

Title 1

GENERAL PROVISIONS

Chapters:

1.01 Code Adoption

1.04 General Provisions

1.06 Council Elections

1.08 Initiative and Referendum

1.12 Civil Infractions

Chapter 1.01

CODE ADOPTION

(Reserved)

Chapter 1.04

GENERAL PROVISIONS

Sections:

- 1.04.010 Definitions.**
- 1.04.020 Interpretation of language.**
- 1.04.030 Grammatical interpretation.**
- 1.04.040 Acts by agents.**
- 1.04.050 Prohibited acts include causing and permitting.**
- 1.04.060 Computation of time.**
- 1.04.070 Construction.**
- 1.04.080 Repeal shall not revive any ordinances.**

1.04.010 Definitions.

All of the terms used in the ordinances of the city of Aurora shall have their commonly accepted, dictionary meaning, unless they are specifically defined in the ordinances, the definition appears in the Oregon Revised Statutes or Oregon Administrative Rules, or the context in which they are used clearly indicates to the contrary. The following words and phrases, whenever used in the city's ordinances, 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" means the city of Aurora, or the area within the territorial limits of the city, and such territory outside the city over which the city has jurisdiction or control by virtue of any constitutional or statutory provision.

"Council" means the city council of the city of Aurora. "All its members" or "all council members" means the total number of council members holding office.

"County" means the county of Marion.

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

"May" and "should" are permissive.

"Month" means a calendar month.

"Must" and "shall" are each 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, 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" means the next before and the next after, respectively.

"Property" includes real and personal property.

"Real property" includes lands, tenements and hereditaments.

"Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

"State" means the state of Oregon.

"Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in the city which have been or may hereafter be dedicated and

open to public use, or such other public property so 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" means a calendar year. (Ord. 426 § 1 (part), 2003)

1.04.020 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. (Ord. 426 § 1 (part), 2003)

1.04.030 Grammatical interpretation.

The following grammatical rules shall apply in the ordinances of the city unless it is apparent from the context that a different construction is intended:

A. Gender. Each gender includes the masculine, feminine and neuter genders.

B. Singular and Plural. The singular number includes the plural and the plural includes the singular.

C. Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable. (Ord. 426 § 1 (part), 2003)

1.04.040 Acts by agents.

When an act is required by an ordinance, and the same is 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. (Ord. 426 § 1 (part), 2003)

1.04.050 Prohibited acts include causing and permitting.

Whenever in the ordinances of the city 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. (Ord. 426 § 1 (part), 2003)

1.04.060 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. (Ord. 426 § 1 (part), 2003)

1.04.070 Construction.

The provisions of the ordinances of the city, and all proceedings under them are to be construed with a view to effect their objects and to promote justice. (Ord. 426 § 1 (part), 2003)

1.04.080 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. (Ord. 426 § 1 (part), 2003)

Chapter 1.06

COUNCIL ELECTIONS

Sections:

- 1.06.010 Council position numbers created.**
- 1.06.020 Petition form requirements.**
- 1.06.030 Filing of petition.**
- 1.06.040 Signature requirements.**
- 1.06.050 Charter amendments.**

Section:

1.06.010 Council position numbers created.

Councilor position numbers 1, 2, 3, and 4 are established. Councilor position numbers 1 and 2 shall be elected in 2010 and every four years thereafter. Councilor position numbers 3 and 4 shall be elected in 2012 and every four years thereafter. (Ord. 460 § 1, 2010)

1.06.020 Assignment of position numbers.

A. The City Recorder shall assign Position Number 1 to the candidate receiving the most votes for City Councilor in the November 2010 General Election and Position Number 2 to the candidate receiving the second most votes for City Councilor in the November 2010 General Election.

