

Lafayette Code

Chapter 1

GENERAL PROVISIONS

CODE ADOPTION

1.010 Adoption. There is hereby adopted the "Lafayette Municipal Code" as published by the city of Lafayette.

1.015 Title--Citation--Reference. This code shall be known as the "Lafayette Municipal Code" and it shall be sufficient to refer to the code as the "Lafayette Municipal Code" in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the "Lafayette Municipal Code." Further reference may be had to the titles, chapters, sections and subsections of the "Lafayette Municipal Code," and such references shall apply to that numbered title, chapter, section or subsection as it appears in the code.

1.020 Contents. This code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of the city of Lafayette, Oregon.

1.025 Reference Applies to All Amendments. Whenever a reference is made to this code as the "Lafayette Municipal Code" or to any portion thereof, or to any ordinance of the city of Lafayette, Oregon, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

1.030 Title, Chapter, and Section Headings. Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof.

1.035 Reference to Specific Ordinances. The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this code.

1.040 Effect of Code on Past Actions and Obligations. Neither the adoption of this code nor the repeal or amendment hereby of any ordinance or part or portion of any ordinance of the city shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee, or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee, or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance and all rights and obligations thereunder

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appertaining shall continue in full force and effect.

1.045 Effective Date. This code shall become effective on 12:00 a.m., July 9 1998.

1.050 Severability. If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The council hereby declares that it would have passed this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

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1.100 Definitions. The following words and phrases, whenever used in the ordinances of the city of Lafayette, Oregon, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

City. The city of Lafayette, Oregon, or the area within the territorial limits of the city of Lafayette, and such territory outside of the city of Lafayette, over which the city of Lafayette has jurisdiction or control by virtue of any constitutional or statutory provision.

City Administrator. The administrative head of the city's government appointed by the city council, or his or her designee.

Council. The city council of the city of Lafayette, Oregon. "All its members" or

"all council members" means the total number of council members holding office.

County. The county of Yamhill.

Law. Applicable federal law, the Constitution and statutes of the state of Oregon, the ordinances of the city of Lafayette, and, when appropriate, all rules and regulations which may be promulgated thereunder.

May. Permissive.

Month. A calendar month.

Must and shall. Mandatory.

Oath. Includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Owner. Applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, or contract purchaser of the whole or a part of such building or land.

Person. Includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

Personal property. Includes money, goods, chattels, things in action and evidences of debt.

Preceding and following. Next before and next after, respectively.

Property. Includes real and personal property.

Public Works Superintendant. The head of the public works department of the City under the supervision of the City Administrator.

Real property. Includes lands, tenements and hereditaments.

Sidewalk. That portion of a street between the paved or graveled roadway (whether improved or not) and the adjacent property line intended for the use of pedestrians.

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State. The state of Oregon.

Street. Includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this city which have been or may hereafter be dedicated and open to public use, or such other public property as designated in any law of this state.

Tenant and occupant. Applied to a building or land, include any person who occupies the whole or a part of such building or land, whether alone or with others.

Written. Includes printed, typewritten, mimeographed, multigraphed, or otherwise reproduced in permanent visible form.

Year. A calendar year.

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 Lafayette.

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 Lafayette, 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 Lafayette, 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 Lafayette 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 PENALTIES & FEES

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 Class A Violation. Any person convicted of a Class A Violation under the ordinances of the

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city where a specific penalty is not elsewhere established, shall be punished by a fine of not to exceed \$500.

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 Lafayette 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 violations, subject to the provisions set forth in sections 1.215 through 1.270, 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 Chapter II and VIII of the Lafayette City Charter.

(2) A civil violations procedure has been established for the purpose of decriminalizing penalties for violations of certain 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.

[Amended by Ord. 566 on Feb. 5, 2004]

1.220 Definitions. For the purpose of sections 1.215 to 1.270, the following definitions apply:

(1) Civil Violations. An offense against the city in the form of a violation of one of the city ordinances or section thereof designated in section 1.260, constitutes a civil violation and shall be handled in accordance with the procedures established by sections 1.215 to 1.270. When a violation is of a continuing nature, a separate violation will be deemed to occur on each calendar day the violation continues to exist and a separate citation may be filed for each such violation.

(2) Forfeiture—Forfeiture Schedule. The only penalty to be imposed for

a violation 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 violation will be determined from the forfeiture schedule in section 1.255. The procedure prescribed by sections 1.215 to 1.270 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 violation 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 1.270, shall be construed to include any person, firm, partnership, corporation, or association of persons.

[Amended by Ord. 566 on Feb. 5, 2004]

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

1.230 Violation Procedure--Reporting.

All reports of violations covered by sections 1.215 to 1.270 will be made to the city administrator or a sworn officer of the law.

