

Engrossed text indicated in **bold underline** for new text or ~~double strikethrough~~ for deleted text.

SRC 95.720 – 95.770 are hereby repealed and replaced as follows:

SRC 95.720. - Camping Prohibited on Public Property and Public Right of Way.

(a) Definitions. Unless the context specifically requires otherwise, as used in this Section, the following words and phrases mean:

(1) “To camp” means to set up, or to remain in or at a campsite, for the purpose of establishing or maintaining a temporary place to live.

(2) “Campsite” means any place where there is a tent, or any structure or assembly of materials consisting of ~~any material with~~ a top or roof or any other upper covering ~~or that is otherwise~~ **and** enclosed on one or more sides, that is of sufficient size for a person to fit underneath or inside ~~while sitting or lying down.~~

(3) **“Public Sidewalk” means the area lying between the street and the abutting property, including any pedestrian way and landscape strip.**

(4) **“Street” means any public right-of-way that is open to the public, used, or intended to be used, by vehicular traffic.**

(b) It is unlawful for any person to camp in or upon any public sidewalk, public property, or public right of way, unless otherwise specifically authorized by law or by declaration of the Emergency Program Manager in emergency circumstances.

(c) Upon finding it to be in the public interest, the City Council may exempt a special event from compliance with this section **by resolution**. The resolution shall specify the period of time and location covered by the exemption.

(d) **A violation of this section is declared a public nuisance under SRC 50.800 – 50.880, and is subject to abatement by the City.**

(e) Nothing in this section shall be construed to permit conduct that is prohibited by SRC 95.700 “Pedestrian Interference.”

SRC 95.730. Unattended Personal Property on Public Sidewalks Prohibited

- (a) Definitions. Unless the context specifically requires otherwise, as used in this section, the following words and phrases mean:
- (1) “Public Sidewalk” means the area ~~lying~~ between the street and the abutting property, **including any pedestrian way and landscape strip.**
 - (2) “Personal property” means tangible items greater than one cubic foot in size, other than signs, which are reasonably recognizable as belonging to individual persons and which have apparent utility or value.
 - (3) “Street” means any public right-of-way that is open to the public, used, or intended to be used, by vehicular traffic.
- (b) It is unlawful for any person to knowingly leave personal property unattended on a public sidewalk during the hours of between 7:00 a.m. and 9:00 p.m.
- (c) The prohibitions of subsection (b) do not apply to:
- (1) Personal property left unattended on a public sidewalk for less than two hours, that is actively being loaded or unloaded; or,
 - (2) Any person performing a City approved or permitted activity.
- (d) Personal property left unattended on a public sidewalk in violation of this section may be removed by the City if:
- (1) The property poses an immediate threat to public health, safety or welfare; or,
 - (2) The property has been posted with a notice written in English and Spanish at least twenty-four hours in advance. The notice shall contain the following information:
 - (A) That it is unlawful to leave personal property unattended on a public sidewalk within the City of Salem during the hours of between 7:00 a.m. and 9:00 p.m.;
 - (B) The date and time the notice was posted and the date and time at which the property is subject to being removed by the City;
 - (C) That the property subject to the notice is subject to immediate removal if, within the following 30 days, the property is again left unattended on a public sidewalk in violation of this section,
 - (D) The contact information for how to reclaim any personal property which has been removed by the City pursuant to this section; and,

- (E) That any property removed by the City pursuant to this section will be disposed of pursuant to applicable law if not claimed within 30 days after removal.
- (e) Personal property removed by the City pursuant to this section shall be stored for a minimum of thirty days during which time it must be made reasonably available to the owner. The thirty-day retention period of this subsection does not apply to personal property that is in an unsafe or unsanitary condition, or perishable.
- (f) The Director, may develop administrative policies for the removal of unattended personal property from public sidewalks, the storage of the property, and procedures by which the property may be reclaimed
- (g) Nothing in this section shall be construed as limiting the City’s ability to seize, remove, abate, or dispose of property in accordance with any other provision of the Salem Revised Code or in accordance with any other provision of law.
- (h) **A violation of this section is declared a public nuisance under SRC 50.800 – 50.880, and is subject to abatement by the City.**
- (i) Nothing in this section shall be construed to permit conduct that is prohibited by SRC 95.700 “Pedestrian Interference.”

SRC 95.740. - Definitions.

