

ORDINANCE 20-292

AN ORDINANCE CREATING CHAPTER 40, TITLE IV OF THE LAKESIDE CITY CODE AND AUTHORIZING THE CREATION AND OPERATION OF THE LAKESIDE MUNICIPAL COURT

WHEREAS, Section 21 of the Lakeside Charter authorizes the creation of a municipal court and the appointment of a municipal judge; and

WHEREAS, the City Council finds that the procedures for the operation of the municipal court should be codified in the Lakeside City Code.

NOW THEREFORE, THE CITY OF LAKESIDE ORDAINS AS FOLLOWS:

Section 1. The following language shall be added to the Lakeside City Code and codified as Chapter 40, Title IV:

Section

- 40.01 Judge—Jurisdiction
- 40.02 Applicability of state law
- 40.03 Sessions of the court
- 40.04 Conduct in court.
- 40.05 Representation
- 40.06 Court appearance--Jurisdiction.
- 40.07 Pleading
- 40.08 Refusal to plead.
- 40.09 Forfeiture schedule.
- 40.10 Court costs.
- 40.11 Sentencing.
- 40.12 Nonpayment of fines or costs.
- 40.13 Suspended sentences.
- 40.14 Contempt of court
- 40.15 Appeal Process
- 40.16 Rules for conduct of business

40.01 Judge – Jurisdiction.

1. The municipal judge shall be the judicial officer of the city and shall hold within the city a court known as the municipal court for the City of Lakeside, Coos County, Oregon. All area within the city shall be within the territorial jurisdiction of the court.
2. The municipal judge shall be a person of good character, shall be a citizen of the United States and shall be a resident of the state of Oregon. The municipal judge may be, but is not required to be, an attorney. (1) If the municipal judge is an attorney, then the municipal judge shall be a member, in good standing, of the Oregon State Bar

- Association. (2) If the municipal judge is not an attorney, then the municipal judge must complete the training for non-attorney judges as prescribed by the State of Oregon.
3. The municipal judge shall exercise original or concurrent jurisdiction of all offenses defined and made punishable by any municipal code violation of the city, and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by the municipal code of the city, and all state offenses which may be brought in municipal court; and, in addition to the powers granted generally by the city charter, the Constitution of the State of Oregon, and state statutes, shall be vested with all powers of a justice of the peace except as otherwise provided by the municipal code. By way of illustration, but not limitation, the municipal court has the power to:
 - (a) To enter judgments, orders and decrees necessary to effectuate the exercise of its power to enforce the ordinances of the city;
 - (b) To compel compliance with and obedience to its judgments, orders and decrees, in or out of court;
 - (c) To preserve and enforce order in its immediate presence and in the proceedings before it and to control, in the furtherance of justice, the conduct of the court's ministerial officers and parties and witnesses connected with any proceeding before it;
 - (d) To compel the attendance of persons to testify in any proceeding pending in municipal court;
 - (e) To administer oaths in any pending proceeding, and in all other cases where it may be necessary in the exercise of its powers or the performance of its duties;
 - (f) To adjourn any proceeding before the court from time to time as may be necessary, unless otherwise expressly prohibited by ordinance or state law.
 - (g) To issue administrative search warrants authorizing the inspection or investigation at a designated location upon application by the city attorney, city recorder, building official, county sheriff, fire chief, or their duly authorized representatives, acting in the course of their official duties, whenever an inspection or investigation of any place is required or authorized by any municipal ordinance or regulation.
 4. All proceedings or actions before the municipal judge shall be commenced by complaint or citation setting forth the violation of this Code, with such particulars as to the time or place or person or property as to enable the defendant to understand the character of the offense and answer the complaint or citation.
 5. The City Recorder, or assigns, and the Coos County Sheriff, shall assist the municipal judge in the service of all warrants, including bench warrants, subpoenas and such other orders of the court as are necessary for the proper conduct thereof.
 6. In the absence of the regular municipal judge, a pro tem judge appointed by the regular judge will serve unless the regular judge is not available to make the appointment, in which case the city manager may make the appointment.

40.02 Applicability of state law.

Except as otherwise provided by the municipal code, charter or rules of procedures compiled by the court, proceedings in the municipal court shall be governed by the applicable general laws of the state governing justice of the peace and justice courts.

40.03 Sessions of the Court

1. Sessions of municipal court shall be public and shall be held in the council chambers of the city of Lakeside.
2. Municipal court shall normally be held on the first Thursday of every month, or such other dates as may be designated by the order of the judge. If the day appointed for holding court is a legal holiday, the court shall be held the next Thursday following which is not also a legal holiday. The court shall be open to do judicial business at 4:00 p.m.
3. Municipal court may be held and judicial business may be transacted on any day other than Saturdays, Sundays and legal holidays, except that the court may exercise the powers of a magistrate on any day.

40.04 Conduct in Court.

1. The municipal court shall have the authority to make and publish rules of conduct within said court, insofar as said rules of conduct are calculated to preserve the decorum of the court and to promote the ends of justice, and to the extent that the said rules are not inconsistent with the rules of procedure set forth herein and in the Charter of the city.
2. The municipal judge shall propose a budget to the city recorder for the municipal court.
3. The City Administrator shall appoint a qualified city staff member as the municipal court clerk who will perform the duties of clerk as established by the city council or the municipal judge and approved by the council.

40.05 Representation.

A defendant may be represented by counsel, but counsel shall not be provided at public expense. If defense counsel is to appear, written notice shall be provided to the municipal court fourteen (14) days prior to the hearing date, excluding weekends and holidays.

40.06 Court appearance—Jurisdiction.

A voluntary or involuntary appearance before the said court of any person charged with a violation shall confer upon the court full personal jurisdiction over said person.