B. The City Recorder shall assign Position Numbers 3 and 4 to the City Councilors whose terms of office end in January 2013. Of those two City Councilors, the City Recorder shall assign Position Number 3 to the Councilor with the longest continuous service on the City Council and shall assign Position Number 4 to the Councilor with the second longest continuous service on the City Council. (Ord. 460 § 2 and 3, 2010)

1.06.030 Nominating petition requirements.

Not more than twenty (20) signatures shall be signed to one sheet of a petition, and a full and correct copy of the title and text of the measure demanded for submission by the initiative or referendum petition, as the case may be, shall be attached to each sheet circulated for signature, and such full and correct copy of the title and text shall be shown to the voter before his or her signature is attached. (Ord. 460 § 4, 2010)

1.08.030 Elector signatures.

An elector may not sign more than one nominating petition for any specific position number in any single election year. (Ord. 460 § 5, 2010)

Chapter 1.08

INITIATIVE AND REFERENDUM

Sections:

- 1.08.010 Form of submittal to elections officer.**
- 1.08.020 Petition form requirements.**
- 1.08.030 Filing of petition.**
- 1.08.040 Signature requirements.**
- 1.08.050 Charter amendments.**
- 1.08.060 Ballot title.**
- 1.08.070 Publication and posting before election.**
- 1.08.080 Requirements for signing--Penalty for violation.**
- 1.08.090 Manner of voting--Adoption requirements.**
- 1.08.100 Vote counting.**
- 1.08.110 Proclamation and posting after election.**
- 1.08.120 Filing of referendum petitions against passage of ordinance.**

1.08.010 Form of submittal to elections officer.

All proposed initiatives and referendums shall be submitted to the city elections officer in the form and manner required by the Secretary of State pursuant to the applicable sections of ORS 250.005-250.043 and ORS 250.255-250.355, as amended, and in accordance with the following sections. (Ord. 426 § 2(A), 2003; Ord. 241 § 1, 1976)

1.08.020 Petition form requirements.

Not more than twenty (20) signatures shall be signed to one sheet of a petition, and a full and correct copy of the title and text of the measure demanded for submission by the initiative or referendum petition, as the case

may be, shall be attached to each sheet circulated for signature, and such full and correct copy of the title and text shall be shown to the voter before his or her signature is attached. (Ord. 241 § 5, 1976)

1.08.030 Filing of petition.

The recorder of the city shall accept for filing any petition for the initiative or for the referendum subject to the verification of the number and genuineness of the signatures and voting qualifications of the persons signing the same by reference to the registration books in the office of the county clerk of Marion County, and if a sufficient number of qualified voters be found to have signed the petition, the recorder shall file same within ten (10) days after presentation thereof to him or her. (Ord. 241 § 6, 1976)

1.08.040 Signature requirements.

Initiative petitions for any proposed ordinance, Charter amendment or measure shall be signed by a number of legal voters equal to fifteen (15) percent of the votes cast for mayor at the last preceding municipal election. Referendum petitions against any ordinance or measure proposed by the city council shall be signed by a number of legal voters equal to ten (10) percent of the votes cast for mayor at the last regular preceding municipal election. (Ord. 241 § 7, 1976)

1.08.050 Charter amendments.

A. An amendment to the Charter of the city, or any other measure, may be proposed and submitted to the legal voters by resolution of the city council without an initiative petition; and such resolution shall be filed with the recorder for submission not later than fifteen (15) days before the election at which it is to be voted upon, and no amendment to

the Charter, or other measure, shall be effective until it is approved by a majority of the votes cast thereon by the legal voters of the city.

B. Where an amendment to the Charter of the city, or other measure, is proposed and submitted to the legal voters thereof by resolution of the city council without an initiative petition, the resolution shall therein state the date of the regular municipal election, or the day of a special election at which the Charter amendment or other measure will be submitted to be voted on, and shall call and make provision for the election. (Ord. 241 §§ 8, 9, 1976)

1.08.060 Ballot title.

When any measure for initiative or referendum legislation shall be filed by the recorder after the number and genuineness of signature thereto, as provided by Section 1.08.030, have been ascertained, or when any resolution of the city council shall be filed with the recorder as provided in Section 1.08.050(A), the recorder shall forthwith transmit to the attorney of the municipality a copy of such measure, who shall within five days provide and return to the recorder a ballot title for such measure. The ballot title shall be printed with the number of the measure on the official ballot. In making such ballot title the attorney shall to the best of his or her ability give a true and impartial statement of the purpose of the measure and in such language that the ballot title shall not create any argument for, or be liable to create prejudice against such measure. Any person who is dissatisfied with the ballot title provided by the attorney for any such measure may within five days after the ballot title is returned to the recorder appeal to the common council asking a different title and giving the reasons therefor, and stating