The following words, terms and phrases, when used in SRC 95.750 through 95.800, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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 the commission of any enumerated offense which is a misdemeanor or felony.

Cite means to issue a citation to appear to a person for commission of an enumerated offense.

Crime prevention district means a geographic area of exclusion to which the provisions of SRC 95.750 through 95.990 apply.

Enforcement officer means a peace officer as defined by ORS 133.005, or any other person with authority to enforce the Salem Revised Code.

Enumerated offense means any of the offenses establishing the basis for exclusion in a crime free zone.

Hearings Officer means a person appointed pursuant to SRC 2.315 to serve in a quasi-judicial capacity in the review of civil penalties or disabilities imposed under the Salem Revised Code.

Pedestrian ways means any sidewalk, plaza, alley, parking structure or parking area, or other way designed and regularly used for pedestrian travel, any planter strip or landscaped area located adjacent to or contained within such streets, plazas, alleys, or other ways, and includes that portion of public rights-of-way used for the parking of vehicles, but does not include that portion of public rights-of-way regularly and traditionally used for vehicular travel.

Public ways means any highway, roadway, street, alley or other way designed and regularly used for vehicular travel, but excluding that portion of public rights-of-way used for the parking of vehicles.

Travel means movement by foot on a pedestrian public way, from one point to another, without delay other than to obey traffic control devices, or by vehicle on a public way, from one point to another without delay other than to obey traffic control devices.

95.750. Downtown Crime Prevention District Created.

- (a) The geographic area bounded on the north by the north curb line of Union Street, on the south by the south curb line of Trade Street, on the east by the east curb line of Cottage Street and on the west by the west curb line of Front Street is hereby designated as the Downtown Crime Prevention District.
- (b) An enumerated offense in the Downtown Crime Prevention District means any of the following felonies, misdemeanors, violations, or infractions, unless the offense was committed entirely within a private residence:
 - (1) Felonies: ORS 161.405(1)(2)(b)-(c), “Attempt,” if the crime is an enumerated offense; ORS 161.450(1)(2)(b)-(c), “Conspiracy,” if the crime is an enumerated offense; ORS 163.165, “Assault in the third degree”; ORS 163.175, “Assault in the second degree”; ORS 163.185, “Assault in the first degree”; 163.160(3) and (4), “Assault in the fourth degree”; ORS 163.425, “Sexual abuse in the second degree”; ORS 163.427, “Sexual abuse in the first degree”; ORS 163.465(1)(2)(b), “Public indecency”; ORS 164.055, “Theft in the first degree”; ORS 164.057, “Aggravated theft in the first degree”; ORS 164.315, “Arson in the second degree”; ORS 164.325, “Arson in the first degree”; ORS 164.365, “Criminal mischief in the first degree”; ORS 166.023(2)(b), “Disorderly conduct in the first degree”; ORS 166.165, “Intimidation in the first degree”; ORS 167.012, “Promoting prostitution”; ~~ORS~~

