

ORDINANCE BILL NO. 12 FOR 1986

ORDINANCE NO. 947

AN ORDINANCE AMENDING ORDINANCE NO. 876, AND DECLARING AN EMERGENCY.

The City of Sweet Home does ordain as follows:

Section 1. Section 3 of Ordinance No. 876 is amended to read as follows:

Section 3. Notice. When an infraction of a City ordinance covered by this procedure is brought to the attention of the City Manager or other City employe authorized to enforce the provisions of the City ordinance that is believed to have been violated, said person may determine that the responsible party be given written notice of the infraction and allow a specified length of time in which the infraction may be remedied before further action is taken. The notice, signed by one of the above referred to parties, shall be sent by certified or registered mail, return receipt requested, and shall contain in substance the following information:

(1) Sufficient description of the activity in violation to identify the infraction with the recipient of the notice.

(2) A statement that the activity in question has been found to be an infraction with a brief and concise description of the nature of the infraction.

(3) A statement of the action required to remedy the infraction and a date by which the remedy must be completed or begun.

(4) A statement advising that if the required abatement is not completed or commenced within the time specified, a complaint will be filed in the Sweet Home Municipal Court, a summons will be issued for the person to appear to answer the complaint, and that a fine in the maximum amount scheduled could be imposed.

Section 2. Section 4 of Ordinance No. 876 is amended to read as follows:

Section 4. Short Form Citation Authorized.

(a) A citation conforming to the requirements of this section may be used by persons authorized pursuant to Section 6, for the purpose of citing infractions.

(b) The City Manager or his designated representative shall prescribe the form of the Uniform Infraction Citation and Complaint, but it shall consist of at least three parts. Additional parts may be inserted for administrative purposes by those charged with the enforcement of the ordinances. The required parts are:

- (1) The Complaint.
- (2) The City department record.
- (3) The summons.

Section 3. Section 5 of Ordinance No. 876 is amended to read as follows:

Section 5. Contents of the Summons and of the Complaint.

(a) A summons issued pursuant to Section 4 is sufficient if it contains the following:

(1) The name of the Court; the name of the person cited; the date on which the summons was issued; the name of the complainant; and the time and place at which the person cited is to appear in Court.

(2) A statement or designation of the infraction in such manner as can be readily understood by a person making a reasonable effort to do so; and the date and place the infraction is alleged to have occurred.

(3) A notice to the person cited that a complaint will be or has been filed with the Court based on the infraction.

(b) A complaint authorized by Section 4 is sufficient if it contains the following:

(1) The name of the Court; the name of the City in whose name action is brought; and the name of the defendant.

(2) A statement or designation of the infraction in such manner as can be readily understood by a person making a reasonable effort to do so; and the date and place of the alleged infraction.

Section 6. Section 11 of Ordinance No. 876 is amended to read as follows:

Section 11. Trial Without Jury; Commencement, Burden of Proof; Pretrial Discovery; Defendant as Witness; Proof of Culpable Mental State Not Element.

(a) The trial of any infraction shall be by the Court without a jury.

(b) The City shall have the burden of proving the alleged infraction by a preponderance of the evidence.

(c) The pretrial discovery rules in ORS 135.805 to 135.873 apply to infraction cases.

(d) The defendant may not be required to be a witness in the trial of the infraction.

(e) Proof of a culpable mental state is not an element of any infraction.

Section 7. Section 13 of Ordinance No. 876 is amended to read as follows:

Section 13. Appeal. An appeal from a judgment involving an infraction may be taken by either party as provided by ORS 221.350, or any amendments thereto.

Section 8. Section 15 of Ordinance No. 876 is amended to read as follows:

Section 15. Enforcement.

(a) The procedure prescribed by this ordinance shall be the exclusive procedure for imposing fines for violation of the ordinances that are subject to the procedure. However, the City may use other remedies set out in the ordinances covered by this infraction procedure to abate or alleviate ordinance violations and recover expenses thereof.

(b) The Court may hold defendants in contempt of court for failing to comply with its mandates.

(c) Delinquent fines which are assessed against a property owner for infractions occurring on his real property, or for improper use of his real property may be imposed as City liens against said real property by resolution of the City Council and collected in the same manner as other such debts owing to the City.

(3) A verification by the complainant to the effect that the complainant swears or affirms that he has reasonable grounds to believe, and does believe, that the person cited or to be cited committed the infraction.

(c) The complaint shall be set aside by the Court upon motion by the defendant before plea when the complaint does not conform to the requirements of this section. A pretrial ruling on a motion to set aside may be appealed by the City.

(d) Nothing prohibits the Court from amending the citation or any part thereof in its discretion.

Section 4. Section 6 of Ordinance No. 876 is amended to read as follows:

Section 6. Persons Authorized to Sign Complaints.

(a) A complaint provided for in Section 4 may be signed by a police officer, other City employe authorized to enforce the provisions of the City ordinance that is alleged to have been violated, or a private citizen.

(b) The City employe signing the complaint provided for in Section 4 must have reasonable grounds to believe that the person to be charged with the infraction is in actual violation of said ordinance. For issuing a citation under any other conditions, the City employe shall be subject to disciplinary action.

Section 5. Section 7 of Ordinance No. 876 is amended to read as follows:

Section 7. Delivery of the Summons.

(a) The City employe signing the complaint or the Court shall cause the summons to be delivered to the person who is alleged to have violated the ordinance in issue.


(b) Service shall be personal, or by certified or registered mail, return receipt requested.

(c) If the person against whom a complaint is or will be signed is a firm, corporation, or other organization, service of the summons to any managerial employe, agent or representative thereof shall be sufficient to confer jurisdiction.

(d) The City may revoke or deny any City license or permit held or desired by a person owing a fine to the City.

Section 9. Emergency Clause. It is hereby adjudged and declared that existing conditions are such that this ordinance is necessary for the immediate preservation of the public peace, health and safety. Therefore, an emergency is hereby declared to exist, and this ordinance shall take effect and be in full force and effect from and after its passage and approval by the Mayor.

PASSED by the Council and approved by the Mayor this 8th day of July, 1986.



Mayor

ATTEST:



City Manager Pro Tem