why the title prepared by the attorney is improper, and the common council shall by resolution approve the ballot title prepared by the attorney or shall by resolution prescribe another ballot title therefor, and the ballot title so approved or so prescribed by the common council shall be the title placed upon the ballot. Except as otherwise provided herein, the recorder of the city shall number such measures and ballot title in the most convenient and consecutive manner. The affirmative of the first measure shall be numbered 100 and the negative 101 in numerals, and the succeeding measures shall be numbered 102, 103, 104, 105 and so on. It shall be the duty of the recorder to print the ballot titles and numbers upon the official ballot. Measures referred to the voters by petition shall be designated "referendum order by petition of the people." Measures proposed by the initiative petition shall be designated "proposed by initiative petition." Charter amendments or other measures submitted by the city council without initiative petition shall be designated "Charter Amendment submitted to the voters by the Common Council" or "Proposal submitted to the voters by the Common Council."

Provided, however, that when Charter amendments or other measures are to be submitted to the voters by resolution of the council as in this chapter provided, the council may in the resolution provide for a ballot title for the measure so to be submitted; and in the event of such provision being made by the council, the hereinabove provisions of this section relative to the filing of the measure with the city attorney, the preparation by the attorney of a ballot title therefor and the appeal to the council from the ballot title so prepared shall not apply.

Provided further, that if any election is called to be held at the same time or in con-

junction with a statewide primary or general election or any district election, the council may request the Marion County election department to conduct the city election and certify the election results to the city council. In such case the ballot title may be abbreviated and the numbering may be changed to coincide with the county's requirements for use of voting machines, punch card ballot or other vote tally system. (Ord. 426 § 2(B), 2003; Ord. 241 § 10, 1976)

**1.08.070 Publication and posting
 before election.**

Where a special election is called either on petition for proposed ordinances or Charter amendment by the initiative, or for submitting ordinances by the referendum, or Charter amendments, or other measures, proposed by the council, the recorder shall publish such proposed ordinances, referendum measure, Charter amendment or other measure with the ballot title and number in a newspaper of general circulation in the city to be designated by the council, once each week for two successive weeks, the first publication to be not less than fifteen (15) days before the special election at which the proposed ordinance, referendum measure, Charter amendment or other measure is to be voted on, and also post notice of election in three public places in the city at least ten (10) days prior to such election, which posted notice shall state the time, place and purposes of the election, but need not contain the full amendment, ordinance or other measure being submitted. A like rule as to publication and posting shall be observed where proposed ordinances, referendum measures, Charter amendments or other measures are to be submitted at the regular election. (Ord. 241 § 11, 1976)

**1.08.080 Requirements for signing--
 Penalty for violation.**

Legal voters of Aurora are qualified to sign a petition for the referendum or for the initiative for any measure which they are entitled to vote upon. Any person signing any name other than his or her own to a petition, or knowingly signing his or her name more than once for the same measure at one election, who is not at the time of signing the same a legal voter of the city, or any officer or other person violating any of the provisions of this chapter, shall upon conviction thereof be punished by a fine not exceeding five hundred dollars (\$500.00), or by imprisonment in the county jail not exceeding six months or by both fine and imprisonment in the discretion of the municipal court. (Ord. 241 § 12, 1976)

**1.08.090 Manner of voting--Adoption
 requirements.**

The manner of voting upon measures submitted to the legal voters shall be the same as now or may hereafter be provided by law. No measure shall be adopted unless it shall receive the affirmative majority of the total number of legal votes cast on such measure and entitled to be counted thereon. If two or more laws on the same subject, or containing provisions that are conflicting, shall be approved by the voters at the same election, the measure receiving the greatest number of affirmative votes shall be proclaimed as the law adopted. (Ord. 241 § 13, 1976)

1.08.100 Vote counting.

The votes on measures and Charter amendments shall be counted, canvassed and returned as votes for candidates are counted, canvassed and returned. (Ord. 241 § 14, 1976)

**1.08.110 Proclamation and posting
after election.**

The mayor shall within fifteen (15) days from the time of such election proclaim by posting printed or typewritten copies of such proclamation in at least two conspicuous places in the municipality the adoption of such measure and amendment which shall have received the affirmative majority of the total number of votes cast thereon, and upon such proclamation, such measures and amendments shall become in full force and effect, except in cases provided for in Section 1.08.100 with reference to two or more laws on the same subject or containing provisions that are conflicting. In cases of ordinances which have been passed by the common council and voted upon by referendum, proclamation of the result of such vote shall also be made, and such ordinance shall continue in effect or cease to be in effect, according to such result from the time of such proclamation. (Ord. 241 § 15, 1976)

