

## **Title 1**

### **GENERAL PROVISIONS**

#### **Chapters:**

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- 1.04 General Provisions**
- 1.06 Candidate Nominations for Elective Office**
- 1.08 Initiatives and Referendums**
- 1.12 Arrest and Citation Procedure**
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1.01.010

## **Chapter 1.01**

### **CODE ADOPTION**

#### **Sections:**

- 1.01.010 Adoption.**
- 1.01.020 Title—Citation—Reference.**
- 1.01.030 Reference applies to all amendments.**
- 1.01.040 Title, chapter and section headings.**
- 1.01.050 Reference to specific ordinances.**
- 1.01.060 Ordinances passed prior to adoption of the code.**
- 1.01.070 Effect of code on past actions and obligations.**
- 1.01.080 Constitutionality.**

#### **1.01.010**

##### **Adoption.**

There is adopted the “Sutherlin Municipal Code,” as compiled, edited and published by Book Publishing Company, Seattle, Washington. (Ord. 887 § 1, 1998)

#### **1.01.020**

##### **Title—Citation—Reference.**

This code shall be known as the “Sutherlin Municipal Code” and it shall be sufficient to refer to said code as the “Sutherlin Municipal Code” in any prosecution for the violation of any provision of this code or in any proceeding at law or equity. It is sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion of this code as an addition to, amendment to, correction or repeal of the “Sutherlin Municipal Code.” References may be made to the titles, chapters, sections and subsections of the “Sutherlin Municipal Code” and such references shall apply to those titles, chapters, sections or subsections as they appear in the code. (Ord. 887 § 2, 1998)

#### **1.01.030**

##### **Reference applies to all amendments.**

Whenever a reference is made to this code as the “Sutherlin Municipal Code” or to any portion thereof, or to any ordinance of the city of Sutherlin, Oregon, codified herein, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. (Ord. 887 § 3, 1998)

**1.01.040****Title, chapter and section headings.**

Title, chapter and section headings contained in this code 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 in this code. (Ord. 887 § 4, 1998)

**1.01.050****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. (Ord. 887 § 5, 1998)

**1.01.060****Ordinances passed prior to adoption of the code.**

The last ordinance included in this code was Ordinance No. 884, passed on October 13, 1997. The following ordinances, passed subsequent to Ordinance No. 884, but prior to adoption of this code, are adopted and made a part of this code: Ordinances No. 885 and 886. (Ord. 887 § 6, 1998)

**1.01.070****Effect of code on past actions and obligations.**

The adoption of this code does not affect prosecutions for ordinance violations committed prior to the effective date of this code, does not waive any fee or penalty due and unpaid on the effective date of this code, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any ordinance. (Ord. 887 § 7, 1998)

**1.01.080****Constitutionality.**

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. (Ord. 887 § 8, 1998)

1.04.010

## 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.**
- 1.04.090**     **Authority to enter building for inspection purposes.**

#### 1.04.010

##### **Definitions.**

The following words and phrases, whenever used in the ordinances of the city of Sutherlin, 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 Sutherlin, 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 Sutherlin, “All its members” or “all council members” means the total number of council members holding office.

“County” means the county of Douglas.

“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” is 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 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 next before and after, respectively.

“Property” includes real and personal property.

“Real property” includes lands, tenements and hereditaments.

“Sidewalk” means that portion of a street between the curbline 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

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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. 881 § 1, 1997)

#### **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. 881 § 2, 1997)

#### **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. 881 § 3, 1997)

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##### **Acts by agents.**

When 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. (Ord. 881 § 4, 1997)

#### **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. 881 § 5, 1997)

**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. 881 § 6, 1997)

**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. 881 § 7, 1997)

**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. 881 § 8, 1997)

**1.04.090****Authority to enter building for inspection purposes.**

Whenever any officer or employee of the city is authorized to enter any building or premises for the purpose of making an inspection to enforce any ordinance, he may enter such building or premises at all reasonable times to inspect the same; provided, that he shall effect entry in the manner provided in the second paragraph of this section, except in emergency situations, or when consent of the person having charge or control of such building or premises has been otherwise obtained.