167.017, “Compelling prostitution”; ORS 167.262(2)(a), “Use of minor in controlled substance or marijuana item offense”; ORS 475.752(1)(a)-(c), (2)(a)-(c), (3)(a)-(b), and (6), 475.840(1)(a)-(c), (2)(a)-(c) and (3)(a); “Prohibited acts generally; penalties”; ORS 475.806, “Unlawful manufacture of hydrocodone”; ORS 475.808, “Unlawful manufacture of hydrocodone within 1,000 feet of school”; ORS 475.810, “Unlawful delivery of hydrocodone”; ORS 475.812, “Unlawful delivery of hydrocodone within 1,000 feet of school; ORS 475.816, “Unlawful manufacture of methadone”; ORS 475.818 Unlawful manufacture of methadone within 1,000 feet of school”; ORS 475.820, “Unlawful delivery of methadone”; ORS 475.822, “Unlawful delivery of methadone within 1,000 feet of school”; ORS 475.824(2)(b), “Unlawful possession of methadone”; ORS 475.826, “Unlawful manufacture of oxycodone”; ORS 475.828, “Unlawful manufacture of oxycodone within 1,000 feet of school”; ORS 475.830, “Unlawful delivery of oxycodone”; ORS 475.832, “Unlawful delivery of oxycodone within 1,000 feet of school”; ORS 475.834(2)(b), “Unlawful possession of oxycodone”; ORS 475.850, “Unlawful delivery of heroin”; ORS 475.852, “Unlawful delivery of heroin within 1,000 feet of school”; ORS 475.854, “Unlawful possession of heroin”; ORS 475.860(1)(2) and (4)(a) “Unlawful delivery of marijuana”; ORS 475.862, “Unlawful delivery of marijuana within 1,000 feet of school”; ORS 475.864(1)(2) “Unlawful possession of marijuana”; ORS 475.870, “Unlawful delivery of 3,4 methylenedioxymethamphetamine”; ORS 475.872, “Unlawful delivery of 3,4 methylenedioxymethamphetamine within 1,000 feet of school”; ORS 475.874(2)(b), “Unlawful possession of 3,4 methylenedioxymethamphetamine”; ORS 475.876, “Unlawful manufacture of cocaine”; ORS 475.880, “Unlawful delivery of cocaine”; ORS 475.882, “Unlawful delivery of cocaine within 1,000 feet of school”; ORS 475.884(2)(b), “Unlawful possession of cocaine”; ORS 475.886, “Unlawful manufacture of methamphetamine”; ORS 475.890, “Unlawful delivery of methamphetamine”; ORS 475.892, “Unlawful delivery of methamphetamine within 1,000 feet of school”; ORS 475.894(2)(b), “Unlawful possession of methamphetamine”; ORS 475.904, “Unlawful manufacture or delivery of controlled substance within 1,000 feet of school”; ORS 475.906(1) and (2), “Penalties for unlawful delivery distribution to minors.”; ORS 475B.227(4)(b), “Prohibition against

importing or exporting marijuana items"; ORS 475B.337(3)(c), "Unlawful possession by person 21 years of age or older"; ORS 475B.341(3), "Unlawful possession by person under 21 years of age"; ORS 475B.346(3)(b), "Unlawful delivery of marijuana item"; ORS 475B.349(3)(b), and (3)(c) "Unlawful manufacture of marijuana item"; ORS 475B.359, "Arson incident to manufacture of cannabinoid extract in the first degree"; ORS 475B.363 "Arson incident to manufacture of cannabinoid extract in second degree"; ORS 475B.367, "Causing another person to ingest marijuana"; ORS 475B.371, "Administration to another person under 18 years of age."

- (2) "Class A" Misdemeanors: ORS 161.405(1)(2)(d), "Attempt," if the crime is an enumerated offense; ORS 161.450(1)(2)(d), "Conspiracy," if the crime is an enumerated offense; ORS 162.247, "Interfering with a peace officer or parole and probation officer"; ORS 162.315, "Resisting Arrest"; ORS 163.160(2), "Assault in the fourth degree"; ORS 163.190, "Menacing"; ORS 163.435, "Contributing to the sexual delinquency of a minor"; ORS 163.465(1) and (2)(a), "Public indecency"; ORS 163.575, "Endangering the welfare of a minor"; ORS 164.045, "Theft in the second degree"; ORS 164.255, "Criminal trespass in the first degree"; ORS 164.265, "Criminal trespass while in possession of firearm"; ORS 164.335, "Reckless burning"; ORS 164.354, "Criminal mischief in the second degree"; ORS 163.415, "Sexual abuse in the third degree"; ORS 166.023(2)(a), "Disorderly conduct in the first degree"; ORS 166.025(2)(b), "Disorderly conduct in the second degree"; ORS 166.155, 165.155, "Intimidation in the second degree"; ORS 166.065(4), 166.065(1) and (4), "Harassment"; ORS 167.007, "Prostitution"; ORS 167.262(2)(b), "Use of minor in controlled substance or marijuana item offense"; ORS 475.752(3)(c), 475.840(3)(c), "Prohibited acts generally; penalties"; ~~ORS 475.860(1)(3)(a)~~ "Unlawful delivery of marijuana"; ORS 475.814, "Unlawful possession of hydrocodone"; ORS 475.824(2)(a), "Unlawful possession of methadone"; ORS 475.834(2)(a), "Unlawful possession of oxycodone"; ORS 475.874(2)(a), "Unlawful possession of 3,4 methylenedioxymethamphetamine"; ORS 475.894(2)(a), "Unlawful possession of methamphetamine"; ORS 475.906(3), "Penalties for unlawful delivery distribution to minors"; ORS 475B.227(4)(a), "Prohibition against importing or

exporting marijuana items"; ORS 475B.329 "Prohibition regarding person who is visibly intoxicated; prohibition against allowing consumption of marijuana by person under 21 years of age on private property; penalty"; ORS 475B.337(2), "Unlawful possession by person 21 years of age or older"; ORS 475B.341(2) "Unlawful possession by person under 21 years of age"; ORS 475B.346(2), "Unlawful delivery of marijuana item"; ORS 475B.349(2) "Unlawful manufacture of marijuana item."

