

Title 1

GENERAL PROVISIONS

Chapters:

- 1.01 Code Adoption
- 1.04 General Provisions
- 1.08 Right of Entry for Inspection
- 1.12 Initiative and Referendum
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Chapter 1.01

CODE ADOPTION

Sections:

- 1.01.010 Adoption.
- 1.01.020 Title--Citation--Reference.
- 1.01.030 Reference applies to all amendments.
- 1.01.040 Title, chapter and section headings.
- 1.01.050 Ordinances passed prior to adoption of the code.
- 1.01.060 Effect of code on past actions and obligations.

1.01.010 Adoption.

There is adopted the Mill City Municipal Code as compiled, edited and published by Matthew Bender & Company, Inc. (Ord. 321 § 1, 2004)

1.01.020 Title--Citation--Reference.

This code shall be known as the "Mill City Municipal Code" and it shall be sufficient to refer to the code as the "Mill City Municipal Code" in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction of or repeal of the "Mill City Municipal Code." References may be made to the titles, chapters, sections and subsections of the "Mill City Municipal Code" and such references shall apply to those titles, chapters, sections or subsections as they appear in the code. (Ord. 321 § 2, 2004)

1.01.030 Reference applies to all amendments.

Whenever a reference is made to this code as the "Mill City Municipal Code" or to any portion thereof, or to any ordinance of the city codified herein, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. (Ord. 321 § 3, 2004)

1.01.040 Title, chapter and section headings.

Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof. (Ord. 321 § 4, 2004)

1.01.050 Ordinances passed prior to adoption of the code.

The last ordinance included in this code is Ordinance No. 315, passed April 9, 2003. The following ordinances, passed subsequent to Ordinance No. 315, but prior to the adoption of this code, are adopted and made a part of this code:

Ordinance No. 316, passed August 12, 2003

Ordinance No. 317, passed January 13, 2004

Ordinance No. 318, passed March 23, 2004

Ordinance No. 319, passed February 24, 2004

Ordinance No. 320, passed April 28, 2004

(Ord. 321 § 5, 2004)

1.01.060 Effect of code on past actions and obligations.

The adoption of this code does not affect prosecutions for ordinance violations committed prior to the effective date of this code, does not waive any fee or penalty due and unpaid on the effective date of this code, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any ordinance. (Ord. 321 § 6, 2004)

Chapter 1.04

GENERAL PROVISIONS

Sections:

- 1.04.010 Definitions.
- 1.04.020 Interpretation of language.
- 1.04.030 Grammatical interpretation.
- 1.04.040 Acts by agents.
- 1.04.050 Prohibited acts include causing and permitting.
- 1.04.060 Computation of time.
- 1.04.070 Construction.
- 1.04.080 Repeal shall not revive any ordinances.
- 1.04.090 Severability.

1.04.010 Definitions.

The following words and phrases, whenever used in the code of the city of Mill City, shall be construed as defined in this section unless from a context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

“City” means the city of Mill City, or the area within the territorial limits of the city, and such territory outside the city over which the city has jurisdiction or control by virtue of any constitutional or statutory provision.

“Council” means the city council of the city of Mill City. “All its members” or “all council members” means the total number of council members holding office.

“County” means either the County of Linn or County of Marion.

“Law” denotes the applicable federal law, the Constitution and statutes of the state of Oregon, the ordinances of the city, and when appropriate, any and all rules and regulations which may be promulgated thereunder.

“Linn County” means the County of Linn.

“Marion County” means the County of Marion.

“May” is permissive.

“Month” means a calendar month.

“Oath” includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed.”

“Owner” applied to a building or land, means and includes any part owner, joint owner, tenant in common, joint tenant, tenant by entirety, of the whole or a part of such building or land.

“Person” means and includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

“Personal Property” means and includes money, goods, chattels, things in action and evidences of debt.

“Preceding” and “following” mean next before and next after, respectively.

“Property” means and includes real and personal property.

