

CITY OF MILWAUKIE, OREGON

ORDINANCE NO. 89- 1659

AN ORDINANCE AMENDING CHAPTER 1.08 OF THE MILWAUKIE CODE
PERTAINING TO CODE ENFORCEMENT.

WHEREAS, Chapter 1.08 of the Milwaukie Municipal Code provides a short form uniform complaint and citation method to enforce city codes; and

WHEREAS, this Council finds that Milwaukie citizens and code enforcement personnel would benefit from more clearly specified procedures; and

WHEREAS, Milwaukie Municipal Code Chapter 1.08 can be amended to accommodate such additional procedures.

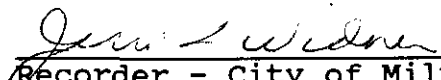
NOW, THEREFORE, THE CITY OF MILWAUKIE ORDAINS AS FOLLOWS:

Section 1: Chapter 1.08 of the Milwaukie Municipal Code, entitled "Short-Form Uniform Complaint and Citation Method" is hereby amended as provided at Exhibit 1, which is attached hereto and incorporated herein by reference.

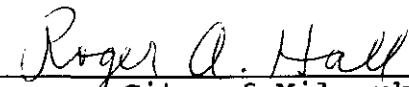
ORDINANCE NO. 89- 1659

Section 2: This ordinance shall be effective on and after the 31st day after its passage by the council, and execution by the city recorder and mayor.

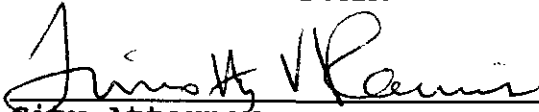
PASSED: By the City Council, by unanimous vote of all Council members present, after being read by number and title only, this 18 day of July, 1989.


Recorder - City of Milwaukie

SIGNED: By the Mayor this 18 day of July, 1989.


Mayor - City of Milwaukie

APPROVED AS TO FORM:


City Attorney

KHF\MILWAUKI\CODEENF.ORD

ORDINANCE NO. 89- 1659

Chapter 1.08

SHORT-FORM UNIFORM COMPLAINT AND CITATION METHOD AND CODE ENFORCEMENT PROCEDURES

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ARTICLE I. GENERAL PROVISIONS

1.08.010 Title.

The ordinance codified in this chapter shall be known as the "short-form complaint and citation and code enforcement procedure ordinance."

1.08.020 Purpose.

A. 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.

B. This chapter describes the procedures for use of complainant, court, or defendant. (Ord. 1380 § 3, 1977.)

1.08.030 Definitions.

For the purposes of this chapter, the following definitions shall apply:

(a) "Code enforcement officer" means the individual or individuals appointed by the director of each department to

enforce those sections of the code administered by that department, as specified at § 1.08.190.

(b) "Defendant" means a person charged with a code violation.

(c) "Voluntary compliance agreement" means a written agreement between the code enforcement officer and the defendant which is intended to resolve the alleged civil violation.

1.08.040 Use of language.

As used in this chapter, pronouns indicating the masculine gender shall include the feminine gender; singular pronouns shall include the plural; and "person" shall, where appropriate, include any partnership, corporation, unincorporated association, the state of Oregon, or other entity.

1.08.050 Reference to state law.

Any reference to a state statute incorporates into this chapter by reference the statute in effect on the effective date of the ordinance codified in this chapter.

1.08.060 Culpability--Chapter provisions are not exclusive.

A. Acts or omissions to act which are designated as a violation by any city ordinance do not require a culpable mental state as an element of the violation.

B. The procedures prescribed by this chapter shall be the exclusive procedures for imposing civil penalties; however, this

section shall not be read to prohibit in any way alternative remedies set out in the Milwaukie Municipal Code which are intended to abate or alleviate code violations, nor shall the city be prevented from recovering, in any manner prescribed by law, any expense incurred by it in abating or removing ordinance violations pursuant to any code provision.

