

CHAPTER 1.16 GENERAL PENALTY

~~Sec. 1.16.010. Designated.~~

~~Unless otherwise specifically provided, any person violating any provisions or failing to comply with any of the ordinances of the city is guilty of a misdemeanor. Any person convicted of a misdemeanor under the ordinances of the city shall be punished by a fine of not more than \$500.00, or by imprisonment not to exceed six months, or by both such fine and imprisonment. Each such person is guilty of a separate offense for each and every day during any portion of which any violation of any provisions of the ordinances of this city is committed, continued or permitted by any such person, and he shall be punished accordingly.~~

~~(Ord. No. 14-75, 1975)~~

CHAPTER 1.18 CIVIL INFRACTION PROCEDURE

Sec. 1.18.010. Establishment and purpose; applicability.

- A. This chapter is enacted to provide a procedure to handle violations of city ordinances as civil infractions, subject to the provisions set forth below, 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 Sandy City Charter.
- A.B. The doing of any act or thing prohibited, or the failure to do an act or thing commanded to be done, by this code or any order, permit, license, approval, or condition authorized by this code within the corporate limits of the City of Sandy, is hereby declared to be an offense against the public peace, safety, health, morals, and general welfare of the people of the City of Sandy.
- ~~BC. 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.~~ The provisions of this chapter shall apply to all violations of the ordinance of the City, except when those ordinance prescribe different enforcement procedures or penalties.
- D. This Chapter shall not be construed to prohibit in any way any alternative remedies set out in ordinances 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 to it in abating or removing ordinance violations pursuant to said ordinances.

(Ord. No. 22-79, § 1, 1979)

Sec. 1.18.020. Definitions.

For the purpose of this chapter, the following definitions apply:

City Civil infractions. An offense against the City in the form of a violation of any provision of the Sandy Municipal Code which provides no specific penalty or provides a penalty other than imprisonment, or a violation of any order, permit, license, approval, or condition authorized by ordinance. Conviction of a civil infraction does not give rise to any disability or legal disadvantage based on conviction of a crime. ~~All infractions shall be handled in~~

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~~accordance with the procedures established by this chapter. 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 separate citations may be filed for each such infraction.~~

~~*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 1.18.040. The appropriate forfeiture to be assessed for a specific infraction will be determined from the forfeiture schedule in Section 1.18.050. The procedure prescribed by this chapter 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 eCity 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.~~

~~*Person.* The term "person," as used in this chapter, shall be construed to include any person, firm, partnership, corporation, or association of persons.~~

(Ord. No. 22-79, § 2, 1979; Ord. No. 11-85, § 1, 1985)

Sec. 1.18.030. Infraction procedure.

~~A. — *Reporting.* All reports of infractions covered by this chapter will be made to the city manager or his designated representative.~~

B.A. *Uniform Infraction Citation and Complaint.*

1. A uniform infraction citation and complaint signed by the eCity mManager or his/her designated representative 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 said complaint.
2. The eCity mManager or his/her designated representative 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 eCity mManager or his/her designated representative, ~~and~~ the date on which the citation was issued, and the name of the person issuing the citation, ~~and the name of the complainant;~~
 - d. The ~~scheduled forfeiture~~ maximum fine for the alleged infraction;
 - e. The time and place at which the person cited is to appear in court.

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4. The complaint shall contain a form of verification by the ~~city administrator~~ City Manager or his/her designated representative that he/she swears that he/she has reasonable grounds 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 Sandy.

B. Service.

Service of summons may be made by any of the following means:

1. Personal Service. Service may be made by personally delivering the citation to the person named therein.
2. Service by Mail. Service may be made by mailing a copy of the citation by certified mail, return receipt requested, to the person's last known mailing address. Service by mail shall be deemed to occur three days after mailing within the State, and seven days after mailing outside the State. Default may be entered against a person served by mail on submission of evidence of receipt, nonacceptance, or rejection of the certified mail by the person served.
3. Service by Posting. If the alleged infraction relates to real property, the citation may be served by posting the citation at the main entry to an occupied residence or office on the property if the person to whom the citation is issued is not present. A copy of the citation shall be mailed by certified mail, return receipt requested, to the person at the mailing address of the property no later than the end of the business day following posting. Service shall be completed upon mailing.
4. Other Methods of Service. Service may be made by any means authorized by Oregon Rules of Civil Procedure (ORCP) 7, and service on entities, minors, and incapacitated persons shall be as provided in ORCP 7.

D.C. Answer.

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 ~~e~~ Divisions 2 and 3 of this subsection.
2. If a person alleged to have committed an infraction admits the infraction or otherwise desires to pay the ~~forfeiture-fine~~ without appearing in municipal court, he/she 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-fine~~ 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/she 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 shall be 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.

E.D. 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 the production of evidence only on the infraction alleged in the complaint.

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- 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/her favor, to cross-examine witnesses who testify against him/her, 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 at least ten business 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 the ~~forfeiture fine shown on the schedule~~ established in accordance with this chapter plus court costs.
 8. There shall be no administrative appeal or legal review from a determination by the municipal court of an infraction violation.

(Ord. No. 22-79, § 4, 1979)

Sec. 1.18.040. Enforcement.

- A. If a cited person fails to answer the summons or appear at a scheduled hearing as provided in this chapter, the municipal court may enter a default judgment for the ~~scheduled forfeiture fine~~ applicable to the charged infraction, or it may issue a warrant for the arrest of the cited person for reason of his/her nonappearance, or it may do both of the above actions.
- B. After a hearing and determination by the municipal court that an infraction has occurred, the court shall assess the ~~scheduled forfeiture~~ applicable ~~to~~ fine for the determined infraction.
- C. Delinquent ~~forfeitures~~ finest 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 eCity liens against said real property and collected in the same manner as other such debts owing to the eCity.
- D. Nothing in this section shall limit the eCity from revoking or denying any eCity license or permit held or desired by a person owing a ~~forfeiture fine~~ to the eCity.

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E. 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.

(Ord. No. 22-79, § 5, 1979)

Sec. 1.18.050. ~~Forfeiture~~Penalties.

A. Civil infractions are classified for the purpose of determining penalties into the following categories:

1. Class "A" infractions;
2. Class "B" infractions;
3. Class "C" infractions.

B. Conviction of a civil infraction shall be punishable by a sentence to pay a fine in an amount fixed by the court, not exceeding as follows:

1. One thousand dollars (\$1,000) for a Class "A" infraction;
2. Five hundred dollars (\$500) for a Class "B" infraction;
3. Two hundred and fifty dollars (\$250) for a Class "C" infraction.

~~All assessment of a forfeiture for an infraction shall be an amount not to exceed \$500.00.~~

C. A violation of the Sandy Municipal Code where no class of infraction is specified shall be treated as a Class B infraction.

~~B~~D. Each day a violation continues or occurs shall constitute a separate infraction.

E. When a person is convicted of a civil infraction for violation of a particular provision of the Sandy Municipal Code, each subsequent violation of that same provision of the Sandy Municipal Code by that person within one-hundred eighty (180) calendar days of the prior violation shall be punishable by a fine of up to double the amount set forth in Section 1.18.050(B).

F. When a provision of the Sandy Municipal Code prescribes a specific fine amount, the specified fine amount shall apply in lieu of Section 1.18.050(B).

G. The penalties described herein are in addition to, and not in lieu of, any other remedy provided by law.

(Ord. No. 12-85, § 2, 1985)