(3) "Class B" Misdemeanors, "Class C" Misdemeanors, Violations and Infractions: ORS 161.405(1)(2)(e)-(g), "Attempt," if the crime is an enumerated offense; ORS 163.445, "Sexual misconduct"; ORS 164.043, "Theft in the third degree"; ORS 164.245, "Criminal Trespass in the second degree"; ORS 164.345, "Criminal mischief in the third degree"; ORS 164.383, "Unlawfully applying graffiti"; ORS 164.386, "Unlawfully possessing graffiti implement"; ORS 164.805, "Offensive littering"; ORS ~~166.025(2)(a), 166.025~~, "Disorderly conduct in the second degree"; ORS ~~166.065(3), 166.065(1) & (3)~~, "Harassment"; ORS 167.755, "Selling tobacco products or inhalant delivery systems to person under 21 years of age; penalties"; ORS 167.785, "Possession of tobacco products or inhalant delivery systems by person under 18 years of age; penalty"; ORS 167.400, ~~"Tobacco possession by minors"~~; ORS 167.401(1) and (2), ~~"Tobacco purchase by minors"~~; ORS 471.430(1), "Purchase or possession of liquor by person under 21"; ORS 471.410(2), "Providing liquor to person under 21"; ORS ~~475.752(1)(d)-(e), (2)(d)-(e), and (3)(d)-(e), 475.840(1)(d)-(e), (2)(d)-(e) and (3)(d)-(e)~~, "Prohibited acts generally; penalties"; ORS ~~475.860(1)(3)(b) and (4)(b)~~ "Unlawful delivery of marijuana"; ORS ~~475.864(1)(3) and (4)~~ "Unlawful possession of marijuana"; ORS 475.904, "Unlawful manufacture or delivery of controlled substance within 1,000 feet of school"; ORS 475.906(4), "Penalties for unlawful delivery distribution to minors"; ORS 475B.227(3), "Prohibition against importing or exporting marijuana items"; ORS 475B.306, "Prohibition against producing, processing, possessing or storing homegrown marijuana or homemade cannabinoid products, extracts"; ORS 475B.316(3), "Prohibition against person under 21 years of age possessing, attempting to purchase or purchasing marijuana item; penalty" ORS 475B.337(3)(a) and (b), "Unlawful possession by person 21 years of age or older"; ORS 475B.346(3)(a), "Unlawful delivery of marijuana item"; ORS 475B.349(3)(a) "Unlawful manufacture of marijuana item"; ORS 475B.376, "Unlawful sale or delivery of marijuana paraphernalia"; ORS 475B.381, "Prohibition against using marijuana item in public place"; ORS 811.482, "Use of marijuana in motor vehicle; penalty";

SRC 45.025, “Regulation of smoking on City property”; SRC 45.030, “Establishment of smoke-free zones on public sidewalks and landscape strips adjacent to smoke-free premises”; SRC 45.990 “[Smoking] Violations and penalties”; SRC 90.020, “Consumption and Sale of Alcohol Prohibited in Certain Places”; SRC 93.010, “Noise Disturbance Prohibited”; SRC 95.040, “Assault and Battery”; SRC 95.041, “Menacing”; SRC 95.042, “Harassment”; SRC 95.043, “Recklessly endangering another”; SRC 95.120, “Disorderly Conduct”; SRC 95.125, “Urinating or Defecating in Public”; SRC 95.160, “Firearms; Discharge”; SRC 95.330, “Minors Nighttime Curfew”; SRC 95.335, “Minors Daytime Curfew”; SRC 95.550, “Trespass”; SRC 95.580, “Littering Public Places”; SRC 95.610, “Prohibited Graffiti”; SRC 95.700, “Pedestrian Interference”; SRC 95.710, “Sports Activity Prohibited in Certain Areas”; SRC 96.220, “Public Indecency”; SRC 96.400, “Prohibited Prostitution Conduct”; or SRC 97.080, “Intimidation”; SRC 101.110, “Riding on street and bicycle paths”; SRC 101.150, “Parking of bicycles”; SRC 101.990, “Violations”; SRC 103.015, “Skateboarding prohibited in certain areas.”