1.08.070 Severability.

The provisions of this chapter are severable. If any section, sentence, clause, or phrase of this chapter is adjudged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of the chapter.

ARTICLE II. VIOLATION PROCEDURES

1.08.080 Reports of violations.

All reports of complaints of violations covered by this chapter shall be made to the code enforcement officer within the department responsible for administering the section of the Code alleged to have been violated.

1.08.090 Review of reports--Sufficiency of evidence.

A. Statement of Facts. When an alleged violation is reported to the code enforcement officer, the code enforcement officer may prepare a statement of the facts and may review the facts and circumstances surrounding the alleged violation.

B. Sufficiency of Evidence. The code enforcement officer shall not proceed further with the matter if the officer determines that there is not sufficient evidence to support the allegation, or if the department head determines that it is not in the best interest of the city to proceed.

1.08.100 Warning.

Warning of the alleged violation may be given to the defendant before a uniform violation summons and complaint is issued. It is not a prerequisite to the issuance of the summons and complaint, and the giving of notice is at the sole discretion of the code enforcement officer.

1.08.110 Time to remedy violation after warning.

If a warning is given, the code enforcement officer shall give the defendant a reasonable time to cure or remedy the alleged violation. The time allowed shall not be less than seven days, nor more than thirty days. Where there is an extreme hardship, as determined by the code enforcement officer, the officer may grant additional time to the defendant.

1.08.120 Immediate remedial action required when.

Notwithstanding the remedial time period contained in Section 1.08.110, if the code enforcement officer determines that the alleged violation presents an immediate danger to the public health, safety, or welfare, the officer may require immediate

remedial action. If the code enforcement officer is unable to serve a notice of violation on the defendant, or, if after such service, the defendant refuses or is unable to remedy the violation, the city may proceed to remedy the violation as provided in Section 1.08.130 of this chapter.

1.08.130 Remedial action by city--costs.

A. In the event a department head finds that there is a danger to the public health, safety or welfare, the city may, without notice, remedy the violation and charge the remedial costs back to the defendant.

B. The code enforcement officer shall have the right at reasonable times to enter into or upon property in accordance with law to investigate or to remedy the violation.

C. The finance director shall keep an accurate record of the costs incurred by the city in remedying the violation. The finance director shall notify the defendant by certified mail, return receipt requested, of these costs and advise the defendant that the costs will be assessed to and become a lien against the defendant's property, if not paid within 30 days of the notice, and shall further notify the defendant that the defendant is entitled to a hearing to contest the amount of the costs to be assessed.

D. The defendant shall be entitled to request that the code enforcement officer schedule a hearing to consider the amount of the costs assessed to remedy the alleged violation.

That hearing shall be conducted pursuant to the procedures established in §§ 1.08.240 through 1.08.330 of this chapter.

E. If the remedial costs are not paid, the finance director shall follow the procedures set forth for lien filing and docketing as contained in § 1.08.300.

1.08.140 Warning Methods.

A. A warning of the alleged violation may be given to the defendant in person by the code enforcement officer.

B. Warning of the alleged violation may be by a telephone call to the defendant. If a warning is given in this manner, the defendant shall also be provided with a warning of violation by first class mail sent to his last known address as soon as possible after the initial notice by telephone.

C. A warning of the alleged violation may be given by mailing to the defendant at his last known address a warning of violation by registered mail, return receipt requested.

1.08.150 Warning--Computation of time period.

A. Where the warning of violation is delivered in person, the time period shall begin to run immediately upon such delivery.

B. Where the warning of violation is mailed to the defendant, for the purposes of computing any time period prescribed by this chapter, notice shall be considered complete three days after such mailing, if the address to which it is

mailed is within the state, and seven days after mailing, if the address to which it is mailed is outside the state.

1.08.160 Failure to respond to warning.

When the defendant either receives or rejects the warning of violation and fails to remedy or cure the alleged violation within the time specified in the warning of violation, the code enforcement officer may serve the defendant with a uniform citation.