“Real Property” means and includes lands, tenements, and hereditaments.

“Sidewalks” means that portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians.

“State” means the state of Oregon.

“Street” means and includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in the city, which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

“Tenant” and “occupant” applied to a building or land, mean and include any person who occupies the whole or a part of such building or land, whether alone or with others.

“Written” means and includes printed, typewritten, mimeographed, multigraphed, or otherwise reproduced in permanent visible form.

“Year” means a calendar year. (Ord. 298 § 1, 2002)

1.04.020 Interpretation of language.

All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning. (Ord. 298 § 2, 2002)

1.04.030 Grammatical interpretation.

The following grammatical rules shall apply in the code of the city unless it is apparent from the context that a different construction is intended:

A. Gender. Each gender includes the masculine, feminine and neuter genders.

B. Singular and Plural. The singular number includes the plural and the plural includes the singular.

C. Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable. (Ord. 298 § 3, 2002)

1.04.040 Acts by agents.

When an act is required by the city code, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent. (Ord. 298 § 4, 2002)

1.04.050 Prohibited acts include causing and permitting.

Whenever in the code of the city any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. (Ord. 298 § 5, 2002)

1.04.060 Computation of time.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded. (Ord. 298 § 6, 2002)

1.04.070 Construction.

The provisions of the code of the city, and all proceedings under it, are to be construed with a view to effect their objects and to promote justice. (Ord. 298 § 7, 2002)

1.04.080 Repeal shall not revive any ordinances.

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any sections that have been repealed thereby. (Ord. 298 § 8, 2002)

1.04.090 Severability.

The provisions of this code are severable. If a section, sentence, clause, or phrase of this code is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this code. (Ord. 298 § 9, 2002)

Chapter 1.08

RIGHT OF ENTRY FOR INSPECTION

Sections:

1.08.010 Entry.

1.08.020 Permission to enter.

1.08.030 Superiority of provisions--Violation.

1.08.010 Entry.

Whenever any officer or employee of the city is authorized to enter any building or premises for the purpose of making an inspection to enforce any provision, the officer or employee may enter such building or premises at all reasonable times to inspect the same; provided, that the officer or employee shall effect entry in the manner provided in Section 1.08.020, except in emergency situations, or when consent of the person having charge or control of such building or premises has been otherwise obtained. (Ord. 300 § 1, 2002)

1.08.020 Permission to enter.

If the building or premises to be inspected is occupied, the authorized officer or employee shall first present proper credentials and demand entry; and if such building or premises is unoccupied, the officer or employee shall first make a reasonable effort to locate the owner or other such person having charge or control of the building or premises and demand entry. If consent to such entry is not given, the authorized officer or employee shall have recourse to every remedy provided by law to secure entry. (Ord. 300 § 2, 2002)

1.08.030 Superiority of provisions--Violation.

This chapter shall be controlling over any other chapter or part of any chapter on the same subject, whether heretofore or hereafter adopted, unless such chapter or part of a chapter provides differently by an express reference to this chapter. Notwithstanding any other chapter or section of this code, whether heretofore or hereafter adopted, it shall not be a violation of this chapter to refuse or fail to consent to an entry for inspection. (Ord. 300 § 3, 2002)

Chapter 1.12

INITIATIVE AND REFERENDUM

Sections:

- 1.12.010 Definitions.
 - 1.12.020 Complete procedure.
 - 1.12.030 Initiative proposal.
 - 1.12.040 Referendum procedure.
 - 1.12.050 Time for referring measure by petition.
 - 1.12.060 Time for referral by council.
 - 1.12.070 Prospective petition.
 - 1.12.080 Elections officer duties.
 - 1.12.090 Ballot title preparation.
 - 1.12.100 Captions and statements.
 - 1.12.110 Ballot title appeals.
 - 1.12.120 Petition requirements.
 - 1.12.130 Number of signatures.
 - 1.12.140 Attachment of measure to sheets.
 - 1.12.150 Signature limits.
 - 1.12.160 Verification of signatures.
 - 1.12.170 Certification of signatures.
 - 1.12.180 Presentation to council.
 - 1.12.190 Submission to electors.
 - 1.12.200 Voting on measures.
 - 1.12.210 Designating and numbering measures.
 - 1.12.220 Election notice.
 - 1.12.230 Information to county clerks.
 - 1.12.240 Election returns.
 - 1.12.250 Proclamation of election results.
 - 1.12.260 Effective date of measures.
 - 1.12.270 Conflicting measures.
 - 1.12.280 Unlawful acts.
 - 1.12.290 Violation--Penalty.
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- 1.12.010 Definitions.

As used in this chapter:

“City elections officer” means the city recorder for the city.

“Elector” means a person who is qualified to vote in the city.

“Emergency election” means an election held as provided by ORS 221.230(2) when the council finds that to avoid extraordinary hardship to the community it is necessary to hold an election sooner than the next available election date specified in ORS 221.230(1).

“Measure” means a legislative enactment by the council that is not necessary for the immediate preservation of the public peace, health and safety; a part of such enactment; or a proposed legislative enactment for the city.

“Petition” means an initiative or referendum petition for ordering a measure to be submitted to the electors.

“Prospective petition” means the information, except ballot title information, signatures, and other identification of petition signers, required to be contained in a completed petition.

“Regular election” means a city election held at the same time as a primary or general biennial election for election of state and county officers.

“Special election” means an election held on a date specified in ORS 221.230(1) that is not a regular election.

“Write” means to write, type or print. (Ord. 208 § 1, 1985)

1.12.020 Complete procedure.

This chapter provides a complete procedure for the electors to exercise initiative and referendum powers. (Ord. 208 § 2, 1985)

1.12.030 Initiative proposal.

An initiative measure shall be proposed by filing with the city elections officer a completed petition that meets the requirements of this chapter and orders the measure to be submitted to the electors. (Ord. 208 § 3, 1985)

1.12.040 Referendum procedure.

A measure shall be referred by:

A. Filing with the city elections officer a completed referendum petition that meets the requirements of this chapter; or

B. Submission of the measure to the electors by the council. (Ord. 208 § 4, 1985)

1.12.050 Time for referring measure by petition.

A completed referendum petition for a measure, including the required signatures, must be filed with the city elections officer within thirty (30) days after the council enacts the measure. (Ord. 208 § 5, 1985)

1.12.060 Time for referral by council.

The council may refer a measure only at the session at which it enacts the measure. (Ord. 208 § 6, 1985)

1.12.070 Prospective petition.

A. A prospective petition shall be in the form prescribed by the Secretary of State.

B. Prior to its circulation, a copy of the prospective petition shall be deposited with the city elections officer with a correct copy of the measure and a signed statement on the face of the petition stating the name and address of the person or persons, not to exceed three, under whose authority and sponsorship the petition was prepared and is to be circulated or, if the sponsor is an organization, its name and address and the name and address of each of the principal officers of the organization. (Ord. 208 § 7, 1985)

1.12.080 Elections officer duties.

When a copy of a prospective petition is deposited with the city elections officer, the officer shall:

A. Check the form for compliance with Section 1.12.070;

B. Advise the person depositing it whether it complies with Section 1.12.070 and, if it does not, how to make it comply;

C. Provide a sample petition form prescribed by the Secretary of State, if one has not already been obtained; and

D. Stamp the date and time on the prospective petition, if it complies with Section 1.12.070, and send a copy to the city attorney for preparation of the ballot title. (Ord. 208 § 8, 1985)

1.12.090 Ballot title preparation.

A. The ballot title for a measure ordered by the council or proposed to be ordered by petition shall be prepared and in the hands of the city elections officer within five working days after the council orders the submission or after a copy of the prospective petition is deposited with the officer.

