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## CHAPTER 30: CITY COUNCIL

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### ***COUNCIL AS LOCAL CONTRACT REVIEW BOARD; PROCEDURES***

#### **§ 30.01 CONTRACT REVIEW BOARD.**

The City Council is designated to continue as the Local Contract Review Board of the city and shall have all of the rights, powers and authority necessary to carry out the provisions of O.R.S. Chapters 279A, 279B and 279C (the “ Public Contracting Code”). Except as otherwise provided in this subchapter,

the City Council, or its designated purchasing agent, is designated as the city's contracting agency for purposes of contracting powers and duties assigned to the city as a contracting agency under the Public Contracting Code.

(Ord. 489, passed 2-14-2005)

### § 30.02 DEFINITIONS.

(A) As used in this subchapter, the following words or phrases shall have the following meanings. All words and phrases not defined in this section shall have the meanings ascribed to them in the Public Contracting Code or the Model Rules adopted by the Oregon Attorney General thereunder (“ Model Rules”).

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

**FORMAL QUOTE.** Procedure pursuant to which written offers are solicited by advertising or other writing stating the quantity and quality of goods or services to be acquired, and which offers are received by the contracting agency on or before a stated date. In soliciting formal quotes, the contracting agency shall seek quotes from a sufficiently large number of potential offerors to insure sufficient competition to meet the best interests of the city. An award based on less than three formal quotes may be made, provided the contracting agency makes a written record of the effort to obtain quotes.

**INFORMAL QUOTE.** Procedure pursuant to which written or verbal offers are gathered by correspondence, telephone or personal contact stating the quantity and quality of good or services to be acquired. In soliciting informal quotes, the contracting agency shall seek quotes from a sufficiently large number of potential offerors to insure sufficient competition to meet the best needs of the city. An award based on less than three quotes may be made, provided the contracting agency makes a written record of the effort to obtain quotes.

**PERSONAL SERVICES CONTRACT.** A contract to retain the services of an independent contractor, including architects, engineers, land surveying and related services. The contract shall be predominantly for services requiring special training or certification, independent judgment, skill and experience.

**SOLE SOURCE PROCUREMENT.** A contract for goods or services, or a class of goods or services, available from only one source.

**WORKS OF ART.** All forms of original creations of visual art, including but not limited to:

(a) *Painting.* All media, including both portable and permanently affixed or integrated works such as murals;

(b) *Sculpture.* In the round, bas-relief, high relief, mobile, fountain, kinetic, electronic and the like, in any material or combination of materials; and

(c) *Miscellaneous art.* Prints, clay, drawings, stained glass, mosaics, photography, fiber and textiles, wood, metal, plastics and other materials or combination of materials, calligraphy and mixed media, any combination of forms of media, including collage.  
(Ord. 489, passed 2-14-2005)

### § 30.03 PUBLIC CONTRACTS FOR GOODS AND SERVICES.

This section applies to public contracts that are not contracts for public improvements or contracts for personal services. A public contract shall not be artificially divided or fragmented to qualify for a different award procedure than that provided by this section.

(A) *Public contracts.* The following classes of public contracts and respective award procedures are created.

(1) *Public contracts valued at less than \$5,000.* A public contract for an amount which is valued at less than \$5,000 shall be awarded by the contracting agency based on informal quotes. Amendments to public contracts under this section may not cause the contract price to exceed \$6,000.

(2) *Public contracts valued at \$5,000 or more but less than \$25,000.* A public contract for an amount which is valued at \$5,000 or more, but less than \$25,000, shall be awarded by the contracting agency based on formal quotes. Amendments to public contracts under this section may not cause the contract price to exceed an amount that is greater than 25% of the original contract price.

(3) *Public contracts from \$25,000.* A public contract for an amount which is valued at \$25,000 or more shall be awarded by the City Council based on competitive sealed bidding or competitive sealed proposals pursuant to the Public Contracting Code.

(B) *Exemptions.* The requirements of division (A) above do not apply to the following classes of public contracts:

- (1) Sole source procurement pursuant to O.R.S. 279B.075;
- (2) Emergency procurement pursuant to O.R.S. 279B.080;
- (3) Purchases through federal programs pursuant to O.R.S. 279A.180;
- (4) Contracts for products or supplies under \$5,000;
- (5) Contracts for the purchase or commissioning of works of art;

(6) Amendments to contracts exceeding the limits in division (A) above if the City Council determines that it is not reasonably feasible to require additional competitive procurement to complete the purpose of the contract; otherwise the Council shall direct additional competitive procurement and the competitive procurement procedure required for the amendment; and

(7) By resolution, the City Council may exempt other public contracts or classes of public contracts from the requirements of division (A) above pursuant to O.R.S. 279B.085. (Ord. 489, passed 2-14-2005)

#### § 30.04 PUBLIC IMPROVEMENT CONTRACTS.

A public improvement contract is defined pursuant to the Public Contracting Code and does not include contracts for minor alterations, ordinary repair and maintenance of public improvements, contracts for projects for which no funds of the city are directly or indirectly used except for participation that is incidental or related primarily to project design or inspection, and does not include any other construction contract that is not defined as a public improvement under the Public Contracting Code. A public improvement contract shall not be artificially divided to qualify for a different award procedure than that provided by this section.

(A) *Public contracts; awarded.* All public improvement contracts shall be awarded by the Council based on competitive sealed bids pursuant to the Public Contracting Code.

(B) *Exemptions.* The requirements of division (A) above do not apply to the following classes of public improvement contracts.

(1) *Public improvement contracts valued at less than \$5,000.* Public improvement contracts valued at less than \$5,000 shall be awarded by the contracting agency based on informal quotes.

(2) *Public improvement contracts valued at \$5,000 or more but less than \$25,000.* Public improvement contracts valued at \$5,000 or more but less than \$25,000 shall be awarded by the contracting agency based on formal quotes.

(3) *Exempted from competitive bidding.* Emergency public improvement contracts may be exempted from competitive bidding if the contracting agency determines that an emergency exists and that conditions require the prompt execution of a contract. Emergency public improvement contracts shall be awarded in accordance with the Public Contracting Code. The City Administrator shall provide the Council as contracting agency with a written statement indicating the nature of the emergency and stating with particularity the emergency conditions and why they pose an imminent threat to the public health, safety or welfare. The contracting agency shall not declare the same emergency more than two times in any 90-day period.

(4) *Resolution.* By resolution, the City Council may exempt from competitive bidding a public improvement contract or class of public improvement contracts not otherwise exempt under this section pursuant to O.R.S. 279C.335.

(5) *Competitive proposals.* When an exemption allows for award of the contract through competitive proposals, the provisions of O.R.S. 279C.400 to 279C.410 shall apply.

(C) *Amendments.* Amendments to public improvement contracts shall comply with the Public Contracting Code.

(D) *Performance and payment bonds.* The performance and payment bonds requirements and exceptions of the Public Contracting Code shall apply to all public improvement contracts.

(E) *City equipment and personnel.* The city may undertake to construct a public improvement using its own equipment and personnel if doing so will result in the least cost to the city or public. For purposes of this section, resurfacing of roads at a depth of two or more inches and at an estimated cost of more than \$125,000 is a public improvement. If the city decides to construct a public improvement estimated to cost more than \$125,000 using its own personnel and equipment, the city shall prepare adequate plans and specifications and the estimated unit cost of each classification of work, and maintain an accurate accounting in accordance with O.R.S. 279C.305.

(F) *Exceeding budget.* If all responsive offers on a public improvement contract exceed the budget for the project, the contracting agency may, prior to contract award, negotiate for a price within the budget under the following procedures:

(1) Negotiations shall start with the lowest responsive, responsible offeror. If negotiations are not successful, then the contracting agency may negotiate with the second lowest responsive, responsible offeror, and so on;

(2) Negotiations may include value engineering and other options to attempt to bring the project cost within the budgeted amount;

(3) A contract may not be awarded under this section if the scope of the project is significantly changed from the description in the original solicitation documents; and

(4) The records of an offeror used in contract negotiations under this section are not subject to public inspection until after the negotiated contract has been awarded or the negotiation process has been terminated.