If the building or premises to be inspected is occupied, the authorized officer or employee shall first present proper credentials and demand entry; and if such building or premises is unoccupied, he shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and demand entry. If consent to such entry is not given, the authorized officer or employee shall have recourse to every remedy provided by law to secure entry.

This section shall be controlling over any other ordinance or part of an ordinance on the same subject, whether heretofore or hereafter adopted, unless such ordinance or part of an ordinance provides differently by an express reference to the ordinance codified in this section. Notwithstanding any other ordinance of this city, whether heretofore or hereafter adopted, it shall not be a violation of ordinance to refuse or fail to consent to an entry for inspection. (Ord. 881 § 9, 1997)

**Chapter 1.06****CANDIDATE NOMINATIONS FOR ELECTIVE OFFICE****Sections:****1.06.010 Nominations.****1.06.010****Nominations.**

A. A petition nominating a qualified elector to be a candidate for election to the Sutherlin city council or to the office of mayor shall be signed by not fewer than twenty electors. No elector shall sign more than three nomination petitions for the office of city councilor. No elector shall sign more than one nomination petition for the office of mayor. If an elector signs more nomination petitions than permitted by this subsection, the elector's signature shall be valid only on the first three such petitions filed for the office of city councilor and only on the first such petition filed for the office of mayor.

B. The signatures supporting a nomination may be submitted on more than one paper. To each separate page of the petition shall be attached an affidavit of that page's circulator indicating the number of signers on that page and stating that each signature on the page was made in the circulator's presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, identified by its street and number or other description sufficient to identify it.

C. All pages comprising a nomination petition shall be assembled and filed with the city recorder as one instrument in the manner provided by state laws for a state-elected office. The city recorder shall make a record of the exact time at which each nomination petition is filed and shall take and keep on file the name and address of the person by whom it is filed.

D. Within five days after the filing, the city recorder shall notify the nominee and the person who filed the nomination petition whether or not the petition is valid. If it is found insufficient, the city recorder shall return it immediately to the person who filed it, with a statement certifying that the nomination petition is insufficient and stating the reason(s).

E. Within the time allowed for the filing of nomination petitions, an insufficient petition may be amended and filed again as a new petition, or a different petition may be filed for the same nominee. Any qualified elector for whom a valid nomination petition has been filed shall have his or her name printed on the ballot for the election if, within five days after the city recorder notifies the nominee of a valid nomination, an acceptance of nomination is filed with the city recorder on the nominee's behalf.

F. The nomination petition for a nominee who is successfully elected shall be filed in the office of the city recorder until the expiration of the term of office for which the nominee is elected. (Ord. 971 § 1, 2006)

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## Chapter 1.08

### INITIATIVES AND REFERENDUMS

#### Sections:

- 1.08.010 Initiative petition.**
- 1.08.020 Referendum petition.**
- 1.08.030 Petition verification.**
- 1.08.040 Specific forms not mandatory.**
- 1.08.050 Signatures per page limited—Title and text to be attached.**
- 1.08.060 Filing of petition.**
- 1.08.070 Percentage of voters needed for initiative petitions.**
- 1.08.080 Charter amendment by resolution—Submittal of ordinances to voters.**
- 1.08.090 Resolution for Charter amendment to contain date of election.**
- 1.08.100 Ballot titles.**
- 1.08.102 Filing explanatory statements.**
- 1.08.110 Publishing requirements.**
- 1.08.120 Legal voters allowed to sign—Violation—Penalty.**
- 1.08.130 Affirmative majority required for adoption.**
- 1.08.140 Counting votes.**
- 1.08.150 Proclamation of election results.**
- 1.08.160 Filing after passage and approval.**

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##### **Initiative petition.**

The following shall be substantially the form of a petition for any ordinance or amendment to the Charter proposed by the initiative:

#### WARNING

It is a felony for any one to sign any initiative or referendum petition with any other name than his own, or to knowingly sign his name more than once for the same measure or to sign such petition when he is not a legal voter.

#### INITIATIVE PETITION

To the Honorable \_\_\_\_\_,  
Recorder of the City of Sutherlin,  
Douglas County, Oregon.

