

Chapter 9.12

OFFENSES AGAINST PUBLIC PEACE AND DECENCY

Sections:

- 9.12.010 Offenses involving intoxicating liquor.
- 9.12.015 Social games.
- 9.12.020 Offenses involving gambling.
- 9.12.030 Offenses involving firearms, fireworks and explosives.
- 9.12.040 Offenses relating to noise.

9.12.010 Offenses involving intoxicating liquor. A. State Statute. The city adopts ORS 471.410 and 471.430.

B. Drinking in Public Places.

1. It is unlawful for any person to drink any intoxicating liquor upon any street or in any public place; provided, however, that nothing contained in this section shall be deemed to apply to the drinking of any intoxicating liquor in any establishment wherein it may be sold for consumption under the laws of the state;

2. A violation of this subsection shall be a Class C misdemeanor.

C. Broken Seal.

1. It is unlawful to have within the city any bottle, jug or other container having intoxicating liquor therein which is unsealed or the seal to which has been broken, excepting on private premises or licensed premises. No motor vehicle or other conveyance shall be held to be private premises, or licensed premises within the meaning of this section;

2. A violation of this subsection shall be a violation. (Ord. 521 §3, 1986)

9.12.015 Social games. A. Definitions. The following definitions shall apply in this section:

"Gambling" means that a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under the control or influence of the person, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome.

"Gambling" does not include:

1. Bona fide business transactions valid under the law of contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health or accident insurance.

2. Engaging in contests of chance under the following conditions: The contest is played for some token other than money; an individual contestant may not purchase more than one hundred dollars worth of tokens for use in the contest during any twenty-four-hour period; the tokens may be exchanged only for property other than money; except when the tokens are exchanged for a beverage or merchandise to be consumed on the premises, the tokens are not redeemable on the premises where the contest is conducted or within fifty miles thereof; and except for charitable, fraternal or religious organizations, no person who conducts the contest as owner, agent or employee profits in any manner from operation of the contest.

3. Social games.

4. Bingo, lotto or raffle games or Monte Carlo events operated in compliance with ORS 167.118, by a charitable, fraternal or religious organization licensed pursuant to ORS 167.118, 464.250 to 464.380, 646.420 to 464.530 and Section 9.12.020 of this Code.

"Social games" means:

1. A game, other than a lottery, between players in a private home where no house player, house bank or house odds exist and there is no house income from the operation of the social game; and

2. If authorized pursuant to ORS 167.121, a game, other than a lottery, as authorized in this section, between players in a private business, private club or place of public accommodation where no house player, house bank or house odds exist and there is no house income from the operation of the social game.

"Gambling device" means any device, machine, instrument, paraphernalia, equipment or other property that is used or usable in the playing phases of unlawful gambling, whether it consists of gambling between persons or gambling by a person involving the playing of a machine. Lottery tickets, policy slips and other items used in the playing phases of lottery and policy schemes are not gambling devices within this definition. Amusement devices other than gray machines, that do not return to the operator or player thereof anything but free additional games or plays, shall not be considered to be gambling devices.

"Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity. A person who gambles at a social game of chance on equal terms with the other participants therein is a person who does not otherwise render material assistance to the establishment, conduct or operation thereof by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises therefor and supplying cards or other equipment used therein. A person who engages in bookmaking is not a player.

B. Gambling prohibited. No person shall participate in, operate or assist in operating any gambling game or activity, except as otherwise expressly provided in this chapter. No person shall have in his or her possession any gambling device. Any such gambling device is a nuisance and may be summarily seized by a police officer. Property so seized shall be placed in the custody of the Chief of Police of the City of Scappoose. Upon conviction of the person owning or controlling a gambling device for a violation of this section, the Municipal Judge shall order such property confiscated and destroyed.

C. Social games licensed. Any person who owns, manages or operates a private business, private club or place of public accommodation, may allow a social game between players at such place but only if they first apply for and receive a license for such purpose from the City Manager.

D. Social game license.

1. The City Manager will prepare and make available applications for a social game license.
2. The Chief of Police, or someone he designates, shall investigate and determine if the applicant satisfies the requirements for issuance of a license.
3. The Chief of Police will submit to the City Manager a written report containing his or her findings and making a recommendation that the license be issued or denied.
4. An applicant must submit, with the application, a non-refundable fifty dollar application fee. This fee may be amended by resolution of the City Council.
5. An application will not be granted if:
 - a. Any person who has a financial interest in a private business, private club or public place of accommodation has been convicted of a felony, within the last ten years; or
 - b. Any person who has a financial interest in a private business, private club or public place of accommodation has been convicted of five misdemeanors in the last five years; or
 - c. Any person who has a financial interest in a private business, private club or public place of accommodation has been convicted of any crime involving gambling, within the last five years or has forfeited bail for any crime involving gambling; or
 - d. The application contains false or misleading information.
6. A license shall be issued only upon payment of a license fee of one hundred dollars annually for the first table and fifty dollars annually for each additional table. This fee may be amended by resolution of the City Council.
7. Each license expires on July 1st next following its issuance. License fees for licenses obtained midyear are to be prorated according to time remaining on the license.
8. There shall be no right to automatic renewal of a license issued under this chapter. A person seeking a license renewal must submit a new application each year.

