

ORDINANCE NO. 2016-13

ORDINANCE AMENDING FOREST GROVE CITY CODE CHAPTER 2, GOVERNMENT AND ADMINISTRATION, BY ADDING NEW CODE SECTIONS 2.705 TO 2.710, ESTABLISHING MUNICIPAL COURT JURISDICTION; ADDING NEW CODE SECTIONS 5.375 TO 5.390, ESTABLISHING EXCLUSION FROM CITY FACILITY OR PROPERTY; AND AMENDING CITY CODE CHAPTER 5, PUBLIC PROTECTION, RELATING TO ABATEMENT PROCEDURES AND PROVISIONS

WHEREAS, the current abatement procedures in Chapter 5, for nuisances affecting public health, safety and welfare, were adopted when the City do not have a Municipal Court; as such, the code requires protesting abatements through City Council, which is outdated and inconsistent with other abatement procedures found in City Code; and

WHEREAS, it is in the public interest of the City to delegate authority to the Municipal Court for city code violations and certain offenses as well as conduct of hearings and all matters heard in Municipal Court; and

WHEREAS, the City is adding new code provisions in City Code Chapter 2, Municipal Court, delegating jurisdiction to Municipal Court over city code violations and certain offenses and authorizing to implement processes for conduct of hearings, ordering compliance of code provisions and imposing civil penalties on behalf of the City;

WHEREAS, the City is adding new code provisions in City Code Chapter 5, Public Protection, Sections 5.375 to 5.385, Exclusion from City Facility or Property, authorizing the City the ability to exclude an individual from city parks, city-owned or leased properties and/or city-sponsored events for a period of up to 90 days, if individual has engaged in conduct made criminal or in violation of city code provisions or Council adopted rules of conduct; and

WHEREAS, and the City is proposing other housekeeping amendments to City Code Chapter 5, including repealing Section 5.000, Adoption of 1971 Criminal Code, in its entirety as advised by City Attorney; reenacting Section 5.505, Washington County Animal Services Code (dog control); and amendments relating to abatement procedures and other provisions; and

WHEREAS, the City Council held a duly-noticed Public Hearing on June 27 and continued the hearing on July 11, 2016, on the proposed ordinance.

NOW, THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

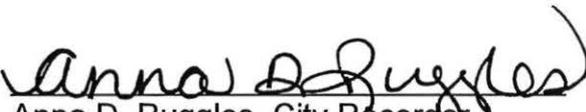
Section 1. Forest Grove City Council hereby amends Forest Grove City Code Chapter 2 by adding new Code Section 2.705 to 2.710, titled Municipal Court; adding new Code Section 5.375 to 5.390, titled Exclusion from City Facility or Property; and amending Chapter 5, as set forth in the attached Exhibit A.

Section 2. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portions hereof are hereby repealed to the extent of such inconsistency or conflict.

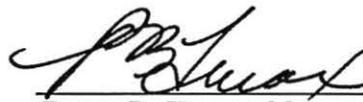
Section 3. This ordinance shall be effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED the first reading the 27th day of June, 2016.

PASSED the second reading this 11th day of July, 2016.


Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 11th day of July, 2016.


Peter B. Truax, Mayor

CHAPTER 2
GOVERNMENT AND ADMINISTRATION
EXHIBIT A

The following are proposed amendments to the Chapter 2, Government and Administration.

~~Strikethrough~~ is deleted language and underline is new language in **Red**.

MUNICIPAL COURT

2.705 **Jurisdiction – Limitation.**

- (1) The Municipal Court has jurisdiction over:
 - (a) Traffic violations as defined by State law;
 - (b) Violations of State law provisions denominated as offenses punishable by other than imprisonment relating to:
 - i. Minor in possession of alcohol (person under 21)
 - ii. Allowing minor (person under 21) to consume alcohol on property;
 - iii. Minor in possession of alcohol (person under 21) while operating a motor vehicle;
 - iv. Provisions of Oregon marijuana laws by a minor (person under 21) and person over 18 which are classified as violations; and
 - (c) Violations of the provisions of Chapter 2 through 9 of the Forest Grove City Code and Chapter 10 of the Forest Grove Development Code.

2.710 **Authority of the Municipal Court.**

- (1) The Municipal Court may adopt rules concerning procedure, conduct of hearings and forms so as to implement the provisions of the Code.
- (2) The Municipal Court may order a party found in violation of the code to comply with the provisions within such time as the Municipal Court may allow. The order may require the party to do any and all of the following:
 - (a) Make any and all necessary repairs, modifications and/or improvements to the building, real property or equipment involved;
 - (b) Abate or remove any nuisance;
 - (c) Change the use of the building or real property involved;
 - (d) Install any equipment necessary to achieve compliance;
 - (e) Pay the City a civil penalty of up to \$1,000 per day or greater amount as authorized elsewhere in the code; or
 - (f) Undertake any other action reasonably necessary to correct the violation or mitigate the effects.
- (3) If any person fails to comply with any of the provisions ordered by the Municipal Court (except requiring payment of a civil penalty), the Court may authorize the City to undertake such actions as the Court may believe is reasonably necessary and/or to take other actions to correct the

violation, eliminate, or mitigate the effect. The City's reasonable costs of such actions, including any unpaid civil penalties, may be made a lien against the affected real property.

CHAPTER 5
PUBLIC PROTECTION
EXHIBIT A

The following are proposed amendments to the Chapter 5, Public Protection.

Strikethrough is deleted language and underline is new language in Red.