(Ord. 489, passed 2-14-2005)

### **§ 30.05 OFFEROR DISQUALIFICATION.**

(A) The contracting agency, in awarding a public contract, may disqualify any person as an offeror on a contract if:

(1) The person does not have sufficient financial ability to perform the contract. Evidence that the person can acquire a surety bond in the amount and type required shall be sufficient to establish financial ability;

(2) The person does not have available equipment to perform the contract;

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- (3) The person does not have key personnel of sufficient experience to perform the contract; or
- (4) The person has breached previous contractual obligations.

(B) The provisions of the Public Contracting Code regarding disqualification of persons shall apply in addition to this section with respect to public improvement contracts.

(C) A person who has been disqualified as an offeror may appeal the disqualification in accordance with the procedures in Chapter 279C of the Public Contracting Code.  
(Ord. 489, passed 2-14-2005)

**§ 30.06 PERSONAL SERVICES CONTRACTS.**

(A) The following procedures shall apply to the award of personal services contracts.

(1) *Personal service contracts for \$5,000 to \$10,000.* Personal services contracts involving an anticipated fee of \$5,000 or more but less than \$10,000 per fiscal year shall be awarded by the contracting agency following solicitation of offers for personal services by written invitation or advertisement in sufficient number to provide a choice for the city from among qualified service providers. The contracting agency shall determine the selection criteria to be included in the written invitation or advertisement and shall have authority to negotiate and enter into the contract.

(2) *Personal service contracts from \$10,000.* Personal services contracts to which division (A)(1) above does not apply and having an anticipated fee of \$10,000 or more shall be awarded by the City Council following solicitation of offers based on the procedure and selection criteria adopted by the City Council before offers are solicited.

(3) *Other contracts.* Except as otherwise provided in the Public Contracting Code, for all other personal services contracts, including amendments to and annual renewals of existing contracts and emergencies, the contracting agency may enter into the contract without a solicitation of offers. A personal services contract shall not be artificially divided or fragmented to qualify for the award procedures provided by this section.

(B) The following criteria shall be considered in the evaluation and selection of a personal services contractor. This section does not preclude the use of other additional criteria:

- (1) Total cost to the agency for delivery of services;
- (2) Expertise of the contractor in the area of specialty called for;
- (3) References from successfully completed projects managed by the contractor;

- (4) Utilization of locally procured goods, services or personnel;
- (5) Other services provided by the contractor not specifically listed in the request for proposal;
- (6) Timeliness of delivery of services; and
- (7) Other criteria specially listed in the solicitation document on a case by case basis.

(Ord. 489, passed 2-14-2005)

**§ 30.07 DISPOSITION OF PERSONAL PROPERTY.**

(A) The City Council shall have the authority to determine when personal property owned by the city is surplus.

(B) The City Administrator shall select the method of disposal which maximizes the value the city will realize from disposal of the surplus property. Surplus personal property shall be disposed of as follows:

(1) Sold to the highest qualified buyer meeting the sale terms when the value of each item so offered is less than \$2,000 and the sale has been advertised at least once in a newspaper of general circulation in the Union area not less than one week prior to the sale;

(2) Traded in on the purchase of replacement equipment or supplies;

(3) Sold at public auction advertised at least once in a newspaper of general circulation in the Union area not less than one week prior to the auction. The published notice shall specify the time, place and terms upon which the personal property shall be offered and a general description of the personal property to be sold;

(4) Sold at a fixed price retail sale if doing so will result in substantially greater net revenue to the city; or

(5) Contracted for use, operation or maintenance by one or more private or public entities. Prior to approval of such a contract, the City Council shall determine that the contract will promote the economic development of the city.

(C) All personal property sold pursuant to this section shall be sold as-is without any warranty, either express or implied, of any kind.

(D) Sales of surplus personal property may be conducted electronically.  
(Ord. 489, passed 2-14-2005)

**§ 30.08 ADOPTION OF CODES AND RULES.**

(A) Except as specifically provided in this subchapter, public contracts shall be awarded, administered and governed according to the Public Contracting Code and the Model Rules, as they now exist and may be amended in the future.

(B) In the event of a conflict between any provisions of this subchapter and the Public Contracting Code or Model Rules, the provisions of the Public Contracting Code or Model Rules shall prevail.  
(Ord. 489, passed 2-14-2005)

***FIXING REGULAR MEETING DATES; RULES AND REGULATIONS FOR PROCEEDINGS*****§ 30.25 REGULAR CITY COUNCIL MEETINGS.**

The regular meeting date of the City Council of the City of Union shall be on the second Monday of each month, unless the Monday falls on a holiday as that term is defined by Oregon Revised Statutes. If the second Monday falls upon a holiday, the regular meeting of the City Council shall be held on the next succeeding Monday. The City Council, by resolution, may change the regular meeting date as it deems necessary. The Council shall, by resolution, establish the time and place of the regular meeting.  
(Ord. 404, passed 7-13-1987; Ord. 482, passed 2-14-2005)

**§ 30.26 SPECIAL COUNCIL MEETINGS.**

Special meetings of the Council may be called by the Mayor, or, in his or her absence or inability to act, by the President of the Council by giving 24 hours previous written notice to each member of the Council of the time of the meeting and the purpose of same. Special meetings may also be called upon the request of three or more members of the Council by giving 24 hours notice of the meeting to all members of the Council then in the city. Special meetings of the Council may also be held by common consent of all the members of the Council.  
(Ord. 404, passed 7-13-1987; Ord. 482, passed 2-14-2005)

**§ 30.27 EXECUTIVE SESSIONS.**

Executive sessions may be held during regular or special meetings, so long as appropriate statutory limitations are met.  
(Ord. 404, passed 7-13-1987; Ord. 482, passed 2-14-2005)

**§ 30.28 AGENDA.**

The City Administrator shall prepare an agenda of the business to be presented at a regular Council meeting. The Council shall consider at the meeting only matters that appear on the agenda for that meeting or the items as are introduced by a Council member or the Mayor. Council members and the Mayor shall endeavor to have subjects they wish considered submitted in time to be placed on the agenda. (Ord. 404, passed 7-13-1987; Ord. 482, passed 2-14-2005)

**§ 30.29 CONSENT CALENDAR.**

In order to make more efficient use of meeting time, the Administrator shall place all ordinances, resolutions, approvals of minutes and expenditures, approvals of Planning Committee actions and such other matters which are routine in nature and concerning which no debate is expected on a consent calendar. Any item placed on the consent calendar shall be removed at the request of the Mayor or any Council member prior to the time a vote is taken on the consent calendar. All remaining items on the consent calendar shall be disposed of by a single motion to adopt the consent calendar, which shall not be debatable. Adoption of the consent calendar shall be by the affirmative vote of all Council members present at the time the vote is taken and shall have the same effect as a separate vote for each item. If there are dissenting votes, each item on the consent agenda shall be voted upon separately in the usual manner. (Ord. 404, passed 7-13-1987; Ord. 482, passed 2-14-2005)

**§ 30.30 ORDER OF BUSINESS; REGULAR MEETING.**

The order of business for each regular meeting of the Council shall be as follows:

- (A) Roll call and taking of attendance;
- (B) Hearings and appointments;
- (C) Public comments and communications;
- (D) Old business;
- (E) New business;
- (F) Consent agenda;
- (G) Reports of officers and committees;

(H) Suggestions for future agendas; and

(I) Adjournment.