1.08.170 Voluntary compliance agreement.

A. Effect of Agreement

1. The code enforcement officer may enter into a written voluntary compliance agreement with the defendant. The agreement shall include time limits for compliance and shall be binding on the defendant.

2. The fact that a person alleged to have committed a violation enters into a voluntary compliance agreement shall not be considered an admission of having committed the violation for any purpose.

3. The city shall abate further processing of the alleged violation during the time allowed in the voluntary compliance agreement for the completion of the necessary corrective action. The city shall take no further action concerning the alleged violation if all terms of the voluntary

compliance agreement are satisfied, other than steps necessary to terminate the waiver.

B. Failure to Comply with Agreement. The failure to comply with any term of the voluntary compliance agreement constitutes a separate violation and shall be handled in accordance with the procedures established by this chapter, except no further notice after the voluntary compliance agreement has been signed need be given before the city may also proceed on the alleged violation that gave rise to the voluntary compliance agreement.

1.08.180 Uniform violation summons and citation--Service--Failure to receive--Default.

A. Service of the uniform summons and citation may be by personal service on the defendant or an agent of the defendant authorized to receive process; by substitute service at the defendant's dwelling or office; or by registered mail, return receipt requested, to the defendant at his last known address. In the event of substitute service at the defendant's dwelling, the person served must be at least 14 years of age and residing in the defendant's place of abode. Service at the defendant's office must be made during regular business hours to the person who is apparently in charge. If substitute service is used, a true copy of the summons and complaint, together with a statement of the date, time, and place at which service was made, must be mailed to the defendant at the defendant's last known address.

Service will be considered complete upon such a mailing. Service by any other method reasonably calculated, under all the circumstances, to apprise the defendant of the existence and pendency of the violation and to afford a reasonable opportunity to respond shall be acceptable.

B. Service on particular defendants, such as minors, incapacitated persons, corporations, limited partnerships, the state of Oregon, other public bodies, and general partnerships, shall be as prescribed for the service of a civil summons and complaint by the Oregon Rules of Civil Procedure.

C. No default shall be entered against any defendant without proof that the defendant had notice of the uniform violation summons and complaint. A sworn affidavit of the code enforcement officer outlining the method of service, including the date, time, and place of service, shall create a rebuttable presumption that the defendant had such notice.

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 fire department, the police department, the animal/parking control department, the public works department, and the planning department, for violations of city ordinances.

1.08.200 Contents.

A. Citation shall consist of at least three parts: the complaint, department record, and the summons. Additional parts may be inserted for administrative purposes by departments charged with the enforcement of the ordinances. Each of the three parts shall contain the following information or blanks in which such information may be entered:

1. The name of the court and the court's docket or file number;
2. The name of the person or persons cited;
3. The offense charged, the time and place, the date on which the citation was issued, the name of the complainant, and, in the case of zoning violations, the designation of the zone in which the violation occurred;
4. The hour and date when the person cited is to appear in court;
5. The bail, if any, fixed for the offense.

B. Each of the parts may also contain such identifying and additional information as may be necessary or appropriate for

administrative departments of the city. In the case of an appropriate violation, it may include an indication of whether a written warning was previously issued to defendant for the same violation if it is a continuing one.

C. The complaint shall contain a form of verification by the complainant to the effect that he swears that he has reasonable grounds to believe, and does believe, that the person committed the offense contrary to ordinance. (Ord. 1380 §§ 5-7, 1987.)

1.08.210 Use of other complaint forms.

Nothing in this section shall be construed to prevent the use of a complaint charging a violation of ordinance in a form or manner otherwise prescribed by law for criminal complaints; further, as provided by law, two or more persons may be charged jointly on such a complaint. (Ord. 1380 § 8, 1977.)

