

## **Title 1**

### **General Provisions**

#### **Chapters:**

- 1.05** *Reserved*
- 1.10** **Ordinances**
- 1.15** **Nominations for City Office**
- 1.20** **Initiative and Referendum**
- 1.25** **Enforcement Procedures**
- 1.30** **State Codes Adopted**



**Chapter 1.05****(Reserved)****Chapter 1.10****Ordinances**

## Sections:

- 1.10.010 Enacting clause.
- 1.10.020 Introduction, reading and passing.
- 1.10.030 Time of effect.

**1.10.010 Enacting clause.**

The enacting clause for all ordinances shall be: "The city of Lyons ordains as follows:". [Ord. G1-1 § 1, 1959.]

**1.10.020 Introduction, reading and passing.**

Every ordinance shall be fully and distinctly read in open council meeting on two different days previous to being put upon its final passage, but any ordinance may be introduced, read twice, once in full and once by title and put on its final passage at a single meeting by a unanimous vote of all members of the council present at the meeting. Upon the final vote, the ayes and nays of the members of the council shall be taken and recorded in the journal. If the ordinance passes, the city recorder shall endorse it with the date of its passage and his name and the title of his office, and within three days thereafter the mayor shall sign it with the date, his name, and the title of his office. [Ord. G2-2015 § 1, 2015; Ord. G1-1 § 2, 1959. Amended during 2006 recodification.]

**1.10.030 Time of effect.**

An ordinance enacted by the council shall take effect 30 days after it has been signed by the mayor, or on a date beyond said 30 days if specifically set by the council; provided, however, that ordinances necessary for the immediate preservation of the public peace, health, or safety shall take effect when signed by the mayor. [Ord G1-2006 § 1, 2006; Ord. G1-1 § 3, 1959.]

**Chapter 1.15****Nominations for City Office**

## Sections:

- 1.15.010 Nominations.  
1.15.020 Nominations – Filing.

\* Prior legislation: Ord. G1-7.

**1.15.010 Nominations.**

Nominations for the position of city councilperson and mayor shall be prepared and filed in the manner provided in Section 29 of the Charter of the city of Lyons. [Ord. G1-15 § 1, 1986.]

**1.15.020 Nominations – Filing.**

All nominating petitions for the positions of mayor and city councilperson shall be filed not later than the seventy-first day before the primary or general election. [Ord. G1-15 § 2, 1986.]

**Chapter 1.20****Initiative and Referendum**

## Sections:

## Article I. Introductory Provisions

- 1.20.010 Definitions.  
1.20.020 Chapter provides complete procedure.

## Article II. Initiative

- 1.20.030 Manner of proposing measure.  
1.20.040 Form of petition.  
1.20.050 Presentation of measure to council.  
1.20.060 Submission of measure to voters.

## Article III. Referendum

- 1.20.070 Manner of referring measure.  
1.20.080 Form of petition.  
1.20.090 Time for rendering measure by petition.  
1.20.100 Time for council to refer measure.  
1.20.110 No veto of referred measure.  
1.20.120 Submission of measure to voters.

## Article IV. Petition

- 1.20.130 Procedure prior to circulation of petition.  
1.20.140 Requisite number of signatures.  
1.20.150 Attachment of measure to sheets for signatures.  
1.20.160 Verification of signatures.  
1.20.170 Certification of signatures.  
1.20.180 Signatures to be counted.

## Article V. Ballot Title

- 1.20.190 Preparation of ballot title.  
1.20.200 Requisites of ballot title.

## Article VI. Election

- 1.20.210 Time to vote on measure.  
1.20.220 Titles and numbers of measures on ballot.  
1.20.230 Notice of special election.

- 1.20.240 Notice at general election.
- 1.20.250 Advertising measure.
- 1.20.260 Election returns.

Article VII. Effect of Measures

- 1.20.270 Proclamation of mayor.
- 1.20.280 Effective date of measure.
- 1.20.290 Measures subject to referendum.
- 1.20.300 Conflicting measures.

Article VIII. Criminal Provisions

- 1.20.310 Unlawful acts.
- 1.20.320 *Repealed.*

Article I. Introductory Provisions

1.20.010 Definitions.

As used in this chapter:

A. The term “measure” means:

- 1. A legislative enactment by the council not necessary for the immediate preservation of the public peace, health or safety;
- 2. A part of such an enactment; or
- 3. A proposed legislative enactment for the city;

B. The term “voter” means a legal voter of the city;

C. The term “general election” means a general November election;

D. The term “petition” means an initiative or referendum petition for ordering a measure to be submitted to the voters;

E. The term “refer” means to be subjected to the referendum; and

F. The term “write” means to write, type or print. [Ord. G1-9 § 1, 1962.]

1.20.020 Chapter provides complete procedure.

This chapter provides a complete procedure for the voters to exercise their initiative and referendum powers. [Ord. G1-9 § 2, 1962.]

