

**ORDINANCE NO. 247-20 “ Amended”**

**AN ORDINANCE AMENDING IRRIGON CITY CODE CHAPTER 1-7 TO ESTABLISH A MUNICIPAL COURT, PROVIDE FOR ITS ADMINISTRATION AND ORGANIZATION, AND DEVELOP CITATION PROCEDURES**

WHEREAS, The City of Irrigon (City) does not operate its own municipal court and instead, contracts with Morrow County for municipal court services;

WHEREAS, Section 35 of the City Charter authorizes the City Council to appoint a municipal judge and requires the municipal judge to hold court in the City at such place as the City Council directs;

WHEREAS, the City desires to establish a municipal court, to provide for its administration and organization, and to develop a procedure to issue citations for traffic violations moving vehicle violations and violations of the Irrigon City Code;

NOW THEREFORE, the City Council of Irrigon ordains as follows:

**Section 1. Amendment to Irrigon City Code (ICC) Chapter 7, Sections 1-7.** ICC Chapter 1-7 is hereby repealed in its entirety and replaced with the following language:

1-7-1: JURISDICTION OF MUNICIPAL COURT: The Municipal Court shall have jurisdiction over all violations made punishable under all ordinances of the City and all violations, as defined by ORS 801.557. Any such violation may be tried in the Irrigon Municipal Court. The Municipal Court does not have jurisdiction over misdemeanors or felonies.

1-7-2: MUNICIPAL JUDGE:

A. Appointment and Removal by City Council:

The City Council shall fill the office of Municipal Judge by appointment solely on the basis of qualifications and experience, without regard to political considerations. The City Council shall appoint and remove Municipal Judges by resolution. Cause shall not be required for removal of the Municipal Judge.

B. Qualifications of Municipal Judge:

The Municipal Judge is required to maintain a current active license with the Oregon State Bar and be a member in good standing. If the Municipal Judge does not maintain his license or fails to maintain good standing with the Oregon State Bar, his employment may be terminated immediately with no further compensation due under this contract.

C. Municipal Judge Pro Tempore:

The Municipal Judge is authorized to appoint Municipal Judges Pro Tempore, subject to approval of the City Council, to serve in the absence of the Municipal Judge. All such appointments shall be in writing and shall specify the dates and duration of such appointment. All persons appointed as Municipal Judge Pro Tempore shall possess the qualifications for Municipal Judge listed in Section 1-7-2(B). The Municipal Judge Pro Tempore shall have the same powers and be compensated in the same manner as the Municipal Judge.

D. Powers of Municipal Judge:

1. The Municipal Judge shall have all the inherent and statutory powers and duties of a Justice of the Peace within the jurisdictional limits of the City. The Municipal Judge shall also have such additional powers as may be conferred by ORS Chapter 221, the Irrigon City Charter, and the Irrigon City Code.
2. The Municipal Judge may, by any lawful means, serve orders of the court necessary for the proper conduct thereof and, within the limits set by state law and the Irrigon City Code, may prescribe the fine or forfeiture for violation of any provision of the Irrigon City Code.
3. The Municipal Judge may adopt rules necessary for the prompt and orderly conduct of the business of the Municipal Court. Such rules must be consistent with the provisions of ORS Chapters 153 and any rules adopted by the Oregon Supreme Court pursuant to ORS 153.033.

E. Municipal Court Time and Location:

1. The Municipal Judge shall conduct Municipal Court at such times, dates, and places as agreed to between the City of Irrigon and the Municipal Judge.

1-7-3: VIOLATIONS:

A. Violations Generally:

1. A "violation" means any of the matters that the Municipal Court has jurisdiction over pursuant to Section 1-7-1 of this Chapter.
2. A culpable mental state is not required to establish a violation unless the mental state is part of the code provision, ordinance, or other requirement alleged to have been violated.
3. Each day that a violation continues to exist may, at the discretion of the Municipal Judge, constitute a separate violation.

