ORDINANCE NO. 1998

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 1.08 SHORT-FORM COMPLAINT AND CITATION METHOD AND CODE ENFORCEMENT PROCEDURES.

WHEREAS, the City is preparing a republication of its Municipal Code incorporating all general ordinances; and

WHEREAS, it includes general provisions for the short-form complaint and citation and code enforcement procedures originally adopted by Ordinance 1659 on July 19, 1989; and

WHEREAS, this chapter authorizes the use of a short-form uniform complaint and citation in certain cases by certain city employees and describes the content of the form; and

WHEREAS, this chapter describes the procedures for the use of complainant, court, or defendant; and

WHEREAS, it has been determined certain sections of Ordinance 1659 have become obsolete or are otherwise outdated; and

WHEREAS, all other sections of Chapter 1.08 remain as written;

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Section 1.08.040, Use of language, is deleted.

Section 2. Section 1.08.120, Immediate remedial action required when, is amended to read as follows:

1.08.120 Immediate remedial action.

Section 3. 1.08.130 Remedial action by city – Costs, is amended to read as follows:

1.08.130 Remedial action by city – Costs.

A. When a code enforcement officer requires immediate remedial action to address an alleged violation and gives or attempts to give notice as provided in Section 1.08.020, the City Manager or designee shall decide whether there is a danger to the public health, safety, or welfare. If the city manager or designee finds such a danger, the city may remedy the violation and may charge the cost of remediation to the defendant.

B. In remedying the violation, the City may enter into private property only after obtaining consent of the owner or other person in charge of the property or pursuant to a warrant. The Municipal Court may issue a warrant to enter private property and remedy a violation only if the Municipal Court determines (1) that City Manager or designee has

reasonably determined that there is a danger to the public health, safety, or welfare, (2) that the code enforcement officer provided or attempted to provide notice under Section 1.08.120, (3) that if notice was provided, the property owner or other responsible person has refused or failed to remedy the violation within a reasonable amount of time, given the nature of the violation, and (4) that the City has the ability to remedy the violation.

Section 4. 1.08.190, Use of citation, is amended to read as follows:

1.08.190 Use of citation.

A citation conforming to the requirements of this chapter may be used by employees of the following departments: the city's fire protection provider, the police department, and code enforcement.

Section 5. Section 1.08.250, Hearing request or waiver – Payment of bail, is amended to read as follows:

1.08.250 Hearing request or waiver – Payment of bail.

B. In any case, the court may direct that a hearing be held; otherwise, the court may enter the appropriate judgment, impose a civil penalty, direct that the civil penalty be paid out of the bail deposited by the defendant, and remit to the defendant any amount by which the bail exceeds the civil penalty. No sentence to jail may be imposed, or civil penalty imposed in excess of the bail deposited by the defendant, unless a hearing is held.

Section 6. Section 1.08.250, Civil penalty -- Assessment of fees, is amended to read as follows:

1.08.250 Civil penalty – Assessment of fees.

A. Upon a finding that the violation was committed by the defendant, the Court:

A.5 Shall assess a fee of fifty dollars ($50), to be used for costs of code enforcement and monitoring. The city may use such proceeds for the abatement of violations when those responsible for the violation do not pay the full costs of abatement.

B. Upon receipt of proof of abatement by the defendant, the court may reduce any penalty or fee assessed under this section by up to one-half of the original amount.

Section 7. Section 1.07.265, Subsequent hearing, is added as follows:

1.08.265 Subsequent hearing.

If at the subsequent hearing the court determines that the defendant has not abated nor made reasonable attempts to abate the violation, the court may authorize the city to enter defendant's property and to abate the violation, if possible. If the City abates the violation, a further hearing shall be set at which the court shall order the defendant to pay the costs reasonably incurred by the city in abating the violation.

Section 8. Section 1.08.280, Enforcement – Rules and regulations, is amended to read as follows:

1.08.280 Enforcement – Rules and regulations.

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

Section 9. Section 1.08.300, Lien filing and docketing, is amended to read as follows:

1.08.300 Lien filing and docketing.

A. When a judgment is rendered by the Municipal Court Judge in favor of City for the sum of ten dollars ($10) or more, exclusive of costs and disbursements, the code enforcement officer shall, at any time thereafter while the judgment is enforceable, file with the finance director a certified transcript of the judgment. The materials filed shall include a certification by the Municipal Court Clerk that to the best of the Clerk's knowledge, the judgment remains in effect and unsatisfied.

B. Upon receipt of this judgment, the Finance Director shall enter the judgment on the City's lien docket.

C. From the time of entry of the judgment in the City's lien docket, the judgment shall be a lien upon the real property of the person against whom the judgment was entered. Except as provided in subsection D of this section, entry of the judgment in the City's lien docket shall not thereby extend the lien of the judgment more than ten (10) years from the original entry of the judgment at the hearing.

D. Whenever a judgment of the Municipal Court that has been entered pursuant to this subsection is renewed, the lien established by subsection C of this section is automatically extended ten (10) years from the date of the renewal order.

E. In addition to the lien authorized by this section, the City may use any other method authorized by law to enforce or collect judgments.

Section 10. Section 1.08.320, Penalty – Payment due when, is amended to read as follows:

1.08.320 Payment of penalty.

Section 11. 1.08.330, Delinquent civil penalties, is amended to read as follows:

1.08.330 Use of state courts.

The city may use any method of collecting penalties authorized by law, including actions by statute, including any proceeding authorized in ORS Chapter 30.

Section 12. All other sections of Chapter 1.08 remain as written.

Read the first time on 4/7/09 and moved to second reading by 5-0 vote of the City Council.

Read the second time and adopted by the City Council on 4/7/09

Signed by the Mayor on 4/7/09.

Jeremy Ferguson, Mayor

ATTEST:

Pat DuVal

Pat DuVal, City Recorder

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

City Attorney