40.07 Pleading.

Upon appearance by the person charged with a violation, the court shall require said person to plead guilty or not guilty and, in the event of a plea of guilty, shall forthwith pronounce sentence.

If the person so charged and so appearing shall plead not guilty, the court shall forthwith proceed to try the issues of the case; provided, that if the person so charged shall request the right to

employ counsel or either the charged person or the city request the right to summon witnesses and to prepare their case, the court shall set a date and time for trial within a reasonable time.

40.08 Refusal to plead.

A refusal to plead shall be deemed a plea of not guilty and shall be so entered in the record of the court; and the court shall forthwith try the issues raised by such plea.

40.09 Forfeiture schedule.

The only penalty to be imposed for a violation is a monetary penalty called a forfeiture. The forfeiture to be assessed for a specific violation will be determined from a forfeiture schedule prepared by the municipal judge. However, this section shall not be read to prohibit or in any way restrict any other alternative remedy set out in the municipal code or provided for by state law which are intended to abate or alleviate municipal code violations, nor shall the city be prohibited from recovering, in any manner prescribed by law, any expense incurred to it in abating or removing an municipal code violation pursuant to the municipal code or laws. All forfeitures, fines, or other moneys collected by the municipal court shall be deposited into the general fund and used for general fund purposes or as may be otherwise specified in the annual budget for the city. All required state and county assessments against the municipal court shall be paid from the general fund.

40.10 Court costs.

1. Court costs may be assessed against each defendant being cited into the municipal court for any violation of a city municipal code or state offense which may be prosecuted in municipal court, whether the defendant answers, fails to appear, or is convicted after a trial.
2. Court costs shall be distinct from any fine or other penalty imposed for any violation prosecuted in the municipal court. They shall be considered statutory in nature and may not be suspended or otherwise disposed of. Moneys collected as court costs under this section shall be disposed of and handled in the manner in which other fines and penalties accruing from other matters in the municipal court are disposed of.

40.11 Sentencing.

1. The municipal judge may, as a condition of sentence, place any convicted person upon probation to the court for a period not to exceed one year.
2. When a defendant is sentenced to pay a fine or costs, the court may grant permission for payment to be made within a specified period of time or in specified installments. If no such permission is included in the sentence, the fine and costs shall be payable immediately.
3. When a defendant sentenced to pay a fine or costs is also placed on probation, or imposition or execution of a sentence is suspended, the court may make payment of the fine or costs a condition of probation or suspension of sentence.

4. When a person shall be convicted of an offense under the laws of the city and shall be adjudged to pay a fine and costs, the municipal judge may impose community service in lieu of or in addition to a fine in conformance with applicable hour and wage law and for a period of time as the court finds suitable, but in no event greater than forty-eight (48) hours. Persons fined and sentenced, as set out in this section, shall be under the charge and supervision of the appropriate department head. Failure to perform a community service sentence may be grounds for revocation of probation or contempt of court.

40.12 Nonpayment of fines or costs.

1. When a defendant sentenced to pay a fine defaults in the payment thereof or of any installment, the court, on the motion of the city attorney or upon its own motion, may require the person to show cause why the default should not be treated as contempt of court, and may issue a show cause citation for the person's appearance.
2. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on the defendant's part to make a good faith effort to make the payment, the court may find that the default constitutes contempt.
3. When a fine is imposed on a corporation or unincorporated association, it is the duty of the person authorized to make disbursement from the assets of the corporation or association to pay the fine from those assets; and that person's failure to do so may be held to be in contempt unless the person makes the showing required in subsection B of this section.
4. If it appears to the satisfaction of the court that the default in the payment of a fine is not contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount thereof or of each installment, amending the order to allow community service in lieu of all or part of the fine, or revoking the fine or the unpaid portion thereof in whole or in part.
5. A default in the payment of a fine or costs or any installment thereof may be collected by any means authorized by law for the enforcement of a judgment.

40.13 Suspended sentences.

The court may suspend any sentence by it pronounced, in whole or in part, on any one or more of the following conditions:

1. The person convicted shall commit no further offenses or violation of the municipal code whatsoever;
2. The person convicted shall make reparation or restitution to the aggrieved person or persons for the damage or loss caused by the offense in an amount to be determined by the court;

3. The person convicted shall remain away from, or out of, the place or premises where the offense occurred;
4. The defendant shall refrain from any acts or conduct specifically stated which are or could be detrimental to the defendant's or society's interests.

40.14 Contempt of court.

The court may exercise power to punish contempt in the manner provided by ORS 33.015 through 33.155.

40.15 Appeal process

Whenever a person is found to be in violation in the municipal court of any charter or ordinance defined and made punishable by ordinance, such person shall have the same right of appeal to the Coos County Circuit Court as if from a finding of violation in justice court. The appeal shall be taken and perfected in the manner provided by law for taking appeals from justice court. The municipal court clerk shall provide any person wishing to appeal a decision of the municipal court instructions in writing regarding the filing of an appeal.

40.16 Rules for conduct of business

The municipal judge shall have authority to form and adopt such reasonable rules for the conduct of the business of the municipal court for the City of lakeside; provided, however, that he/she shall not form or adopt any rule which is in contravention with the Constitution of the United States, the Constitution of the state of Oregon, the laws of the state of Oregon or any ordinance of the City of Lakeside.

Section 2. Effective Date. This Ordinance will become effective 30 days after its passage by the City Council and approval by the Mayor.


PASSED BY THE LAKESIDE CITY COUNCIL THIS May 14th, 2020.
Ayes: 7
Nays: 0

ATTESTED:



Andrew Carlstrom, City Recorder/Manager

APPROVED:



James Edwards, Mayor