We, the undersigned, citizens and legal voters of the City of Sutherlin, Douglas County, Oregon, respectfully demand that the following proposed ordinances (or amendment to the City Charter),

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shall be submitted to the legal voters of the City of Sutherlin, Douglas County, Oregon, for their approval or rejection at the regular (or special) city election to be held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and each for himself says: I have personally signed this petition; I am a legal voter of the City of Sutherlin, Douglas County, Oregon, and my residence and street number are correctly written after my name.

NAME \_\_\_\_\_

RESIDENCE \_\_\_\_\_

STREET NUMBER \_\_\_\_\_

(Here follow twenty (20) numbered lines for signatures)

(Ord. 346 § 1, 1967)

**1.08.020**

**Referendum petition.**

The following shall be substantially the form of petition for referendum to the people on any ordinance passed by the city council:

WARNING

It is a felony for any one to sign any initiative or referendum petition with any other than his own name, or to knowingly sign his name more than once for the same measure, or to sign such petition when he is not a legal voter.

REFERENDUM PETITION

To the Honorable \_\_\_\_\_,  
Recorder of the City of Sutherlin,  
Douglas County, Oregon

We, the undersigned, legal voters of the City of Sutherlin, Douglas County, Oregon, respectfully demand that Ordinance No. \_\_\_\_\_, entitled (the title of ordinance on which the referendum is sought), passed by the council of the City of Sutherlin at the meeting on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, shall be submitted to the legal voters of the City of Sutherlin for their approval or rejection at the regular (or special) city election to be held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and each for himself says: I have personally signed this petition; I am a legal voter of the City of Sutherlin, Douglas County, Oregon, and my residence and street number are correctly written after my name.

NAME \_\_\_\_\_

RESIDENCE \_\_\_\_\_

STREET NUMBER \_\_\_\_\_

(Here follow twenty (20) numbered lines for signatures)

(Ord. 346 § 2, 1967)

**1.08.030**

**Petition verification.**

Each and every sheet of every petition for either initiative or referendum containing signatures shall be verified on the back thereof in substantially the following form by the person who circulates such sheet of the petition by affidavit thereon as follows:

STATE OF OREGON ]

(Sutherlin )

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COUNTY OF DOUGLAS] ss.  
City of Sutherlin ]

I, \_\_\_\_\_, being first duly sworn, say that every person who signed this sheet of the foregoing petition signed his name thereto in my presence; I believe that each has stated his name, residence, and street number correctly, and that each signer is a legal voter of the City of Sutherlin.

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature and title of officer and his residence)

(Ord. 346 § 3, 1967)

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**Specific forms not mandatory.**

The forms herein given are not mandatory and if substantially followed in any petition it shall be sufficient, disregarding clerical and technical errors. (Ord. 346 § 4, 1967)

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**1.08.050**

**Signatures per page limited—Title and text to be attached.**

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 signature is attached. (Ord. 346 § 5, 1967)

**1.08.060**

**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 offices of the county clerk of Douglas County, and if a sufficient number of qualified voters be found to have signed the petition, he shall file same within ten days after presentation thereof to him. (Ord. 346 § 6, 1967)

**1.08.070**

**Percentage of voters needed for initiative petitions.**

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 percent of the votes cast for mayor at the last regular preceding municipal election. (Ord. 346 § 7, 1967)

**1.08.080**

**Charter amendment by resolution—Submittal of ordinances to voters.**

A. An amendment to the Charter of the city may be proposed and submitted to the legal voters thereof by resolution of the city council without an initiative petition; the 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 shall be effective until it is approved by a majority of the votes cast thereon by the legal voters of the city.