1.08.220 Summons issuance--Required information.

A summons issued pursuant to this chapter is sufficient if it contains the following information:

A. The name of the court, the name of the person or persons cited, the date on which the citation was issued, the name of the complainant, the time at which the person cited is to appear in court;

B. A statement or designation of the offense in such manner as can be readily understood by a person making a

reasonable effort to do so and the date and place of offense alleged to have occurred;

C. The amount of bail, if any, fixed for the offense.
(Ord. 1380 § 9, 1977.)

1.08.230 Alleged violation--Required information.

A complaint of an alleged violation or an offense under this chapter is sufficient if it contains the following:

A. The name of the court, the name of the city in whose name action is brought, and the name of the defendant or defendants;

B. A statement or designation of offense in such manner as can be readily understood by a person making a reasonable effort to do so and the date and a place of the alleged offense.
(Ord. 1380 § 10, 1977.)

**ARTICLE III. HEARING PROCEDURES AND
REMEDIAL ACTION**

1.08.240 Appearance of defendant in court.

The defendant shall either appear in court at the time indicated in the summons, or, prior to such time, deliver to the court the summons, together with the bail amount set forth in the summons, enclosing therewith a request for a hearing, or statement of matters and explanation or mitigation of the offense, or an executed appearance, waiver of hearing, and plea of "guilty" appearing on the summons. (Ord. 1380 § 12, 1977.)

1.08.250 Hearing request or waiver--Payment of bail.

A. If the defendant has submitted to the court a written statement with his bail, as provided in this chapter, it constitutes a waiver of hearing and a consent to judgment by court declaring a forfeiture of bail on the basis of such statement and any testimony or written statement of the arresting officer, or other witness, or city employee, as provided in this chapter, which may be presented to the court. If the defendant requests a hearing, or, if the court directs that hearing be had, the court shall fix the date and time of hearing and, unless notice is waived, mail to the defendant notice of the date and time so set at least five days prior to the trial date.

B. In any case, the court may direct that a hearing be held; otherwise, the court may enter the appropriate judgment, impose a fine, direct that the fine be paid out of the bail deposited by the defendant, and remit to the defendant any amount by which the bail exceeds the fine. No sentence to jail may be imposed, nor any fine imposed in excess of the bail deposited by the defendant, unless a hearing is held. (Ord. 1380 § 13 (part), 1977.)

1.08.260 Civil penalty--Assessment of fees.

Upon a finding that the violation was committed by the defendant, the court may assess a penalty pursuant to the

applicable code penalty section, plus hearing costs and witness fees, if any.

1.08.270 Default judgment.

Subject to the limitations set forth in Section 1.08.180, a default judgment shall be entered for the maximum civil penalty applicable to the charged violation if the defendant fails to appear at the scheduled hearing. If the defendant fails to appear for the hearing, any security fees posted shall be forfeited to the city.

ARTICLE IV. ENFORCEMENT AND PENALTIES

1.08.280 Enforcement--Rules and regulations.

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

1.08.290 Failure to comply & failure to appear--Penalty.

A. The failure to comply with the provisions of this chapter constitutes a violation.

B. If any person fails to comply with an order of the court, or if the person fails to appear at any time affixed by the court, a warrant of arrest may be issued.

C. If any person knowingly fails to comply with an order of the court, the person commits the crime of failure to comply which is a Class A misdemeanor.

D. If any person knowingly fails to appear before the Municipal Court, pursuant to a citation issued and served under authority of 1.08.180-1.08.230, or, pursuant to an order of the court, the person commits the crime of failure to appear which is a Class A misdemeanor.

E. A Class A misdemeanor is punishable by imprisonment for a maximum of one year and/or by a fine not exceeding \$2,500. A violation is punishable by a fine pursuant to the applicable code penalty section. Where no penalty is prescribed by the code section, the fine may not exceed \$500.

F. Nothing in this chapter shall be construed to prevent the issuance of a warrant of arrest or the filing of a complaint complying in all other respects with the provisions of this chapter and charging a violation of the ordinance in the presence of an officer or citizen making the arrest. (Ord. 1380 § 13 (part), 1977.)

1.08.300 Lien filing and docketing.

A. When a judgment is rendered by the municipal court judge in favor of the city for the sum of ten dollars 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 all those entries made in the docket of the hearings officer with respect to the action in which the judgment was entered.