(Ord. 404, passed 7-13-1987; Ord. 482, passed 2-14-2005)

### **§ 30.31 BUSINESS; SPECIAL MEETINGS.**

At the special meetings of the Council, only the specified matters which prompted the call of the meeting shall be brought up for discussion. The order of business for special meetings shall always include provision for public comment.

(Ord. 404, passed 7-13-1987; Ord. 482, passed 2-14-2005)

### **§ 30.32 ALTERING ORDER OF AGENDA.**

With consent of the Council, the Mayor may alter the order of the agenda.

(Ord. 404, passed 7-13-1987; Ord. 482, passed 2-14-2005)

### **§ 30.33 ORDER OF DELIBERATIONS.**

In all matters to be heard by the Council, the City Administrator may introduce the subject, after which the Mayor will first invite those persons and parties who are proponents of any matter to be considered by the Council to speak thereon. Then, the opponents of the proposal will next be afforded an opportunity to speak thereon. Then, the City Administrator or members of the staff of the city may speak thereon or answer questions from members of the Council or the public. Then, the members of the Council shall discuss the matters and act thereon.

(Ord. 404, passed 7-13-1987; Ord. 482, passed 2-14-2005)

### **§ 30.34 RULES OF CONDUCT AND DECORUM.**

(A) *Presiding officer.* The Mayor, as presiding officer, shall preserve decorum and shall decide all points of order, subject to appeal to the Council.

(B) *Councilors.* Councilors shall preserve order and decorum during Council meetings, and shall not, by conversation or other action, delay or interrupt the proceedings or refuse to obey the orders of the presiding officer or these rules. Councilors shall, when addressing staff or members of the public, confine themselves to questions or issues then under discussion, shall not engage in personal attacks, shall not impugn the motives of any speaker and shall at all times, while in session or otherwise, conduct themselves in a manner appropriate to the dignity of their office.

(C) *Staff and public.* Members of the administrative staff, employees of the city and other persons attending Council meetings shall observe the same rules of procedure, decorum and good conduct applicable to the members of the Council.

(D) *Removal of any person.* Any person who makes personal, impertinent, slanderous or inappropriate remarks or who becomes boisterous while addressing the Council or attending a Council meeting, when the behavior disrupts or delays the meeting, may be removed from the room if the Sergeant-at-Arms is so directed by the presiding officer. Any member of the Council may obtain the floor and move to require enforcement of this rule; upon affirmative vote of the majority of the Council present, the Sergeant-at-Arms shall be authorized to remove the person or persons, as if the presiding officer so directed.

(E) *Enforcement of decorum.* The City Administrator, or such member or members of the Union Police Department as the City Administrator shall designate, shall serve as the Sergeant-at-Arms of the Council meetings and shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum.

(Ord. 404, passed 7-13-1987; Ord. 482, passed 2-14-2005)

### **§ 30.35 ORDINANCE PROCEDURE.**

The Council shall follow the regular procedure as set out in Chapter VIII of the City Charter when considering and passing any and all ordinances brought before it.

(Ord. 404, passed 7-13-1987; Ord. 482, passed 2-14-2005)



## CHAPTER 31: CITY OFFICIALS

Section

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*CITY TREASURER***§ 31.01 OATH; BOND.**

The City Administrator shall be Treasurer of the City of Union. The Treasurer shall, before entering upon the duties of his or her office, take, subscribe and file an oath that he or she will faithfully discharge the duties of his or her office, and he or she shall further, before entering upon the duties of his or her office, make and execute unto the city a bond, conditioned that he or she will faithfully perform the duties of his or her office and will well and truthfully account to the city for all sums coming into his or her possession by virtue of his or her office.

(Ord. 488, passed 3-14-2005)

**§ 31.02 DUTIES.**

The Treasurer shall be custodian of all the funds of the city and shall give receipts to all persons who shall turn money over to the credit of the city. The Treasurer shall keep all funds of the city in banks or trust companies as may be designated by the Council as official depositories. It shall be the duty of the Treasurer to keep fair, clear, distinct and separate accounts of all funds and revenues of the city and also of all expenditures, disbursements and investments thereof.

(Ord. 488, passed 3-14-2005)

**§ 31.03 FUNDS; STATEMENTS.**

The city revenues shall be divided and kept in not less than the following separate and distinct funds: General Fund, Utility Fund, Street Fund, Emergency Services Fund and other funds as have been established by the Council. The Council may, by resolution, establish additional funds as the Council deems necessary or desirable for the efficient accounting of city business. The Treasurer shall make a monthly statement to the Council showing the receipts and disbursements and the state of each particular fund at the close of business as of the end of each month.

(Ord. 488, passed 3-14-2005)

**§ 31.04 CREATION OF FUNDS.**

(A) The Utility Fund shall consist of all monies collected from city water sales and sewer assessments and all sums of money derived as revenue from the city water and sewer systems and other sums as the Council may, by resolution, appropriate from the General, Street or other funds, as the same may be needed.

(B) The Street Fund shall be created and maintained by monies raised by special levy and shall include all sums of money derived as revenue from the city street system and such other sums as the Council may, by resolution, appropriate from the General, Utility or other funds, as the same may be needed.

(C) The Emergency Services Fund shall consist of all monies collected from city ambulance services and all sums of money derived as revenue from the city ambulance service and such other sums as the Council may, by resolution, appropriate from the General, Street or other funds, as the same may be needed.

(D) The General Fund shall be created and maintained and shall consist of all revenues derived by the city from whatsoever source which shall not, by resolution, be directed to the credit of any other regular or special fund. The General Fund shall be available for payment of any debts or general obligations of the city.

(Ord. 488, passed 3-14-2005)

#### **§ 31.05 CHECKING SYSTEM.**

All disbursements of money by the city from any city funds shall be by written checks drawn upon appropriate checking accounts to be established with an authorized banking institution. It shall be the duty of the Treasurer to enter in a book to be kept for that purpose, an abstract of all checks drawn upon any funds of the city, showing the date, number and name of the claimants, the amount claimed, the amount allowed thereon and from which fund to be paid. All checks issued shall be signed by both the Treasurer and the Mayor of the city, or their designees.

(Ord. 488, passed 3-14-2005)

#### **§ 31.06 SPENDING AUTHORITY.**

The Council shall, by resolution, adopt procedures to ensure the prompt payment of bills.  
(Ord. 488, passed 3-14-2005)

### ***MAYOR; CITY RECORDER; MUNICIPAL JUDGE***

#### **§ 31.20 MAYOR.**

In addition to the duties and powers set out in the City Charter, the Mayor shall see that the fiscal agents of the city attend faithfully to their duties and keep the Council fully advised as to the financial condition of the city. He or she shall give attention to all matters affecting the finances, health, peace and general prosperity of the city and make recommendations to the Council thereon. At the end of his

or her term of office he or she shall make and submit to the Council a complete report showing the financial condition of the city and such other matters of importance as he or she may deem necessary to call to its attention.

(Ord. 213, passed 5-21-1941; Ord. 403, passed 7-13-1987)

### **§ 31.21 CITY RECORDER.**

The City Recorder shall be appointed by the Mayor with prior approval of the Council, shall serve an indefinite term, and may be removed at the pleasure of the Council upon 30 days' written notice setting forth the reason for removal. In addition to the duties and powers set out in the Charter for the Recorder, the Recorder shall be ex-officio Clerk of the Council; attend all meetings of the Council when possible; keep records of its proceedings; call the roll at each meeting; and, upon the request of the Mayor or any member of the Council, shall read all ordinances, resolutions, written motions, communications, bills or other documents or papers which may be presented to the Council for consideration. The Recorder shall countersign all checks and other writings authorized by the Charter, the Council, or the laws of the state. He or she shall file all papers required to be filed and shall be the legal custodian of the same, and of the City Seal. He or she shall be responsible for maintaining records of accounts receivable, and accounts payable, and upon direction of the City Administrator, keep all accounts current insofar as funds are available. He or she shall perform such other duties as the City Administrator or Council may from time to time determine.

