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Year. A calendar year.

[Section 1.100 amended by Ord. No. 1407, enacted 10/13/97]

1.105 Title of Office.

Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the City of West Linn.

1.110 Interpretation of Language.

All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

1.115 Grammatical Interpretation.

The following grammatical rules apply in the ordinances and code of the City of West Linn, unless it is apparent from the context that a different construction is intended:

(1) Gender. Each gender includes the masculine, feminine and neuter genders.

(2) Singular and Plural. The singular number includes the plural and the plural includes the singular.

(3) Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.

1.120 Acts by Agents.

When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent.

1.125 Prohibited Acts Include Causing and Permitting.

Whenever in the ordinances of the City of West Linn, any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

1.130 Computation of Time.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded.

1.135 Construction.

The provisions of the ordinances and code of the City of West Linn and all proceedings under them are to be construed with a view to effect their objects and to promote justice.

1.140 Repeal Shall Not Revive Any Ordinances.

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinance which has been repealed thereby.

GENERAL PENALTY

1.205 Penalty Designated.

Any person violating any of the provisions or failing to comply with any of the mandatory requirements of any ordinance of the city, where a specific penalty is not specified in the ordinance for the violation, shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the ordinances of the city where a specific penalty is not elsewhere established, shall be punished by a fine of not to exceed \$500 or by imprisonment, not to exceed 30 days, or by both such fine or imprisonment.

1.210 Violation Deemed Separate

Offense. Each such person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the City of West Linn is committed, continued or permitted by any such person, and he is punishable accordingly.

1.215 Establishment and Purpose.

(1) A procedure to handle violations of city ordinances as civil infractions, subject to the provisions set forth in sections 1.215 through 1.260, is established, pursuant to the home rule powers granted the city by Article IV, section 1, and Article XI, section 2 of the Oregon Constitution and by sections 4 and 5 of the West Linn City Charter.

(2) A civil infractions procedure has been established for the purpose of decriminalizing penalties for violations of certain civil ordinances and for the purpose of providing a convenient and practical forum for the civil hearing and determination of cases arising out of said violations.

1.220 Definitions. For the purpose of sections 1.215 to 1.260, the following definitions apply:

(1) City Infractions. An offense against the city in the form of a violation of one of the city ordinances or section thereof designated in section 1.225, constitutes a city infraction and shall be handled in accordance with the procedures established by sections 1.215 to 1.260. When an infraction is of a continuing nature, a separate infraction will be deemed to occur on each calendar day the infraction continues to exist and a separate citation may be filed for each such infraction.

(2) Forfeiture--Forfeiture Schedule. The only penalty to be imposed for an infraction is a monetary penalty called a forfeiture. The municipal court shall, however, possess the additional enforcement powers set forth in section 1.250. The appropriate forfeiture to be assessed for a specific infraction will be determined from the forfei-

ture schedule in section 1.255. The procedure prescribed by sections 1.215 to 1.260 shall be the exclusive procedure for imposing forfeiture; however, this section shall not be read to prohibit in any way any other alternative remedy set out in ordinances covered by this infraction procedure which is intended to abate or alleviate ordinance violations, nor shall the city be prohibited from recovering, in a manner prescribed by law, any expense incurred to it in abating or removing ordinance violations pursuant to said ordinances.

(3) Person. As used in sections 1.215 to 1.260, shall be construed to include any person, firm, partnership, corporation, or association of persons.

1.225 Application. The civil infraction procedure prescribed by sections 1.215 to 1.255 applies to those code sections listed in section 1.260.

1.230 Infraction Procedure--Reporting.

All reports of infractions covered by sections 1.215 to 1.260 will be made to the city manager.

1.235 Infraction Procedure--Uniform Infraction Citation and Complaint.

(1) A uniform infraction citation and complaint signed by the city manager may be filed with the municipal court, charging the recipient with a civil infraction and setting a date for said person to appear before the municipal court to answer the complaint.