E. Social game regulations.

1. Pursuant to a social games license, a private business, private club or public place of accommodation ("licensed business") may only allow card games to be played.
2. While participating in social games, no more than seven players may sit at each table at any one time.
3. Social games may only be played during legal liquor dispensing hours.
4. While playing social games, there shall be a five dollar limit on any bet and a three raise limit.
5. Licensees may not allow patrons to engage in disorderly conduct.
6. Licensees shall agree, as a condition of the license, to be bound by and observe each and all of the regulations set forth in this section and all the provisions of the laws and regulations of the state and the city.
7. A licensed business shall be open to police inspection during all hours of operation. Licenses shall be available for inspection during all hours of operation.

8. No person under the age of twenty-one shall be allowed to participate in any social game or to enter or remain upon such licensed premises.

9. Each licensee shall assign a person whose duty shall be to supervise the games and see to it that they are played strictly in accordance with this section, other applicable city ordinances and regulations and state law. The licensed business shall be vicariously liable for any conduct of any employee in regard to any gambling activity or social game conducted in or upon the licensed premises.

F. Social games license revocation.

1. The City Manger may temporarily suspend any social game license and/or may permanently revoke such license if:

a. Any person who has an interest in the licensed business is convicted of a felony;

b. Any person who has a financial interest in the licensed business has been convicted of five misdemeanors in the last five years;

c. Any person who has a financial interest in the licensed business has been convicted of any crime involving gambling, within the last five years or has forfeited bail for any crime involving gambling;

d. The city discovers that the application contains any false or misleading information or any information requested is omitted from the application;

e. Any licensee, any person who has any financial interest in the licensed business or any employee of the licensed business violates any provision of this chapter; or

f. Any licensee allows any person to engage in unlawful gambling in or upon any licensed premises.

2. A temporary suspension shall become effective fifteen days after the Chief of Police notifies the licensee in writing of the grounds for such suspension and possible revocation, unless the licensee shall file a notice of appeal with the City Recorder prior to the effective date of the suspension. To be timely filed, the notice of appeal must be received by the City Recorder on or before the effective date of the suspension. Upon proper notice of appeal, the suspension shall be stayed until final determination by the City Council. All notices required in this section shall be given in person or by first class mail. Notice to the licensee will be deemed to have been received if the notification is mailed to the address listed on the license application. A temporary suspension shall remain in effect for thirty days.

3. Upon receiving a notice of appeal of a suspension or prior to permanent revocation of a license, a hearing shall be held by the City Council at a meeting after the licensee has been served notice at least ten days before the meeting. Such notice shall include the time and date of the hearing and the grounds upon which the Council seeks to suspend or permanently revoke the license. The licensee shall be deemed to have received service if the City Recorder mails such notice to the address the license holder listed on his or her application for a license.

G. License not transferable. A social game license shall not be transferable or assignable. If any change of persons having any financial interest in a licensed business occurs, the license holder must submit a new license application to the City Manager within ten days of the change, along with a non-refundable application fee of fifty dollars.

H. Violation. In addition to the suspension or revocation of any license issued hereunder, violation of this section is punishable by a fine of not more than five hundred dollars. (Ord. 779, §§ 1 - 8, 2006)

9.12.020 Offenses involving gambling. A. Definitions.

"Charitable, fraternal or religious organization" means any person organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious, philanthropic, recreational, social, educational, civic, fraternal or other nonprofit purposes.

"Lottery," commonly known as "bingo" or "lotto" means a game played with cards bearing lines and numbers, in which a player covers a number when it is called by an individual who draws numbered markers from a container and which is won by the player who first covers a line of numbers.

"Player" means a person who engages in the lottery solely as a contestant.

B. Permitted Lotteries. The lottery commonly known as bingo or lotto may be operated by a charitable, fraternal or religious organization within the city when no person other than the organization or a player profits in any manner from the operation of the lottery.