95.760. North Salem Crime Prevention District Created.

- (a) The geographic area bounded on the west by the west curb line of Front Street NE, on the south by the south curb line of Market Street NE, on the east, the west side of the Union Pacific right of way between Market Street NE to the intersection with Silverton Road NE, continuing with the west curb line of Silverton Road NE to the east curb line of Hawthorne Avenue NE, continuing north to Hyacinth Street NE, on the north, the north curb line of Hyacinth Street NE to the Salem Parkway, bounded by the north/west curb line of the Salem Parkway, to the north curb line of Tryon Street NE is hereby designated at the North Salem Crime Prevention District.
- (b) An enumerated offense in the North Salem Crime Prevention District means any of the following felonies, misdemeanors, violations or infractions, unless the offense was committed entirely within a private residence:
 - (1) Felonies: ORS 161.405(1)(2)(b)-(c), “Attempt,” if the crime is an enumerated offense; ORS 161.450(1)(2)(b)-(c), “Conspiracy,” if the crime is an enumerated offense; ORS 163.425 “Sexual abuse in the second degree”; ORS 163.427, “Sexual abuse in the first degree”; ORS 163.465(1) & (2)(b), “Public indecency”; ORS 167.012, “Promoting prostitution”; ORS 167.017, “Compelling prostitution”; ORS 475.752(1)(a)-(c), (2)(a)-(c), (3)(a)-(b), and (6), 475.840(1)(a)-(e), (2)(a)-(e) & (3)(a),

“Prohibited acts generally; penalties”; ORS 475.806, “Unlawful manufacture of hydrocodone”; ORS 475.808, “Unlawful manufacture of hydrocodone within 1,000 feet of school”; ORS 475.810, “Unlawful delivery of hydrocodone”; ORS 475.812, “Unlawful delivery of hydrocodone within 1,000 feet of school”; ORS 475.816, “Unlawful manufacture of methadone”; ORS 475.818, Unlawful manufacture of methadone within 1,000 feet of school”; ORS 475.820, “Unlawful delivery of methadone”; ORS 475.822, “Unlawful delivery of methadone within 1,000 feet of school”; ORS 475.824(2)(b), “Unlawful possession of methadone”; ORS 475.826, “Unlawful manufacture of oxycodone”; ORS 475.828, “Unlawful manufacture of oxycodone within 1,000 feet of school”; ORS 475.830, “Unlawful delivery of oxycodone”; ORS 475.832, “Unlawful delivery of oxycodone within 1,000 feet of school”; ORS 475.834(2)(b), “Unlawful possession of oxycodone”; ORS 475.850, “Unlawful delivery of heroin”; ORS 475.852, “Unlawful delivery of heroin within 1,000 feet of school”; ORS 475.854, “Unlawful possession of heroin”; ~~ORS 475.860(1),(2) and (4)(a) “Unlawful delivery of marijuana”~~; ORS 475.862, ~~“Unlawful delivery of marijuana within 1,000 feet of school”~~; ORS 475.864(1)(2) ~~“Unlawful possession of marijuana”~~; ORS 475.870, “Unlawful delivery of 3,4-methylenedioxymethamphetamine”; ORS 475.872, “Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 feet of school”; ORS 475.874(2)(b), ”Unlawful possession of 3,4-methylenedioxymethamphetamine”; ~~ORS 475.876, “Unlawful manufacture of cocaine”~~; ORS 475.880 “Unlawful delivery of cocaine”; ORS 475.882, “Unlawful delivery of cocaine within 1,000 feet of school”; ORS 475.884(2)(b), “Unlawful possession of cocaine”; ~~ORS 475.886, “Unlawful manufacture of methamphetamine”~~; ORS 475.890, “Unlawful delivery of methamphetamine”; ORS 475.892, “Unlawful delivery of methamphetamine within 1,000 feet of school”; ORS 475.894(2)(b), “Unlawful possession of methamphetamine”; ORS 475.904, “Unlawful manufacture or delivery of controlled substance within 1,000 feet of school”; ORS 475.906(1) and (2), “Penalties for unlawful delivery distribution to minors.”; ORS 475B.227(4)(b), “Prohibition against importing or exporting marijuana items”; ORS 475B.337(3)(c), “Unlawful possession by person 21 years of age or older”; ORS 475B.341(3), “Unlawful possession by