B. The council may provide that before an ordinance shall become effective it shall be submitted to the legal voters for their approval or rejection. The ordinance so referred shall contain a separate section so referring it to the legal voters and setting a date for an election thereon which may be either a special or general election. No ordinance so referred shall be effective until it is approved by a majority of the votes cast thereon. (Ord. 346 § 8, 1967)

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**1.08.090**

**Resolution for Charter amendment to contain date of election.**

Where an amendment to the Charter of the city may be 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 date of a special election at which the resolution will be submitted to be voted on. (Ord. 346 § 9, 1967)

**1.08.100**

**Ballot titles.**

Where any measure for initiative or referendum legislation shall be filed by the recorder after the number and genuineness of the signatures thereto as provided by Section 1.08.060, supra, have been ascertained, the recorder shall forthwith transmit to the city attorney 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 ability give a true and impartial statement of the purpose of the measure in such language that the ballot title shall not be an argument for, or 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 council asking a different title and giving the reasons therefor, and stating why the title prepared by the attorney is improper, and the 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 council shall be the title placed upon the ballot. The ballot title shall not resemble, insofar as possible, any other ballot title filed by any measure. 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 51 and the negative 52 in numerals, and the succeeding measures shall be numbered 53, 54, 55, 56 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 ordered by petition of the people." Measures proposed by the initiative petition shall be designated "Proposed by initiative petition." Charter amendments submitted by the council without initiative petition shall be designated "Charter amendments submitted to the voters by the council."

Provided however, that when the Charter amendments 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 provision 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. (Ord. 346 § 10, 1967)

**1.08.102****Filing explanatory statements.**

For any measure referred by the city or any initiative or referendum by petition, the city manager or the manager's designee shall submit to the county clerk an impartial, simple and understandable statement explaining the measure and its effect. The explanatory statement shall be limited to 500 words. (Ord. 973 § 1, 2006)

**1.08.110****Publishing requirements.**

Where a special election is called either on petition for proposed ordinances or Charter amendments by the initiative, or for submitting ordinances by the referendum, or on Charter amendments proposed by resolution of the council, the recorder shall publish such proposed ordinances, referendum measures or Charter amendments with the ballot title and number in full, in one issue of a newspaper published in the city, to be designated by the council in the resolution submitting such measures, not less than ten days preceding the

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special election at which the proposed ordinance, referendum measure or Charter amendment is to be voted on. A like rule as to publication shall be observed where proposed ordinances, referendum measures or Charter amendments are to be submitted at the regular election. (Ord. 346 § 11, 1967)

**1.08.120**

**Legal voters allowed to sign–Violation–Penalty.**

Legal voters of the city are qualified to sign a petition for the referendum or for the initiative for any measure which he is entitled to vote upon. Any person signing any name other than his own to a petition, or knowingly signed his 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 two hundred dollars (\$200.00), or by imprisonment in the city jail not exceeding one hundred (100) days. (Ord. 346 § 12, 1967)

**1.08.130**

**Affirmative majority required for adoption.**

The manner of voting upon measures submitted to the legal voters shall be the same as now is 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 time of election, the measure receiving the greatest number of affirmative votes shall be proclaimed to be the law adopted. (Ord. 346 § 13, 1967)

**1.08.140**

**Counting votes.**

The votes on measures and Charter amendments shall be counted, canvassed and returned as votes for candidates are counted, canvassed and returned. (Ord. 346 § 14, 1967)

**1.08.150**

**Proclamation of election results.**

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 measures and amendments 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 1.08.130 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 council and voted upon

by referendum, proclamation of the result of such vote shall also be made, and such ordinances shall continue in effect or cease to be in effect, according to such result, from the time of such proclamation. (Ord. 346 § 15, 1967)

**1.08.160**

**Filing after passage and approval.**

Where referendum petitions shall be signed by the required number of legal voters against any ordinances passed by the council, the same shall be filed with the recorder within thirty (30) days after the passage and approval of the ordinance in question. (Ord. 346 § 16, 1967)

1.12.010

## Chapter 1.12

### ARREST AND CITATION PROCEDURE

#### Sections:

- 1.12.010 Citation allowed in lieu of arrest.**
- 1.12.020 Citation requirements.**
- 1.12.030 Failure to appear–Warrant issuance–Misdemeanor.**
- 1.12.040 Exceptions.**

#### **1.12.010**

##### **Citation allowed in lieu of arrest.**

In any instance in which a person is subject to arrest without a warrant for violation of an ordinance of the city, any peace officer who is authorized to make the arrest may make the arrest, but in lieu of taking the person into custody he may issue and serve a citation to the person to appear at the municipal court of the city. (Ord. 416 § 1, 1971)

#### **1.12.020**

##### **Citation requirements.**

Any citation issued under this chapter shall conform to requirements of ORS 133.065. (Ord. 416 § 2, 1971)

#### **1.12.030**

##### **Failure to appear–Warrant issuance–Misdemeanor.**

The person cited shall appear before the municipal court of the city at the time and date specified in the citation. If he fails to appear at that time and a criminal complaint is filed, the court immediately shall issue a warrant for his arrest.