Article II. Initiative

1.20.030 Manner of proposing measure.

The manner of proposing a measure by the initiative shall be to deposit at the office of the city

recorder a duly prepared petition ordering the measure to be submitted to the voters. [Ord. G2-2015 § 1, 2015; Ord. G1-9 § 3, 1962. Amended during 2006 recodification.]

1.20.040 Form of petition.

No initiative petition shall be deemed duly prepared unless it is in the following form:

WARNING

It is an offense for a person to sign this petition unless he is a legal voter of the city of Lyons, or to sign it with a name not his own, or to sign his name to it knowingly more than once.

PETITION FOR INITIATIVE

To \_\_\_\_\_, city recorder of the city of Lyons.

We legal voters of the city of Lyons petition that the attached measure be submitted to the legal voters of the city for their approval. Each of us for himself says: I have signed this petition, I am a legal voter of the city, and my address is written correctly after my name.

Name	Address
1. _____	_____
_____	_____

(In drawing the petition provide twenty numbered lines such as this for signatures and addresses.)

[Ord. G2-2015 § 1, 2015; Ord. G1-9 § 4, 1962. Amended during 2006 recodification.]

1.20.050 Presentation of measure to council.

At the next session of the council after the proposal of an initiative measure the city recorder shall present the measure to the council. [Ord. G2-2015 § 1, 2015; Ord. G1-9 § 5, 1962. Amended during 2006 recodification.]

1.20.060 Submission of measure to voters.

The city recorder shall cause to be submitted to the voters at the time provided by this chapter a

charter or charter amendment proposed by the initiative and any other initiative measure not enacted within 30 days after its proposal. [Ord. G2-2015 § 1, 2015; Ord. G1-9 § 6, 1962. Amended during 2006 recodification.]

**Article III. Referendum**

**1.20.070 Manner of referring measure.**

The manner of referring a measure shall be:

A. For a person to deposit at the office of the city recorder a duly prepared referendum petition for the measure; or

B. For the council to order submission of the measure to the voters. [Ord. G2-2015 § 1, 2015; Ord. G1-9 § 7, 1962. Amended during 2006 recodification.]

**1.20.080 Form of petition.**

No referendum petition shall be deemed duly prepared unless it is in the following form:

**WARNING**

It is an offense for a person to sign this petition unless he is a legal voter of the city of Lyons, or to sign it with a name not his own, or to sign his name to it knowingly more than once.

**PETITION FOR REFERENDUM**

To \_\_\_\_\_, city recorder of the city of Lyons.

We the legal voters of the city of Lyons petition that the attached \_\_\_\_\_ no. \_\_\_\_\_ of the city, entitled \_\_\_\_\_ and passed \_\_\_\_\_ 20\_\_\_\_, be referred to the legal voters of the city for their approval. Each of us for himself says: I have signed this petition, I am a legal voter of the city, and my address is written correctly after my name.

Name	Address
1. _____	_____
_____	_____

(In drawing the petition provide twenty numbered lines such as this for signatures and addresses.)

[Ord. G2-2015 § 1, 2015; Ord. G1-9 § 8, 1962. Amended during 2006 recodification.]

**1.20.090 Time for rendering measure by petition.**

No referendum petition for a measure shall be deemed duly prepared unless the petition and the signatures requisite to its being deemed duly prepared are deposited at the office of the city recorder within 30 days after the council enacts the measure. [Ord. G2-2015 § 1, 2015; Ord. G1-9 § 9, 1962. Amended during 2006 recodification.]

**1.20.100 Time for council to refer measure.**

The council may refer a measure only at the session at which it enacts the measure. [Ord. G1-9 § 10, 1962.]

**1.20.110 No veto of referred measure.**

The mayor shall have no power to veto a measure which the council refers.

\_\_\_\_\_

In drawing the petition insert in this blank a term indicating what is being referred, for instance, ordinance or provisions of ordinance.

[Ord. G1-9 § 11, 1962.]

**1.20.120 Submission of measure to voters.**

The city recorder shall cause a referred measure to be submitted to the voters at the time fixed by this chapter. [Ord. G2-2015 § 1, 2015; Ord. G1-9 § 12, 1962. Amended during 2006 recodification.]

**Article IV. Petition**

**1.20.130 Procedure prior to circulation of petition.**

A. Presentation for Checking, Specifications, and Preparation of Titles. No petition shall be deemed duly prepared unless:

1. Prior to its circulation a copy of it is deposited at the office of the city recorder; and

2. As circulated it complies with the specifications listed below which he makes concerning it and contains the ballot title, either that prepared initially or that approved or prescribed on appeal, required by this chapter for the measure for which it is being circulated.