5.000 ~~**ADOPTION OF OREGON CRIMINAL CODE OF 1971.**~~

Repealing in its entirety

GRAFFITI PREVENTION, PROHIBITION AND REMOVAL

5.170 ~~Other Violations.~~

- ~~(1) Any property located in the City that becomes a graffiti nuisance property is in violation of this Ordinance and subject to abatement by the City under Code Sections 5.275, 5.280 and 5.285 and assessment of costs under Code Section 5.290.~~
- ~~(2) Every owner, occupant or responsible party who permits a property to become a graffiti nuisance property is in violation of this Ordinance and subject to any remedy or penalty provided by Code Chapter 5.~~

5.180 Graffiti Removal; Notice and Procedures.

- ~~(1) The , occupant or responsible party Person-in-Charge and/or Owner of Property of any within the City shall remove any graffiti from that such property within ten (10) days of the graffiti's appearance or discovery.~~
- ~~(2) Whenever the Manager, or manager's designee, Upon determination by the Enforcement Officer that graffiti nuisance exists on any property in the City, the Manager, or manager's designee, the Officer shall cause to be mailed a "Graffiti Nuisance Property Warning Notice" to may give the Person-in-Charge and/or Owner, occupant responsible if different at the address shown on the county tax records. written notice of these Code requirements and request for removal of graffiti within 10 days.~~
- ~~(3) The notice shall contain:
 - ~~(a) A statement that the Property has been identified as a potential Graffiti Nuisance Property;~~
 - ~~(b) A statement that the Person may request a "hardship" or extension of time in which to remove the graffiti by filing a written request with the Police Chief within ten (10) days of the date of the warning notice. For the purpose of this subsection, "hardship" includes, but not limited to, serious illness or disability, inclement weather or other circumstances that prevent removal of the graffiti within ten (10) days;~~
 - ~~(c) A statement that unless the graffiti is either removed or a "hardship" requested within the time specified in the notice, the Property may be declared a nuisance and subject to abatement by the City and civil penalties imposed.~~~~

~~Ten days after a written notice if the graffiti still exists on the property, the Manager, or manager's designee, may issue an abatement notice. The owner, occupant or responsible party has 10 days after the date of service of the notice to remove the graffiti.~~

- (4) If the graffiti is not removed within the time specified in the notice and/or a hardship no longer applies, the Property shall be declared a nuisance and abated pursuant to Section 5.270.
~~The notice will be served by addressing the notice to the owner, occupant or responsible party and delivering it by personal service or by mailing it as certified mail. Service may also be accomplished by posting the notice in a clearly visible location on the subject property.~~
- (5) ~~The person served with the notice who is unable to remove, or cause to remove, the graffiti within 10 days due to a hardship may apply to the Manager for an extension of time or alternate resolution such as volunteer or community service clean up. For purposes of this subsection, "hardship" means serious illness or disability, extremely inclement weather that temporarily prevents removal of the graffiti, or other extraordinary circumstance.~~
- (6) ~~If graffiti is not removed within 10 days after service of notice, the Manager, or manager's designee, may issue a citation to the owner, occupant or responsible party, or all of them requiring appearance in Forest Grove Municipal Court.~~
- (57) Failure to remove graffiti as required by this Section is a violation punishable by a civil penalty of up to \$500. Each day the graffiti remains after the notice is sent constitutes a separate offense.
- (8) ~~The City Manager, or manager's designee, may adopt rules and procedures to implement this Ordinance.~~

NUISANCES

5.205

Definitions.

As used in Code Sections [5.180](#), 5.210 to 5.245 and 5.260 to 5.305, the following words and terms mean as follows:

Enforcement Officer. Any person charged or designated in writing by the City Manager to enforce the terms [provisions](#) of [this](#) Code. ~~Sections 5.210 to 5.245 and 5.260 to 5.305 or any other sections of the Code.~~

UNENUMERATED NUISANCES

5.265

Unenumerated Nuisances.

(1) The acts, conditions or objects specifically enumerated and defined in Code Sections [5.180](#), 5.210 to 5.2612 are declared public nuisances and may be abated by the procedures set forth in Code Sections 5.270 to 5.305.

ABATEMENT PROCEDURE

5.270

Abatement Notice.

- ~~(1)~~ Except in the case where summary abatement is authorized, pursuant to Section 5.295, or when a different abatement procedure is specified elsewhere in this Code, public nuisances identified in this Code shall be abated under the general abatement procedures outlined in this subchapter.
- ~~(12)~~ Upon determination by the manager or designee Enforcement Officer that a nuisance exists, the manager or designee Officer shall ~~cause post~~ a notice ~~to be posted on the premises or~~ consistent with 5.270(4) at the nuisance site of the nuisance, directing the person responsible Person-in-Charge and/or Owner to abate the nuisance within ten (10) days of the notice.
- ~~(23)~~ At the time of posting, the manager or designee shall cause Enforcement Officer shall send a copy of the notice ~~to be forwarded~~ by registered or certified by Certified Mail to the person responsible at the person's last known address Person-in-Charge and/or Owner, if different, at the address shown on the county tax records. In addition, the Officer shall prepare a declaration for the file setting out the date, time and place of the posting as well as the date and time of the mailing of the notice by Certified Mail.
- ~~(34)~~ The notice ~~to abate~~ shall contain:
 - ~~(a)~~ A description of the real property, by The street address or legal description sufficient to identify the Property or otherwise on which where the nuisance exists;
 - ~~(eb)~~ A brief description of the nuisance and specific code provision being violated;
 - ~~(bc)~~ ~~A direction to~~ A demand that the Person-in-Charge and/or Owner comply with the terms of the Code and abate the nuisance within ten (10) days of the date of the notice;
 - ~~(d)~~ A statement that unless the nuisance is removed, the City may abate the nuisance and the cost of abatement therefor (including administrative costs) and any civil penalties imposed shall be made will be charged to the person responsible and may become an assessment lien on the Property; and
 - ~~(e)~~ A statement that failure to abate a nuisance may warrant imposition of a fine.
 - ~~(fe)~~ A statement that the person responsible Person-in-Charge and/or Owner may protest challenge the order to abate abatement notice by giving notice filing a written petition to the City Recorder with the Municipal Court within ten (10) days of the date of the notice to request a hearing to show cause why the nuisance should not be abated.