4. The Municipal Judge shall establish schedules, within the limits prescribed by law and the Irrigon City Code, of the amounts of penalties to be imposed for first, second and subsequent violations, designating each violation specifically or by class. Such schedules shall be subject to approval by the City Council.
5. Any person charged with a violation within the authority of the Municipal Court may plead no contest and pay the penalty established for the violation charged, including any costs and assessments authorized by law.
6. The Municipal Judge may order payment of penalties to be made immediately, within a specified time period, or in specified installments.
7. The Municipal Judge, in his or her discretion, may permit a person to work at community service projects to satisfy penalties for violations at a reasonable hourly rate set by the Municipal Judge.
8. If a person fails to satisfy his or her obligations pursuant to a judgment of the Municipal Court, the City may pursue any of the enforcement options authorized by law, including, but not limited to, placing liens on real property pursuant to ORS 221.351.

B. Violations Bureau:

1. The Municipal Judge may establish a Violations Bureau and designate a clerk of the Municipal Court or any other appropriate person to act as Court Clerk for the Violations Bureau. The Court Clerk shall serve under the direction and control of the Municipal Judge.
2. A Court Clerk may exercise authority over any violation. If the Municipal Judge establishes a Violations Bureau, he or she shall set by order the violations that are subject to the authority of the Clerk. The Municipal Judge shall define the Court Clerk's duties in writing prior to establishment of a Violations Bureau and the Court Clerk shall work under the Municipal Judge's direction and oversight.
3. The Violations Bureau shall operate in the manner provided in ORS 153.800. The Municipal Judge may issue orders to direct the operations of the Violations Bureau, subject to the limitations of ORS 153.800.

1-7-4: CITATIONS

A. Definitions:

1. Enforcement Officer: Any person that the City Manager authorizes to enforce the Irrigon City Code.
2. Responsible Party: The person responsible for curing or remedying a violation. A Responsible Party is the person alleged to have committed, allowed, or authorized the violation. When a violation involves real property,

the property owner, agent of the property owner, or any person occupying or having possession of the property may be a Responsible Party.

B. Citation Required for Municipal Court Jurisdiction:

1. The Municipal Court may only exercise its jurisdiction over a violation after receiving a citation that meets the requirements of this Chapter.
2. Citations under this Chapter must be prepared by an Enforcement Officer.

C. Contact Prior to Citation:

1. All reports or complaints of violations of the Irrigon City Code shall be referred to an Enforcement Officer.
2. The Enforcement Officer has the discretion to investigate the facts and circumstances surrounding any violation reported or otherwise made known to the Enforcement Officer.
3. Before a Enforcement Officer issues a citation for a potential violation of the Irrigon City Code, he or she may contact a responsible party and may give the responsible party a reasonable opportunity to cure or remedy the alleged violation in accordance with the provisions outlined herein and in accordance with any other relevant City procedures or policies. The Enforcement Officer shall document such reasonable opportunities to cure alleged violations.
4. Contact prior to issuance of a citation is solely within the discretion of the Enforcement Officer.
5. If prior contact is made, the Enforcement Officer shall communicate the following information in a Warning Notice to the responsible party:
  - a. Description or identification of the activity constituting the potential violation and identification of the recipient as being the reputed responsible party for the potential violation.
  - b. A statement that the Enforcement Officer has determined the activity to be a violation of the Irrigon City Code.
  - c. A statement of the action required to remedy the violation and the time and/or date by which the remedy must be completed;
  - d. A statement advising that if the required remedy or cure is not completed within the time specified, the Enforcement Officer will issue a citation and that a civil penalty in the maximum amount provided for that particular violation may be imposed.

#### D. Voluntary Compliance Agreement:

1. The City and a Responsible Party, at the City's discretion, may enter into a written compliance agreement to attempt to resolve the alleged violation. Nothing in this Chapter precludes informal resolution without a written agreement. If the City and a Responsible Party enter into a voluntary compliance agreement, the following conditions apply:
  - a. The fact that the Responsible Party enters into such an agreement shall not be considered an admission of having committed an infraction for any purpose.
  - b. The City will not serve or file a citation while a voluntary compliance agreement is in effect and is being complied with. If the terms of the voluntary compliance agreement are satisfied, the City shall take no further action concerning the alleged violation other than those steps necessary to terminate the matter.
  - c. If the voluntary compliance agreement is not complied with, the Enforcement Officer shall issue a citation for the violation that is the subject of the voluntary compliance agreement.