**1.08.120 Filing of referendum
petitions against passage of
ordinance.**

Where referendum petitions shall be signed by the required number of legal voters against any ordinance passed by the common council, the same shall be filed with the recorder within thirty (30) days after the passage and approval of the ordinance in question. (Ord. 241 § 16, 1976)

Chapter 1.12

CIVIL INFRACTIONS

Sections:

- 1.12.010 Nonexclusive remedy.**
- 1.12.020 Definitions.**
- 1.12.030 Infraction procedure.**
- 1.12.040 Enforcement.**
- 1.12.050 Lien filing and docketing.**
- 1.12.060 Amount of forfeiture.**

1.12.010 Nonexclusive remedy.

The procedures and remedies contained in this chapter shall not be read to prohibit in any way any alternative remedies set out in ordinances or state statutes intended to alleviate ordinance violations. (Ord. 324 § 7, 1989)

1.12.020 Definitions.

For the purpose of this chapter, the following words and phrases shall mean:

Civil Infraction. Commission of an act or omission to act in a manner prescribed by this chapter or other city ordinance constituting breach or infringement of a section of a city ordinance or of this chapter constitutes a civil infraction and shall be handled in accordance with the procedures established by this chapter. Civil infraction does not include violations of other city ordinances where a criminal penalty is provided. When an infraction is of a continuing nature, except where specifically provided otherwise, 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.

"Enforcement officer" means the police chief, the building official, the city recorder, or any designee appointed thereby to enforce this chapter.

Forfeiture; Forfeiture Schedule. The only penalty to be imposed for an infraction is a monetary penalty called a "forfeiture." The forfeiture to be assessed for a specific infraction will be determined pursuant to specific provisions within the ordinance defining the infraction, or the forfeiture schedule found In Section 1.12.060. The procedure prescribed by this chapter shall be exclusive procedure for imposing a forfeiture; however, this section shall not be read to prohibit in any way any alternative remedies set out in ordinances or state statute or state law which are intended to abate or alleviate ordinance violations, nor shall the city be prohibited from recovering, in a manner prescribed by law, any expense incurred by it in abating or removing ordinance violations pursuant to any ordinance.

"Person" means any natural person or persons, firm, partnership, association or corporation.

"Responsible party" means the person responsible for curing or remedying an infraction, and includes:

1. The owner of the property or the owner's manager or agent or other person in control of the property on behalf of the owner;
2. The person occupying the property including bailee, lessee, tenant or other person having possession;
3. The person who is alleged to have committed or authorized the commission of the infraction. (Ord. 324 § 1, 1989)

1.12.030 Infraction procedure.

A. Issuance of Uniform Citation and Complaint.

1. When a violation of a city ordinance occurs, a uniform infraction citation and complaint signed by the enforcement officer may be filed with the municipal court charging the responsible party with the civil infraction and

setting a date for the responsible party to appear before the municipal court to answer the complaint.

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

- a. The complaint;
 - b. The city department record; and
 - c. The summons.
3. Each of these pages shall contain the following information:
- a. The name of the court and the court's file number;
 - b. The name of the person cited;
 - c. The infraction with which the person is charged;
 - d. 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 enforcement officer, or the citizen signing the complaint;
 - e. The date on which the citation was issued;
 - f. The scheduled forfeiture for the alleged infraction;
 - g. The time and place at which the person cited is to appear in court to answer the complaint.

4. The complaint shall contain a form of certification that the person signing the complaint states that the person has reasonable ground to believe, and does believe that the person cited committed the infraction.

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.

B. Summons. Service of the uniform citation and complaint shall be made by personal

service upon the responsible party. If personal service cannot be made, then service of the uniform infraction citation and complaint shall be in accordance with the Oregon Rules of Civil Procedure.

C. Answer.

1. A person who receives a summons and complaint alleging an infraction shall answer such complaint by personally appearing to answer at the time and place specified therein; except the answer may be made by mail or personal delivery if received by the city within ten (10) days of the receipt of the summons as provided in subsection (C)(2) and (3) below.