(2) The city manager shall prescribe the form of the uniform infraction citation and complaint but it shall consist of at least three parts. Additional parts may be inserted for administrative purposes by those charged with the enforcement of the ordinances. The required parts are:

- (a) The complaint;
- (b) The city department record;
- (c) The summons.

(3) Each of the three parts shall contain the following information:

(a) The name of the court and the court's file number;

(b) The name of the person or persons cited;

(c) The infraction with which the person is charged, the date, time and place the infraction occurred, or if the infraction is of a continuing nature, the date, time and place the infraction was observed by the city manager or a citizen of the city, the date on which the citation was issued, and the name of the complainant;

(d) The scheduled forfeiture for the alleged infraction;

(e) The time and place at which the person cited is to appear in court.

(4) The complaint shall contain either:

(a) A signed statement that the City Manager has reasonable grounds to believe, and does believe, that the person cited committed the infraction; or

(b) A signed statement that the citizen of the city has reasonable grounds to believe, and does believe, that the person cited committed the infraction, which shall be signed and sworn to before a notary public or the court clerk.

(5) The summons shall also contain notice to the person cited that a civil complaint will be filed in the municipal court of the city.

(6) For purposes of this section, "city manager" includes the City Manager as defined in Section 1.100 and all persons authorized by the City Council or the City Manager to issue citations. All City police officers are authorized to issue citations for any violations. All City code enforcement officers are authorized to issue citations for any violation of any City Code other than traffic and criminal violations. Department heads of the City's Engineering, Public

Works, Parks and Recreation, Planning and Building Departments and associate planners are authorized to issue citations as to violations of code provisions that they are responsible for administering.

[Section 1.235 amended by Ordinance No. 1485, adopted April 17, 2002.]

1.240 Infraction Procedure--Answer to Summons.

(1) A person who receives a summons for an infraction shall answer such summons by personally appearing to answer at the time and place specified therein, except an answer may be made by mail or personal delivery within ten days of the date of the receipt of the summons as provided in subsections (2) and (3) of this section.

(2) If a person alleged to have committed an infraction admits the infraction or otherwise desires to pay the forfeiture without appearing in municipal court, he may complete the appropriate answer on the back of each summons and forward the summons to the municipal court. A check or money order in the amount of the forfeiture for the infraction alleged as shown on the face of the summons shall also be submitted with the answer.

(3) If the person alleged to have committed the infraction denies part or all of the infraction, he may request a hearing by completing the appropriate answer on the back of the summons and forwarding the summons to the municipal court. Upon receipt, the answer shall be entered and a hearing date established by the municipal court. The municipal court shall notify the person alleged to have committed the infraction by mail, of the date of the hearing.

(4) The court may, in any case, after notice, require the cited person to appear for a hearing.

1.245 Infraction Procedure--Hearing.

(1) Every hearing to determine whether an infraction has occurred shall be held before the municipal court without a jury.

(2) The hearing shall be limited to production of evidence only on the infraction alleged in the complaint.

(a) Oral Evidence. Oral evidence shall be taken only on oath or affirmation.

(b) Hearsay Evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

(c) Admissibility of Evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

(d) Exclusion of Evidence. Irrelevant and unduly repetitious evidence shall be excluded.

(3) The defendant shall have the right to present evidence and witnesses in his favor, to cross-examine witnesses who testify against him and to submit rebuttal evidence.

(4) The defendant may be represented by counsel, but counsel shall not be provided at public expense. If defense counsel is to appear, written notice shall be provided to the municipal court ten days prior to the hearing date, excluding weekends and holidays.

(5) The city shall have the burden of proving the alleged ordinance infraction by a preponderance of the evidence.

