

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

Section

- 10.01 Title of code
- 10.02 Interpretation
- 10.03 Application to future ordinances
- 10.04 Captions
- 10.05 Definitions
- 10.06 Rules of interpretation
- 10.07 Severability
- 10.08 Reference to other sections
- 10.09 Reference to offices
- 10.10 Errors and omissions
- 10.11 Official time
- 10.12 Reasonable time
- 10.13 Ordinances repealed
- 10.14 Ordinances unaffected
- 10.15 Effective date of ordinances
- 10.16 Repeal or modification of ordinance
- 10.17 Ordinances which amend or supplement code
- 10.18 Section histories; statutory references

- 10.99 General penalty

§ 10.01 TITLE OF CODE.

(A) All ordinances of a permanent and general nature of the city, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the “City of Union Code”, for which designation “code of ordinances”, “codified ordinances” or “code” may be substituted.

(B) Code title, chapter and section headings do not constitute any part of the law as contained in the code.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY, MUNICIPAL CORPORATION or MUNICIPALITY. The area within the corporate boundaries of Union, Oregon as presently established or as amended by ordinance, annexation or other legal actions at a future time. The term **CITY**, when used in this code, may also be used to refer to the City Council and its authorized representatives.

CODE, THIS CODE or THIS CODE OF ORDINANCES. This municipal code as modified by amendment, revision and adoption of new titles, chapters or sections.

COUNTY. The County of Union, Oregon.

MAY. The act referred to is permissive.

MONTH. A calendar month.

OATH. An affirmation 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**.

OFFICER, OFFICE, EMPLOYEE, COMMISSION or DEPARTMENT. An officer, office, employee, commission or department of this city unless the context clearly requires otherwise.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PRECEDING or FOLLOWING. Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or SUBSCRIPTION. Includes a mark when the person cannot write.

STATE. The State of Oregon.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

WRITTEN. Any representation of words, letters or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this city shall be by the following rules, unless the construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.

(A) **AND or OR.** Either conjunction shall include the other as if written “ and/or”, if the sense requires it.

(B) *Acts by assistants.* When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, the requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(C) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.09 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer or employee of this city exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state/federal laws, shall be the official time within this city for the transaction of all city business.

§ 10.12 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

§ 10.13 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

§ 10.14 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body shall take effect as provided in the City Charter. If there is no City Charter, all ordinances passed by the legislative body shall take effect as provided by the legislative body or applicable state law.

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture or penalty instituted, created, given, secured or accrued under any ordinance previous to its repeal shall in any way be affected, released or discharged, but may be prosecuted, enjoyed and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause or provision, unless it is expressly provided.

§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to the indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance and any amending ordinances are listed following the text of the code section.

Example: (Ord. 161, passed 5-13-1960; Ord. 170, passed 1-1-1970; Ord. 180, passed 1-1-1980; Ord. 185, passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute.

Example: (O.R.S. 192.410) (Ord. 180, passed 1-17-1980; Ord. 185, passed 1-1-1985)

(2) If a statutory cite is set forth as a “statutory reference” following the text of the section, this indicates that the reader should refer to that statute for further information.

Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This city shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

Inspection of public records, see O.R.S. 192.420

§ 10.99 PENALTY.

(A) *Minimum penalty for violations of all ordinances.*

(1) *Fines not to be reduced below minimum.* Notwithstanding any provision of any other ordinance of the City of Union, the Municipal Court shall not defer, waive, suspend or otherwise reduce the fine for a violation of a city ordinance to an amount below the minimum fine required by this section.

(2) *Not affected.* Nothing in this section:

(a) Affects the manner in which a court imposes or reduces monthly obligations other than fines payable to the City of Union;

(b) Allows the Municipal Court to reduce any fine amount below a minimum fine amount established by state statute that controls the amount of the fine in a given instance; and

(c) Affects the ability of the Municipal Court to establish a payment schedule for fines imposed by the court upon a showing of inability of a defendant to immediately pay.

(3) *Unitary and county assessments in addition to fine.* For the purpose of establishing the minimum fine required by this section, the unitary assessment required by O.R.S. 137.290 and the county assessment required by O.R.S. 137.309 shall not be included; instead, they shall be assessed in addition to the minimum fine.

(4) *Minimum fines.* The minimum fine shall be 20% of the maximum fine allowed by the ordinance of which the defendant is convicted for a first offense.

(5) *Increasing maximum fine for certain violations.*

(a) If a person is convicted to a traffic violation that was a factor contributing to a traffic accident, the minimum fine shall be 60% of the maximum fine established for the violation of which the person was convicted.

(b) If a person is convicted of a traffic violation that occurred within a street work zone that has been posted as such or within a posted school zone, the minimum fine shall be 80% of the maximum fine established for the violation of which the person was convicted.

(c) If a person is convicted of a violation that resulted in intentional harm to the person or property of another, the minimum fine shall be 80% of the maximum fine established for the violation of which the person is convicted.

(d) If a person is convicted of any city ordinance, and if the conviction is the second conviction of that city ordinance within a one-year period, then the minimum fine shall be 40% of the maximum fine established for the violation of which the person was convicted.

Union - General Provisions

(e) If a person is convicted of any city ordinance, and if the conviction is the third conviction of that city ordinance within a one-year period, then the minimum fine shall be 100% of the maximum fine established for that violation of which the person was convicted.

(f) All subsequent convictions within a one-year period of violations shall be the maximum penalty for which the person was convicted.

(B) Providing for procedures in Municipal Court; providing a general penalty for violations of all ordinances.

(1) Pretrial proceedings.

(a) The Municipal Court and the Judge thereof shall have jurisdiction over all violations of city ordinances. This requirement shall not be interpreted as preventing the City of Union from contracting with another public body for judicial services by a Judge thereof, nor from citing any person into the Circuit Court of the State of Oregon when the offence to be charged is a violation of state law.

(b) Persons to be charged with a violation of an ordinance of the City of Union shall not be arrested, but shall be summoned to appear before the Municipal Judge by means of a summons, complaint, citation or a combination thereof. The Municipal Judge shall have the authority by rule to determine the requirements of the form and content of documents used to charge violations. Absent adoption of rules by the Court, the documents shall, at a minimum, comply with due process.

(c) The only answers to documents charging a violation shall be an admission, a denial or an answer of “no contest”. A denial shall be deemed to controvert every material allegation in the complaint, citation or summons.

(d) Motions, answers and pleas to documents charging a violation shall be made either orally in open court or in writing, according to rules of procedures as may be set by the Municipal Judge.

(e) Upon an answer of “no contest” or admission to a complaint charging an infraction, the Court shall render judgment against the respondent. Upon an answer of denial, the court shall set the case for trial without a jury, unless the person charged is entitled to a jury pursuant to Ord. 253, as amended by this section.

(f) In lieu of a personal appearance and answer, the person charged with a violation may file with the court a written waiver of appearance and forfeiture accompanied by a deposit of the scheduled forfeiture as provided for in division (B)(3)(f) below. In addition, the person may file with the waiver a written explanation of the circumstances of the infraction. The Municipal Judge may, after any further investigation the Judge deems necessary to verify the respondent's explanation, reduce all or a portion of the scheduled forfeiture and refund any balance to the person charged.

(g) The Municipal Court, or an attorney licensed to practice law in the State of Oregon, shall have the power to issue summons for the appearance of witnesses in Municipal Court. It shall be the duty of all persons duly subpoenaed in any cause pending in the Municipal Court to attend the Court and testify in accordance with the requirements of the subpoena.

(h) Any witness who shall refuse to attend the Municipal Court or to testify as required by division (B)(1) above shall be deemed and held to be guilty of contempt of court, and the Court, in case of the refusal, shall have authority to issue a warrant for the arrest of any person so refusing and, on the persons being brought before the court on the warrant, unless the person shall purge himself or herself of the contempt by showing his or her inability to attend and testify as required by the subpoena served on him or her, the court shall summarily impose upon the person a fine not exceeding \$100.

(i) The laws of the State of Oregon governing the payment of witnesses in justice court shall be and they are hereby adopted in their entirety for the Municipal Court as to the per diem payment and per mileage payment.

(2) *Trials.* Trials in Municipal Court shall be in accordance with procedural rules as may be adopted by the Municipal Court Judge, though the Judge is not required to adopt procedural rules, and shall generally proceed as follows:

(a) If a defendant is entitled to a jury, after the jury is selected and sworn, the Court shall instruct the jury concerning its duties, its conduct and the order of proceedings;

(b) The city shall then concisely state the plaintiff' s case and the issues to be tried; the defendant then, in like manner, shall state defendant' s case;

(c) The city shall introduce the evidence on plaintiffs case in chief and, when plaintiff has concluded, the defendant shall do likewise;

(d) The parties respectively may introduce rebutting evidence only, unless a court in furtherance of justice permits them to introduce new evidence;

(e) When the evidence is concluded, both sides shall commence and conclude the argument to the court, and jury if applicable. The city shall have the right to reply to the argument of the defendant; and

(f) If a jury has been empaneled after the evidence is concluded, and the parties have argued their cases, the court shall instruct the jury.

(3) *General penalty.*

(a) Whenever, pursuant to any other ordinance of the City of Union, any act is prohibited or is made or declared to be unlawful or an offense, or the doing of an act is required or the failure to do an act is declared to be unlawful or an offense, the violation shall be classified as a “ violation” and shall be punished as provided in this section, notwithstanding any provision of any other existing

Union - General Provisions

ordinance of the city. The penalties of this section shall apply to any violation occurring on or after the effective date hereof unless the violation is of an ordinance that is adopted after the effective date hereof which expressly provides a different penalty.

(b) The maximum penalty for a violation shall be an amount not exceeding \$500. However, this penalty shall be in addition to any assessment or fine which may be required to be imposed, such as, but not limited to, the unitary assessment described in O.R.S. 137.290, the county assessment referred to in O.R.S. 137.309 or any other fine or assessment which may be imposed by force of law in addition to those imposed by an ordinance of the city.

(c) There shall be no sentence of any imprisonment for any violation.

(d) Every day any violation of an ordinance of the city shall continue shall constitute a separate offense.

(e) This section shall apply to the violations of any Oregon state statute when an ordinance of the city makes the violations an offense against the city.

(f) For the purposes of facilitating dispositions of violations, the Municipal Judge may promulgate a schedule of forfeitures plus any required assessments or fines for particular infractions, and the person charged with an infraction may deposit with the Court the amounts so scheduled, waive further appearance and have the sum so deposited forfeited as on a plea of “no contest”. The Court shall not, however, be bound by the schedule on appearance and admission by the person charged, or on trial and judgment against the person charged. The Court in such a case may impose any forfeiture allowed by this section.

(g) This section shall not be interpreted as prohibiting or limiting the city's right to abate, enjoin or alleviate an ordinance violation when the power is given to the city by ordinance or common law. (Ord. 498, passed 12-12-2005; Ord. 510, passed 11-13-2006)