(Ord. 213, passed 5-21-1941; Ord. 213-A, passed 12-3-1956; Ord. 213-B, passed 5-4-1959; Ord. 213-C, passed 2-8-1960; Ord. 403, passed 7-13-1987)

### **§ 31.22 MUNICIPAL JUDGE.**

The Municipal Judge shall be appointed by the Mayor, with prior approval of the City Council, for an indefinite term, and may be removed from office by the Council with 30 days' written notice setting forth the reasons for removal. In addition to the powers and duties set out in the Charter for the Municipal Judge, he or she shall keep a full and complete record of the proceedings held before him or her, both civil and criminal, and he or she shall account to the City Recorder and Treasurer for all costs and fines levied by him or her.

(Ord. 213, passed 5-21-1941; Ord. 213-A, passed 12-3-1956; Ord. 213-B, passed 5-4-1959; Ord. 213-C, passed 2-8-1960; Ord. 403, passed 7-13-1987)

***CHIEF OF POLICE; CITY ATTORNEY; STREET COMMISSIONER*****§ 31.40 CHIEF OF POLICE.**

(A) There is hereby created the Office of Chief of Police whose duty it shall be to see that the ordinances of the city are strictly enforced. He or she shall promptly serve all processes issued to him or her out of the Municipal Court or coming into his or her hands from any other competent legal authority. He or she shall exercise a careful surveillance over all vagrants, tramps, suspicious or idle persons loitering about the city. He or she shall be the general peace officer of the city, and as such shall arrest on complaint, or otherwise, anyone violating the city ordinances, or laws of the state, or anyone guilty of a breach of the peace. He or she shall be under the supervision of the Mayor and perform other duties as the Mayor or Council may from time to time determine.

(B) He or she shall give a bond for the faithful performance of his or her duties in the sum as the Council may, by ordinance, require.

(Ord. 214, passed 5-21-1941; Ord. 293, passed 10-21-1974)

**§ 31.41 CITY ATTORNEY.**

There is hereby created the Office of City Attorney who shall represent the city in all legal matters. He or she shall attend to all actions, suits and legal proceedings in which the city may be a party or have a vital interest, advise the Council or its members, when required, on any legal question that may arise which involves the interests of the city, draw and prepare the city ordinances when requested by members of the Common Council and, when requested, furnish an opinion to city officials pertaining to the duties of their respective offices.

(Ord. 214, passed 5-21-1941; Ord. 293, passed 10-21-1974)

**§ 31.42 STREET COMMISSIONER.**

(A) There is hereby created the Office of Street Commissioner, who shall see that the streets and sidewalks are kept in repair and free from all obstructions and rubbish which in any manner may affect the health, safety or convenience of the inhabitants of the city. In performing the duties, he or she shall first notify the abutting property owner personally, or by registered mail, of the disrepair, obstruction or rubbish, and if the same is not remedied within 48 hours after service of the notice to the property owner, the Street Commissioner shall have the same corrected and the cost of the same shall become a lien against the property.

(B) He or she shall superintend the building of all sidewalks ordered by the Council and not constructed by the property owners. When ordered by the Council, he or she shall open or improve any public street or alley and build or erect any sidewalks or crosswalks at the expense of the city. For that purpose, on behalf of the city, he or she may contract for the purchase of the necessary material for the improvements or repairs, employ necessary labor and build the same. Bills for the construction, endorsed

“ Correct” by the Street Commissioner, shall be presented to the Council for payment by the parties furnishing the material or performing the labor. He or she shall supervise and direct the laying of all water mains or water pipes, telegraph or telephone poles and wires upon or under the streets or alleys of the city. He or she shall make the necessary water connections for prospective users when requested by the Water Commissioner. He or she shall perform the other duties as the Mayor or Council may from time to time determine.

(C) He or she shall give a bond for the faithful performance of his or her duties in the sum as the Council may by ordinance require.

(Ord. 214, passed 5-21-1941; Ord. 293, passed 10-21-1974)

### ***CITY ADMINISTRATOR***

#### **§ 31.60 OFFICE CREATED.**

There is hereby created the office of City Administrator of the city of Union, Oregon. The Administrator shall have general supervision, direction, and control over all non-elective officers and employees of the city in the exercise of their duties, and of the work of all city departments, other than the office of Municipal Judge, which is specifically exempted from the operation of this subchapter.

(Ord. 402, passed 7-13-1987)

#### **§ 31.61 POWERS AND DUTIES.**

The powers and duties of the Administrator shall be as follows:

(A) To attend all meetings of the Council, unless excused by the Council or Mayor; to attend meetings of the individual Council committees, if requested by the committee; and to make reports, upon request of the Council, of all the affairs and departments of the city. The Administrator shall be directly responsible to the City Council as an entity.

(B) To act as purchasing agent for all departments of the city.

(C) To ensure that all laws and ordinances are enforced, except the provisions of any laws or ordinances which involve criminal violation; the responsibility in these cases shall be the duty of the police department. To administrator and enforce the policies, rules, procedures, and resolutions duly adopted by the Mayor and Council, and to make such recommendations concerning the affairs of the city as deemed desirable. The Administrator has no vote in the deliberations of the Council.

(D) To be responsible for preparing the general operating budget of the city.

(E) To meet with private citizens and interested groups seeking information or bringing complaints and to attempt to resolve problems and complaints fairly or report them to the City Council.

(F) To prepare the official agenda of the City Council meetings.  
(Ord. 402, passed 7-13-1987)

**§ 31.62 SUPERVISION.**

The Administrator shall have, in exercising general charge, supervision and control over all non-elective city employees and their work. The City Council may, by motion, resolution, or ordinance, provide rules under which the Administrator shall exercise general supervision. The Administrator shall report to the Mayor and City Council, for their action only, any recommendations for hiring and discharging employees; except that the Administrator is granted the power to hire additional temporary employees whose services are necessary in the event of emergency.  
(Ord. 402, passed 7-13-1987)

**§ 31.63 TERM.**

The Administrator shall be appointed for an indefinite term and may be removed at the pleasure of the Council, upon 30 days' written notice setting forth the reasons for removal. The Administrator shall also give the City Council 30 days' written notice of resignation from the office.  
(Ord. 402, passed 7-13-1987)

**§ 31.64 SEATS AT COUNCIL MEETINGS.**

The Administrator and such other officers as the Council designates shall be entitled to sit with the Council. The Administrator may take part in all Council discussions.  
(Ord. 402, passed 7-13-1987)

**§ 31.65 EXPENDITURE OF CITY FUNDS.**

No individual member of the City Council, or the Mayor, may in any manner, directly or indirectly, require the Administrator to undertake projects requiring the expenditure of city funds or materials. The Administrator may only undertake projects that fall under the parameters of his or her job description without a majority vote of the City Council.  
(Ord. 402, passed 7-13-1987)

**§ 31.66 COMPENSATION.**

The compensation of the Administrator shall be fixed and determined by action of the City Council from time to time.

(Ord. 402, passed 7-13-1987)

## CHAPTER 32: CITY ORGANIZATIONS

Section

### *Library Board*

- 32.01 Membership
- 32.02 Term of office
- 32.03 Compensation limitations
- 32.04 Officers; meeting times and places
- 32.05 General powers

### *Volunteer Fire Department*

- 32.20 Created
- 32.21 Membership
- 32.22 Compensation
- 32.23 Claims payments

### *City Planning Commission*

- 32.40 Created
- 32.41 Membership
- 32.42 Terms of office; vacancies
- 32.43 Officers
- 32.44 Secretary
- 32.45 Quorum
- 32.46 Rules and regulations; special meetings
- 32.47 Staff; expenses
- 32.48 Duties and powers
- 32.49 Recommendations in writing
- 32.50 Expenditures

***LIBRARY BOARD*****§ 32.01 MEMBERSHIP.**

The Mayor shall, with City Council approval, appoint a Library Board consisting of five members, three of which shall reside within the city limits of Union, Oregon. In addition, one Council member or city official shall serve as an ex-officio member of the Board.

