubbish and dirt;

9. In the case of an application for a new license or for an increase in liquor selling or dispensing privilege, there are sufficient licensed premises in the locality set out in the application and the license is not demanded by public interest or convenience;

10. The licensing of the premises would not be in the best interest of the community because of a history of illegal activities, altercations, noisy conduct or other disturbances in or around the premises;

11. The applicant has demonstrated an unwillingness or inability to cooperate with city agencies and/or neighbors in resolving community disputes relating to a licensed establishment; or

12. The applicant's premises place unreasonable, excessive demand on city services, including law enforcement.

(Am. Ord. 1454, passed 12-7-2016)

**§ 5.16.070 Reconsideration of applications.**

A. After having made a recommendation other than favorable on any license application, the Council shall not consider any new application for the same location by the same or substantially the same applicant for a period of at least 6 months, except as otherwise provided herein.

B. If the Chief of Police reasonably believes that the conditions which caused the Council to make a recommendation, other than a favorable recommendation, have substantially changed and no court or administrative appeal of the license is pending, then the Chief of Police may reconsider and/or resubmit the application to the Council.

## **Canby - Business Licenses and Regulations**

C. The entire period of community service shall be performed under the supervision of a community service provider approved by the court; and

D. Reasonable effort shall be made to assign the subject person to a type of community service that is reasonably expected to have the most rehabilitative effect on the person. To the extent that the offense giving rise to the offer of community service constitutes a violation of this section, reasonable effort shall be made by the court to assign the person to community service which constitutes in significant part the removal of the graffiti.

**§ 9.44.050 Parental responsibility.**

A. No parent, guardian or other person having the legal custody of an unemancipated minor person under the age of 18 years may allow or permit the minor to be in violation of § 9.44.020A. or B. of this chapter.

B. Upon a subsequent violation by an unemancipated minor person, the parent, guardian or person having legal custody shall be served with a subpoena to appear before the court with the minor and show cause why § 9.44.020A. or B. of this chapter has been violated a second time.

C. Violating parental responsibility under this section is a Class A infraction.

**§ 9.44.060 Graffiti nuisance property.**

A. It is hereby found and declared that graffiti creates a visual blight and property damage. When graffiti is allowed to remain on property and not promptly removed, it invites additional graffiti, gang activity and criminal activity and constitutes a nuisance.

B. Any property within the city which becomes graffiti nuisance property is in violation of this chapter.

C. Any owner of property who permits the property to be a graffiti nuisance property is in violation of this chapter.

(Am. Ord. 1166, passed 1-5-2005)

**§ 9.44.070 Notice procedure.**

A. When the Chief of Police believes in good faith that property within the city is a potential graffiti nuisance property, the Chief of Police shall notify the

owner in writing that the property is a potential graffiti nuisance property. The notice shall contain the following information:

1. The street address or description sufficient for identification of the property;

2. That the Chief of Police has found the property is a potential graffiti nuisance property, with a concise description of the conditions leading to this finding;

3. A direction to abate or remove the graffiti, or show good cause to the Chief of Police why the owner cannot abate or remove the graffiti, within 10 business days from service of the notice;

4. That, if the graffiti is not abated or removed, or good cause for failure to abate or remove is not shown, the Municipal Judge may order abatement, with appropriate conditions. The Municipal Judge may also employ any other remedy deemed by him or her to be appropriate to abate the nuisance, including but not limited to authorizing a civil complaint to be filed in a court of competent jurisdiction;

5. That permitting graffiti nuisance property is a violation punishable by a fine not to exceed \$500, pursuant to § 1.08.010. Violators may be cited into Canby Municipal Court when charged with this violation; and

6. That the above remedies are in addition to those otherwise provided by law.

B. Service of the notice is completed by personal service or upon mailing the notice by first class mail, postage prepaid, addressed to the owner at the owner's last known address.

C. A copy of the notice shall be served on occupants of the property, if different from the owner.

D. The failure of any person or owner to receive actual notice of the determination by the Chief of Police shall not invalidate or otherwise affect the proceedings under this chapter.