(6) After due consideration of the evidence and arguments presented at the hearing, the court shall determine whether the infraction as alleged in the complaint has been established. When the infraction

has not been established, an order dismissing the complaint shall be entered in the municipal court records. When a determination is made that an infraction has been established or if an answer admitting the infraction has been received, or the forfeiture otherwise paid by the defendant, an appropriate order shall be entered in the municipal court records.

(7) Unless otherwise provided by ordinance, upon a finding that an infraction has occurred, the court shall assess a forfeiture not to exceed the maximum permissible forfeiture for the specific infraction established in accordance with sections 1.215 to 1.260 plus court costs.

(8) There shall be no administrative appeal or legal review from a determination by the municipal court of an infraction violation.

1.250 Enforcement.

(1) If a cited person fails to answer the summons or appear at a scheduled hearing as provided in sections 1.215 to 1.260, the municipal court may enter a default judgment for the scheduled forfeiture applicable to the charged infraction, or it may issue a warrant for the arrest of the cited person for reason of his nonappearance, or it may do both of the above actions.

(2) After a hearing and determination by the municipal court that an infraction has occurred, the court shall assess the scheduled forfeiture applicable to the determined infraction.

(3) Delinquent forfeitures and those brought to default judgment which were assessed for infractions occurring on real property or for improper use of real property may be held as city liens against said real property and collected in the same manner as other such debts owing to the city.

(4) Nothing in this section shall limit the city from revoking or denying any city license or permit held or desired by a person owing a forfeiture to the city.

(5) Nothing in this section shall limit the inherent power of the municipal court to impose criminal penalties for contempt of court in cases where it deems such sanctions appropriate.

1.255 Schedule of Forfeitures.

(1) Infractions are classified for the purpose of determining forfeitures into the following categories:

- (a) Class A infractions;
- (b) Class B infractions;
- (c) Class C infractions;
- (d) Class D infractions.

(2) An assessment of a forfeiture for an infraction assessment to pay an amount not exceeding:

- (a) Five hundred dollars for a Class A infraction;
- (b) Two hundred fifty dollars for a Class B infraction;
- (c) One hundred dollars for a Class C infraction;
- (d) Fifty dollars for a Class D infraction.

(3) Infractions of city ordinance are classified as set forth in Schedule B attached to the ordinance codified in sections 1.215 to 1.260 and incorporated herein by reference.

1.260 Schedule of Applicable Code

Sections. The civil infraction procedure prescribed by sections 1.215 to 1.255 applies to the code section or sections listed below. The class of infraction for violation of the code section or sections is also indicated below.

(1) Sections 3.250 to 3.280, Street Contractors - Class B Infraction;

(2) Section 5.560, Parks - Class B Infraction;

(3) Sections 5.650 to 5.725, Explosives - Class A Infraction;

(4) Sections 5.750 to 5.785, Blasting - Class A Infraction;

(5) Sections 6.040 to 6.230, Traffic - Class A Infraction;

(6) Sections 6.300 to 6.305, Off-Road Vehicles - Class A Infraction;

(7) Sections 6.400 to 6.405, Motor Vehicles - Class B Infraction;

(8) Sections 7.000 to 7.080, Business Licenses - Class A Infraction;

(9) Sections 8.000 to 8.035, Building Code - Class A Infraction;

(10) Section 8.075, Uniform Fire Code - Class A Infraction;

(11) Sections 8.100 to 8.155, Moving of Buildings - Class A Infraction;

(12) Sections 8.200 to 8.215, Fences - Class A Infraction.

(13) Section 3.300 – Class A infraction.

[Subsection (13) added by Ordinance No. 1449, adopted 05-22-00.]

(14) Sections 4.500 to 4.526 – Class A infraction.

[Subsection (14) added by Ordinance No. 1452, adopted 06-12-00.]

(15) Section 5.477 – Class A infraction.

[Subsection (15) added by Ordinance No. 1453, adopted 06-12-00.]

STOP WORK AUTHORITY

1.300 Definitions

The following definitions shall apply in Sections 1.300 to 1.360: