

**ORDINANCE NO. 1086**

**AN ORDINANCE OF THE CITY OF RAINIER, OREGON, ADOPTING THE  
CODIFICATION OF THE RAINIER MUNICIPAL CODE ENFORCEMENT  
PROCEDURES**

**WHEREAS**, the Rainier City Council desires to enhance the livability of residents in the community; and

**WHEREAS**, proper enforcement of the City of Rainier's Municipal Code can contribute to that enhanced livability; and

**WHEREAS**, many of the penalties for code enforcement violations currently in the city's municipal code are inadequate for enforcement purposes; and

**WHEREAS**, a procedure for enforcing the code shall be adopted.

**NOW, THEREFORE**, the City of Rainier ordains as follows:

**Section 1.** There is hereby adopted a new Chapter 11 of the Rainier Municipal Code to read as follows:

**Chapter 11  
Code Enforcement Procedures**

Sections:

**11.10 Title.**

**11.20 Purpose.**

**11.30 Definitions.**

**11.40 Remedial action by city-Costs.**

**11.50 Warning methods.**

**11.60 Uniform violation summons and citation-Service-Failure to receive-Default.**

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**11.90 Summons issuance-Required information.**

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**11.120 Hearing request or waiver-Payment of bail.**

**11.130 Civil penalty-General penalty-Assessment of fees.**

**11.140 Default judgement.**

**11.150 Enforcement-Rules and regulations.**

**11.160 Failure to comply-Failure to appear-Penalty.**

**11.170 Lien filing and docketing, collection.**

**11.10 Title.**

The provisions of this chapter may be cited as the Rainier “short-form complaint and code enforcement procedure code.”

**11.20 Purpose.**

(1) This chapter authorizes the use of a short-form uniform complaint and citation in certain cases by certain code enforcement personnel and describes the content of the form.

(2) This chapter describes the procedures for use of complainant, court or defendant.

(3) The procedures prescribed by this chapter are not the exclusive procedures for imposing civil penalties. This section shall not be read to prohibit in any way alternative remedies set out in the Rainier Municipal Code which are intended to abate or alleviate code violations, nor shall the city be prevented from recovering, in any manner prescribed by law, any expense incurred by it in abating or removing ordinance violations pursuant to any code violation. The penalties and civil remedies for violations of this chapter shall be in addition to, not in lieu of, other penalties or remedies established by city ordinance or state or federal law.

**11.30 Definitions.**

For the purposes of this chapter, the following definitions shall apply:

(1) “Code enforcement officer” means any individual or individuals specifically authorized by the city administrator to issue citations for the commission of violations, as specified at Rainier Municipal Code 11.70.

(2) “Defendant” means a person charged with a code violation.

(3) “Violation” means a violation of the provisions of the Rainier Municipal Code.

**11.40 Remedial action by city-Costs.**

(1) In the event that there is an imminent danger to the public health, safety or welfare caused by a violation, the city may, without notice, remedy the violation and charge the remedial costs back to the defendant.

(2) The code enforcement officer shall have the right at reasonable times to enter into or upon property in accordance with law to investigate or remedy the violation.

(3) The city recorder shall keep an accurate record of the costs incurred by the city in remedying the violation. The city recorder shall notify the defendant by certified mail, return receipt requested, of these costs and advise the defendant that the costs will be assessed to and become a lien against the defendant’s property, if not paid within 30 days of the notice, and shall further notify the defendant that the defendant is entitled to a hearing to contest the amount of the costs to be assessed.

(4) The defendant shall be entitled to request that the code enforcement officer schedule a hearing to consider the amount of the costs assessed to remedy the alleged violation. That hearing shall be conducted pursuant to the procedures established in Rainier Municipal Code 11.110 through 11.160.

(5) If the remedial costs are not paid, the city recorder shall follow the procedures set forth for lien filing and docketing as contained in Rainier Municipal Code 11.170.

**11.50 Warning methods.**

(1) A warning of the alleged violation may be given to the defendant in person by the code enforcement officer.

(2) Warning of the alleged violation may be by a telephone call to the defendant. If a warning is given in this manner, the defendant shall also be provided with a warning of violation by first class mail sent to his or her last known address as soon as possible after the initial notice by telephone.

(3) A warning of the alleged violation may be given by mail to the defendant at his or her last known address a warning of violation by registered mail, return receipt requested.

(4) Nothing in this section shall be construed to require a warning notice be given to any defendant prior to issuing a citation or taking any other enforcement or abatement procedure.