- person under 21 years of age"; ORS 475B.346(3)(b), "Unlawful delivery of marijuana item"; ORS 475B.349(3)(b), and (3)(c) "Unlawful manufacture of marijuana item"; ORS 475B.359, "Arson incident to manufacture of cannabinoid extract in the first degree"; ORS 475B.363 "Arson incident to manufacture of cannabinoid extract in second degree"; ORS 475B.367, "Causing another person to ingest marijuana"; ORS 475B.371, "Administration to another person under 18 years of age."
- (2) "Class A" Misdemeanors: ORS 161.405(1)(2)(d), "Attempt," if the crime is an enumerated offense; ORS ~~161.450~~(1)(2)(d), "Conspiracy," if the crime is an enumerated offense; ORS 163.435, "Contributing to the sexual delinquency of a minor"; ORS 163.465(4)(2)(a), "Public indecency"; ORS 164.255, "Criminal trespass in the first degree"; ORS 164.265, "Criminal trespass while in possession of firearm"; ORS 163.415, "Sexual abuse in the third degree"; ~~OR~~ ORS 167.007, "Prostitution"; ORS ~~475.752(3)(c), 475.840(3)(e)~~, "Prohibited acts generally; penalties"; ~~ORS 475.860(1)(3)(a)~~ "Unlawful delivery of marijuana"; ORS 475.814, "Unlawful possession of hydrocodone"; ORS 475.824(2)(a), "Unlawful possession of methadone"; ORS 475.834(2)(a), "Unlawful possession of oxycodone"; ORS 475.874(2)(a), "Unlawful possession of 3,4 methylenedioxymethamphetamine"; ORS 475.894(2)(a), "Unlawful possession of methamphetamine"; ORS 475.906(3), "Penalties for unlawful delivery distribution to minors"; ORS 475B.227(4)(a), "Prohibition against importing or exporting marijuana items"; ORS 475B.329 "Prohibition regarding person who is visibly intoxicated; prohibition against allowing consumption of marijuana by person under 21 years of age on private property; penalty"; ORS 475B.337(2), "Unlawful possession by person 21 years of age or older"; ORS 475B.341(2) "Unlawful possession by person under 21 years of age"; ORS 475B.346(2), "Unlawful delivery of marijuana item"; ORS 475B.349(2) "Unlawful manufacture of marijuana item."
- (3) "Class B" Misdemeanors, "Class C" Misdemeanors, Violations and Infractions: ORS 161.405(1)(2)(e)-(g), "Attempt," if the crime is an enumerated offense; ORS 163.445, "Sexual misconduct"; ORS 164.245, "Criminal Trespass in the second degree"; ORS ~~475.752(1)(d)-(e), (2)(d)-(e), & (3)(d)-(e), 475.840(1)(d)-(e), (2)(d)-(e) & (3)(d)-(e)~~,

“Prohibited acts generally; penalties”; ORS 475.860(1)(3)(b) and (4)(b) “Unlawful delivery of marijuana”; ORS 475.864(1)(3) and (4) “Unlawful possession of marijuana”; ORS 475.904, “Unlawful manufacture or delivery of controlled substance within 1,000 feet of school”; ORS 475.906(4), “Penalties for unlawful delivery distribution to minors”; ORS 475B.227(3), “Prohibition against importing or exporting marijuana items”; ORS 475B.306, “Prohibition against producing, processing, possessing or storing homegrown marijuana or homemade cannabinoid products, extracts”; ORS 475B.316(3), “Prohibition against person under 21 years of age possessing, attempting to purchase or purchasing marijuana item; penalty” ORS 475B.337(3)(a) and (b), “Unlawful possession by person 21 years of age or older”; ORS 475B.346(3)(a), “Unlawful delivery of marijuana item”; ORS 475B.349(3)(a) “Unlawful manufacture of marijuana item”; ORS 475B.376, “Unlawful sale or delivery of marijuana paraphernalia”; ORS 475B.381, “Prohibition against using marijuana item in public place”; ORS 811.482, “Use of marijuana in motor vehicle; penalty”; SRC 95.550, “Trespass”; SRC 96.220, “Public Indecency”; SRC 96.300, “Prohibited Touching”; or SRC 96.400, “Prohibited Prostitution Conduct.”