B. Checking, Specifications, and Preparation of Titles. When a copy of a petition to be circulated is deposited at the office of the city recorder he shall immediately:

1. Check it for the legal sufficiency of the form in which it appears;
2. Advise the person depositing it whether it is legally sufficient in form and, if not so, how to make it so;
3. Specify the mode of writing the petition and the size and kind of paper on which to write it; and
4. If he is not responsible for preparing the titles required by this chapter for the measure to which the petition related, transmit the copy to the city attorney. [Ord. G2-2015 § 1, 2015; Ord. G1-9 § 13, 1962. Amended during 2006 recodification.]

**1.20.140 Requisite number of signatures.**

A. Requisite Number. The number of signatures on a petition requisite to it being deemed duly prepared shall be, for an initiative petition, 15, and for a referendum petition, 10, percent of the number of votes cast for the office of councilman at the election last preceding the deposit of the petition at the office of the city recorder after its circulation.

B. Basis for Computation. The number of votes cast for the office of councilman at an election shall be computed by adding together the votes cast at the election for the various candidates for the offices of councilman and dividing the sum thus obtained by the number of offices of councilman to be filled at the election. [Ord. G2-2015 § 1, 2015; Ord. G1-9 § 14, 1962. Amended during 2006 recodification.]

**1.20.150 Attachment of measure to sheets for signatures.**

No signature on a petition sheet shall be counted unless attached to it at the time of the signing of the signature is a copy of the measure to which the petition refers. [Ord. G1-9 § 15, 1962.]

**1.20.160 Verification of signatures.**

No signature on a petition sheet shall be counted unless the person who circulates the sheet verifies it by an affidavit in the following form:

State of Oregon  
County of Linn  
City of Lyons

I, \_\_\_\_\_ Being first duly sworn, state that each signer of this sheet signed it in my presence, and that I believe that he stated his name and address correctly, on the sheet and is a legal voter of the city of Lyons.

\_\_\_\_\_

Address of affiant:

\_\_\_\_\_  
\_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_, 20\_\_.

\_\_\_\_\_

My commission expires \_\_\_\_\_, 20\_\_.

[Ord. G1-9 § 16, 1962.]

**1.20.170 Certification of signatures.**

A. Certification by City Recorder. Within five days after a duly prepared petition is deposited at his office the city recorder shall:

1. Compare the signatures on it with the signatures on the registration records in the office of the clerk of Linn County, Oregon; and
2. Attach to the petition a certificate in the following form:

State of Oregon  
County of Linn  
City of Lyons

I, \_\_\_\_\_, city recorder of the city of Lyons, certify that I have compared the signatures on the attached petition with the signatures on the registration records in the office of the clerk of Linn County, Oregon and on the basis of those records I certify that the sig-

natures of the following persons, in the number of \_\_\_\_\_, are genuine:

\_\_\_\_\_  
\_\_\_\_\_

and that the signatures of the following persons, in the number of \_\_\_\_\_, are not genuine:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
City Recorder

B. Certification by Notary. Within five days after the city recorder attaches to a petition his certificate concerning the genuineness of the signatures on the petition a voter may attach to it a certificate in the following form by a notary public resident in the city:

State of Oregon  
County of Linn  
City of Lyons

I, \_\_\_\_\_, a duly qualified and acting notary public resident in the city of Lyons, certify that I am personally acquainted with the following named voters whose signatures are affixed to the attached petition, that I know of my own knowledge that they are legal voters of the city of Lyons, that their addresses are correctly stated in the petition, and that their signatures on the petition are genuine:

\_\_\_\_\_  
\_\_\_\_\_

In testimony whereof I set my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public of Oregon

C. Effect of Certificate. A certificate provided by this section shall be prima facie evidence of the qualifications of the voters whose signatures it certifies to be genuine. [Ord. G2-2015 § 1, 2015; Ord. G1-9 § 17, 1962. Amended during 2006 recodification.]

**1.20.180 Signatures to be counted.**

In determining whether a petition contains the number of signatures requisite to its being deemed duly prepared, the city recorder shall count, except signatures forbidden by this chapter to be counted, all signatures on the petition which either he or a notary public resident in the city certifies to be genuine. [Ord. G2-2015 § 1, 2015; Ord. G1-9 § 18, 1962. Amended during 2006 recodification.]

**Article V. Ballot Title**

**1.20.190 Preparation of ballot title.**

A. Time for Preparation. The ballot title for a measure ordered by the council, or proposed to be ordered by a petition, to be submitted to the voters shall be prepared and in the hands of the city recorder within five days after the council orders the submission or after a copy of the petition is first deposited at the office of the city recorder.

B. Initial Preparation. When the council orders submission of a measure to the voters or when a petition for ordering submission of a measure to the voters is first deposited at the office of the city recorder:

1. If the city has an attorney and the attorney is not prevented by reason of absence from the city or physical disability from preparing the ballot title within the time in which this section required preparation of the title, then the city recorder, immediately upon the making of the order by the council or upon receiving a copy of the petition, shall transmit to the attorney a copy of the measure and the attorney, within the time in which this section requires preparation of the title, shall prepare it and transmit it to the city recorder; or

2. If the city has no attorney or its attorney is prevented by reason of absence from the city or physical disability from preparing the ballot title within the time in which this section requires preparation of the title, then the city recorder, within that time, shall prepare the title.



C. Appeal to Council. A voter dissatisfied with the title may, within five days after it is prepared and in the hands of the city recorder, appeal to the council by a written appeal deposited at the office of the city recorder asking for a different ballot title of the measure and stating why the title prepared is unsatisfactory.

D. Action on Appeal. Within three days after deposit of the appeal at the office of the city recorder the council shall afford the appellant a hearing and either approve the title or proscribe another ballot title for the measure. The title thus adopted shall be the ballot title for the measure. [Ord. G2-2015 § 1, 2015; Ord. G1-9 § 19, 1962. Amended during 2006 recodification.]

**1.20.200 Requisites of ballot title.**

A. Parts. The ballot title for a measure shall consist of a short title and a long title.

B. Short Title. The short title shall be the title by which the measure is commonly spoken of or a title for commonly referring to the measure, and shall so contain not more than 10 words.

C. Long Title. The long title shall state the purpose of the measure and shall contain not more than 100 words.

D. Accuracy and Fairness. The ballot title for a measure:

1. Shall state truly and impartially the purpose of the measure in language which is not an argument and does not tend to create prejudice concerning the measure; and

2. Shall not resemble, so far as probably to create confusion, the ballot title from another measure to be submitted to the voters at the same election. [Ord. G1-9 § 20, 1962.]

**Article VI. Election**

**1.20.210 Time to vote on measure.**

Except for a measure on which the voters have voted at a special election, subsequent to the latest time that the measure has been proposed or referred, the time for voting on a measure required to be submitted to the voters shall be the first general election held more than 60 days after the latest time that the measure has been proposed or referred. [Ord. G1-9 § 21, 1962.]

**1.20.220 Titles and numbers of measures on ballot.**

A. Titles. On a ballot a measure shall appear by ballot title only.

B. Order. On a ballot for an election the sequence of measures to be voted upon shall be the sequence in which the respective measures are ordered to be submitted to the voters.

C. Measures to Be Distinguished. On a ballot initiative measures shall be distinguished from referred measures.

D. Numbers. On a ballot the spaces for votes on the first measure shall be designated "500 yes" and "501 no," and the spaces for votes on the succeeding measures shall be numbered consecutively "502 yes" and "503 no," and "504 yes" and "505 no" and so on. [Ord. G1-9 § 22, 1962.]

**1.20.230 Notice of special election.**

A. Publishing or Posting. In case of a special election on a measure the city recorder, not earlier than 20 and not later than 10 days before the election shall issue, under the seal of the city, a notice of the election and cause it to be:

1. Published in two consecutive issues of a newspaper of general circulation in the city; or
2. Posted in five public places in the city, including the City Hall.

B. Form. The form of the notices shall be as follows:

On \_\_\_\_\_, 20\_\_\_\_, in the city of Lyons, from \_\_\_\_\_ am till \_\_\_\_\_ pm, a special election will be held at which the following \_\_\_\_\_ will be submitted to the voters for their approval:

\_\_\_\_\_  
\_\_\_\_\_

(In drawing the notice, insert in this blank the number and ballot title of each measure to be voted upon at the election.)

The polling places for the election will be as follows:

Precinct	Polling Place
_____	_____

Witness my hand and the seal of the city of Lyons, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Recorder

[Ord. G2-2015 § 1, 2015; Ord. G1-9 § 23, 1962. Amended during 2006 recodification.]

#### **1.20.240 Notice at general election.**

Where a measure is to be voted upon at a general election, the notice of the election shall state that fact and the ballot title and number of each measure to be voted upon at the election. [Ord. G1-9 § 24, 1962.]

#### **1.20.250 Advertising measure.**

In case of the submission of measure to the voters the city recorder, not earlier than 20 and not later than 10 days prior to the election at which the measure is to be voted upon, shall cause it to be:

A. Published in two consecutive issues of a newspaper of general circulation in the city; or

B. Posted in five public places in the city, including the City Hall. [Ord. G2-2015 § 1, 2015; Ord. G1-9 § 25, 1962. Amended during 2006 recodification.]