(Ord. 323, passed 11-14-1977; Ord. 368, passed 12-12-1983)

**§ 32.02 TERM OF OFFICE.**

(A) Members of the Library Board at the time of enactment of this subchapter shall hold office as follows:

- (1) One member shall initially hold office for one year;
- (2) One member shall initially hold office for two years;
- (3) One member shall initially hold office for three years; and
- (4) Two members shall initially hold office for four years.

(B) All terms shall commence from July 1, in the year appointed.

(C) Succeeding appointees shall hold office for a term of four years from July 1 in the year of their appointment. At the expiration of the term of any member of the Board, the Mayor, with City Council approval, shall appoint a new member or may reappoint a member for a term of four years.

(D) No person shall hold appointment as a member for more than two full consecutive terms, but any person may be appointed again to the Board after an interval of one year.

(E) Any vacancy shall be filled for the remainder of the unexpired term as original appointments are herein provided.

(Ord. 323, passed 11-14-1977) Penalty, see § 10.99

**§ 32.03 COMPENSATION LIMITATIONS.**

No member of any public Library Board, or the body appointing the Board, shall have any financial interest, either directly or indirectly, in any contract to which the library is a party, nor shall receive a salary or any payment for material or for services rendered the Board. Board members may be reimbursed for expenses incurred in the performance of their duties.

(Ord. 323, passed 11-14-1977)

**§ 32.04 OFFICERS; MEETING TIMES AND PLACES.**

The Board shall elect a Chairperson and other officers as it deems necessary at its first meeting after July 1 of each year. The librarian shall serve as Secretary of the Board and keep the books, records and minutes of its meetings. The Board shall fix its normal meeting time and place and adopt the rules as it deems necessary to conduct its business consistent with this subchapter.

(Ord. 323, passed 11-14-1977)

**§ 32.05 GENERAL POWERS.**

The Library Board shall:

(A) Assist the City Council and City Administrator in the selection of the librarian and staff, make recommendations as to their compensation, working conditions and prescribe their duties;

(B) Consult with and advise the librarian, City Administrator and City Council on all matters affecting operational policy of the library and use of the buildings and grounds;

(C) Prepare and submit an annual budget request to the City Administrator and Budget Committee;

(D) Accept and expend any real or personal property or funds donated to the library in accordance with the terms of the donation. All other funds or property shall be administered by the City of Union;

(E) Shall make recommendations to the City Council in the selection of future sites for libraries, library facilities and all matters pertaining to the maintenance and improvement of the city library;

(F) Shall not enter into any contract without prior approval of the City Council;

(G) Will submit an annual report of operations to the City Council and the Oregon State Library; and

(H) Perform other related duties as requested by the City Administrator or the City Council.

(Ord. 323, passed 11-14-1977)

***VOLUNTEER FIRE DEPARTMENT*****§ 32.20 CREATED.**

The City Council of the City of Union is hereby authorized to organize and maintain a volunteer Fire Department for the purpose of protection of life and property from destruction by fire, to be known as the Union Volunteer Fire Department and to acquire fire-fighting equipment so as to reasonably provide the protection and to promulgate the rules as the City Council may deem advisable for its government.  
(Ord. 297, passed 10-21-1974)

**§ 32.21 MEMBERSHIP.**

The Fire Department shall consist of a Fire Chief and an adequate number of officers and firefighters to efficiently combat fires and operate fire-fighting equipment.  
(Ord. 297, passed 10-21-1974)

**§ 32.22 COMPENSATION.**

The volunteer Fire Department shall be paid for its services by the tenth of the month following the date the services were rendered at a rate mutually agreed upon by the Council and the Fire Department, but not to exceed \$4,000 in any one fiscal year.  
(Ord. 297, passed 10-21-1974)

**§ 32.23 CLAIMS PAYMENTS.**

It shall be the duty of the Fire Chief or his or her designate to approve all claims for services and turn the claims over to the City Recorder on or before the fifth of the month following the month of service. Approved claims shall be paid in the same manner as other claims against the City of Union are paid.  
(Ord. 297, passed 10-21-1974)

***CITY PLANNING COMMISSION*****§ 32.40 CREATED.**

There is hereby created a City Planning Commission (hereinafter referred to as “ the Commission”) for the City of Union, Oregon.  
(Ord. 259, passed 4-11-1966)

**§ 32.41 MEMBERSHIP.**

(A) The Planning Commission of the City of Union shall consist of seven members to be appointed by the Mayor, not more than two of whom shall be nonresidents of the City of Union.

(B) Not more than two members of the Planning Commission may be city officers, who shall serve as ex-officio members.

(Ord. 259, passed 4-11-1966; Ord. 344, passed 1-14-1980)

**§ 32.42 TERMS OF OFFICE; VACANCIES.**

At the first meeting of the Commission, the seven appointed members shall choose their term of office by lot as follows: one to serve until the regular Council meeting of January 1968, two to serve until the regular Council meeting of January 1969 and two to serve until the regular Council meeting of January 1970. Their successors shall hold office for four years. Any vacancy shall be filled by appointment of the Mayor for the unexpired portion of the term.

(Ord. 259, passed 4-11-1966)

**§ 32.43 OFFICERS.**

The Commission, at its first meeting, shall elect a President and a Vice-President who shall be members appointed by the Mayor and who shall thereafter hold office during the pleasure of the Commission.

(Ord. 259, passed 4-11-1966)

**§ 32.44 SECRETARY.**

The Commission shall elect a Secretary who need not be a member of the Commission. The Secretary shall keep an accurate record of all Commission proceedings. The Commission shall, on December 1 of each year, make and file with the City Recorder a report of all its transactions.

(Ord. 259, passed 4-11-1966)

**§ 32.45 QUORUM.**

Four members of the Commission shall constitute a quorum. At least three members appointed by the Mayor shall at all times constitute a part of the quorum.

(Ord. 259, passed 4-11-1966; Ord. 344, passed 1-14-1980)

**§ 32.46 RULES AND REGULATIONS; SPECIAL MEETINGS.**

(A) The Commission may make and alter rules and regulations for its government and procedure consistent with the laws of this state and with the City Charter and city ordinances.

(B) It shall meet at the times and at the places as may be fixed by the Commission or as is requested by the City Council. Special meetings may be called at any time by the President or by three members by written notice served upon each member of the Commission at least three hours before the time specified for the proposed meeting.

(Ord. 259, passed 4-11-1966)

**§ 32.47 STAFF; EXPENSES.**

The Commission may employ consulting advice on municipal problems, a Secretary and the Clerks as may be necessary and pay for their services and for the other expenses as the Commission may lawfully incur, including the necessary disbursements incurred by its members in the performance of their duties as members of the Commission, as authorized by the City Council.

(Ord. 259, passed 4-11-1966)

**§ 32.48 DUTIES AND POWERS.**

The Commission shall have all the powers which are now or hereafter granted to it by the ordinances of this city or by general laws of the State of Oregon. The Commission shall control the subdivision of land and may make recommendations to the City Council, to public officials and to individuals regarding land use, location of thoroughfares and streets, public buildings, parks and other public facilities and regarding any other matter relating to the planning and development of the city and the surrounding area. The Commission may make studies, hold hearings and prepare reports and recommendations on its own initiative or at the request of the City Council.

(Ord. 259, passed 4-11-1966)

**§ 32.49 RECOMMENDATIONS IN WRITING.**

All recommendations and suggestions made to the City Council by the Commission shall be in writing.