C. Licenses.

1. All qualified organizations desiring to operate a lottery as defined in this section shall make application to the city at city hall on forms provided by them, and when the fully completed application is turned in, it shall be accompanied by a fee of ten dollars. Thereafter, annually, such organization shall pay to the city an annual license fee in the sum of one hundred dollars for each year the lottery continues;

2. All applications shall be presented to the city council for action. The council reserves the right to deny or approve any or all applications since the license is a privilege, not a right. (Ord. 779 §10, 2006; Ord. 521 §4, 1986)

9.12.030 Offenses involving firearms, fireworks and explosives.

A. Discharging of Firearms.

1. It is unlawful for any person to discharge any type of firearm or bow, cross bow, pellet gun, B.B. gun, or air rifle;

2. This section shall not apply to any peace officer while acting in performance of duty, or to any other person lawfully using a firearm in defense of property or person;

3. A violation of this section shall be a Class A misdemeanor.

B. Sale of Fireworks.

1. The city adopts the Oregon Fireworks Law, ORS 480.110--.160 to regulate the use and sale of fireworks;

2. Fireworks shall not be sold without the seller holding a valid business permit or license;

3. A violation of this subsection shall be a Class B misdemeanor.

C. Blasting.

1. It is unlawful for any person, firm or corporation blasting rock or stone within the corporate limits of the city to fire any such blast unless the same is securely covered with chain aprons, brush, logs, poles or other materials or material in such manner that all danger to persons and property shall be deemed to mean any blasting done with powder, dynamite or any other explosive;

2. A violation of this subsection shall be a Class B misdemeanor.
(Ord. 521 §5, 1986)

9.12.040 Offenses relating to noise. A. Unnecessary Noise. It is unlawful for any person to create, assist in creating, permit, continue or permit the continuation of any unnecessary loud or disturbing noise in the city. The following acts are declared to be a violation of this section, but such enumerations shall not be deemed to be exclusive:

1. The keeping of any animal which by frequent or loud continued noise shall disturb the comfort and repose of any person in the vicinity;

2. The use of any automobile, motorcycle, streetcar or other vehicle, any engine, stationary or moving instrument, or any device or thing so out of repair, so loaded or operated in such manner as to create loud or unnecessary grating, grinding, rattling or other noises;

3. The use of any mechanical device operated by compressed air, steam or otherwise, unless the noise created thereby is effectively muffled;

4. The commercial construction, excavation, demolition, exterior alteration or repair of a building, or exterior use of heavy construction equipment, other than between the hours of seven a.m. to eight p.m. Monday through Friday and nine a.m. to four p.m. on Saturdays, except upon special permit granted by the City Manager. Work, as described in the preceding sentence, is prohibited on Sundays, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas;

5. The use of any gong or siren upon any vehicle other than police, fire or other emergency vehicle;

6. The operation of any gasoline engine without having the same equipped with and using thereupon a muffler;

7. Other than for school events, the use or operation of any phonograph, radio, loudspeakers or any sound-amplifying device so loudly as to disturb persons in the vicinity thereof or in such manner as renders to the same as public nuisance. It is unlawful to operate the amplified device between the hours of nine p.m. and seven a.m. in any manner where the noise produced is audible fifty feet from the noise-producing site. In the case of apartment, duplex or any residence which shares a common ceiling, floor or wall; the amplified noise will be considered unlawful if it is clearly audible within another dwelling unit, between the hours of ten p.m. and seven

a.m. Permits may be granted to responsible persons or organizations upon application to the city council, to broadcast programs of music, news, speeches or general entertainment;

8. The use of a muffler cutout on any motor vehicle upon any street;

9. The conducting, operating or maintaining of any garage within one hundred feet of any building used as a private residence, apartment house, rooming house or hotel in such manner as to cause loud or offensive noises to be emitted therefore between the hours of eight p.m. and seven a.m.;

10. Loud and boisterous talking, shouting, yelling is prohibited in a residential area between the hours of ten p.m. and seven a.m. Loud, boisterous talking, yelling or shouting which is audible fifty feet from the noise-producing site will be considered excessive. In the case of apartments, duplexes or any residence that shares a common ceiling, floor or wall, shouting, loud and boisterous talking, yelling or shouting shall be deemed unreasonable if clearly audible within another dwelling unit between the hours of ten p.m. and seven a.m.

B. A violation of this section shall be a violation.

C. A violation of subsection (A)(4) of this section may be abated by a stop work order issued by the city building official, the public works director, a law enforcement officer or any other person specifically authorized to issue a stop work order or a citation for the commission of violations. A stop work order shall be in addition to any other penalty or remedy otherwise available to the city. (Ord. 803 §10C, 2009; Ord. 794 §2, 2007; Ord. 709 §1, 2001; Ord. 550 §§1--4, 1989; Ord. 521 §10, 1986)