SRC 95.770. Civil Exclusion.

- (a) Any person arrested or cited to appear in court for charging or lodged in jail for presentation to a judicial officer for charging, based upon probable cause to believe that the person has committed an enumerated offense within a crime prevention district ~~shall~~ **may** be prohibited from being present on pedestrian ways or public ways within the district for any purpose, except as allowed by a variance granted pursuant to SRC 95.780. If the enumerated offense is a “Class B” misdemeanor, “Class C” misdemeanor, violation or infraction, the period of exclusion shall be 30 days; if one or more of the enumerated offenses are felonies or “Class A” misdemeanors, the period of exclusion shall be 90 days. If the enumerated offense was a felony or a “Class A” misdemeanor, the period of exclusion shall be extended by a period of one year, effective upon date of conviction.
- (b) The exclusion notice shall be issued by the enforcement officer at the time the person is arrested or cited for the commission of the enumerated offense. The exclusion notice shall be in writing, and shall specify the enumerated offenses, the geographical extent of

exclusion, the date exclusion takes effect, the procedure for filing an appeal, the availability of a variance, and the extension of the period of exclusion by an additional one-year period upon conviction, if the enumerated offense was a felony or “Class A” misdemeanor. The period of exclusion shall commence upon the issuance of the notice of exclusion, but shall be stayed upon the filing of a notice of appeal under SRC 95.800 which stay shall remain in place until the Hearings Officer issues a decision upon the appeal under SRC 95.800(f).

- (c) Any person who is issued an additional exclusion notice within six months of the expiration of any prior notice shall have an additional 90-day period of exclusion added onto the period of the additional notice.

SRC 95.780. Variances from Exclusion.

- (a) Notwithstanding SRC 95.770, the Chief of Police, or the Chief’s designee, may grant a variance to an excluded person **at the time the exclusion notice is issued or** at any time during the period of exclusion, upon a showing by the excluded person of a plausible need to engage in one of the following:
 - (1) To travel to and from a scheduled meeting with an attorney or scheduled meetings with criminal justice personnel; to and from obligations performed in compliance with an order of the Court or a justice agency; and to and from an administrative or judicial hearing to which the person is a party;
 - (2) To travel to and from a public or private establishment located in the crime prevention district to obtain goods or services not otherwise reasonably available outside the district to satisfy the essential needs of the person. As used in this paragraph, “essential needs” means food, physical care, and medical attention;
 - (3) To travel to and from the person’s place of employment;
 - (4) To travel to and from a government agency, private nonprofit corporation, or charity to obtain social services needed for the health or well-being of the person, and which are provided pursuant to written rules and regulations prohibiting unlawful use or possession of controlled substances;
 - (5) To travel to and from an educational facility to enroll as a student or to attend classes;

- (6) To travel to and from a religious institution for the purposes of exercising the person's right to worship;
 - (7) To travel to and from the person's permanent place of residence for any purpose specified in paragraphs (1) through (6) of this section, or to travel to and from the residence of the person or any member of the person's immediate family. For the purposes of this subsection, "immediate family" means the person's parents, in-laws, stepparents, siblings, grandparents, children, or grandchildren.
- (b) A request for a variance shall be in writing, shall state the purpose for which the variance is sought, and the period of time during which the variance is requested to be effective. If granted, the variance shall allow relief from exclusion only for travel to and from specified locations, activities and events, or for presence at specified locations, activities and events, within the crime prevention district. The variance shall be in writing, shall clearly state the terms of the variance, including that travel within, or presence in, the crime prevention district is allowed only in accordance with the terms specified in the variance. The variance must be carried by the excluded person while within the crime prevention district in order to be effective, and shall be presented to any enforcement officer upon request.
- (c) A person who is present on a pedestrian way or public way pursuant to a variance shall travel by the shortest direct route to and from the locations specified in subsection (a) of this section, and, if stopped by an enforcement officer, has the burden to demonstrate, by clear and convincing evidence, that the person is traveling to and from one of the locations for the purposes specified in the variance.
- (d) A variance may be revoked if:
- (1) The request for the variance contained false information;
 - (2) There is probable cause to believe the excluded person has committed another enumerated offense within the crime prevention district; or
 - (3) Circumstances upon which the variance was granted no longer exist.
- (e) Refusal to issue a variance or revocation of a variance may be appealed to the Hearings Officer, as provided in SRC 95.800. A variance shall become effective upon issuance; a revocation of a variance shall become effective upon the fifth business day after the date of the mailing of notice of revocation to the excluded person.