(Am. Ord. 1166, passed 1-5-2005)

**§ 9.44.080 Abatement procedures.**

A. Within 10 business days of the personal service or mailing of the notice the owner shall abate or remove the graffiti or show good cause why the owner cannot abate or remove the graffiti within that time period.

B. Upon good cause shown, the Chief of Police may grant an extension not to exceed 10 additional business days.

C. If the owner does not comply with the provisions of this chapter, the Chief of Police may refer the matter to the Municipal Judge for hearing in the Municipal Court. The Municipal Court Clerk shall give notice of the hearing date to the owner and occupants, if the occupants are different from the owner.

D. At the time set for a hearing, the owner and occupants may appear and be heard by the Municipal Judge.

E. The Municipal Judge shall determine whether the property is graffiti nuisance property and whether the owner has complied with this chapter.

F. The city has the burden of proving by a preponderance of the evidence that the property is graffiti nuisance property.

G. The owner has the burden of proving by a preponderance of the evidence that there is good cause for failure to abate the nuisance within 10 business days of the personal service or mailing of the notice. (Am. Ord. 1166, passed 1-5-2005)

**§ 9.44.090 Remedies of the city.**

A. In the event that the Municipal Judge determines that the property is graffiti nuisance property, the Judge may order that the nuisance be abated. This order may include conditions under which abatement is to occur.

B. The Municipal Judge may also employ any other legal remedy deemed by it to be appropriate to abate the nuisance, including but not limited to authorizing the filing of a civil complaint in a court of competent jurisdiction.

C. The remedies provided in this section are in addition to those otherwise provided by law. (Am. Ord. 1166, passed 1-5-2005)

**§ 9.44.100 Penalty.**

Permitting graffiti nuisance property is a violation punishable by a fine not to exceed \$500, pursuant to § 1.08.010. Violators may be cited into Canby Municipal Court when charged with this violation. (Am. Ord. 1166, passed 1-5-2005)

**§ 9.44.110 Abatement by the city.**

If the owner fails to abate the nuisance as ordered by the Municipal Judge, the city may cause the nuisance to be abated as provided in Chapter 8.12 of this code of ordinances.

(Am. Ord. 1166, passed 1-5-2005)

**CHAPTER 9.48: NOISE CONTROL**

Section

- 9.48.010 Standards and definitions.
- 9.48.020 Responsibility and authority.
- 9.48.030 Prohibited acts.
- 9.48.040 Maximum permissible sound levels.
- 9.48.050 Exceptions and variances.
- 9.48.060 Chapter additional to other law.

Appendix A: Table 1: Allowable Sound Levels

**§ 9.48.010 Standards and definitions.**

A. Terminology and Standards. All terminology used in this chapter that is not defined below shall be in accordance with the American National Standards Institute (ANSI).

B. Measurement of Sound Level.

1. Measurements shall be made with a calibrated sound level meter in good operating condition, of a standard design and quality that meets the basic specifications established by the American National Standards Institute (ANSI).

2. Procedures and tests required by this chapter and not specified herein shall be placed on file with the Code Enforcement Officer.

C. Definitions.

Ambient Noise means all-encompassing noise associated with a given environment, being usually a composite of sounds from any sources near or far.

Amplifying Equipment means public address systems, musical instruments and other similar devices which are electronically amplified.

Commercial Land Use includes land uses zoned C-1, C-2 and C-M, or any use of an office, service establishment, retail store, park, amusement or recreation facility, or other use of the same general type, whether publicly or privately owned.

Construction means any and all activity necessary or incidental to the erection, demolition, assembling, altering, installing, repair or equipping of buildings, roadways and utilities. It shall include land clearing, grading, excavating and filling, before, during or following that activity.

Continuous Sound means any steady sound with a deviation no greater than plus or minus 2 dBA of its mean, or total fluctuation of 4 dBA, during the period of observation when measured with a sound level meter set on fast response.

Day Time Period means 7:00 a.m. until 10:00 p.m. of the same day, local time.

Domestic Power Tools means any mechanical powered nail gun, stapler, saw, drill, sander, grinder, lawn or garden tool, lawn mowers, generators or similar devices generally used out of doors in residential areas.