#### **1.20.260 Election returns.**

The votes on a measure shall be counted, canvassed, and returned as follows:

A. In case of general election, in the same manner as other votes cast at general election in the city; and

B. In case of special election, in the manner provided by the city charter and ordinances. [Ord. G1-9 § 26, 1962.]

### **Article VII. Effect of Measures**

#### **1.20.270 Proclamation of mayor.**

A. Time and Content. Immediately upon the completion of the canvass of the votes on a measure submitted to the voters pursuant to this chapter the mayor shall issue proclamation:

1. Recapitulating the vote on the measure;

2. Declaring whether the vote shows a majority of those who voted on the measure to be in favor of it; and

3. In case the vote shows a majority of them to be in favor of the measure, announcing it to be effective from the date of the vote.

B. Publication or Posting. The city recorder shall give public notice of the proclamation by:

1. Publishing it once in a newspaper of general circulation in the city; or

2. Posting copies of it in five public places in the city, including the City Hall.

C. Filing with Measure. The proclamation shall be filed with the measure. [Ord. G2-2015 § 1, 2015; Ord. G1-9 § 27, 1962. Amended during 2006 recodification.]

#### **1.20.280 Effective date of measure.**

A measure submitted to the voters pursuant to this chapter shall take effect only when approved by a majority of the voters voting upon it. [Ord. G1-9 § 28, 1962.]

#### **1.20.290 Measures subject to referendum.**

A measure, so long as it is subject to the referendum, shall have no effect. [Ord. G1-9 § 29, 1962.]

#### **1.20.300 Conflicting measures.**

Of conflicting measures approved by the voters at an election, the one receiving the greater number of affirmative votes shall be paramount. [Ord. G1-9 § 30, 1962.]

### **Article VIII. Criminal Provisions**

#### **1.20.310 Unlawful acts.**

A. Signing by One Not a Voter. No person other than a voter shall sign his name to a petition.

B. Signing Another's Name. No person shall sign a petition with a name not his own.

C. Signing Petition More Than Once. No person shall sign his name to a petition with knowledge that he has previously signed his name to the petition.

D. Circulating or Filing Petition with Unlawful Signatures. No person shall knowingly circulate or deposit at the office of the city recorder a petition which to his knowledge contains a signature signed in violation of this chapter.

E. Procuring Signature by Fraud. No person shall procure or attempt to procure a signature to a petition by fraud.

F. Making False Statement. No person shall make a statement which he knows to be false concerning a petition.

G. Making False Document. No person shall make a document for which this chapter provides which contains a false statement.

H. Officer Violating Chapter. No officer shall willfully violate a provision of this chapter. [Ord. G2-2015 § 1, 2015; Ord. G1-2006 § 2, 2006; Ord. G1-9 § 31, 1962. Amended during 2006 recodification.]

**1.20.320 Penalty.**

*Repealed by Ord. O5-18.* [Ord. G1-2006 § 3, 2006; Ord. G1-9 § 32, 1962.]

**Chapter 1.25**

**Enforcement Procedures**

Sections:

- 1.25.010 Title.
- 1.25.020 Purpose.
- 1.25.030 Definitions.
- 1.25.040 Enforcement officers.
- 1.25.050 Issuance of warnings and notification to city council.
- 1.25.060 Jurisdiction of courts.
- 1.25.070 Commencement of action for ordinance violation.
- 1.25.080 Enforcement by means of citation filed in circuit or justice court.
- 1.25.090 Form and content of citation.
- 1.25.100 Minimum requirements for summons.
- 1.25.110 Minimum requirements for complaint.
- 1.25.120 Hearing – Trial – Commencement – Burden of proof – Pretrial discovery – Offender as witness.
- 1.25.130 Prosecution of violation complaint.
- 1.25.140 Civil judgment.
- 1.25.150 Appeal from judgment.
- 1.25.160 Court costs.
- 1.25.170 Consent decree.
- 1.25.180 Fines.
- 1.25.190 Special costs.
- 1.25.200 Issuance of citation.
- 1.25.210 Appearance by defendant.
- 1.25.220 Effect of statement and explanation in mitigation.
- 1.25.230 Fixing hearing dates – Notice to defendants.
- 1.25.240 Hearing discretionary with court – Exception.
- 1.25.250 Warrant for arrest.
- 1.25.260 Enforcement and penalties.
- 1.25.270 Base fine amount.

\* Prior legislation: Ord. G1-14.

**1.25.010 Title.**

This chapter shall be known as the city of Lyons enforcement ordinance. [Ord. O5-11 § 1.010, 2000.]