- ~~(4) If the person responsible is not the owner, an additional notice shall be sent to the owner, stating that the cost of abatement not paid by the person responsible may be assessed to and become a lien on the property.~~
- ~~(5) Upon completion of the posting and mailing, the person posting and mailing shall execute and file certificates stating the date and place of the mailing and posting.~~
- ~~(56) An error in the name or address of the person responsible contents of the notice shall not make the notice void the notice or the ability to proceed towards abatement. and in such case the posted notice shall be sufficient.~~
- ~~(6) The Person-in-Charge and/or Owner may challenge the abatement notice by filing a written petition with the Municipal Court within ten (10) days of the date of the notice briefly setting out the basis for the challenge.~~
- ~~(7) In the event the Person-in-Charge and/or Owner files a properly and timely written petition with the Municipal Court, the Court shall schedule and conduct a hearing pursuant to Section 5.280.~~

5.285 5.275 Abatement by the City; Hearing; Imposition of Costs; Assessment Lien.

- ~~(1) In the event the Person-in-Charge and/or Owner fails to abate the nuisance or challenge the abatement notice with the Municipal Court within the time specified in Section 5.270(6), the Enforcement Officer may commence an action to abate the nuisance by filing a complaint or citation with the Municipal Court. If the nuisance has not been abated by the person responsible within the time allowed, the Council may cause the nuisance to be abated.~~
- ~~(2) The complaint or citation shall include:

 - (a) The street address or legal description sufficient to identify the property or otherwise where the nuisance exists;
 - (b) A brief description of the nuisance and specific code provision being violated;
 - (c) A copy of both the notice to abate and declaration described in Section 5.270(3); and
 - (d) A description of the relief being sought (i.e., order to abate, imposition of civil penalty, etc.).
 The officer charged with abatement of the nuisance shall have the right to enter into or upon property at reasonable times to investigate or cause the removal of a nuisance.~~
- ~~(3) The Enforcement Officer shall cause a true copy of the citation or complaint be served on the Person-in-Charge and/or Owner, if different, either by personal service or Certified Mail, mailed to the address shown on the county tax records or such other address which the Enforcement Officer reasonably believes under the~~

circumstances will apprise the Person-in-Charge and/or Owner of the existence and pendency of the City's action. In addition, the Enforcement Officer shall prepare a declaration for the file as to the method and timing of the service of the citation or complaint and file said declaration with the Municipal Court and a copy kept with the file.

~~The code enforcement officer shall keep an accurate record of the expenses incurred by the City in abating the nuisance and shall include a charge equal to 15 percent of those expenses for administrative costs.~~

- (4) The Municipal Court shall set a date and time for the hearing on the citation or complaint not less than seven (7) days nor more than 21 days after the date shown on the declaration described in Section 5.275(3). The Municipal Court may alter the date and time for the hearing on its own motion or at the request of the Person-in-Charge, Owner or City for good cause.
- (5) At the hearing, the City will have the burden to show:
 - (a) The real property where the nuisance exists is within the City;
 - (b) The nature of the nuisance and its extent;
 - (c) That if the City is seeking an order to abate, that the nuisance is likely to be present at the time of the requested abatement; and
 - (d) If the City is seeking a civil penalty, the amount thereof is reasonable and justified by the circumstances.
- (6) Upon its determination that the City has carried its burden, the Municipal Court is authorized to issue a written order:
 - (a) Authorizing the City to enter the property where the nuisance is located and abate said nuisance;
 - (b) Imposing a civil penalty on the Person-in-Charge or Owner for the nuisance; and
 - (c) Such other relief, which the Court reasonably believes, is appropriate given the nature of the nuisance and its effects on the adjoining properties and the City.
- (7) A copy of the order shall be mailed to the Person-in-Charge and/or Owner, if different, by the Municipal Court to the address where the citation or complaint was served.
- (8) Once the City obtains a Municipal Court order to abate the nuisance and/or take other actions to address the nuisance and proceeds to act thereon, the Enforcement Officer shall cause an accounting to be kept of all costs, charges, fees and penalties associated therewith.
- (9) The Enforcement Officer shall send a notice and a copy of the accounting statement by Certified Mail to the Person-in-Charge and/or Owner, if different, within 30 days of the calculation described in subsection (8). In addition, the Officer shall prepare a

declaration for the file as to the date and time of the mailing of the notice and accounting statement by Certified Mail.

- (10) The notice shall contain:
- (a) The street address or legal description to identify the Property or otherwise where the nuisance was abated;
 - (b) A statement that if the costs, charges, fees and penalties associated therewith are not paid in full to the City within thirty (30) days of the mailing date of the notice, any unpaid costs, charges, fees and penalties will be made an assessment lien against the Property; and
 - (c) A statement that the Person-in-Charge and/or Owner may challenge the reasonableness or justification of any cost, charge or fee by filing a written petition with the Municipal Court with ten (10) days of the mailing date of the notice, succinctly setting out the basis for the belief that the cost, charge or fee is either unreasonable or otherwise unjustified.
- (11) In the event the Person-in-Charge and/or Owner fails to timely challenge the notice and thirty (30) days has lapsed, any unpaid costs, charges, fees and penalties shall be filed in the City's lien docket as an assessment lien and thereafter enforced and collected, bearing interest at the legal rate from the day of entry on the docket until fully paid.
- (12) The Person-in-Charge and/or Owner may challenge the reasonableness or justification of any cost, charge or fee imposed as a result of the abatement by filing a written petition with the Municipal Court within ten (10) days of the mailing date of the notice described in subsection (10) and request a hearing to show cause why the cost, charge or fee is either unreasonable or otherwise unjustified.