(Ord. 259, passed 4-11-1966)

**§ 32.50 EXPENDITURES.**

The Commission shall have no authority to make expenditures on behalf of the city, or to obligate the city for the payment of any sums of money, except as herein provided, and then only after the City Council shall have first authorized the expenditures by appropriate ordinance (or resolution), which ordinance (or resolution) shall provide the administrative methods by which the funds shall be drawn and expended. (Ord. 259, passed 4-11-1966)



## CHAPTER 33: CIVIL EMERGENCIES AND EMERGENCY MANAGEMENT

### Section

33.01 Prohibiting the improper use of 9-1-1

33.02 Succession of emergency authority and declaring an emergency

33.99 Penalty

### § 33.01 PROHIBITING THE IMPROPER USE OF 9-1-1.

(A) *Purpose.* The purpose of this section is to reduce abuse and deliberate misuse of the 9-1-1 emergency telephone system and to ensure the availability of 9-1-1 and other emergency telephone lines for the reporting of true emergencies, so that personnel and equipment may be available for use in true emergency situations.

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

**9-1-1.** A three-digit telephone number assigned for use by the public in reporting an emergency situation or summoning emergency assistance from a public safety agency.

**AUTOMATIC DIALING AND ANNOUNCING DEVICE.** An electronically- or mechanically-operated instrument which automatically dials telephone numbers it has been programmed to dial and which plays a prerecorded message when answered.

**AUTOMATIC PROTECTION DEVICE.** An electronically- or mechanically-operated instrument that automatically signals or sends by any means (including direct or indirect connection to regular telephone lines) pictures, sound, odor or a prerecorded message, either by voice or other alarm, from a protected premises upon receipt of a stimulus from a sensory detection apparatus. **AUTOMATIC PROTECTION DEVICES** include any audible alarm or light signaling device attached to the interior or exterior of a protected premises.

**EMERGENCY.** Any situation which involves an immediate threat to property or person.

**INTENTIONALLY.** Is defined in O.R.S. 161.085.

**PUBLIC SAFETY AGENCY.** Any sheriff, police, fire or emergency medical entity operating within Union County.

(C) *Improper use.* No person shall make improper use of emergency telephone system by:

(1) Knowingly or intentionally dialing the 9-1-1 number for any purpose other than to report an event which the caller reasonably believes to be an emergency;

(2) Knowingly or intentionally programming and activating an automatic dialing and announcing device or an automatic protection device which results in the transmission of a prerecorded message to a public safety agency via 9-1-1; and

(3) Knowingly allowing telephone equipment to be used in violation of divisions (C)(1) and (2) above.

(Ord. 425, passed 1-14-1991) Penalty, see § 33.99

**§ 33.02 SUCCESSION OF EMERGENCY AUTHORITY AND DECLARING AN EMERGENCY.**

(A) *Vesting of authority; order.* In civil defense or other emergency matters requiring immediate action in behalf of the City of Union, authority to so act shall vest in the following officials in the following order:

- (1) Mayor;
- (2) President of the Council;
- (3) Chairperson of Police Committee;
- (4) Chairperson of Fire Department and Ambulance Finance Committee;
- (5) Public Relations Committee;
- (6) Street Committee; and
- (7) Water and Sewer Committee.

(B) *Succession.* In the event that the Mayor is unavailable in any emergency or civil defense matter, then the next available city official, in the order specified in division (A) above, shall succeed to the powers and duties of the Mayor in taking the required emergency action.

(Ord. 278, passed 12-8-1969)

**§ 33.99 PENALTY.**

(A) *General.* Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) *Improper use of 9-1-1.* Improper use of 9-1-1 is a Class A infraction and is punishable upon conviction by a fine of not more than \$500. A separate infraction is deemed to occur on each calendar day the infraction continues to exist and a separate citation may be filed for each infraction.  
(Ord. 425, passed 1-14-1991)



## CHAPTER 34: TRIALS AND ELECTIONS

Section

### *Right of Trial by Jury*

- 34.01 Right to trial by jury
- 34.02 Number of jurors
- 34.03 Qualification of jurors
- 34.04 Jury list
- 34.05 Jury box
- 34.06 Selection of jury
- 34.07 Summoning the jury
- 34.08 Challenges
- 34.09 Conduct of trials
- 34.10 Verdicts
- 34.11 Payment of jurors
- 34.12 Costs and disbursements
- 34.13 Penalty for failure of juror to appear

### *City Elections*

- 34.30 Election procedure
- 34.31 Candidates' declaration of intention
- 34.32 Special elections

### ***RIGHT OF TRAIL BY JURY***

#### **§ 34.01 RIGHT TO TRIAL BY JURY.**

No person charged with a violation defined and made punishable by the City Charter or any ordinance of the City of Union shall have the right to trial by jury unless the such is required by state law, the Oregon Constitution or the Constitution of the United States of America. In the event that a person charged has a right to trial by jury, the court shall so inform the person charged and advise of the requirements of this section for the exercise of that right. Absent good cause being shown to the

Municipal Judge, the right to a jury shall be deemed waived unless the person charged gives written notice of the desire for a jury to the Municipal Court at least 30 calendar days prior to the trial date set by the Municipal Court.

(Ord. 253, passed 2-8-1960; Ord. 294, passed 10-21-1974; Ord. 498, passed 12-12-2005)

#### **§ 34.02 NUMBER OF JURORS.**

The jury shall consist of six persons duly sworn to try the cause for which they are called, and the jurors shall be selected as hereinafter provided.

(Ord. 253, passed 2-8-1960)

#### **§ 34.03 QUALIFICATION OF JURORS.**

In order to act as a juror in the Municipal Court of the City of Union, Oregon, a person must have the qualifications prescribed in O.R.S. Chapter 10 and, in addition thereto, must be an inhabitant and registered voter within the City of Union at the time when he or she is summoned.

(Ord. 253, passed 2-8-1960)

#### **§ 34.04 JURY LIST.**

Upon passage of this subchapter, and on the first Monday in January of each year hereafter, the Municipal Judge of the City of Union, together with the City Recorder and Mayor, shall meet and make a list containing the names of not less than 50 persons who are the most competent of the permanent citizens of the city by selecting names by lot from the voters registration list used at the last preceding city election. The list, so selected, shall be known as a preliminary jury list. The Municipal Judge, Recorder and Mayor shall then delete from the preliminary jury list the names of those persons known not to be qualified by law to serve as jurors, and the remaining shall constitute the jury list. The jury list shall contain the Christian name and the surname, place of residence and occupation of each person named therein and shall be certified by the City Recorder and placed on file in his or her office within ten days from the time it is prepared. If, for any reason, the making of a jury list is omitted and neglected on the first Monday in January of any year, it may be done on the first Monday of any month following, to serve until the close of the year.

(Ord. 253, passed 2-8-1960)

**§ 34.05 JURY BOX.**

(A) The Recorder shall keep in his or her office a sufficient box, carefully secured, which is known as the jury box.

(B) After he or she has filed the jury list in his or her office, the Recorder shall prepare and deposit in the box separate ballots containing the name, place of residence and occupation of each person embraced in the jury list, and folded as nearly alike as practicable so that the name cannot be seen.

(Ord. 253, passed 2-8-1960)

**§ 34.06 SELECTION OF JURY.**

(A) When a jury trial is demanded in the Municipal Court of the City of Union, the Municipal Judge, no later than two weeks before trial, shall draw from the jury box, in the presence of the defendant or his or her attorney and the City Attorney, 14 ballots containing the names of individuals who are deemed able to attend at the time and place required. The Municipal Judge shall make and sign a list of the 14 names thus drawn. If it appears to the Municipal Judge that a person whose name is drawn is deceased or resides outside the city, the ballot must be destroyed. If it appears to the Municipal Judge, or he or she has good reason to believe, that a person whose name is drawn is temporarily absent from the city or is unwell or so engaged as to be unable to attend at the time and place required without great inconvenience, the ballot must be laid aside, without the name thereon being entered on the list drawn, and returned to the jury box when the drawing is completed.

