

provided in [Chapter 90](#).

(Ord. 60.01, passed 1-8-1991)

### **§ 130.38 APPLICATION OF STATE STATUTES.**

Provisions of the Oregon Criminal Code of 1971, as now constituted, relating to defenses, burden of proof, general principles of criminal liability, parties, and general principles of justification apply to offenses defined and made punishable by this chapter.

(Ord. 60.01, passed 1-8-1991)

### **§ 130.39 SAVING CLAUSE.**

Ordinances repealed shall remain in force to authorize the arrest, prosecution, conviction, and punishment of a person who violated the ordinances prior to the effective date of this chapter.

(Ord. 60.01, passed 1-8-1991)

### **§ 130.40 SMOKING AND TOBACCO USE ON PUBLIC PROPERTY.**

(A) *Policy declared.* The city, in furtherance of the public health, safety and welfare, hereby declares that:

(1) It is a matter of public concern and importance to maintain city buildings as smoke-free places for its employees and citizens, to maintain city parks, parking lots and city vehicles free from smoke and the hazards of second-hand smoke for the safe, healthful, undisturbed use and enjoyment of all of its citizens and employees. This applies to the smoking of tobacco and marijuana products and any other material that may be smoked or otherwise inhaled.

(2) The use of smokeless forms of tobacco, such as snuff, chewing tobacco and dipping tobacco is similarly harmful to the public health, safety and welfare and inconsistent with the city's mission of providing healthy and safe recreational, relaxation and social opportunities in its parks.

(3) The use of vapor, e-cigarettes and similar nicotine delivery systems that produces steam or water vapor in public parks, buildings and on city-owned property is similarly harmful to the public health, safety and welfare and inconsistent with the city's mission of providing healthy and safe recreational, relaxation and social opportunities in its parks. Such water vapor-based nicotine delivery systems produce a smoke-like vapor that causes confusion in children, adults and even law enforcement officials as to whether it is a traditional cigarette and real tobacco smoke.

(4) Cigarettes, cigars and smoke-less forms of tobacco produce litter that frequently accumulates in public places, including city parks, parking lots and the public right-of-way. Such litter is inconsistent with the city's objective of keeping a neat, clean and litter-free environment in its parks and public places. Litter pick-up and trash removal from city parks and public places is a significant maintenance item that consumes limited public resources.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CITY PARK.** Any public park owned or operated for public use by the City of Banks and so designated, and includes all sidewalks, streets and public rights-of-way immediately adjacent thereto.

**MARIJUANA.** The meaning given that term in O.R.S. 475.005.

**SMOKING.** The inhaling, exhaling, burning, heating or carrying of any lighted cigar, cigarette, pipe, grass, plant, liquid, extract, condensate, vapor or any other tobacco or marijuana (plants of the genus *Cannabis*) product, or substance in any form. **SMOKING** includes the use of any electronic smoking device that creates a smoke-like vapor containing any nicotine or nicotine derivative.

**TOBACCO PRODUCT.** Any product that contains tobacco or is derived from tobacco and is intended to be inhaled, ingested into the human body or absorbed into the human bloodstream. **TOBACCO PRODUCT** includes all electronic smoking devices and nicotine delivery devices and products, but does not mean tobacco use cessation products approved for that use by the U.S. Food and Drug Administration. **TOBACCO PRODUCT** also includes all forms of smoke-less tobacco such as snuff, snews, chewing tobacco and dipping tobacco.

**USING A TOBACCO PRODUCT.** Smoking, chewing, ingesting, inhaling, sniffing, dipping, exhaling, vaping and any other means of ingestion, absorption or consumption of a tobacco product.

**VAPOR PRODUCT.** Any noncombustible product that employs a mechanical heating element, battery or circuit and that can be used to heat a nicotine solution, or a cartridge or other unit containing a nicotine solution to be placed in an electronic cigarette, device or product.

(C) It shall be unlawful and a violation of this section for any person to engage to any of the following activities in city-owned buildings, in a city park, in or on a city-owned vehicle, and in a city-owned parking lot.

- (1) Using a tobacco product.
- (2) Smoking marijuana.
- (3) Smoking or otherwise using or inhaling a vapor product.

(Ord. 2015-03-01, passed 7-14-2015)

**§ 130.99 PENALTY.**

(A) Violation of a provision of this chapter is punishable by a fine not to exceed \$500. The maximum penalty for a violation of this chapter shall not exceed the maximum penalty prescribed for a substantially similar offense prescribed by the current Oregon Criminal Code.

(B) In addition to the suspension or revocation of any license hereunder, any licensee, firm, corporation, association or person(s) associated with the licensee who violates any provision of § [130.23](#), may, upon conviction, be fined in the amount not to exceed \$500 for each violation. Each day that a violation is permitted to occur is considered a separate violation.

(C) A violation of § [130.40](#) is a civil infraction that may be prosecuted pursuant to [Chapter 37](#) (Civil Enforcement) of the Banks Code of Ordinances, or in any other manner provided by law, and shall be punishable by a fine of not more than \$500 per violation. Each instance of a violation of § [130.40](#) shall be deemed a separate citable infraction.

(Ord. 60.01, passed 1-8-1991; Am. Ord. 2009-01-02, passed 1-13-2009; Am. Ord. 2010-01-01, passed 1-12-2010; Am. Ord. 2015-03-01, passed 7-14-2015)

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