5.275 Abatement by the Person Responsible.

- ~~(1) Within 10 days after the posting and mailing of notice as provided in Section 5.270, the person responsible shall remove the nuisance or file a protest, as described in subsection (2).~~
- ~~(2) A person responsible, protesting that no nuisance exists, shall file a written statement that specifies the basis for the protest with the City Recorder.~~
- ~~(3) The statement shall be referred to the Council as a part of its regular agenda at its next succeeding meeting. At the time set for consideration of the abatement, the person protesting may appear and be heard by the Council. The Council shall determine whether a nuisance in fact exists, and the determination shall be entered in the official minutes of the Council. Council determination shall be required only in cases where a written statement has been filed as provided.~~

- (4) ~~If the Council determines that a nuisance in fact exists, the person responsible shall abate the nuisance within 10 days after the Council determination.~~

5.280 ~~Joint Responsibility.~~

~~If more than one person is a person responsible, they shall be jointly and severally liable for abating the nuisance or for the costs incurred by the City in abating the nuisance.~~

5.290 ~~Assessment of Costs.~~

- (1) ~~The enforcement officer shall forward to the owner and the person responsible, by registered or certified mail, a notice stating:~~
- ~~(a) The total cost of abatement, including the administrative costs.~~
 - ~~(b) That the costs as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice.~~
- (2) ~~If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs shall constitute a lien on the property from which the nuisance was removed or abated and shall be entered in the city's lien docket.~~
- (3) ~~The lien shall be enforced any manner authorized by law and shall bear interest at the current statutory interest rate. The interest shall begin to run from the date of entry of the lien in the lien docket.~~
- (4) ~~An error in the name of the owner or the person responsible or a failure to receive the notice of the proposed assessment will not void the assessment, and it shall remain a valid lien against the property.~~

5.280 Hearing to Challenge Nuisance Declaration or Abatement Costs.

- (1) In the event the Person-in-Charge and/or Owner files a properly and timely written petition with the Municipal Court within the time specified in Sections 5.270(6), 5.275(12) or 5.295(3), the Court shall set a date and time for the hearing not less than seven (7) days nor more than 21 days after the date shown on the declarations described in Sections 5.270(3), 5.275(9) and 5.295(2). The Municipal Court may alter the date and time for the hearing on its own motion or at the request of the Person-in-Charge, Owner or City for good cause.
- (2) At the hearing, the Municipal Court shall either affirm or deny and issue a written order thereon and if requested, by the Person-in-Charge, Owner and/or City, provide a written explanation for said determination. A copy of the order and written explanation (if any) shall be provided to both petitioner(s) and the City.

GENERAL

5.295

Summary Abatement.

- (1) If a nuisance exists on private real property which poses an imminent threat to the public health, safety or welfare and the circumstances, taken as a whole, do not allow the City to seek authorization to enter the property from the Municipal Court or other court to abate the nuisance, the Enforcement Officer or other appropriate city official is authorized to immediately enter said property and cause the summary abatement thereof.
- (2) In the event the Enforcement Officer or other city official acts pursuant to the authority under subsection (1) above, said person shall provide written notice, sent by Certified Mail, to the Person-in-Charge and/or Owner, if different, at the address shown on the county tax records or such other address as is reasonably calculated to apprise the Person-in-Charge and/or Owner as to the summary abatement, in expeditious manner, but in no event more than five (5) business days after the summary abatement. In addition, the Officer shall prepare a declaration for the file setting out the date and time of the mailing of the notice by Certified Mail.
- (3) The notice shall contain:
 - a) The street address or legal description sufficient to identify the Property or otherwise where the nuisance was summary abated;
 - b) A brief description of the nuisance and specific code provision(s) declaring summary abatement thereof;
 - c) The action(s) taken by the City to abate the nuisance;
 - d) What further action(s) the Person-in-Charge and/or Owner may be required to take to address the nuisance, its impacts and/or residual effects of the abatement;
 - e) To the extent known, the costs incurred by the City as a result of the summary abatement and whether the City will look to the Person-in-Charge and/or Owner for payment of all or part thereof;
 - f) The Person-in-Charge and/or Owner may challenge the summary abatement and costs thereof by filing a written petition with the Municipal Court within ten (10) days of the date of the notice briefly setting out the basis for the challenge.
- (4) In the event the Person-in-Charge and/or Owner files a properly and timely written petition with the Municipal Court within the time specified in subsection (3) above, the Court shall conduct a hearing pursuant to Section 5.280.

5.300

Non-Exclusive Nature of Abatement Process.

The procedures and remedies provided by this subchapter are not exclusive but in addition to others available under State law as well as this Code.

5.295 Summary Abatement.

~~The procedure provided by Code Sections 5.270 to 5.290 is not exclusive, but is in addition to procedure provided by other code sections or ordinances. The Manager, Chief of Police or Chief of the Fire Department may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers human life or property.~~

5.300 Separate Remedies

~~The abatement of a nuisance is not a penalty for violation of the nuisance provisions of this code, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance. However, abatement of a nuisance within 10 days of Council determination that a nuisance exists, will relieve the person responsible from the imposition of a penalty.~~

5.305

Penalty Imposed **Violations and Penalties.**

- (1) In addition to any abatement ordered, the Municipal Court may impose civil penalties on the Person-in-Charge and/or Owner consistent with the following schedule:
 - a) For first time violation of Code provisions, in amounts of not less than \$100 and not more than \$250 per day for each violation;
 - b) For second violation of the same Code provision, not less than \$500 per day; and
 - c) \$1,000 maximum for a third and subsequent violation of the same Code provision within any two-year period from the date of issuance of the first violation.
- (2) The Person-in-Charge and/or Owner are jointly and severally liable for any costs, charges, fees and penalties incurred or imposed by the City under the terms of this subchapter, and the City may seek to receive said costs, charges, fees and penalties by an action at law in a court of competent jurisdiction.