If any person wilfully fails to appear before the court pursuant to a citation issued and served under the authority of this chapter, and a complaint or information is filed, he is guilty of a misdemeanor. (Ord. 416 §§ 3, 4, 1971)

#### **1.12.040**

##### **Exceptions.**

Nothing contained in this chapter applies to those violations of law enforceable listed under ORS Section 133.080. (Ord. 875 § 3(14), 1997: Ord. 416 § 5, 1971)

## Chapter 1.16

### INSPECTION WARRANTS

#### Sections:

- 1.16.010**      **Issuance of inspection warrants.**
- 1.16.020**      **Grounds for issuance.**
- 1.16.030**      **Procedure for issuance.**
- 1.16.040**      **Execution of inspection warrants.**

#### **1.16.010**

##### **Issuance of inspection warrants.**

The municipal judge may, upon application of a city official or a city employee so authorized by the city manager, issue an inspection warrant whenever an inspection is required or permitted by ordinance or other law, or becomes necessary for the enforcement of any ordinance or other law, relating to zoning, building, regulated businesses, fire safety, animal control or public utilities. Such inspection warrant shall be in the form of an order authorizing entry onto designated property for the purposes of inspecting and/or investigating. (Ord. 666 § 1, 1981)

#### **1.16.020**

##### **Grounds for issuance.**

A. An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant hereunder, the ordinance or other law or regulations requiring or authorizing the inspection and/or investigation, the premises to be inspected or investigated, and the purpose for the inspection or investigation, including the basis on which cause exists to inspect or investigate. In addition, the affidavit shall contain a statement that entry has been sought and refused, that a reasonable attempt has been made to obtain consent, or facts showing that the purpose of the inspection or investigation might be frustrated if permission for entry were sought prior to application for a warrant.

B. Cause shall be deemed to exist if reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to the particular premises. (Ord. 666 § 2, 1981)

#### **1.16.030**

##### **Procedure for issuance.**

A. Before issuing an inspection warrant, the municipal judge may examine under oath the applicant and any other witnesses, and shall satisfy himself of the existence of grounds for granting such application.

B. If the municipal judge is satisfied that cause for the inspection or investigation exists and that all other requirements for granting the application have been satisfied, he shall issue the

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warrant particularly describing the name and title of the person or persons authorized to execute the warrant, the premises to be entered and the purpose or purposes of the inspection and investigation. The warrant shall contain a direction that it can be executed on any day of the week between the hours of eight a.m. and six p.m., or where a specific finding has been made by the municipal judge that it cannot be effectively executed between such hours, that it may be executed at such other times of the day or night as the judge in his discretion shall direct. (Ord. 666 § 3, 1981)

**1.16.040**

**Execution of inspection warrants.**

A. Except as provided in Section 1.16.020(A), in executing an inspection warrant, the person authorized to execute this warrant shall, before entry, make a reasonable effort to present his credentials, authority and purpose to an occupant or person in possession of the premises designated in the warrant and show him a copy of the warrant upon request.

B. In executing the inspection warrant, the person authorized to so execute need not inform anyone of his authority and purpose as prescribed in subsection A of this section, but may promptly enter the designated premises if it is unoccupied, or not in the possession of any person, or at the time reasonably believed to be in such condition.

C. A peace officer may be requested to assist in the execution of the inspection warrant.

D. An inspection warrant must be executed and returned to the municipal judge within ten days from its date, unless the judge, before the expiration of the ten-day period, by endorsement thereon, extends the time for an additional five days. After the expiration of the time prescribed in this subsection, the warrant, unless executed, shall be void. (Ord. 666 § 4, 1981)