Emergency Work means work made necessary to restore property to a safe condition following severe inclement weather and natural disasters, work required to restore public utilities or work required to protect persons or property from imminent exposure to danger.

Industrial Land Use includes land uses zoned M-1 and M-2 or any use of a warehouse, factory, mine, wholesale trade establishment or other use of the same general type, whether publicly or privately owned.

Night Time Period means 10:00 p.m. of one day until 7:00 a.m. the following day, local time.

Noise Sensitive Land Use includes property on which residential housing, apartment buildings, schools, churches, hospitals and nursing homes are located.

Off-Road Recreational Vehicle means any self-propelled land vehicle designed for or capable of traversing over natural terrain, including but not limited to racing vehicles, mini-bikes, motorcycles, go-karts and dune buggies, when operated off the public right-of-way for noncommercial purposes.

Plainly Audible means unambiguously communicated sounds which disturb the comfort, repose or health of the listener. Plainly Audible sounds include, but are not limited to understandable musical rhythms, understandable spoken words, and vocal sounds other than speech, which are distinguishable as raised or normal.

Powered Model Vehicle means any self-propelled airborne, waterborne or land-borne plane, vessel or vehicle, which is not designated to carry persons, including but not limited to any model airplane, boat, car or rocket.

Recreational Park means a facility open to the public for the operation of off-road recreational vehicles.

Warning Devices means electronic devices used to protect persons or property from imminent danger, including but not limited to firearms, civil defense warning systems and safety alarms required by law.

(Am. Ord. 1450, passed 11-16-2016)

#### § 9.48.020 Responsibility and authority.

A. Responsibility. The responsibility for enforcement of this chapter shall reside with the City Administrator or his or her designee.

B. Authority. In order to implement this chapter and for the general purpose of sound abatement and control, the City Administrator or his or her designee shall have, in addition to any other authority vested with him or her, the following powers:

1. Planning. Implement a noise control strategy in consonance with the city's zoning ordinance and comprehensive plan to assure public and private enterprises do not adversely impact existing noise sensitive properties and properties designated for noise sensitive use and to prevent the encroachment of noise sensitive uses into high impact areas, such as industrial zones and immediately

adjacent to major highways or arterials, which are incompatible for the uses by virtue of existing projected noise impacts.

2. Inspection. Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or record at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner. The inspection may include administration of any necessary tests.

3. Issue Summons. Issue summons, notices of violations or other legal orders to any person in alleged violation of any provision of this chapter.

4. Investigate Violations. In accordance with other provisions of this chapter, investigate and document violations and take necessary actions preparatory to enforcement.

5. Amendments and Modifications. Develop and recommend amendments and modifications to this chapter so as to maintain or enhance the effectiveness of the noise control program.

6. Education. Develop programs for public education regarding the requirement and remedies available through the noise control chapter.

**§ 9.48.030 Prohibited acts.**

A. No person shall knowingly continue, cause or permit to be made or continue to make any excessive or unnecessary sounds which are listed in division B. of this section or § 9.48.040.

B. The following acts are declared to create excessive and unnecessary sounds in violation of the chapter without regard to the maximum sound levels of § 9.48.040.

1. Radios; Phonographs; Tape Players; Television Sets; Stereo Systems. The playing, using or operating of any radio, tape player, television set or stereo system, including those installed in a vehicle, in such a manner so as to be plainly audible at any time between 10:00 p.m. and 7:00 a.m. the following day, local time, either:

- a. Within a noise-sensitive unit which is not the source of the sound; or
- b. At a distance of 100 feet or more from the source of the sound.

2. Revsing Engines. Operating any motor vehicle engine above idling speed on or off the public right-of-way, so as to create excessive or unnecessary sounds within a noise-sensitive area.

3. Compression Braking Devices. Using compression brakes, commonly referred to as jake brakes, on any motor vehicle, except to avoid imminent danger to persons or property.

4. Exhausts. Discharging into the open air the exhaust of any steam engine, internal combustion engine, or any mechanical device operated by compressed air or steam without a muffler, or with a sound control device less effective than that provided on the original engine or mechanical device.