2. If the person alleged to have committed an infraction admits the infraction, the person may complete the appropriate answer on the back of each summons and forward the summons to the municipal court. Cash, check or money order in the amount of the forfeiture for the infraction alleged as shown on the back of the summons shall be submitted with the answer. Upon receipt of the forfeiture, an appropriate order shall be entered in the municipal court records.

3. If the person alleged to have committed the infraction denies part or all of the infraction, the person may request a hearing by completing the appropriate answer on the back of the summons and forwarding the summons, together with security for court fees, 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 return mail of the date of the hearing. The security deposit may be waived, in whole or in part, at the discretion of the municipal court for good cause shown and upon written application of the person alleged to have committed the infraction setting forth the reason for request-

ing the waiver and certifying that the person alleged to have committed the infraction will attend the hearing when scheduled.

D. Hearing.

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

2. The defendant may be represented by legal counsel, but legal counsel shall not be provided at public expense.

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

4. If the defendant alleged to have committed the infraction desires that witnesses be ordered to appear by subpoena, the defendant must so request in writing from the court.

5. The complainant 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 was committed. When the infraction has not been proven, an order dismissing the complaint shall be entered in the municipal court records. A copy of the order shall be delivered to the person named in the order personally or by mail. When the court finds that the infraction was committed, and upon written request by a party to the hearing, the order shall include a brief statement of the necessary findings of fact to establish the infraction alleged.

7. Upon a finding that an infraction has occurred, the court shall assess forfeiture pursuant to the schedule established in accordance with this chapter, plus court costs and witness fees. The municipal court judge is

authorized to set reasonable court costs including security for court fees by court order.

8. Any written documents, correspondence or physical evidence associated with the matter shall be retained by the municipal court until disposed of by order of the municipal court.

9. The determination of the municipal court shall be final. Review of the court's determination shall be to the circuit court by writ of review pursuant to ORS Chapter 34. (Ord. 324 § 2, 1989)

1.12.040 Enforcement.

A. If a cited person fails to answer the summons or appear at a scheduled hearing as provided herein, a default judgment shall be entered for the scheduled forfeiture applicable to the charged infraction. In addition, when a person fails to appear for a hearing, the security posted, or an amount equal to the security waived, shall be ordered forfeited. Nothing in this subsection shall be construed to limit in any way the contempt powers of the municipal judge granted by the Charter or state law, and the judge may exercise those powers as the judge considers necessary and advisable in conjunction with any matter arising under the procedures set forth in this chapter.

B. Any forfeiture assessed is to be paid no later than ten (10) days after the receipt of the final order declaring that forfeiture. Such period may be extended upon order of the municipal judge.

C. Delinquent forfeitures and those brought to default judgment which were assessed for infractions may in addition to any other method be collected or enforced pursuant to ORS 30.310 or 30.315. (Ord. 324 § 3, 1989)

1.12.050 Lien filing and docketing.

A. When a judgment is given in municipal court in favor of the city for the sum of ten dollars (\$10.00) or more, exclusive costs or disbursements, the enforcement officer may, at any time thereafter while the judgment is enforceable, file with the city recorder a certified transcript of all those entries made in the docket of the municipal court with respect to the action in which the judgment was entered.

B. Thereupon, the city recorder shall enter the judgment on the city lien docket.

C. From the time of the entry of the municipal court judgment in the city lien docket, the judgment shall be a lien upon the real property of the person against whom the judgment was entered in the municipal court. Except as provided in subsection D of this section, entry of the municipal court judgment in the city lien docket shall not thereby extend the lien of the judgment more than ten (10) years from the original entry of the judgment in the municipal court.

D. Whenever a judgment of the municipal court which has been entered pursuant to this section is renewed by the municipal court, the lien established by subsection C of this section is automatically extended ten (10) years from the date of the renewal order.

E. The city recorder may file the transcript of the judgment with the county clerk for entry in the judgment docket of the circuit court. (Ord. 324 § 4, 1989)

1.12.060 Amount of forfeiture.

An assessment of forfeiture for a civil infraction shall be an assessment to pay an amount not exceeding five hundred dollars (\$500.00). If a different penalty amount is provided by ordinance or statute, the assessment shall be in an amount not exceeding the amount so provided. (Ord. 324 § 5, 1989)