B. When the council orders submission of a measure to the electors or when a prospective petition is deposited with the city elections officer, the officer shall send a copy of the measure to the city attorney, who shall prepare the ballot title and return it to the officer. If the city has no attorney or the city attorney is unable to prepare the ballot title within the time required, the officer shall prepare the ballot title. (Ord. 208 § 9, 1985)

1.12.100 Captions and statements.

The ballot title shall consist of:

1. A caption not exceeding ten (10) words by which the measure is commonly referred to;

2. A question not exceeding twenty (20) words that plainly states the purpose of the measure and is phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and

3. A concise and impartial statement, not exceeding one hundred seventy-five (175) words, that summarizes the measure.

4. If any portion of this section, regarding the content or number of words required for a ballot title, caption, question or summary statement, conflicts with provisions provided by state election law, then the provisions of the state election law shall prevail. (Ord. 302 § 1, 2002; Ord. 208 § 10, 1985)

1.12.110 Ballot title appeals.

An elector who is dissatisfied with the ballot title may, within five days after it is prepared and deposited with the city elections officer, appeal to the council by a written appeal deposited with the officer asking for a different ballot title for the measure and stating why the title is unsatisfactory. Within three business days after deposit of the appeal with the officer, the council shall provide the appellant a hearing and either approve the title or prescribe another ballot title for the measure. (Ord. 208 § 11, 1985)

1.12.120 Petition requirements.

Prior to circulation, a petition must:

- A. Be in the form prescribed by the secretary of state; a sample of the form is available in the office of the city elections officer;
- B. Contain the name and address of the sponsor or sponsors of the petition; and
- C. Have written in the foot margin of each signature sheet and on the cover:
 1. On an initiative petition, the caption that is part of the ballot title. The cover sheet shall contain the entire ballot title;
 2. On a referendum petition, the number and title, if any, of the measure to be referred and the date it was enacted by the city council. (Ord. 208 § 12, 1985)

1.12.130 Number of signatures.

A. The number of signatures required for an initiative petition is fifteen (15) percent of the number of votes cast for all candidates for mayor at the election for the office of mayor immediately preceding the deposit of the prospective petition with the city elections officer.

B. The number of signatures required for a referendum petition is ten (10) percent of the number of votes cast for all candidates for mayor at the election for the office of mayor immediately preceding the deposit of the prospective petition with the city elections officer. (Ord. 208 § 13, 1985)

1.12.140 Attachment of measure to sheets.

A signature on a petition sheet shall not be counted unless a copy of the measure to which the petition refers is attached to the sheet at the time of signing and filing. (Ord. 208 § 14, 1985)

1.12.150 Signature limits.

Only the first twenty (20) names on a page of a petition shall be considered in computing the number of valid signatures on the petition. (Ord. 208 § 15, 1985)

1.12.160 Verification of signatures.

A. A signature on a petition sheet shall not be counted unless the person who circulated the sheet verifies by a signed statement on its face that the individuals signed the sheet in the presence of the circulator and the circulator believes that each individual who signed is a qualified elector.

B. No signature upon an initiative petition shall be counted unless a completed petition is offered for filing with the city elections offi-

cer within one hundred (100) days of the date of the signature. (Ord. 208 § 16, 1985)

1.12.170 Certification of signatures.

Within ten (10) days after a petition is offered for filing with the city elections officer, the officer shall verify the number and genuineness of the signatures and the voting qualifications of the persons who signed the petition by reference to the registration books in the offices of the Linn County and Marion County clerks. If a sufficient number of electors signed the petition, the officer shall certify and file the petition. If the officer determines that there is an insufficient number of signatures, the petition shall be returned to the person who offered the petition for filing. (Ord. 208 § 17, 1985)

1.12.180 Presentation to council.

At the next regular meeting of the council after the proposal of a completed initiative measure, the city elections officer shall present the measure to the council. (Ord. 208 § 18, 1985)

1.12.190 Submission to electors.

A. The city elections officer shall cause a charter or charter amendment proposed by the initiative, and any other initiative measure not adopted within thirty (30) days after its filing, to be submitted to the electors at the time provided by Section 1.12.200.