B. Upon receipt of this transcript, the finance director shall enter the judgment of the hearings officer on the city's lien docket.

C. From the time of entry of the judgment on the city's lien docket, the judgment shall be a lien upon the real property of the person against whom the judgment was entered in the trial. 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 years from the original entry of the judgment at the hearing.

D. Whenever a judgment of the municipal court judge which has been entered pursuant to this subsection is renewed by the judge, the lien established by subsection C of this section is automatically extended ten years from the date of the renewal order.

E. The finance director shall file the transcript of the judgment with the Clackamas County clerk for entry in the judgment docket of the circuit court. All costs associated with the filing of the transcript shall be added to the amount of the judgment.

1.08.310 Continuous violations.

When a violation is of a continuous nature, unless otherwise specifically provided, a separate violation shall be deemed to occur on each calendar day the violation continues to exist.

1.08.320 Penalty--Payment due when.

Any penalty assessed shall be paid no later than thirty days after the final order. Such period may be extended upon order of the court.

1.08.330 Delinquent civil penalties.

Delinquent civil penalties and those imposed by default judgment which were assessed for violations may, in addition to any other method, be collected or enforced pursuant to Oregon Revised Statutes 30.310.

CITY OF MILWAUKIE
CODE ENFORCEMENT MANUAL

Introduction

Milwaukie City Code Chapter 1.08 provides a uniform method of issuing citations for municipal code violations. Each department is responsible for enforcing those City Codes over which it has administrative responsibility.

This manual outlines the procedure the enforcement officer in each department should follow in enforcing the City Code. A worksheet and other appropriate forms are attached for Code Enforcement Officers to use for each alleged violation. In addition, methods for serving notice on alleged violators are discussed at the end of this manual.

Code Enforcement Procedures

STEP 1: RECEIVING REPORTS OF VIOLATIONS. The city receptionist should direct all reports or complaints of violations of the City Code to the designated Code Enforcement Officer within the department. Upon receipt of a report, the officer should complete a worksheet and begin a separate incident file. A sample worksheet is attached as Exhibit 1.

STEP 2: REVIEW OF REPORTS. When an alleged violation is reported to the enforcement officer, the officer should, within a reasonable time, investigate and collect sufficient facts and circumstances to determine the sufficiency of evidence underlying the complaint. The officer should not proceed further with the matter if the officer determines that there is not sufficient evidence to support the allegation, or if the department head determines it is not in the best interest of the City to proceed. The result of the investigation should be noted on the enforcement worksheet.

STEP 3: ISSUING A WARNING CITATION. If the officer determines there is sufficient evidence of a violation, the officer should then determine whether the same infraction has occurred within the past 120 days. If so, the officer should proceed directly to Step 7, below, noting this information on the worksheet.

If the same infraction has not occurred within 120 days immediately proceeding the date of the alleged violation, the officer should serve upon the alleged violator a "Warning Notice" on the appropriate form provided. A sample "Warning Notice" is attached as Exhibit 2.

The notice must provide a reasonable time within which to cure or remedy the alleged violation after the warning is issued. The time allowed may not be less than 7 days, nor more than 30 days. However, in the case of extreme hardship, as determined by

the enforcement officer, the officer may grant additional time for compliance.

STEP 4: VIOLATIONS POSING IMMEDIATE DANGER. Notwithstanding the remedial time period contained at Step 3, above, if the department head determines that the alleged violation presents an immediate danger to the public health, safety, or welfare, the department head may require immediate remedial action. If the officer is unable to serve a Notice of Infraction on the alleged violator, or, if after such service the violator refuses or is unable to remedy the infraction, the City may proceed to remedy the violation.

STEP 5: FAILURE TO RESPOND TO WARNING. When the alleged violator either receives or rejects the Warning Citation and fails to remedy or cure the alleged infraction within the time specified in the warning, the officer shall serve upon the alleged violator a Uniform Citation. A sample citation is attached as Exhibit 3.

