

# **ORDINANCE NO. 754**

## **AN ORDINANCE AMENDING TITLE 9, PUBLIC PEACE, MORALS AND WELFARE, OF THE TROUTDALE MUNICIPAL CODE**

### **THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:**

1. The City's practices in addressing matters of public peace, morals and welfare, as well as state laws that regulate public peace, morals and welfare, have changed since the adoption of Title 9.
2. The provisions in Title 9 need to be updated.

### **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE**

Section 1. Chapter 9.04 is hereby amended to read as set forth in Attachment A.

Section 2. Chapter 9.06 is hereby amended to read as set forth in Attachment B.

Section 3. Chapter 9.08 is hereby amended to read as set forth in Attachment C.

Section 4. Chapter 9.12 is hereby amended to read as set forth in Attachment D.

Section 5. Chapter 9.16 is hereby repealed.

Section 6. Chapter 9.20 is hereby amended to read as set forth in Attachment F.

Section 7. Chapter 9.22 is hereby amended to read as set forth in Attachment G.

Section 8. Chapter 9.24 is hereby amended to read as set forth in Attachment H.

Section 9. Chapter 9.28 is hereby amended to read as set forth in Attachment I.

Section 10. Chapter 9.32 is hereby amended to read as set forth in Attachment J.

Section 11. Chapter 9.36 is hereby amended to read as set forth in Attachment K.


Section 12. Chapter 9.44 is hereby amended to read as set forth in Attachment L.

Section 13. Chapter 9.48 is hereby amended to read as set forth in Attachment M.

**YEAS: 5**

**NAYS: 2** (Councilor Kyle, Councilor Gorsek)

**ABSTAINED: 0**

  
\_\_\_\_\_  
**Paul Thalhofer, Mayor**  
*October 13, 2004*  
\_\_\_\_\_  
**Date**

  
\_\_\_\_\_  
**Debbie Stickney, City Recorder**

**Adopted: October 12, 2004**

## Attachment A

### Chapter 9.04 OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

#### 9.04.010 Impersonating peace officers unlawful.

It is unlawful for any person to assume to be, hold himself out to be or represent himself to be a peace officer, either by words, actions or appearance, unless such person is authorized by law so to do.

#### 9.04.020 Unauthorized display of peace officer insignia.

It is unlawful for any person to have, possess or display the badge, identification or other credential of a peace officer, unless such person is authorized by law so to do.

#### 9.04.030 Interference with peace officers unlawful.

It is unlawful for any person to resist any peace officer, or to refuse to assist him in the discharge of his duties, or encourage any other person to interfere with a peace officer in the performance of his duties.

#### 9.04.040 Escape from peace officer unlawful.

It is unlawful for any person in the custody of a peace officer of the state or any county, city or judicial process, to escape or attempt to escape from the custody of such peace officer.

#### 9.04.050 Rescue of persons in custody unlawful.

It is unlawful for any person to rescue or attempt to rescue, with or without the use of force, any other person in the custody of a peace officer of the state or any county, city or town thereof, by virtue of a lawful arrest or judicial process, or to aid or assist such other persons to escape or attempt to escape from the custody of such peace officer.

#### 9.04.060 Escape of person in confinement unlawful.

It is unlawful for any person confined pursuant to a court order to escape or attempt to escape from such place of confinement or from the custody of any person in charge of such place.

#### 9.04.070 Rescue of persons in confinement unlawful.

It is unlawful for any person to aid or assist any other person to commit any of the acts set forth in Section 9.04.060 of this chapter.

#### 9.04.080 Violation--Penalty.

A violation of this chapter is a Class A misdemeanor as defined by state law.

## Attachment B

### Chapter 9.06 INTERFERING WITH EMERGENCIES

#### 9.06.010 Short title.

This chapter shall be known as "interfering with emergencies."

#### 9.06.020 Authority and intent.

Pursuant to the statutes of the state of Oregon and the powers granted in the charter of the city, the city does declare and reaffirm as set out in this chapter.

#### 9.06.030 Definitions.

As used in this chapter, the following definitions shall apply:

**A.** "Arrest" means to place a person under actual or constructive restraint or to take a person into custody for the purpose of charging that person with an offense.