~~A person responsible for committing, allowing, suffering or maintaining a nuisance (as defined and prohibited by the terms of Forest Grove Code sections 5.205 to 5.245 and 5.260 to 5.265) on their real property or real property under their control shall be subject to the imposition of a civil penalty in an amount of not less than \$100.00 per offense for the first violation, \$500 for the second~~

~~occurrence of the same type of violation and \$1,000 for any subsequent violation of the same type occurring in a two-year period starting from the issuance of the first notice of violation. The enforcement officer may cite the violator into Municipal Court for said violations.~~

DOG CONTROL ANIMAL SERVICES CODE

(Ord. 1975-1059, 03/24/1975, 03/24/195)

5.505 Adoption of Dog Control Ordinance. Animal Services Code.

- (1) The dog control ordinance of Washington County, Ordinance No. 306, enacted June 11, 1985, effective July 1, 1985, is by this reference incorporated into this code and made a part hereof as the dog control ordinance of the city, except as hereinafter specifically amended, modified or deleted, and shall be known and pled as the "City Dog Control Ordinance." The City hereby incorporates the Washington County Code (WCC) Chapter 6.04, Animal Services Code, (Ord No 794, 01-20-2015) to regulate the keeping, licensing and control of dogs and other animals within the City. Violation of Ordinance No. 306 WCC Chapter 6.04 is an offense against the City.
- (2) One copy of Ordinance No. 306 WCC Chapter 6.04, and any amendments thereof, shall be kept on file in the Office of the City Recorder. Ord. 1975-1059, 03/24/75

5.510 Amendments to Dog Control Ordinance.

Washington County Ordinance No. 306 is amended and changed in the following particulars:

(1) References to "Washington County," "Board of County Commissioners," "County Counsel," "District Court," "District Judge," and other similar references are amended to read "City of Forest Grove," "City Council," "City Attorney," "Municipal Court of Forest Grove," "Municipal Judge of Forest Grove," and other City positions as appropriate.

(2) Section 3, relating to definitions, is amended to add an additional definition as follows:

"4) 'Dog Control Officer' means any peace officer and includes any dog control officer of the City of Forest Grove or of Washington County."

(3) Section 11, relating to claims for livestock killed by dogs, is amended to read:

"Section 11. Livestock killed or Injured by Dogs.
The owner of any livestock killed by any dog may submit claims to Washington County pursuant to the provisions of the Washington County dog control ordinance."

(4) Section 12, the repealing clause, is deleted.

(5) Section 17, relating to the effective date, is deleted.

Note: A copy of the Washington County Dog Control Ordinance (Chapter 6.04 — WC CO. Code) is located in the City Recorder's Office.

EXCLUSION FROM CITY FACILITY OR PROPERTY

5.375 Exclusion Authority.

- (1) In addition to any other remedy or penalty provided by this Code or State law, an Enforcement Officer, or any person specifically authorized by the City Manager, may exclude any individual from City parks, recreational areas, city-owned or leased properties or city-sponsored events for a period of up to ninety (90)-days based upon a substantial objective belief by the Officer (or person authorized) that the individual has engaged in:
 - (a) Conduct made criminal as either a misdemeanor or felony under State law;
 - (b) Conduct in violation of City Code;
 - (c) Conduct in violation of a City Council adopted "rule of conduct".
- (2) An exclusion issued under the provisions of subsection (1) above shall take effect upon issuance of the Notice of Exclusion and remains for the period set out therein subject only to an appeal consistent with that described in Section 5.385.

5.380 Exclusion Notice.

- (1) The Notice of Exclusion shall include:
 - (a) The provision of State law, City Code or rule of conduct violated;
 - (b) The place(s) of exclusion;
 - (c) The start date and end date of the exclusion period;
 - (d) Prominently display a warning of the consequences for failure to comply with the exclusion as described in Section 5.390; and
 - (e) A statement that the excluded person has the right to file a written appeal with Municipal Court within five (5) business days of the issuance date of the Exclusion Notice and request an appeal hearing to have the exclusion rescinded or the exclusion period shortened.

5.385 Appeal of Exclusion.

- (1) A person receiving a Notice of Exclusion under Section 5.380 may file a written appeal with the Municipal Court within five (5) business days of the issuance of the notice to have the exclusion rescinded or the exclusion period shortened.
- (2) The written appeal shall contain:
 - (a) Appellant's name;
 - (b) Appellant's mailing address and contact information;
 - (c) A concise statement of the basis on which the decision to exclude is invalid, unauthorized or otherwise improper; and
 - (d) A copy of the Notice of Exclusion.

- (3) The Municipal Court shall set a date and time for the appeal hearing not less than seven (7) days nor more than 21 days after the receipt of a properly and timely filed appeal. The Municipal Court may alter the date and time for the hearing on its own motion or at the request of the Appellant or City for good cause.
- (4) If an appeal of the exclusion is timely filed under subsection (1) above, the notice automatically stays the exclusion period until the Municipal Court issues a decision on the appeal.
- (5) The City has the burden to show by a preponderance of evidence that the exclusion is warranted given the totality of the circumstances.
- (6) The Municipal Court shall issue the Court's determination in writing and provide a copy to the City and Appellant.

5.390 Violation – Criminal Trespass.

No person shall enter or remain in any public place at any time during which there is in effect a Notice of Exclusion issued under Section 5.380. A person who knowingly violates a Notice of Exclusion commits the crime of criminal trespass.

PARK REGULATIONS

5.415 Conduct; Exclusion.

- (1) ~~Park users shall not conduct themselves in a disruptive, disturbing, abusive, or destructive manner so as to create a problem to other park users or neighbors.~~ No person shall engage in disruptive, disturbing, abusive, or destructive conduct that disrupts other park users or adjacent residents.
- (2) Any person engaging in criminal conduct under State law or conduct that violates City Code or rules of conduct while in or upon City property is subject to the provisions of Section 5.375 (90-Day Exclusion Authority).