STEP 6: VOLUNTARY COMPLIANCE AGREEMENT. The Code Enforcement Officer may enter into a written Voluntary Compliance Agreement with the alleged violator. The agreement shall include time limits for compliance and shall be binding upon the alleged violator. The fact that a person alleged to have committed a code violation enters into a Voluntary Compliance Agreement shall

not be considered an admission of having committed the violation for any purpose. A sample Voluntary Compliance Agreement is attached as Exhibit 4.

The enforcement officer should abate further processing of the alleged violation during the time allowed in the Voluntary Compliance Agreement. This is to allow completion of the necessary corrective action. The officer should take no further action concerning the alleged violation, if all terms of the Voluntary Compliance Agreement are satisfied, other than steps necessary to complete the agreed-upon terms in the agreement. However, the officer should keep a record of the agreement in the event of future violations.

If an alleged violator fails to comply with any term of the Voluntary Compliance Agreement, the enforcement officer should proceed immediately to Step 7--issuing a Uniform Citation. Further, the enforcement officer should determine whether to issue a separate citation for the violation of failure to comply with a compliance agreement.

STEP 7: ISSUING UNIFORM CITATION. If the alleged violator fails to cure or remedy the alleged infraction within the time specified in the warning citation or fails to perform all conditions required under an executed Voluntary Compliance Agreement, the enforcement officer should serve upon the alleged violator a Uniform Citation.

Prior to issuing the citation, the enforcement officer should contact the Municipal Court Clerk to identify the next available court date on which the alleged violator will be required to appear.

STEP 8: COURT APPEARANCE. The enforcement officer need not appear in court at the time and date set for defendant's first appearance. At this appearance, the defendant will be asked to enter a plea of guilty, not guilty, or no contest. The City Attorney's office will not be present at this first hearing.

STEP 9: TRIAL. If the alleged violator pleads not guilty, a trial date will be set by the court clerk. Once the court date is set, the enforcement officer should contact the City Attorney's office to review the citation and to identify any necessary witnesses or evidence.

The enforcement officer shall appear at the time and date scheduled for trial on the citation. The City Attorney may prosecute any case set for trial, but shall prosecute all cases where the alleged violator is represented by counsel.

Serving Notice

A. WARNING: A warning of an alleged violation may be given to the alleged violator in person or by telephone. If the warning is given by telephone, the enforcement officer must also send a written notice of warning by first class mail to the alleged

violator's last known address as soon as possible after the initial warning by telephone. A warning may also be given by mailing a warning of violation by registered mail, return receipt requested, to the alleged violator at his last known address.

B. CITATION: Service of the Uniform Summons and Citation may be made by personal service on the alleged violator, or on an agent of the alleged violator authorized to receive process by substitute service at the alleged violator's dwelling or office, or by registered mail, return receipt requested, at the alleged violator's last known address. In the event of substitute service at the alleged violator's dwelling, the person served must be at least 14 years of age and residing in the alleged violator's dwelling. Service at the alleged violator's office must be made during regular business hours to the person who is apparently in charge. If substitute service is used, a true copy of the summons and complaint, together with a statement of the date, time, and place at which service was made, must be mailed to the alleged violator at the alleged violator's last known address. Service will be considered complete upon such a mailing. Service by any other method reasonably calculated, under all the circumstances, to apprise the alleged violator of the existence and pendency of the violation and to afford a reasonable opportunity to respond, is also acceptable.

Service on particular alleged violators, such as minors, incapacitated persons, corporations, limited partnerships, the

state of Oregon, other public bodies, and general partnerships, shall be as prescribed for service of civil summons and complaint by the Oregon Rules of Civil Procedure. A copy of these rules is attached as Exhibit 5 and should be reviewed when serving any alleged violator listed here.

No default shall be entered against any alleged violator without proof that the alleged violator had notice of the Uniform Violations Summons and Complaint. A sworn affidavit of the Code Enforcement Officer outlining the method of service, including the date, time, and place of service will be sufficient to create a rebuttable presumption that the alleged violator, in fact, had such notice.