**1.25.020 Purpose.**

This chapter is enacted for the purpose of providing procedures to be used in enforcing certain city of Lyons ordinances. [Ord. O5-11 § 1.020, 2000.]

**1.25.030 Definitions.**

A. "Enforcement officer" means a person or persons appointed by the city council of the city of Lyons who is specifically designated to enforce the provisions of an ordinance that has been adopted by the city council.

B. "Peace officer" means a sheriff, constable, marshal, municipal policeman, or member of the Oregon State Police. [Ord. O5-18 § 1, 2018; Ord. O5-11 § 1.030, 2000.]

**1.25.040 Enforcement officers.**

The city council of the city of Lyons may, by order of the council, designate from time to time one or more appropriate persons as enforcement officers for the purpose of implementing this chapter. Enforcement officers shall serve at the pleasure of the city council. Designation of an enforcement officer may be limited to enforcement of specific violations. The city council may revoke designation as an enforcement officer without showing cause therefor. A copy of each of the council's orders appointing an enforcement officer or officers or revoking authority of an enforcement officer shall be entered in the minutes of the city council meeting. [Ord. O5-11 § 2.010, 2000.]

**1.25.050 Issuance of warnings and notification to city council.**

A. The appropriate enforcement officer may issue a warning notice of an alleged ordinance violation. If issued, such warning notice shall give a brief description of the violation alleged to exist, and shall be served personally or by posting at the site of the violation, and, if the person accused of the violation is known, by certified mail to that person as well. The warning notice shall further contain the name of the city official to contact regarding the violation, the name of the person issuing the warning notice, the date the warning was issued, and a statement that failure to correct the alleged violation may result in initiation of enforcement procedures.

B. Prior to commencing legal action on an alleged ordinance violation, the enforcement officer shall inform the city council of the alleged violation. The city council shall review the alleged violation and make a determination as to whether it should be resolved by following the procedures as outlined in this chapter. Notwithstanding the foregoing, in the event that in the course of an investigation of a violation the city recorder or the enforcement officer deems the actions of the person or persons accused of the violation to be chronic, ongoing and habitual, the city recorder or the enforcement officer shall contact the members of the city council by telephone to advise them of the problem and to request their authorization to issue a citation for such violation. Upon receipt of authorization from a majority of the members of the city council, the city recorder or the enforcement officer can have the offender cited immediately. [Ord. G2-2015 § 1, 2015; Ord. O5-11 § 2.020, 2000, as amended 8/24/2004. Amended during 2006 recodification.]

**1.25.060 Jurisdiction of courts.**

Violation of city ordinances is subject to ORS 8.665, ORS Chapter 153 and this chapter. A circuit court or justice court has concurrent jurisdiction of all violations. [Ord. O5-11 § 2.030, 2000, as amended 10/22/2002.]

**1.25.070 Commencement of action for ordinance violation.**

Whether or not a warning notice of an alleged ordinance violation has been issued, the enforcement officer may commence proceedings by issuing a citation by the method outlined in this chapter, and filed in a Linn County circuit court, or Linn County justice court. [Ord. O5-11 § 2.040, 2000.]

**1.25.080 Enforcement by means of citation filed in circuit or justice court.**

If the enforcement officer determines that enforcement of a violation defined by ordinance, statute, or administrative rule by means of a citation filed in circuit or justice court is warranted, the enforcement officer may proceed as provided in this chapter. [Ord. O5-11 § 2.050, 2000.]

**1.25.090 Form and content of citation.**

A. A citation conforming to the requirements of this chapter and ORS 1.525 may be used for all ordinance violations that occur in the city of Lyons, Oregon.

B. Except as provided in this chapter, the procedures and substantive provisions of ORS Chapter 153 shall be followed.

C. The citation shall consist of at least four parts. Additional parts may be inserted for administrative use. The required parts are:

1. The complaint;
2. The abstract of record;
3. The police or enforcement officer record;
4. The summons.

D. Each of the parts shall contain the information or blanks required by rules of the Supreme Court under ORS 1.525.

E. The complaint shall contain a form of certificate in which the complainant shall certify, under the penalties provided in ORS 153.990, that the complainant has reasonable grounds to believe, and does believe, that the person cited committed the offense contrary to law. A certificate conforming to this section shall be deemed equivalent of a sworn complaint. [Ord. 05-11 § 3.010, 2000, as amended 10/22/2002.]

**1.25.100 Minimum requirements for summons.**

A summons in a violation subject to this chapter, ORS 8.665, and ORS Chapter 153, is sufficient if it contains the following:

A. The name of the court, the name of the person cited, the date on which the citation was issued, the name of the complainant and the time and place 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, time and place at which the offense is alleged to have occurred.