SRC 95.790. Violation of Exclusion Notice. Any person to whom an exclusion notice has been issued and who is present in a crime prevention district in violation of the notice or the terms of a variance issued pursuant to SRC 95.780 is subject to immediate arrest for criminal trespass under SRC 95.550(a) or ORS 164.245, and shall have the exclusion extended for an additional period of 30 days.

SRC 95.800. Appeals.

- (a) A person who has been issued an exclusion notice, who has had the period of exclusion extended, who has been refused a request for a variance, or who has had a variance revoked, may appeal the action or decision by filing a written request with the City recorder, within 15 business days after receipt of notice of the action or decision, setting forth the name and address of the applicant and the reasons why the notice or extension should be rescinded, the variance granted, or the revocation reversed. Failure to file an appeal within such 15-day period shall be a waiver of all rights to review the action or decision, and any such appeal shall be dismissed by the Hearings Officer. The name and address set forth in the request shall be deemed conclusively correct, and mailing to the person at such address, by first class mail, shall be deemed delivered three days after the date of mailing. Failure of the person to actually receive a notice of hearing or the Hearings Officer's decision if mailed to the address set forth in the request shall not in any way invalidate or otherwise affect the validity of any action or decision.
- (b) If a request for an appeal is filed, an exclusion notice, extension of exclusion period or revocation of a variance shall be subject to a stay until such time as the hearings officer has issued a final decision upholding or rescinding the action or decision.
- (c) The request shall be accompanied by an appeal fee, in an amount established by resolution of the Council. Except as provided in subsection (g) of this section, the appeal fee is nonrefundable.
- (d) Unless the appellant and the City agree to a longer period, an appeal shall be heard by a Hearings Officer within ten business days of the filing of the request. At least five business days prior to the hearing, the City shall mail notice of the time and location of the hearing to the appellant at the address set forth on the request.

- (e) The Hearings Officer shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the Hearings Officer deems appropriate. At the hearing the appellant may present testimony and oral argument personally or by counsel. The City has the burden of proof to demonstrate, by a preponderance of the evidence, that the issuance of the exclusion notice is based upon the requisite enumerated offenses by the appellant, that extension of the exclusion notice is based upon the appellant's presence in a crime prevention district in violation of SRC 95.790, or that the grounds for revocation of a variance exist. The appellant has the burden of proof to demonstrate, by a preponderance of the evidence that the ground for issuance of a variance exist.
- (f) The Hearings Officer shall issue a written decision within ten business days of the hearing date. A copy of the decision shall be mailed to the person's address as set forth on the request, and shall be deemed effective upon actual receipt, or three days after mailing, whichever is sooner. If issuance of an exclusion notice, extension of period of exclusion, or revocation of variance is upheld, a period of exclusion shall commence immediately upon the effective date of the decision.
- (g) The decision of the Hearings Officer is final, and may include a determination that the appeal fee be refunded to the appellant upon a finding that the issuance of the exclusion notice, an extension thereof, the refusal to issue a variance, or the revocation thereof, was not grounded in law or fact. Appeals from a decision of the Hearings Officer shall be to circuit court by writ of review, and not otherwise.

SRC 95.990. - Violations.

- (a) Violation of SRC 95.010, 95.025, 95.190, 95.200, 95.210, 95.220, 95.300, 95.340, 95.440, 95.510, 95.520, 95.530, 95.610, 95.640 or 95.710, 95.720, or 95.730 is an infraction.
- (b) ~~Violation of SRC 95.580 is a misdemeanor punishable by a fine of not more than \$250.00, imprisonment for a period not to exceed 30 days, or by both such fine and imprisonment.~~
- (e) ~~Except as provided in subsections (a) and (b) of this section, violation of any other provision of SRC 95.010-95.720~~ 95.730 is a misdemeanor.