[Amended by Ord. 566 on Feb. 5, 2004]

1.235 Violation Procedure--Uniform Violation Citation and Complaint.

(1) A uniform violation citation and complaint signed by the city administrator, a sworn officer of the law, a code enforcement officer or a citizen of the city may be filed with the municipal court, charging the recipient with a civil violation and setting a date for said person to appear before the municipal court to answer said complaint.

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(2) The city administrator shall prescribe the form of the uniform violation 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 violation with which the person is charged, the date, time and place the violation occurred, or if the violation is of a continuing nature, the date, time and place the violation was observed by the city administrator, sworn law enforcement officer, code enforcement officer 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 violation;

(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 administrator has reasonable grounds to believe, and does believe, that the person cited committed the violation; 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 violation, which shall be signed and sworn to before a notary public or the court or city clerk.

(5) A summons shall also contain notice to the person cited that a civil

complaint will be filed in the municipal court of the city.

1.240 Violation Procedure--Answer to Summons.

(1) A person who receives a summons for a violation 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 to be received by the court prior to the time to appear as specified on the summons, as provided in subsections (2) and (3) of this section.

(2) If a person alleged to have committed a violation admits the violation 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. Payment in full of the amount of the forfeiture for the violation 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 violation denies part or all of the violation, 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 violation 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 Violation Procedure--Hearing.

(1) Every hearing to determine whether a violation 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 violation alleged in the complaint.

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(a) Oral Evidence. Oral evidence shall be taken only upon 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 violation 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 violation as alleged in the complaint has been established. When the violation has not been established, an order dismissing the complaint shall be entered in the municipal

court records. When a determination is made that a violation has been established or if an answer admitting the violation 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 a violation has occurred, the court shall assess a forfeiture not to exceed the maximum permissible forfeiture for the specific violation 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 a 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 violation.

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

(3) Delinquent forfeitures and those brought to default judgment which were assessed for violations 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.

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1.255 Schedule of Forfeitures.

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

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

(2) Forfeitures for the above violations shall not exceed the following:

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

[Amended by Ord. 566 on Feb. 5, 2004]

1.260 Schedule of Applicable Code Sections.

The civil violation procedure prescribed by sections 1.215 to 1.270 applies to the code section or sections listed below. The class of violation for violation of the code section or sections is also indicated below.

- (1) Sections 3.250 to 3.280, Street Contractors - Class B Violation;
- (2) Section 5.560, Parks - Class B Violation;
- (3) Sections 5.650 to 5.725, Explosives - Class A Violation;
- (4) Sections 5.750 to 5.785, Blasting - Class A Violation;
- (5) Sections 6.040 to 6.230, Traffic - Class A Violation;
- (6) Sections 6.300 to 6.305, Off-Road Vehicles - Class A Violation;
- (7) Sections 6.400 to 6.405, Motor Vehicles - Class B Violation;
- (8) Sections 7.000 to 7.080, Business Licenses - Class A Violation;
- (9) Sections 8.000 to 8.035, Building Code - Class A Violation;
- (10) Section 8.075, Uniform Fire Code - Class A Violation;

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

(12) Sections 8.300 to 8.325, Fences - Class B Violation.

(13) All other sections of the code except the State of Oregon Criminal and Traffic codes, unless otherwise provided in the code- Class C violation.

[Amended by Ord. 566 on Feb. 5, 2004]

[Sections 1.205-1.260 amended by Ordinance 589 on Dec. 14, 2006]

1.270 Municipal Court Fees.

(1) The schedule of fees for certain municipal court matter shall be as follows:

- (a) Collection Administration Fee: 25% of original fine up to \$250
- (b) Payment Contract Fee (to be collected whenever any fine is not paid in full on the same day it is imposed by the judge) shall be as follows:

| <u>Amount of Fine:</u> | <u>Contract Fee:</u> |
|------------------------|----------------------|
| \$0 to \$100 | \$15 |
| \$101 to \$200 | \$30 |
| \$201 to \$300 | \$45 |
| \$301 to \$400 | \$60 |
| \$401 to \$500 | \$75 |
| \$501 to \$600 | \$90 |
| \$601 to \$700 | \$105 |
| \$701 to \$800 | \$120 |
| \$801 to \$900 | \$135 |
| \$901 and higher | \$150 |

(c) Check Return Fee: \$25

[Added by Ord 527 on July 13, 2000]

[Amended by Ord. 566 on Feb. 5, 2004, Ord. 572 on Oct. 14, 2004, and by Ord. 588 on Dec. 14, 2006]

(2) Any municipal court fee may be reduced or waived by the Judge in appropriate cases. [Added by Ord 516 on July 8, 1999]