**B.** "Emergency" includes any manmade or natural event or circumstance causing or threatening loss of life, injury to person or property, human suffering or financial loss, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases or oil or other hazardous material, contamination, utility or transportation emergencies, disease, blight, infestation, civil disturbance, riot, sabotage and war.

**C.** "Riot" means a public disturbance involving:

**1.** An act or acts of violence by one or more persons part of an assemblage of three or more persons, which act or acts shall constitute a clear and present danger of, or shall result in damage or injury to the property of another person or to the person of another individual; or

**2.** A threat or threats or commission of an act or acts of violence by one or more persons part of an assemblage of three or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in damage or injury to the property of another person or the person of any other individual.

#### 9.06.040 Unlawful conduct designated.

**A.** It is unlawful for any person to refuse to leave the area of a fire, explosion, accident, cave-in or similar emergency or disaster, or where such an emergency or disaster is threatened, or the vicinity of a riot, disturbance or arrest when their presence may be unsafe to themselves or others, or may directly physically interfere with rescue, firefighting, emergency aid, or arrest, after being directed to leave that area by an individual whom the person knows to be a police officer.

**B.** "To leave the area" means to physically move to a location not less than twenty feet extending in a radius from where police, fire or medical personnel are engaged in performing official duties in connection with the emergency, disaster, riot, disturbance or arrest; the radius may be extended beyond twenty feet when a police officer reasonably believes that such extension is necessary because there exists some substantial risk of physical injury to any person.

**9.06.050 Violation--Penalty.**

**A.** Violation of this chapter is a Class A misdemeanor as defined by state law.

## Attachment C

### Chapter 9.08 ALCOHOLIC BEVERAGES

#### Article I. Public Consumption of Alcohol

##### 9.08.010 **Public consumption prohibited--Alcoholic beverage defined.**

**A.** Except as otherwise provided in Section 13.20.190 of this code, or except at an OLCC venue no person shall drink or consume an alcoholic beverage in any public street, road, highway, sidewalk, parking lot, beach, or in any private driveway, road or parking lot which is extended to public use.

**B.** An "alcoholic beverage" means a beverage containing more than one-half of one percent of alcohol by volume.

**C.** Beach means a portion of shore consisting generally of sand and pebbles, resulting usually from the action of water, as distinct from the upland, to which it often extends above normal high-water mark. Beach is synonymous with "shore," "strand," or "flats." The term may also include the sandy shore above mean high water, which is washed by storms and exceptionally high tides.

##### 9.08.020 **Violation of Section 9.08.010--Penalty.**

Violation of Section 9.08.010 of this article is punishable by a fine not to exceed one thousand dollars, or confinement in jail not to exceed thirty days or both.

#### Article II. Minors and Alcoholic Beverages

##### 9.08.030 Title.

The provisions set out in Article II of this chapter shall be known as the "Minor in Possession Ordinance," and may be so pleaded and referred to and shall apply within the jurisdictional limits of the city.

##### 9.08.040 **Alcoholic liquor defined.**

"Alcoholic liquor" means any alcoholic beverage containing more than one-half of one percent alcohol by volume, and every liquid or solid patented or not patented containing alcohol and capable of being consumed by a human being.

##### 9.08.050 **Purchase or possession by persons under twenty-one years of age prohibited.**

**A.** No person under the age of twenty-one years shall attempt to purchase, purchase or acquire alcoholic liquor. No person under the age of twenty-one years shall have in his possession alcoholic liquor, except when such minor is in a private residence accompanied by his parent or guardian and has the parent's or guardian's consent.

**B.** For the purposes of this section, "possession of alcoholic liquor" means and includes the acceptance or consumption of a bottle of such liquor, or any portion thereof, or a drink of such liquor. However, this section does not prohibit the acceptance or consumption by any person of

sacramental wine as a part of a religious rite or service.

**9.08.060 Effect of other laws.**

This article shall not affect the validity or enforceability of any other state law or county ordinance which is or may in the future be in effect and which relate to the activities regulated by this chapter.

**9.08.070 Violation of Sections  
9.08.030--9.08.060--  
Penalty.**

A violation of this chapter is a class B Misdemeanor as defined by state law.

## Attachment D

### Chapter 9.12 SOCIAL GAMBLING

#### 9.12.010 Title.

The provisions set out in this chapter are enacted pursuant to Oregon Revised Statutes Section 167.121 and shall be known and may be cited as "The City of Troutdale Social Gambling Ordinance."

#### 9.12.020 Person defined.

As used in this chapter, "person" means any individual, firm, partnership, corporation, association, club or other organization.

#### 9.12.030 Social gambling license—License required.

No person shall conduct or allow the playing of "social games," as defined in Oregon Revised Statutes Section 167.117 in a private business, private club or place of public accommodation unless the person first obtains a social gambling license in accordance with Sections 9.12.040 and 9.12.050 of this chapter for each event where social games are played or conducted.

#### 9.12.040 Social gambling license--Application.

An application for a social gambling license shall be filed with the city recorder and shall contain the following information:

**A.** The name, address and signature of the applicant;

**B.** The type of game permitted by Oregon Revised Statutes Section 167.117 for which the license is sought;

**C.** The time and place of the game for which the license is required;

**D.** The estimated gross income from the operation of the game; and the estimated gross income of the private business, private club or public accommodation for which the application for license is filed.

#### 9.12.050 Social gambling license-- Consideration by council--Issuance conditions.

Applications for a social gambling license as filed with the city recorder shall be processed in the same manner as business licenses, following the provisions in sections 5.04.060, 5.04.150 and 5.04.160 of the Troutdale Municipal Code.



**Chapter 9.20 INDECENT  
EXPOSURE**

**9.20.010 Exposure of genitalia  
unlawful.**

It is unlawful for any person to expose his or her genitalia or engage in sexual activity while visible from a public place.

**9.20.020 Violation--Penalty.**

A violation of this chapter is a class A misdemeanor as defined by state law.

**Chapter 9.22 DISORDERLY CONDUCT**

**9.22.010 General definition.**

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 or she:

**A.** Engages in fighting or in violent, tumultuous or threatening behavior;

**B.** Makes unreasonable noise;

**C.** Disturbs any lawful assembly of persons without lawful authority;

**D.** Obstructs vehicular or pedestrian traffic on a public way;

**E.** Congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse;

**F.** Initiates or circulates a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency; or

**G.** Creates a hazardous or physically offensive condition by any act which he or she is not licensed or privileged to do.

**9.22.020 Violation--Penalty.**

Disorderly conduct shall be a Class B misdemeanor.

**Chapter 9.24**

**JUMPING/DIVING FROM  
BRIDGES**

**Attachment H**

**9.24.010 Jumping/Diving off  
bridges unlawful.**

It is unlawful for any person to jump/dive off of any bridge over water at any time.

**9.24.020 Unlawful acts in  
streams--General  
requirements.**

It is unlawful for any person to do any act while within a stream of water within the city which will endanger the life of any person.

## Attachment I

### Chapter 9.28 TRESPASS

#### 9.28.010 Title.

The provisions set out in this chapter shall be known and may be cited as "The City of Troutdale Criminal Trespass Ordinance."

#### 9.28.020 Definitions.

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

**A.** "Enter or remain unlawfully" means:

**1.** To enter or remain in or upon premises when the premises, at the time of such entry or remaining, are not open to the public or when the entrant is not otherwise licensed or privileged to do so; or

**2.** To fail to leave premises that are open to the public after being lawfully directed to do so by the person in charge.

**3.** To enter premises that are open to the public after being lawfully directed not to enter the premises.

**B.** "Open to the public" means premises which by their physical nature, function, custom, usage, notice or lack thereof or other circumstances at the time would cause a reasonable person to believe that no permission to enter or remain is required.

**C.** "Person in charge" means a person, his representative or employee who has lawful control of premises by ownership, tenancy, official position or other legal relationship. It includes, but is not limited to the person, or holder of a position, designated as the person or position-holder in charge by the Governor, board, commission or governing body of any political subdivision of the state.

**D.** "Premises" means and includes any building and any real

property, whether privately or publicly owned.

**E.** "Trespass" means entry upon the property of another.

#### 9.28.030 Criminal trespass prohibited.

A person commits the crime of criminal trespass if he/she enters or remains unlawfully in or upon premises.

#### 9.28.040 Violation--Penalty.

A violation of this chapter is a Class A misdemeanor as defined by state law.

**Chapter 9.32 CRIMINAL MISCHIEF—  
REPORTS OF VANDALISM**

**Article I. Criminal Mischief**

**9.32.010 Criminal mischief in  
the third degree.**

A person commits the crime of criminal mischief in the third degree if, within intent to cause substantial inconvenience to the owner or to another person, and having no right to do so nor reasonable ground to believe that he has such right, he tampers or interferes with property of another.

**9.32.020 Criminal mischief in  
the second degree.**

A person commits the crime of criminal mischief in the second degree if:

**A.** He violates Section 9.32.010 of this article, and as a result thereof damages property in an amount exceeding one hundred dollars; or

**B.** Having no right to do so nor reasonable ground to believe that he has such right, he intentionally damages property of another, or he recklessly damages property of another in an amount exceeding one hundred dollars.

**9.32.030 Violation of Sections  
9.32.010 and  
9.32.020--Penalty.**

**A.** A violation of Section 9.32.010 is a Class C misdemeanor as defined by State law.

**B.** A violation of Section 9.32.020 is a Class A misdemeanor as defined by State law.

# Attachment K

## Chapter 9.36 THEFT

### 9.36.010 Acts constituting theft in the third degree

A person commits theft in the third degree 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; and

**B.** The total value of the property in a single aggregate transaction is under fifty dollars.

### 9.36.015 Acts constituting theft in the second degree.

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

**A.** Take, appropriates, obtains or withholds such property from an owner thereof, and

**B.** The total value of the property in a single aggregate transaction is over fifty dollars and less than seven hundred and fifty dollars.

### 9.36.020 Value of stolen property defined.

For the purposes of this chapter, the "value of property" 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.

### 9.36.030 Defense against prosecution.

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.

### 9.36.040 Violation--Penalty.

A violation of Section 9.36.010 is a Class C misdemeanor as defined by State law. A violation of Section 9.36.015 is a Class A misdemeanor as defined by State law.

## Attachment L

### Chapter 9.44 AIRGUNS

#### 9.44.010 Airgun defined.

The term "airgun" as used in this chapter, means any small gun or rifle capable of discharging a leaden or metallic bullet, or any pellet capable of injuring persons or property, by means of a spring or of air pressure.

#### 9.44.020 Possession or discharge by minors unlawful.

It is unlawful for any minor in the city to have in his possession, carry, discharge any airgun.

#### 9.44.030 Furnishing to minors by persons unlawful.

It is unlawful for any person other than a parent or guardian to give, sell or otherwise dispose of any airgun to any minor within the city.

#### 9.44.050 Exceptions to chapter provisions.

Notwithstanding any provisions of this chapter to the contrary, it shall be lawful for a minor to carry and discharge an airgun, provided that:

**A.** The airgun is owned by a club, team or society organized for the purpose of promoting training and marksmanship in the use of firearms and/or airguns; and

**B.** The carrying and discharge of the airgun takes place at a regularly established properly safeguarded firing range under the control of such club, team or society, under the supervision, guidance and instruction of a responsible adult; and

**C.** The minor is either a duly enrolled member of such club, team

or society or has its written permission to carry and discharge the airgun at the firing range under the control of such club, team or society.

# Attachment M

## Chapter 9.48 WEAPONS

### **9.48.010 Possession of concealed weapons prohibited.**

No person other than an authorized peace officer or person licensed pursuant to Oregon Revised Statutes Section 166.290, as now or hereafter amended shall carry concealed on or about his person in any manner any revolver, pistol, other firearm, knife other than an ordinary pocketknife with a blade less than three and one-half inches long, dirk, dagger, stiletto, metal knuckles or weapon the use of which could inflict injury upon a person or property.

### **9.48.020 Discharge of weapons--Prohibited.**

**A.** No person other than an authorized peace officer shall fire or discharge a gun or other weapon, including spring or air-actuated pellet guns, airguns or BB guns, or weapon which propels a projectile by use of gunpowder or other explosive, jet or rocket propulsion within the city.

**B.** The provisions of this section shall not be construed to prohibit the firing or discharging of a weapon by any person in the lawful defense of the person or the person's family.

### **9.48.030 Violation--Penalty.**

A violation of this chapter is a Class A misdemeanor as defined by State law.