(B) When the aforesaid list of 14 names is completed, the city, and the defendant, by his or her representatives, may select a jury by each striking from the list three names alternately, commencing with the defendant. Either party may waive his or her right to be present. The remaining eight names shall be summoned as jurors in the cause. If more than eight names remain after the striking process, or if a party waives his or her right to be present to strike from the list, then the first eight names remaining unchallenged shall be summoned as jurors.

(Ord. 253, passed 2-8-1960; Ord. 348, passed 7-14-1980)

**§ 34.07 SUMMONING THE JURY.**

(A) The names of the eight jurors selected as provided in the preceding section shall be inserted in an order to summon a jury.

(B) The order shall require each juror to appear before the Municipal Judge at the time set for the trial of the cause.

(C) The Municipal Judge shall sign and transmit this order to the Chief of Police.

(D) The Chief of Police or his or her delegate shall summon the eight persons so drawn and listed to serve as jurors by notifying them either by regular mail or by telephone.

(E) The Chief of Police shall certify to the Municipal Judge that these individuals have been served, and the method and date of service.

(F) If any of those eight persons are unable, for good cause shown, to serve as jurors, the Municipal Judge shall draw another name from the jury box to replace that person.

(G) Summons shall be in the same fashion as set forth above.  
(Ord. 253, passed 2-8-1960; Ord. 348, passed 7-14-1980)

#### **§ 34.08 CHALLENGES.**

At the time of trial, six persons shall be drawn to constitute the jury for trial of the cause then pending before the Municipal Court. Neither party shall be entitled to a peremptory challenge as to any six jurors, but if any of the six jurors is found to be disqualified by challenge for cause, his or her place on the jury shall be filled by drawing one of the remaining persons summoned to jury duty.  
(Ord. 253, passed 2-8-1960; Ord. 348, passed 7-14-1980)

#### **§ 34.09 CONDUCT OF TRIALS.**

Trials shall be conducted as trials in justice courts, and the rules of evidence shall be the same as in state courts and shall include applicable statutes of the State of Oregon regarding the introduction or admission of evidence.  
(Ord. 253, passed 2-8-1960)

#### **§ 34.10 VERDICTS.**

All six of the jurors sworn to try the cause must concur to render a verdict.  
(Ord. 253, passed 2-8-1960; Ord. 294, passed 10-21-1974)

#### **§ 34.11 PAYMENT OF JURORS.**

Those jurors notified and who appear at trial shall receive compensation from the City of Union in the amount of \$5 for each day of attendance upon the Municipal Court.  
(Ord. 253, passed 2-8-1960)

#### **§ 34.12 COSTS AND DISBURSEMENTS.**

In all cases tried in the Municipal Court, the Municipal Judge shall add the costs and disbursements to the fine, penalty or sentence imposed in a sum not less than \$5.  
(Ord. 253, passed 2-8-1960; Ord. 294, passed 10-21-1974)

**§ 34.13 PENALTY FOR FAILURE OF JUROR TO APPEAR.**

Any person notified to appear and serve as juror and who shall disregard the notice and fail to appear may be adjudged in contempt of court by the Municipal Judge and be fined a sum not exceeding \$15.  
(Ord. 253, passed 2-8-1960)

***CITY ELECTIONS***

**§ 34.30 ELECTION PROCEDURE.**

All city elections shall be held in accordance with the City Charter and the laws of the State of Oregon.  
(Ord. 217, passed 5-19-1941)

**§ 34.31 CANDIDATES' DECLARATION OF INTENTION.**

(A) Any qualified elector of the City of Union shall be entitled to run for the Office of Mayor or the Office of Councilperson; provided, however, that not later than 15 days before the date of the election, the candidate shall file with the City Recorder a declaration of his or her intention to run for either the Office of Mayor or that of Councilperson.

(B) Any candidate for the Office of Mayor or Councilperson may, upon written request, withdraw his or her candidacy, provided the request is filed with the Recorder at least 15 days prior to the date of the election. The candidate receiving the highest number of votes for the Office of Mayor shall be declared elected to that office, and the three candidates receiving the three highest votes for the Office of Councilperson shall be declared elected to that office.  
(Ord. 217, passed 5-19-1941)

**§ 34.32 SPECIAL ELECTIONS.**

The Council may, by resolution or ordinance, call and provide for special elections and shall call special elections on ordinances or Charter amendments when proposed by initiative or referendum petition; provided, that no special election shall be called less than 90 days before any regular or primary election.  
(Ord. 217, passed 5-19-1941)



## CHAPTER 35: CIVIL VIOLATION PROCEDURES

### Section

35.01 Title

35.02 Purpose

35.03 Authority

35.04 Application

35.05 Definitions

35.06 Violation procedure

35.07 Schedule of forfeitures and fines; Court cases

35.08 Enforcement

35.09 Repeal of existing ordinance penalty provisions; inapplicability of O.R.S. penalties for traffic violations

### § 35.01 TITLE.

This chapter may be cited as the “ City of Union Civil Violations Ordinance”, “ Civil Violations Ordinance” or “ Ord. 359”.

(Ord. 359, passed 8-27-1981; Ord. 476, passed 1-14-2002)

### § 35.02 PURPOSE.

The purpose for establishing civil violation procedures is to decriminalize penalties for violations of certain ordinances and traffic violations, and to provide a more convenient and practical forum for the civil hearing and determination of cases arising out of the ordinance and traffic violations.

(Ord. 359, passed 8-27-1981; Ord. 476, passed 1-14-2002)

### § 35.03 AUTHORITY.

(A) The authority to establish these procedures is granted pursuant to the home rule powers of Article IV, § I and Article XI, § 2 of the Oregon Constitution, by Chapter II of the Union City Charter and by O.R.S. Chapter 153. This chapter hereby establishes a procedure to handle violations of certain city ordinances and traffic violations, subject to the provisions contained in subsequent sections.

(B) When the Oregon Constitution, City Charter, Oregon Revised Statutes or Oregon Administrative Rules relating to ordinance violations or traffic violations are enacted, amended or repealed, mandatory city or state laws and rules shall apply from the time they are effective and shall be amended into this chapter at the earliest possible time.

(Ord. 359, passed 8-27-1981; Ord. 476, passed 1-14-2002)

#### **§ 35.04 APPLICATION.**

The civil violation procedure prescribed by this chapter applies to, and hereby amends the following Union City sections: §§ 90.01, 90.02, 92.40 through 92.48, 130.01, Ord. 230, relating to transient merchants, §§ 110.040 through 110.058, 112.25 through 112.38, 112.01 through 112.09, Ord. 303, relating to the State Building Code, §§ 91.01 through 91.11, Chapter 131, 70.01 through 70.07 and to traffic violations set forth in Oregon Revised Statutes as violations.

(Ord. 359, passed 8-27-1981; Ord. 476, passed 1-14-2002)

#### **§ 35.05 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

***CITY VIOLATION.*** An offense against the City of Union in the form of a violation of one of the city ordinances identified in § 35.04, or any traffic violation described in Oregon Revised Statutes as a traffic violation (previously known as an infraction) constitutes a city violation and shall be handled in accordance with the procedures established by this chapter. When a violation is of a continuing nature, a separate violation will be deemed to occur on each calendar day the violation continues to exist and a separate citation may be filed for each violation.

***DEFAULT JUDGMENT.*** A decision or judgment made by the Municipal Judge, and entered into the Municipal Court records when a person fails to appear for a scheduled Court hearing, whereby the person is found by default to be responsible for, or guilty of the alleged violation, and including any forfeitures, fines or other penalties authorized by law assessed as part of the judgment.