Conclusion

If the Code Enforcement Officer has any question as to the steps described here, the forms attached, or any other element of Milwaukie's code enforcement effort, he or she is invited to contact the City Attorney's office directly.

MILWAUKIE CODE ENFORCEMENT
INCIDENT WORKSHEET

INTAKE DATE _____

Alleged Violator:

Name: _____ Phone: (w) _____
Address: _____ (h) _____

Complainant:

Date of Complaint: _____

Name: _____ Phone: (w) _____
Address: _____ (h) _____

Alleged Violation: _____

Code Section(s): _____

Description: _____

Witnesses:

Name: _____ Phone: (w) _____
Address: _____ (h) _____

Name: _____ Phone: (w) _____
Address: _____ (h) _____

Investigation conducted on _____. Sufficient evidence? (y) ____ (n) ____
Same infraction in past 120 days? (y) ____ (n) ____
Warning citation issued on _____. Compliance Deadline _____.
Voluntary Compliance Agreement Dated _____.

Compliance Deadline _____.

Citation issued on _____. Served How? _____

1st Court Date & Trial: _____

Trial Date & Time: _____

City Attorney Needed for Trial (y) ____ (n) ____

Final Result: _____

WARNING

CITY OF MILWAUKIE, OREGON MILWAUKIE UNIFORM WARNING CITATION

THIS WARNING IS ISSUED TO:

NAME _____

ADDRESS _____

_____ CITY _____ STATE _____ ZIP _____

YOU ARE IN VIOLATION OF CITY ORDINANCE # _____

WHICH REGULATES _____

FURTHER EXPLANATION: _____

IMPORTANT: A COPY OF THIS WARNING WILL BE FILED WITH THE CITY OF MILWAUKIE. IF THE UNLAWFUL CONDITION(S) OR USE IS NOT CORRECTED BY _____ (AM) (PM) _____ 19 _____ CITATION(S) WILL BE ISSUED AND ALL PERSONS RESPONSIBLE FOR OR PARTICIPATING IN THE ABOVE VIOLATION WILL BE SUBJECT TO PROSECUTION IN THE MILWAUKIE MUNICIPAL COURT FOR VIOLATION OF THE ORDINANCE. IF YOU HAVE QUESTIONS, CALL THE CITY OF MILWAUKIE AT 659-5171.

DATED AND ISSUED THIS _____ DAY OF _____, 19 _____

BY: _____

TITLE: _____

DEPARTMENT: _____

CCP-CMIL54 (5-86)

10

005

vs

LAST

FIRST

M.I.

CCP-CMILSS 15-051

CITY OF MILWAUKIE, OREGON
Code Enforcement
Voluntary Compliance Agreement

THIS AGREEMENT is entered into this ____ day of _____,
19__, by and between the City of Milwaukie, Oregon ("CITY"), and
_____, whose
address is _____
("CITIZEN").

WHEREAS, on the ____ day of _____, 19__, CITY
received a complaint that CITIZEN had violated Section(s) _____
_____ of the Milwaukie Municipal Code; and

WHEREAS, on the ____ day of _____, 19__, CITY
investigated this complaint and issued a warning/citation (circle
appropriate form), numbered _____ for this
alleged violation; and

WHEREAS, CITIZEN has agreed to correct said alleged
violation(s) on or before the ____ day of _____, 19__, in
exchange for CITY abating further legal action.

Now, therefore,

THE PARTIES HEREBY AGREE AS FOLLOWS:

1. CITIZEN agrees to correct the alleged violations on or
before the ____ day of _____, 19__, by doing all of the
following:

2. CITY agrees to suspend prosecution of said alleged violation(s) until the deadline designated at paragraph 1, above.

3. CITIZEN and CITY agree that in the event CITIZEN successfully complies with paragraph 1, above, CITY shall take no further legal action herein. However, in the event CITIZEN fails to fully perform the requirements listed at paragraph 1, above, CITY shall proceed immediately to schedule a municipal court trial on the alleged violation, and to proceed with any and all other remedies available.