CHAPTER 2
GOVERNMENT AND ADMINISTRATION
EXHIBIT A
(AS AMENDED)

MUNICIPAL COURT

2.705

Jurisdiction – Limitation.

- (1) The Municipal Court has jurisdiction over:
 - (a) Traffic violations as defined by State law;
 - (b) Violations of State law provisions denominated as offenses punishable by other than imprisonment relating to:
 - i. Minor in possession of alcohol (person under 21)
 - ii. Allowing minor (person under 21) to consume alcohol on property;
 - iii. Minor in possession of alcohol (person under 21) while operating a motor vehicle;
 - iv. Provisions of Oregon marijuana laws by a minor (person under 21) and person over 18 which are classified as violations; and
 - (c) Violations of the provisions of Chapter 2 through 9 of the Forest Grove City Code and Chapter 10 of the Forest Grove Development Code.

2.710

Authority of the Municipal Court.

- (1) The Municipal Court may adopt rules concerning procedure, conduct of hearings and forms so as to implement the provisions of the Code.
- (2) The Municipal Court may order a party found in violation of the code to comply with the provisions within such time as the Municipal Court may allow. The order may require the party to do any and all of the following:
 - (a) Make any and all necessary repairs, modifications and/or improvements to the building, real property or equipment involved;
 - (b) Abate or remove any nuisance;
 - (c) Change the use of the building or real property involved;
 - (d) Install any equipment necessary to achieve compliance;
 - (e) Pay the City a civil penalty of up to \$1,000 per day or greater amount as authorized elsewhere in the code; or
 - (f) Undertake any other action reasonably necessary to correct the violation or mitigate the effects.
- (3) If any person fails to comply with any of the provisions ordered by the Municipal Court (except requiring payment of a civil penalty), the Court may authorize the City to undertake such actions as the Court may believe is reasonably necessary and/or to take other actions to correct the violation, eliminate, or mitigate the effect. The City's reasonable costs of such actions, including any unpaid civil penalties, may be made a lien against the affected real property.

CHAPTER 5
PUBLIC PROTECTION
EXHIBIT A

GRAFFITI PREVENTION, PROHIBITION AND REMOVAL

5.180 Graffiti Removal; Notice and Procedures.

- (1) The Person-in-Charge and/or Owner of Property shall remove graffiti from such property within ten (10) days of the graffiti's appearance.
- (2) Upon determination by the Enforcement Officer that graffiti nuisance exists on property, the Officer shall cause to be mailed a "Graffiti Nuisance Property Warning Notice" to the Person-in-Charge and/or Owner, if different, at the address shown on the county tax records.
- (3) The notice shall contain:
 - (a) A statement that the Property has been identified as a potential Graffiti Nuisance Property;
 - (b) A statement that the Person may request a "hardship" or extension of time in which to remove the graffiti by filing a written request with the Police Chief within ten (10) days of the date of the warning notice. For the purpose of this subsection, "hardship" includes, but not limited to, serious illness or disability, inclement weather or other circumstances that prevent removal of the graffiti within ten (10) days;
 - (c) A statement that unless either the graffiti is removed or a "hardship" requested within the time specified in the notice, the Property may be declared a nuisance and subject to abatement by the City and civil penalties imposed.
- (4) If the graffiti is not removed within the time specified in the notice and/or a hardship no longer applies, the Property shall be declared a nuisance and abated pursuant to Section 5.270.
- (5) Failure to remove graffiti as required by this Section is a violation punishable by a civil penalty of up to \$500. Each day the graffiti remains after the notice is sent constitutes a separate offense.

NUISANCES

5.205

Definitions.

As used in Code Sections 5.180, 5.210 to 5.245 and 5.260 to 5.305, the following words and terms mean as follows:

Enforcement Officer. Any person charged or designated in writing by the City Manager to enforce the provisions of this Code.

UNENUMERATED NUISANCES

5.265

Unenumerated Nuisances.

- (1) The acts, conditions or objects specifically enumerated and defined in Code Sections 5.180, 5.210 to 5.261 are declared public nuisances and may be abated by the procedures set forth in Code Sections 5.270 to 5.305.

DRAFT

ABATEMENT PROCEDURE

5.270 Abatement Notice.

- (1) Except in the case where summary abatement is authorized, pursuant to Section 5.295, or when a different abatement procedure is specified elsewhere in this Code, public nuisances identified in this Code shall be abated under the general abatement procedures outlined in this subchapter.
- (2) Upon determination by the Enforcement Officer that a nuisance exists, the Officer shall post a notice consistent with 5.270(4) at the nuisance site, directing the Person-in-Charge and/or Owner to abate the nuisance within ten (10) days of the notice.
- (3) At the time of posting, the Enforcement Officer shall send a copy of the notice by Certified Mail to the Person-in-Charge and/or Owner, if different, at the address shown on the county tax records. In addition, the Officer shall prepare a declaration for the file setting out the date, time and place of the posting as well as the date and time of the mailing of the notice by Certified Mail.
- (4) The notice shall contain:
 - (a) The street address or legal description sufficient to identify the Property or otherwise where the nuisance exists;
 - (b) A brief description of the nuisance and specific code provision being violated;
 - (c) A demand that the Person-in-Charge and/or Owner comply with the terms of the Code and abate the nuisance within ten (10) days of the date of the notice;
 - (d) A statement that unless the nuisance is removed, the City may abate the nuisance and the cost of abatement therefor (including administrative costs) and any civil penalties imposed shall be made an assessment lien on the Property; and
 - (e) A statement that the Person-in-Charge and/or Owner may challenge the abatement notice by filing a written petition with Municipal Court within ten (10) days of the notice and request a hearing to show cause why the nuisance should not be abated.
- (5) An error in the contents of the notice shall not void the notice or the ability to proceed towards abatement.
- (6) The Person-in-Charge and/or Owner may challenge the abatement notice by filing a written petition with the Municipal Court within ten (10) days of the date of the notice briefly setting out the basis for the challenge.
- (7) In the event the Person-in-Charge and/or Owner files a properly and timely written petition with the Municipal Court within the time specified in Section 5.270(6), the Court shall conduct a hearing pursuant to Section 5.280.