**11.60 Uniform violation summons and citation-Service-Failure to receive-Default.**

(1) Service of the uniform summons and citation may be by personal service on the defendant or an agent of the defendant authorized to receive process; by substitute service at the defendant’s dwelling or office; or by registered mail, return receipt requested, to the defendant at his or her

last known address. In the event of substitute service at the defendant's dwelling, the person served must be at least 14 years of age and residing in the defendant's place of abode. Service at the defendant's office must be made during regular business hours to the person who is apparently in charge. If substitute service is used, a true copy of the summons and complaint, together with a statement of the date, time and place at which service was made, must be mailed to the defendant at the defendant's last known address. Service will be considered complete upon such a mailing. Service by any other method reasonably calculated, under all the circumstances, to apprise the defendant of the existence and pendency of the violation and to afford a reasonable opportunity to respond shall be acceptable.

(2) Service on particular defendants, such as minors, incapacitated persons, corporations, limited partnerships, the State of Oregon, other public bodies and general partnerships, shall be the same as prescribed for the service of a civil summons and compliant by the Oregon Rules of Civil Procedure.

(3) No default shall be entered against any defendant without proof that the defendant had notice of the uniform violation summons and complaint. Either a sworn affidavit of the code enforcement officer outlining the method of service, including the date, time and place of service, a return receipt of registered mailing which indicates delivery of the summons and complaint to defendant's last known address, or a registered letter returned as "unclaimed" which indicates attempt of the same, shall create a rebuttable presumption that the defendant had such notice.

#### **11.70 Use of citation.**

A citation conforming to the requirements of this chapter may be used by code enforcement officers to initiate enforcement action for violations of city ordinances. Nothing in this section shall be construed to prevent the use of a complaint charging a violation of ordinance in a form or manner otherwise prescribed by law for criminal complaints; further, as provided by law, two or more persons may be charged jointly on such a complaint.

Further, nothing in this chapter shall be construed to prevent the filing of a complaint complying in all other respects with the provisions of this chapter and charging a violation of a city code occurring in the presence of a citizen.

#### **11.80 Contents.**

(1) Citation used may consist of at least three parts: the complaint, the record and the summons. Additional parts may be inserted for administrative purposes by departments charged with the enforcement of the ordinance. The form may contain the following information or may be blank when such information is not readily available to the code enforcement officer:

- (a) The name of the court and the court's docket or file number;
- (b) The name of the person or persons cited;
- (c) The offense charged, the time and place, the date on which the citation was issued, the name of the complainant, and, in the case of zoning violations, the designation of the zone in which the violation occurred;

- (d) The hour and date which the person cited is to appear in court;
- (e) The bail, if any, fixed for the offense.

(2) The form may also contain such identifying and additional information as may be necessary or appropriate for administrative departments of the city. In the case of an appropriate violation, it may include an indication of whether a written warning was previously issued to the defendant for the same violation if it is a continuing one.

(3) The complaint shall contain a form of verification by the complainant to the effect that the complaint swears or affirms that he or she has reasonable grounds to believe, and does believe, that the person named committed the offense contrary to the ordinance.

#### **11.90 Summons issuance-Required information.**

A summons issued pursuant to this chapter is sufficient if it contains the following information:

- (1) The name of the court, the name of the person or persons cited, the date on which the citation was issued, the name of the complainant, the time at which the person cited is to appear in court;
- (2) A statement or designation of the offense in such a manner as can be readily understood by a person making a reasonable effort to do so and the date and place of offense alleged to have occurred;
- (3) The amount of bail, if any, fixed for the offense.

#### **11.100 Alleged violation-Required information.**

A complaint of an alleged violation or an offense under this chapter is sufficient if it contains the following:

- (1) The name of the court, the name of the city in whose name action is brought and the name of the defendant or defendants;
- (2) A statement or designation of offense in such manner as can be readily understood by a person making a reasonable effort to do so and the date and a place of the alleged offense.

#### **11.110 Appearance of defendant in court.**

The defendant shall either appear in court at the time indicated in the summons, or, prior to such time, deliver to the court the summons, together with the bail amount set forth in the summons, enclosing therewith a request for a hearing, or statement of matters and explanation or mitigation of the offense, or an executed appearance, waiver of hearing, and plea of “guilty” appearing on the summons.