4. CITIZEN and CITY agree that the terms of this voluntary compliance agreement shall not be deemed an admission of fact or liability. Notwithstanding this agreement, CITY may proceed with a separate action against CITIZEN for failure to comply with this agreement, if CITY deems appropriate.

EXECUTED this ____ day of _____, 19__.

CITY OF MILWAUKIE, OREGON

By _____
Code Enforcement Officer CITIZEN

KHF\MILWAUKI\COMPAGMT.001

D(3) *Particular Defendants.* Service may be made upon specified defendants as follows:

D(3)(a) Individuals.

D(3)(a)(i) Generally. Upon an individual defendant, by personal service upon such defendant or an agent authorized by appointment or law to receive service of summons or, if defendant personally cannot be found at defendant's dwelling house or usual place of abode, then by substituted service or by office service upon such defendant or an agent authorized by appointment or law to receive service of summons.

D(3)(a)(ii) Minors. Upon a minor under the age of 14 years, by service in the manner specified in subparagraph (i) of this paragraph upon such minor, and also upon such minor's father, mother, conservator of the minor's estate, or guardian, or, if there be none, then upon any person having the care or control of the minor or with whom such minor resides, or in whose service such minor is employed, or upon a guardian ad litem appointed pursuant to Rule 27A.(2).

D(3)(a)(iii) Incapacitated Persons. Upon an incapacitated person, by service in the manner specified in subparagraph (i) of this paragraph upon such person, and also upon the conservator of such person's estate or guardian, or, if there be none, upon a guardian ad litem appointed pursuant to Rule 27B.(2).

D(3)(b) Corporations and Limited Partnerships. Upon a domestic or foreign corporation or limited partnership:

D(3)(b)(i) Primary Service Method. By personal service or office service upon a registered agent, officer, director, general partner, or managing agent of the corporation or limited partnership, or by personal service upon any clerk on duty in the office of a registered agent.

D(3)(b)(ii) Alternatives. If a registered agent, officer, director, general partner, or managing agent cannot be found in the county where the action is filed, the summons may be served: by substituted service upon such registered agent, officer, director, general partner, or managing agent; or by personal service on any clerk or agent of the corporation or limited partnership who may be found in the county where the action is filed; or by mailing a copy of the summons and complaint to the office of the registered agent or to the last registered office of the corporation or limited partnership, if any, as shown by the records on file in the office of the Corporation Commissioner or, if the corporation or limited partnership is not authorized to transact business in this state at the time of the transaction, event, or occurrence upon which the action is based occurred, to the principal office or place of business of the corporation or limited partnership, and in any case to any address the use of which the plaintiff knows or, on the basis of reasonable inquiry, has reason to believe is most likely to result in actual notice.

D(3)(c) State. Upon the state, by personal service upon the Attorney General or by leaving a copy of the summons and complaint at the Attorney General's office with a deputy, assistant, or clerk.

D(3)(d) Public Bodies. Upon any county, incorporated city, school district, or other public corporation, commission, board or agency, by personal service or office service upon an officer, director, managing agent, or attorney thereof.

D(3)(e) General Partnerships. Upon any general partnership by personal service upon a partner or any agent authorized by appointment or law to receive service of summons for the partnership.

D(3)(f) Other Unincorporated Association Subject to Suit Under a Common Name. Upon any other unincorporated association subject to suit under a common name by personal service upon an officer,

managing agent, or agent authorized by appointment or law to receive service of summons for the unincorporated association.

D(3)(g) Vessel Owners and Charterers. Upon any foreign steamship owner or steamship charterer by personal service upon a vessel master in such owner's or charterer's employment or any agent authorized by such owner or charterer to provide services to a vessel calling at a port in the State of Oregon, or a port in the State of Washington on that portion of the Columbia River forming a common boundary with Oregon.