5.275

Abatement by the City; Hearing; Imposition of Costs; Assessment Lien.

- (1) In the event the Person-in-Charge and/or Owner fails to abate the nuisance or challenge the abatement notice with the Municipal Court within the time specified in Section 5.270(6), the Enforcement Officer may commence an action to abate the nuisance by filing a complaint or citation with the Municipal Court.
- (2) The complaint or citation shall include:
 - (a) The street address or legal description sufficient to identify the property or otherwise where the nuisance exists;
 - (b) A brief description of the nuisance and specific code provision being violated;
 - (c) A copy of both the notice to abate and declaration described in Section 5.270(3); and
 - (d) A description of the relief being sought (i.e., order to abate, imposition of civil penalty, etc.).
- (3) The Enforcement Officer shall cause a true copy of the citation or complaint be served on the Person-in-Charge and/or Owner, if different, either by personal service or Certified Mail, mailed to the address shown on the county tax records or such other address which the Enforcement Officer reasonably believes under the circumstances will apprise the Person-in-Charge and/or Owner of the existence and pendency of the City's action. In addition, the Enforcement Officer shall prepare a declaration for the file as to the method and timing of the service of the citation or complaint and file said declaration with the Municipal Court and a copy kept with the file.
- (4) The Municipal Court shall set a date and time for the hearing on the citation or complaint not less than seven (7) days nor more than 21 days after the date shown on the declaration described in Section 5.275(3). The Municipal Court may alter the date and time for the hearing on its own motion or at the request of the Person-in-Charge, Owner or City for good cause.
- (5) At the hearing, the City will have the burden to show:
 - (a) The real property where the nuisance exists is within the City;
 - (b) The nature of the nuisance and its extent;
 - (c) That if the City is seeking an order to abate, that the nuisance is likely to be present at the time of the requested abatement; and
 - (d) If the City is seeking a civil penalty, the amount thereof is reasonable and justified by the circumstances.
- (6) Upon its determination that the City has carried its burden, the Municipal Court is authorized to issue a written order:
 - (a) Authorizing the City to enter the property where the nuisance is located and abate said nuisance;

- (b) Imposing a civil penalty on the Person-in-Charge or Owner for the nuisance; and
 - (c) Such other relief, which the Court reasonably believes, is appropriate given the nature of the nuisance and its effects on the adjoining properties and the City.
- (7) A copy of the order shall be mailed to the Person-in-Charge and/or Owner, if different, by the Municipal Court to the address where the citation or complaint was served.
- (8) Once the City obtains a Municipal Court order to abate the nuisance and/or take other actions to address the nuisance and proceeds to act thereon, the Enforcement Officer shall cause an accounting to be kept of all costs, charges, fees and penalties associated therewith.
- (9) The Enforcement Officer shall send a notice and a copy of the accounting statement by Certified Mail to the Person-in-Charge and/or Owner, if different, within 30 days of the calculation described in subsection (8). In addition, the Officer shall prepare a declaration for the file as to the date and time of the mailing of the notice and accounting statement by Certified Mail.
- (10) The notice shall contain:
 - (a) The street address or legal description to identify the Property or otherwise where the nuisance was abated;
 - (b) A statement that if the costs, charges, fees and penalties associated therewith are not paid in full to the City within thirty (30) days of the mailing date of the notice, any unpaid costs, charges, fees and penalties will be made an assessment lien against the Property; and
 - (c) A statement that the Person-in-Charge and/or Owner may challenge the reasonableness or justification of any cost, charge or fee by filing a written petition with the Municipal Court with ten (10) days of the mailing date of the notice, succinctly setting out the basis for the belief that the cost, charge or fee is either unreasonable or otherwise unjustified.
- (11) In the event the Person-in-Charge and/or Owner fails to timely challenge the notice and thirty (30) days has lapsed, any unpaid costs, charges, fees and penalties shall be filed in the City's lien docket as an assessment lien and thereafter enforced and collected, bearing interest at the legal rate from the day of entry on the docket until fully paid.
- (12) The Person-in-Charge and/or Owner may challenge the reasonableness or justification of any cost, charge or fee imposed as a result of the abatement by filing a written petition with the Municipal Court within ten (10) days of the mailing date of the notice described in subsection (10) and request a hearing to show cause why the cost, charge or fee is either unreasonable or otherwise unjustified.

5.280

Hearing to Challenge Nuisance Declaration or Abatement Costs.

- (1) In the event the Person-in-Charge and/or Owner files a properly and timely written petition with the Municipal Court within the time specified in Sections 5.270(6), 5.275(12) or 5.295(3), the Court shall set a date and time for the hearing not less than seven (7) days nor more than 21 days after the date shown on the declarations described in Sections 5.270(3), 5.275(9) and 5.295(2). The Municipal Court may alter the date and time for the hearing on its own motion or at the request of the Person-in-Charge, Owner or City for good cause.
- (2) At the hearing, the Municipal Court shall either affirm or deny and issue a written order thereon and if requested, by the Person-in-Charge, Owner and/or City, provide a written explanation for said determination. A copy of the order and written explanation (if any) shall be provided to both petitioner(s) and the City.

GENERAL

5.295

Summary Abatement.