#### **11.120 Hearing request or waiver-Payment of bail.**

(1) If the defendant has submitted to the court a written statement with his bail, as provided in this chapter, it constitutes a waiver of hearing and a consent to judgement by court declaring a forfeiture of bail on the basis of such statement and any testimony or written statement of the arresting officer, or other witness, or city employee, as provided in this chapter, which may be presented to the court. If the defendant requests a hearing, or, if the court directs that hearing be

had, the court shall fix the date and time of the hearing and, unless notice is waived, mail to the defendant notice of the date and time so set at least five days prior to the trial date.

(2) In any case, the court may direct that a hearing be held; otherwise, the court may enter the appropriate judgement, impose a fine, direct that the fine be paid out of the bail deposited by the defendant, and remit to the defendant any amount by which the bail exceeds the fine. No fine may be imposed in excess of the bail deposited by the defendant, unless a hearing is held.

### **11.130 Civil penalty-General penalty-Assessment of fees.**

(1) Upon a finding that the violation was committed by the defendant, the court:

- (a) Shall assess a penalty pursuant to the applicable code penalty section;
- (b) May assess hearing costs and witness fees, if any;
- (c) Shall order the defendant to abate the code violation; and
- (d) May order the defendant to appear at a subsequent hearing for the presentation of evidence of abatement.

(2) Any person adjudged to have violation any of the provisions or to have failed to comply with any of the mandatory requirements of any ordinance of the city, except in cases where a different punishment is prescribed by any ordinance of the city, shall pay a penalty of not less than \$150 nor more than \$500, unless superseded by state law.

(3) Each and every day during any portion of which any violation of any provision of an ordinance is committed, continued or permitted by any person shall constitute a separate violation.

(4) The penalty or fine for a third or any subsequent separate judgment of violation of the same offense by the same person shall be no less than \$1,000, unless superseded by state law.

(5) Any penalty and costs assessed shall be paid no later than 30 days after the final order. Such period may be extended upon order of the court.

(6) Any penalty and costs assessed shall be a judgement against defendant in favor of the city.

### **11.140 Default judgement.**

Subject to the limitations set forth in Rainier Municipal Code 11.060, a default judgement shall be entered for the maximum civil penalty applicable to the charged violation if the defendant fails to appear at the scheduled hearing. If the defendant fails to appear for the hearing, any security fees posted shall be forfeited to the city.

### **11.150 Enforcement-Rules and regulations.**

The municipal court judge is authorized to promulgate any procedural rules he or she considers necessary to enforce this chapter and to punish for contempt of court.

### **11.160 Failure to comply-Failure to appear-Penalty.**

(1) The failure to comply with the provisions of this chapter constitutes a violation.

(2) If any person knowingly fails to comply with an order of the court, the person is in contempt of court.

(3) If any person knowingly fails to appear before the municipal court pursuant to a citation issued and served under authority of this chapter or pursuant to an order of the court, the person is in contempt of court.

(4) Contempt of court shall be punishable in the same manner prescribed by law for the circuit courts of this state, and all relevant provisions of Oregon Revised Statutes 33.015 through 33.155 are incorporated herein by this reference.

### **11.170 Lien filing and docketing, collection.**

(1) When a judgement is rendered by the municipal court judge in favor of the city for a sum of \$10 or more, exclusive of costs and disbursements, the code enforcement officer shall, at any time thereafter while the judgement is enforceable, file with the city recorder a certified transcript of all those entries made in the docket of the court clerk with respect to the action in which the judgement was entered.

(2) Upon receipt of this transcript, the city recorder shall enter the judgement of the court clerk on the city's lien docket.

(3) From the time of entry of the judgement on the city's lien docket, the judgement shall be a lien upon the real property of the person against whom the judgement was entered in the trial. Except as provided in subsection (4) of this section, entry of the judgement in the city's lien docket shall not thereby extend the lien of the judgement more than 10 years from the original entry of the judgement at the hearing.

(4) Whenever a judgement of the municipal court judge which has been entered pursuant to this subsection is renewed by the judge, the lien established by subsection (3) of this section is automatically extended 10 years from the date of the renewal order.

(5) The city recorder shall file the transcript of the judgement with the Columbia County clerk for entry in the judgement docket of the circuit court. All costs associated with the filing of the transcript shall be added to the amount of the judgement.

(6) Judgements may, in addition to any other method, be collected or enforced pursuant to Oregon Revised Statutes 30.310.

Passed by the City of Rainier council and approved by the mayor on the \_\_\_\_ date of \_\_\_\_\_, 2022.

Attested:

BY: \_\_\_\_\_

Jerry Cole, Mayor

BY: \_\_\_\_\_

Scott Jorgensen, City Administrator