#### ***FORFEITURE; FINE; FORFEITURE AND FINE SCHEDULE.***

(1) The penalty to be imposed for a civil violation shall be a forfeiture or fine, or any other penalty authorized by law, or combination thereof. A forfeiture is a monetary penalty, where the violation is not contested and the forfeiture is paid prior to the scheduled Court date. A fine is a monetary penalty administered by the Municipal Court Judge after a Court hearing contesting the alleged violation in which the person cited is found guilty or responsible for the violation.

(2) The procedure prescribed by this chapter shall be the exclusive procedure for imposing a forfeiture or fine; however, this section shall not be read to prohibit in any way, any other alternative remedy set out in ordinances covered by this violation procedure which is intended to abate or alleviate

ordinance violations, or traffic 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 the ordinances.

**PERSON.** Any person, firm, partnership, corporation or association of persons.  
(Ord. 359, passed 8-27-1981; Ord. 476, passed 1-14-2002)

### § 35.06 VIOLATION PROCEDURE.

(A) *Reporting.* All reports of violations covered by this chapter shall be made to the Municipal Court Judge or his or her designee, the City Administrator or his or her designated representative, as applicable.

(B) *Prior written notice.*

(1) When a violation of a city ordinance covered by this procedure is brought to the attention of the City Administrator or his or her designated representative, or an ordinance or traffic violation is brought to the attention of the Municipal Judge or his or her representative, either the City Administrator or the Municipal Judge, as applicable, may determine that the person be given written notice of the violation and allowed a specified length of time in which the violation may be remedied, before further action is taken. The notice shall be signed by the City Administrator or his or her designated representative, or by the Municipal Judge, as applicable, and hand-delivered to the person, or shall be sent by certified or registered, return-receipt mail.

(2) The notice shall contain the following information:

(a) A brief and concise description of the nature of the violation with reference to the specific state law or ordinance and provision(s) thereof alleged to be in violation;

(b) Sufficient factual information to identify the violation with the person cited;

(c) A statement declaring what action is necessary by the cited person to remedy the violation prior to the date set forth in the statement by which the remedy must be completed or begun, and setting aside the Court date;

(d) A statement advising the person that if the required remedy or abatement is not completed or commenced within the time specified, a civil complaint will be filed in the City of Union, Municipal Court and a summons will be issued for the person to appear to answer the complaint. The person shall be advised that a forfeiture in the maximum amount scheduled could be imposed for the violation if the person fails to appear before the Court to answer the summons, and that a fine will be assessed for failure to appear. A person may be cited into Circuit Court with the accompanying reports; and

(e) The person cited for the violation shall, in writing, notify the City Administrator or Municipal Judge, as applicable, of the reason or reasons for denying his or her fault in the violation. After reviewing the reason(s) for denying the fault, the City Administrator or his or her designee, or Municipal Judge, as applicable, will provide written notice either excusing the person from further violation procedures, or re-affirming the violation and the procedures to be followed as set forth under division (C) below.

(C) *Uniform citation (UC); complaint or summons.*

(1) (a) If a person receiving a prior written notice fails to comply with the provisions set out in the written notice, a uniform violation citation and/or complaint signed by the City Administrator or his or her designated representative, or the by the Municipal Judge or his or her designated representative, shall be filed with the Municipal Court charging the person with a civil violation and setting a date for the person to appear before the Municipal Court to answer the complaint.

(b) Any current, accepted uniform citation approved by the State of Oregon for Circuit Court, or any summons or citation to appear printed by the city may be used for Municipal Court. The context and information contained on the citation will be sufficient to identify the person cited, his or her current address, the location of the offense and the type of offense. A police report may be submitted to supplement the citation in certain cases.

(2) If the person alleged to have committed the violation denies part or all of the violation, the person may request a hearing by following the instructions and completing the appropriate option on the back of the summons, and then forwarding the summons to the Municipal Court. Upon receipt of the summons, the plea shall be entered and a hearing date will be set by the Municipal Court.

(3) A person may be represented by legal counsel, but legal counsel shall not be provided at public expense. If legal counsel is to appear to defend the person, written notice that the person intends to have legal counsel present shall be provided to the Municipal Court at least five days prior to the hearing date, excluding weekends and holidays.

(4) The city shall have the burden of proving the alleged ordinance or traffic infraction violation by a preponderance of the evidence.

(5) After due consideration of the evidence and arguments presented at the hearing, the Municipal Court Judge shall determine whether the violation as alleged in the citation or complaint has been proven or established.

(a) When the violation has not been sufficiently proven or established, an order dismissing the violation shall be entered in the Municipal Court records.

(b) When a determination is made that a violation has been proven or established, or if an answer admitting the violation is received by the Court, an appropriate order shall be entered in the Municipal Court records. A copy of the order shall be delivered personally or by mail to the person named in the order. When a violation has been proven or established, the order shall include a brief statement of the necessary findings of fact to establish the alleged violation.

(c) Unless otherwise provided by ordinance, upon finding that a violation has occurred, the Municipal Court Judge shall impose a fine for costs, assessments or restitution up to the maximum shown on the appropriate schedule established in accordance with this chapter, plus Court costs. The Municipal Court Judge may waive or suspend a fine, impose community service in lieu of part, or all of a fine, or impose any other sentence authorized by law. In no case where a violation is found to have occurred shall any amount of the Court fees be waived or suspended.

(6) There shall be no administrative appeal or legal review from a determination by the Municipal Court of the violation. However, each person assessed a fine under this section shall be advised in writing (to be delivered with the final order disposing of the matter) of the right to appeal to the Circuit Court of Union County, at no public expense.

(Ord. 359, passed 8-27-1981; Ord. 476, passed 1-14-2002)

#### **§ 35.07 SCHEDULE OF FORFEITURES AND FINES; COURT CASES.**

The Union City Council shall adopt, by resolution, a forfeiture and fine schedule for ordinance violations and a separate forfeiture and fine schedule for traffic violations subject to this chapter, in accordance with applicable state or federal statutes. Each schedule shall include an amount for Court fees. The Council may revise the schedules from time to time as the Council determines necessary to comply with statutes, or to offset Court costs.

(Ord. 359, passed 8-27-1981; Ord. 476, passed 1-14-2002)

#### **§ 35.08 ENFORCEMENT.**

(A) In the event a person cited for a violation fails to answer the summons or to appear at a scheduled Court hearing as provided in this chapter, a notice of the failure to appear shall be sent by mail to the person, along with a fine for failure to appear and a notice of default judgment. The notice will contain the facts of the violation and the decision of the Municipal Judge as a default judgment. If the person fails to pay the forfeiture and other fines, the matter will be turned over to a collection agency. In its sole discretion, the Court may, where circumstances warrant, provide a person with additional opportunity to address the Court, prior to issuing a default judgment.

(B) In the case of a default judgment that involves a real property violation, the City Administrator, or his or her designated representative, may take steps to secure a city lien against the real property, rather than referring the matter to a collection agency. The amount of the judgment shall be collected in the same manner as other debts owed to the city.

(C) In the case of a traffic violation, there shall be a suspension of driving privileges for failure to appear, or to pay fines. Failure to pay a fine, or fines, will be handled through civil collection.

(D) A police officer may, at his or her discretion, cite a person into Circuit Court for a traffic violation, rather than into Municipal Court.

(Ord. 359, passed 8-27-1981; Ord. 476, passed 1-14-2002)

**§ 35.09 REPEAL OF EXISTING ORDINANCE PENALTY PROVISIONS;  
INAPPLICABILITY OF O.R.S. PENALTIES FOR TRAFFIC VIOLATIONS.**

The penalty provisions for the ordinances designated in § 35.04 are hereby repealed. The penalty provisions set forth in Oregon Revised Statutes regarding traffic violations and ordinances are replaced pursuant to § 35.07 and O.R.S. 153.025.

(Ord. 359, passed 8-27-1981; Ord. 476, passed 1-14-2002)