- (1) If a nuisance exists on private real property which poses an imminent threat to the public health, safety or welfare and the circumstances, taken as a whole, do not allow the City to seek authorization to enter the property from the Municipal Court or other court to abate the nuisance, the Enforcement Officer or other appropriate city official is authorized to immediately enter said property and cause the summary abatement thereof.
- (2) In the event the Enforcement Officer or other city official acts pursuant to the authority under subsection (1), said person shall provide written notice, sent by Certified Mail, to the Person-in-Charge and/or Owner, if different, at the address shown on the county tax records or such other address as is reasonably calculated to apprise the Person-in-Charge and/or Owner as to the summary abatement, in expeditious manner, but in no event more than five (5) business days after the summary abatement. In addition, the Officer shall prepare a declaration for the file setting out the date and time of the mailing of the notice by Certified Mail.
- (3) The notice shall contain:
 - a) The street address or legal description sufficient to identify the Property or otherwise where the nuisance was summary abated;
 - b) A description of the nuisance and specific code provision(s) declaring summary abatement thereof;
 - c) The action(s) taken by the City to abate the nuisance;
 - d) What further action(s) the Person-in-Charge and/or Owner may be required to take to address the nuisance, its impacts and/or residual effects of the abatement;

- e) To the extent known, the costs incurred by the City as a result of the summary abatement and whether the City will look to the Person-in-Charge and/or Owner for payment of all or part thereof; and
 - f) The Person-in-Charge and/or Owner may challenge the summary abatement by filing a written petition with the Municipal Court within ten (10) days of the date of the notice briefly setting out the basis for the challenge.
- (7) In the event the Person-in-Charge and/or Owner files a properly and timely written petition with the Municipal Court within the time specified in subsection (3) above, the Court shall conduct a hearing pursuant to Section 5.280.

5.300 Non-Exclusive Nature of Abatement Process.

The procedures and remedies provided by this subchapter are not exclusive but in addition to others available under State law as well as this Code.

5.305 Violations and Penalties.

- (1) In addition to any abatement ordered, the Municipal Court may impose civil penalties on the Person-in-Charge and/or Owner consistent with the following schedule:
- a) For first time violation of Code provisions, in amounts of not less than \$100 and not more than \$250 per day for each violation;
 - b) For second violation of the same Code provision, not less than \$500 per day; and
 - c) \$1,000 maximum for a third and subsequent violation of the same Code provision within any two-year period from the date of issuance of the first violation.
- (2) The Person-in-Charge and/or Owner are jointly and severally liable for any costs, charges, fees and penalties incurred or imposed by the City under the terms of this subchapter, and the City may seek to receive said costs, charges, fees and penalties by an action at law in a court of competent jurisdiction.

ANIMAL SERVICES CODE

5.505 Animal Services Code.

- (1) The City hereby incorporates the Washington County Code (WCC) Chapter 6.04, Animal Services Code, (Ord No 794, 01-20-2015) to regulate the keeping, licensing and control of dogs and other animals within the City. Violation of WCC Chapter 6.04 is an offense against the City.
- (2) One copy of WCC Chapter 6.04, and any amendments thereof, shall be kept on file in the Office of the City Recorder.

DRAFT

EXCLUSION FROM CITY FACILITY OR PROPERTY

5.375 Exclusion Authority.

- (1) In addition to any other remedy or penalty provided by this Code or State law, an Enforcement Officer, or any person specifically authorized by the City Manager, may exclude any individual from City parks, recreational areas, city-owned or leased properties or city-sponsored events for a period of up to ninety (90)-days based upon a substantial objective belief by the Officer (or person authorized) that the individual has engaged in:
 - (a) Conduct made criminal as either a misdemeanor or felony under State law;
 - (b) Conduct in violation of City Code;
 - (c) Conduct in violation of a City Council adopted "rule of conduct".
- (2) An exclusion issued under the provisions of subsection (1) above shall take effect upon issuance of the Notice of Exclusion and remains for the period set out therein subject only to an appeal consistent with that described in Section 5.385.

5.380 Exclusion Notice.

- (1) The Notice of Exclusion shall include:
 - (a) The provision of State law, City Code or rule of conduct violated;
 - (b) The place(s) of exclusion;
 - (c) The start date and end date of the exclusion period;
 - (d) Prominently display a warning of the consequences for failure to comply with the exclusion as described in Section 5.390; and
 - (e) A statement that the excluded person has the right to file a written appeal with Municipal Court within five (5) business days of the issuance date of the notice and request an appeal hearing to have the exclusion rescinded or the exclusion period shortened.

5.385 Appeal of Exclusion.

- (1) A person receiving a Notice of Exclusion under Section 5.380 may file a written appeal with the Municipal Court within five (5) business days of the issuance of the notice to have the exclusion rescinded or the exclusion period shortened.
- (2) The written appeal shall contain:
 - (a) Appellant's name;
 - (b) Appellant's mailing address and contact information;
 - (c) A concise statement of the basis on which the decision to exclude is invalid, unauthorized or otherwise improper; and
 - (d) A copy of the Notice of Exclusion.

- (3) The Municipal Court shall set a date and time for the appeal hearing not less than seven (7) days nor more than 21 days after the receipt of a properly and timely filed appeal. The Municipal Court may alter the date and time for the hearing on its own motion or at the request of the Appellant or City for good cause.
- (4) If an appeal of the exclusion is timely filed under subsection (1) above, the notice automatically stays the exclusion period until the Municipal Court issues a decision on the appeal.
- (5) The City has the burden to show by a preponderance of evidence that the exclusion is warranted given the totality of the circumstances.
- (6) The Municipal Court shall issue the Court's determination in writing and provide a copy to the City and Appellant.

5.390 Violation – Criminal Trespass.

No person shall enter or remain in any public place at any time during which there is in effect a Notice of Exclusion issued under Section 5.380. A person who knowingly violates a Notice of Exclusion commits the crime of criminal trespass.

PARK REGULATIONS

5.415 Conduct; Exclusion.

- (1) No person shall engage in disruptive, disturbing, abusive, or destructive conduct that disrupts other park users or adjacent residents.
- (2) Any person engaging in criminal conduct under State law or conduct that violates City Code or rules of conduct while in or upon City property is subject to the provisions of Section 5.375 (90-Day Exclusion Authority).