#### E. Form of Citation:

1. The City may use any citation form to inform a Responsible Party of the nature of the alleged violation and the options to respond to the citation. The Enforcement Officer, in his or her discretion, may specify within the citation a period of time available to the Responsible Party to remedy the violation. Any citation that the City uses must include, at a minimum:
  - a. A brief description of the violation;
  - b. Date and location of the violation(s) and the approximate time the violation(s) was observed;
  - c. Code section(s) or ordinance(s) violated;
  - d. Description of the corrective action required;
  - e. A statement explaining that each day the violation continues constitutes a separate violation;
  - f. The amount of the civil penalty imposed for the violation(s), with a notation that civil penalties may continue to accrue until the violation(s) have been remedied;
  - g. The period of time, if any, that the Enforcement Officer provides to the Responsible Party to remedy the violation(s);

- h. Remedies the City may seek for the violation(s);
- i. That any civil penalty, fee, or fine shall be paid to the City within thirty (30) days of its final assessment, the procedure for payment, and the consequences of failure to pay;
- j. A statement indicating that the Responsible Party is entitled to appear at the Municipal Court hearing and is entitled to present arguments and evidence in his or her defense at the hearing;
- k. A statement describing the responsible party's right of appeal;
- l. The signature of the Enforcement Officer who issues the citation.

F. Service of Citation:

1. An Enforcement Officer may personally serve a Responsible Party with a citation by hand-delivering the citation to the person. However, no Enforcement Officer shall unlawfully trespass on private property to deliver a citation; or
2. Service may also be made by mailing a copy of the violation citation, to the Responsible Party's last known mailing address. Service by mail shall be deemed to have occurred three (3) days after mailing within the State of Oregon, and seven (7) days after mailing outside the State of Oregon; or
3. If the alleged violation relates to real property, the violation citation may be served by posting the citation at the main entry to an occupied residence or office on the property if the person to whom the citation is issued is not present. A copy of the citation shall be mailed to the Responsible Person at the mailing address of the property no later than the end of the business day following; or
4. Service may also be made by any means authorized by the Oregon Rules of Civil Procedure.

G. Filing of Citation:

1. The Enforcement Officer shall file the citation and a proof of service with the Municipal Judge or Court Clerk.
2. A violation(s) continues to exist until corrected and verified by the Enforcement Officer. Correction includes, but is not limited to, cessation of the unlawful practice and remediation of the violation(s) in accordance with the Irrigon City Code.
3. If the Responsible Party fails to correct the violation(s) in the period of time specified in the citation, the Municipal Judge may issue a judgment ordering payment of penalties specified in a citation, requiring community service to

work off penalties, or directing any other enforcement method authorized by law and the Irrigon City Code to correct the violation. The order shall inform the Responsible Party that he or she may request a hearing in front of the Municipal Judge, the time, date, and location of the Municipal Court hearing, and a statement indicating that the Responsible Party is entitled to appear the hearing to present arguments or evidence in his or her defense.

4. Service of the order in Section 1-7-4(G)(3) shall be made in the manner provided in Section 1-7-4(F) of the Irrigon City Code.
5. If the Responsible Party does not request a hearing, the order in Section 1-7-4(G)(3) shall be the City's final decision on the matter. If the Responsible Party requests a hearing, the Municipal Judge shall hold the hearing and issue an order afterwards with the City's final decision on the matter.
6. The decision of the Municipal Court shall be final. A Responsible Party may seek judicial review of the municipal court decision by filing a writ of review with a circuit court under ORS Chapter 34.

**Section 2. Severability.** Any provision of this Ordinance which is declared invalid, void, or illegal by a court of competent jurisdiction shall in no way affect, impair, or invalidate any other provision of this Ordinance, and the remaining provisions of this Ordinance shall remain in full force and effect.

**Section 3. Effective Date.** This Ordinance shall take effect on the 30<sup>th</sup> day after its adoption.

ADOPTED this 17th day of August, 2021, by action of the City Council.

CITY OF IRRIGON

By:   
Margaret Anderson, Mayor

ATTESTED:

  
Aaron Palmquist, City Manager