C. A notice to the person cited that a complaint will be filed with the court based on the offense.

D. The amount of the base fine, if any, fixed for the offense. [Ord. 05-11 § 3.020, 2000, as amended 10/22/2002.]

**1.25.110 Minimum requirements for complaint.**

A. Except as provided in this section, a complaint in a violation subject to this chapter, ORS 8.665 and ORS Chapter 153 is sufficient if it contains the following:

1. The name of the court; the name of the state, of the city, or other public body in whose name the action is brought; and the name of the defendant.

2. 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, time and place at which the offense is alleged to have occurred.

3. A certificate, as specified by ORS Chapter 153, signed by the complainant.

B. The complaint shall be set aside by the court upon motion of 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.

C. Nothing prohibits the court from amending the citation in its discretion. [Ord. 05-11 § 3.030, 2000, as amended 10/22/2002.]

**1.25.120 Hearing – Trial – Commencement – Burden of proof – Pretrial discovery – Offender as witness.**

A. The hearing of any violation complaint shall be by the court without a jury.

B. The hearing of any violation complaint shall not commence until the expiration of seven days from the date of the complaint.

C. The city shall have the burden of proving the violation by a preponderance of the evidence.

D. The pretrial discovery rules set forth in the Oregon Rules of Civil Procedure shall apply to violation complaints. The plaintiff may call the offender as a witness at the hearing.

E. Proof of negligence, malfeasance, misfeasance, nonfeasance, willful conduct, knowing conduct, intentional conduct, or any other culpable mental state is not an element of any violation.

F. At any hearing involving a violation complaint, an attorney shall not be provided for a defendant at public expense. At any hearing involving a violation complaint, the city attorney may appear only if the defendant is represented by an attorney. [Ord. 05-11 § 4.010, 2000.]

**1.25.130 Prosecution of violation complaint.**

Notwithstanding any provision of the Oregon Rules of Civil Procedure or any other provision of this chapter, the prosecution of one violation complaint shall not bar the subsequent prosecution of additional city ordinance violations occurring or committed at the same time or as part of the same act or transaction or as part of the same occurrence as other ordinance violations. [Ord. 05-11 § 4.020, 2000.]

**1.25.140 Civil judgment.**

A judgment upon a violation complaint is a civil judgment, as in any other civil judgment at law. The judgment involves only a fine, and may also include a lien against the property. The judgment does not incur loss by forfeiture, suspension or revocation of any license or any other privilege or civil penalty. A person against whom a judgment is issued does not suffer any disability or legal disadvantage, based upon said judgment, other than the enforcement by the city of Lyons of the judgment. [Ord. 05-11 § 5.010, 2000.]

**1.25.150 Appeal from judgment.**

An appeal from a judgment may be taken by either party as follows:

A. From a proceeding in justice court, as provided in ORS Chapter 53.

B. From a proceeding in circuit court, as provided in ORS 19.005 to 19.510. [Ord. 05-11 § 5.020, 2000.]

**1.25.160 Court costs.**

A. The court shall charge court costs to the violator where:

1. The offender admits a violation of the city ordinance;

2. The offender, following a hearing, is found to have violated a city ordinance; or

3. The offender enters into an agreement with the city for a consent decree whereby the offender does not admit violating the city ordinance but agrees to make necessary corrections, as set forth in the agreement, in order to bring the offender's conduct, actions, omissions or property into compliance with city ordinances.

B. Court costs shall be \$100.00. In any proceeding, said costs cannot be waived by the city, the offender or the court except in case of indi-

gence or undue hardship under ORS 21.605. If the offender fails to pay the costs, the costs shall be entered as a judgment against the offender in the same manner and with like effect as a judgment for a fine. [Ord. 05-11 § 5.030, 2000, as amended 10/22/2002.]

**1.25.170 Consent decree.**

A. The city and the offender may enter into a consent decree. The consent decree may provide that the offender does not admit violation of a city ordinance but will make necessary corrections, as set forth in the agreement, to bring the offender's actions, conduct, omissions or property into conformance with appropriate city ordinances.

B. The offender, the offender's attorney, if any, and the city's representative shall sign all consent decrees.

C. The consent decree shall be filed with the court as a final adjudication of the proceedings and shall constitute a dismissal of the action when the offender performs as agreed. The violator or the city of Lyons may seek a court order dismissing the case upon completion of the conditions of the consent decree.

D. The offender's failure to comply with the consent decree allows the city of Lyons to seek any additional remedies provided by law or this chapter. [Ord. 05-11 § 5.040, 2000.]

**1.25.180 Fines.**

All fines paid to the city shall be credited to the general fund, to be used for general city purposes. [Ord. 05-11 § 6.010, 2000.]