5. Idling Engines on Motor Vehicles or Compressors on Refrigerated Trailers. Idling more than 15 consecutive minutes between the hours of 10:00 p.m. and 7:00 a.m. the following day, local time, any motor vehicle with a Gross Vehicle Weight Rating (GVWR) of 8,000 pounds or greater which exceeds 50 dBA on the nearest occupied noise-sensitive property.

6. Vehicle Tires. Squealing tires by excessive speed or acceleration on or off public right-of-way, except when necessary to avoid imminent danger to persons or property.

7. Motorcycles; Go-Karts; Dune Buggies. Operating motorcycles, go-karts, dune buggies and other off-road recreational vehicles off the public right-of-way on property not specifically designated as a recreational park for off-road recreational use in such a manner as to exceed 75 dBA at 50 feet or more.

8. Powered Model Vehicles. Operating or permitting the operation of powered model vehicles, with the exception of gliders and aircraft propelled by electric motors, in areas not designated by the City Administrator or City Council for that use, in such a manner as not to exceed 75 dBA at 50 feet or more.

9. Explosives. The discharge of fireworks and other explosive devices unless pursuant to a locally permitted display or program.

10. Tampering. The removal or rendering inoperative for purposes other than maintenance, repair or replacement of any noise control device.

| <i>Ord. No.</i> | <i>Date</i> | <i>Description</i>                                                                                                                                                                         |
|-----------------|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1342            | 5-18-2011   | Granting a non-exclusive franchise to Canby Telephone Association to provide telecommunication services within the city, for a period of 5 years retroactively effective from June 7, 2010 |
| 1347            | 10-19-2011  | Amending the cable television franchise agreement with WaveDivision VII, LLC, and extending its term to March 4, 2017                                                                      |
| 1349            | 10-19-2011  | Amending the cable television franchise agreement with Canby Telephone Association to maintain competitive equity                                                                          |
| 1370            | 3-6-2013    | Granting a nonexclusive franchise to Lightspeed Networks, Inc to construct, operate, and maintain a telecommunications network                                                             |
| 1388            | 11-20-2013  | Granting to Clackamas County a nonexclusive franchise to construct, operate and maintain a telecommunications network and provide telecommunications services with the city                |
| 1389            | 11-20-2013  | Granting to TW Telecom of Oregon LLC, a nonexclusive franchise to construct, operate and maintain a telecommunications network and provide telecommunications services with the city       |
| 1425            | 11-4-2015   | Granting to Canby Telephone Association a nonexclusive franchise to provide telecommunication services within the city                                                                     |

TSO I

**Canby - Table of Special Ordinances**

## REFERENCES TO OREGON REVISED STATUTES

| <i>O.R.S. Section</i>   | <i>Code Section</i>                                    |
|-------------------------|--------------------------------------------------------|
| 8.665                   | 12.24.050                                              |
| Ch. 10                  | 1.16.030                                               |
| 10.050                  | 1.16.070                                               |
| 30.315                  | 8.20.110                                               |
| Ch. 34                  | 13.16.077                                              |
| 34.010 to 34.100        | 4.04.100, 5.06.050, 5.06.140, 12.24.060                |
| Ch. 88                  | 2.40.090                                               |
| Ch. 131 through 133     | 9.04.020                                               |
| 133.005(1)              | 9.50.020                                               |
| 133.005(3)              | 12.24.060                                              |
| 133.455                 | 9.50.040                                               |
| Ch. 135 through 138     | 9.04.020                                               |
| Ch. 153                 | 9.04.020, 9.32.070, 10.04.010, 12.13.120,<br>12.24.050 |
| Ch. 156 through 157     | 9.04.020                                               |
| Ch. 162 through 167     | 9.04.010                                               |
| 162.015 - 162.121       | 5.06.020                                               |
| 162.265 - 162.385       | 5.06.020                                               |
| Ch. 163                 | 5.16.060                                               |
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| 1426            | 11-4-2015          | 2.64.020                                                      |
| 1433            | 3-2-2016           | 2.20.010, 2.20.040, 2.20.050, 2.20.070,<br>2.20.080, 2.20.100 |
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