**1.25.190 Special costs.**

A. The city shall be entitled to recover all special costs and disbursements that are reasonable and necessary expenses incurred in the successful prosecution of a violation complaint, other than for legal services, but including the costs of cleaning up the property, the costs and expenses of witnesses, the necessary expenses of taking depositions, the expense of publication of summons or notices, postage, compensation of expert witnesses, and the expense of copying any public or private record, book or document used as evidence in the trial.

B. The special costs shall be allowed to the city in the same manner as a judgment for fines. [Ord. O5-11 § 6.020, 2000.]

**1.25.200 Issuance of citation.**

A peace officer or enforcement officer may issue a citation for violation of a city of Lyons ordinance. [Ord. O5-11 § 7.010, 2000.]

**1.25.210 Appearance by defendant.**

The defendant shall either appear in court at the time indicated in the summons, or prior to such time shall deliver to the court the summons, together with cash, checks or money order in the amount of the base fine amount set forth on the summons, enclosing therewith:

A. A request for a hearing; or

B. A statement of matters in explanation or mitigation of the offense charged; or

C. The executed appearance, waiver of hearing and plea of guilty appearing on the summons. A statement in explanation or mitigation may also be enclosed with the guilty plea;

D. In any case in which the defendant personally appears in court at the time indicated in the summons, if the defendant desires to plead guilty and the judge accepts the plea, the judge shall hear any statement in explanation or mitigation that the defendant desires to make. [Ord. O5-11 § 7.020, 2000.]

**1.25.220 Effect of statement and explanation in mitigation.**

If a defendant has submitted to the court any written statement in explanation or mitigation under LMC 1.25.210 or ORS 153.061, the statement constitutes a waiver of hearing and consent to judgment. The court may declare a forfeiture of the base fine amount on the basis of the statement and any testimony or written statement of the person issuing the citation or other person that may be presented to the court. [Ord. O5-11 § 7.030, 2000, as amended 10/22/2002.]

**1.25.230 Fixing hearing dates – Notice to defendants.**

A. If the defendant requests a hearing under ORS 153.061, or if, pursuant to LMC 1.25.240, the court directs that a hearing be held, the court shall fix a date and time for the hearing and, unless

notice is waived, shall at least five days in advance of the hearing mail to the defendant a notice of the date and time so fixed.

B. Notice to the defendant required pursuant to subsection (A) of this section shall be made in the form of a court “notice to appear” and be sent by certified mail addressed to the defendant at his last known address with postage prepaid thereon, or by other notice deemed adequate by the court to provide actual notice to the defendant. [Ord. O5-11 § 7.040, 2000, as amended 10/22/2002.]

**1.25.240 Hearing discretionary with court – Exception.**

A. For any ordinance violation for which a citation has been issued, the court may direct a hearing be held or may enter the appropriate judgment, impose a fine, direct that a fine be paid out of the base fine amount deposit and unless the court orders otherwise, remit the balance to the defendant or to any other person designated by the defendant.

B. No fine may be imposed in excess of the amount of base fine amount deposited unless a hearing is held. [Ord. O5-11 § 7.050, 2000.]

**1.25.250 Warrant for arrest.**

A. If a person cited fails to comply with the provisions of LMC 1.25.210 or ORS 153.064, or if the person fails to appear at any time fixed by the court, a warrant for the arrest of the person may be issued. A warrant issued by a circuit or justice court may be served, without further endorsement, in any county in this state.

B. No warrant of arrest may be issued pursuant to this section after a period of 60 days from the date of entry of an order declaring a forfeiture of the base fine amount or other security given by the defendant. Unless a warrant has been issued before the expiration of that period, the order of forfeiture shall be deemed the final disposition of the case. [Ord. O5-11 § 7.060, 2000, as amended 10/22/2002.]

**1.25.260 Enforcement and penalties.**

A. Any individual, firm or corporation, whether as principal, agent, or employee, violating any provision of a city of Lyons ordinance for which a penalty is not provided shall be punished, upon

conviction thereof, by a fine not less than \$50.00 and not more than \$1,000.

B. For purposes of this chapter, a failure to comply with any provision of a city of Lyons ordinance from day to day shall be a separate offense for each such day. [Ord. O5-18 § 2, 2018; Ord. O5-11 § 8.010, 2000.]

**1.25.270 Base fine amount.**

The base fine amount for each violation shall be 25 percent of the amount set out as a maximum fine by LMC 1.25.260. [Ord. O5-11 § 8.020, 2000.]

**Chapter 1.30**

**State Codes Adopted**

Sections:

1.30.010 State codes adopted.

**1.30.010 State codes adopted.**

The common council of the city of Lyons does adopt all laws and statutes of the state of Oregon, and the amendments and revisions thereto, and all other laws that become laws by legislation. [Ord. G1-8 § 1, 1961.]