B. The city elections officer shall cause a referred measure to be submitted to the electors at the time fixed by Section 1.12.200. (Ord. 208 § 19, 1985)

1.12.200 Voting on measures.

A. Except as provided by subsection B of this section or unless an earlier special election is approved by the council, the time for voting on a measure shall be the next regular election date more than ninety (90) days after the verification and filing of a petition by the city elections officer.

B. The council may call an emergency election for a measure and set the date for it as provided by ORS 221.230. (Ord. 208 § 20, 1985)

1.12.210 Designating and numbering measures.

Measures shall appear on a ballot by ballot title only, and initiative measures shall be distinguished from referred measures. The sequence of measures to be voted on shall be the sequence in which the respective measures are ordered to be submitted to the electors, with the first measure to be numbered "51" in numerals, and the succeeding measures to be numbered consecutively "52," "53," "54," and so on. (Ord. 208 § 21, 1985)

1.12.220 Election notice.

The city elections officer shall give notice of all elections in accordance with the requirements of the city charter. (Ord. 208 § 22, 1985)

1.12.230 Information to county clerks.

When a measure is to be voted on at an election, the city elections officer shall furnish a certified copy of the ballot title and the number of each measure to be voted on to the Linn County and Marion County clerks in accordance with the time limits established by state law. (Ord. 208 § 23, 1985)

1.12.240 Election returns.

The votes on a measure shall be counted, canvassed and returned by the county clerks as provided by law. (Ord. 208 § 24, 1985)

1.12.250 Proclamation of election results.

A. Immediately after completion of the canvass of the votes on a measure, the mayor shall issue a proclamation:

1. Stating the vote on the measure;
2. Declaring whether the vote shows a majority to be in favor of it; and
3. If a majority of electors favor the measure, declaring it to be effective from the date of the vote.

B. The city elections officer shall give public notice of the proclamation by publishing it once in a newspaper of general circulation in the city or by posting a copy at city hall.

C. The proclamation shall be filed with the measure. (Ord. 208 § 25, 1985)

1.12.260 Effective date of measures.

A measure submitted to the electors shall take effect when approved by a majority of the electors voting on it, unless it specifies a later effective date. A measure shall have no effect while it is subject to the referendum. (Ord. 208 § 26, 1985)

1.12.270 Conflicting measures.

When conflicting measures are approved by the electors at an election, the one receiving the greater number of affirmative votes shall be paramount. (Ord. 208 § 27, 1985)

1.12.280 Unlawful acts.

- A. No person other than a registered elector shall sign a petition.
- B. No person shall sign a petition with a name not his or her own.
- C. No person shall knowingly sign a petition more than once.
- D. No person shall knowingly circulate, file or attempt to file with the elections officer a petition that contains a signature signed in violation of this chapter.
- E. No person shall procure or attempt to procure a signature on a petition by fraud.
- F. No person shall knowingly make a false statement concerning a petition.
- G. No person shall make a document required or provided for by this chapter that contains a false statement.
- H. No officer shall wilfully violate a provision of this chapter. (Ord. 208 § 28, 1985)

1.12.290 Violation--Penalty.

Violation of a provision of Section 1.12.280 is punishable by fine not to exceed one thousand dollars (\$1,000.00). (Ord. 208 § 29, 1985)

Chapter 1.16

GENERAL PENALTY

Sections:

1.16.010 Penalties.

1.16.010 Penalties.

A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the code of the city shall be guilty of an infraction unless the violation is made a misdemeanor by the code.

B. Except in cases where a different punishment is prescribed by the code of the city, any person convicted of a misdemeanor for violation of a provision of the city is punishable by a fine of not more than five thousand dollars (\$5,000.00), or by imprisonment not to exceed one year, or by both such fine and imprisonment.

C. Any person convicted of an infraction for violation of a provision of the city is punishable by a penalty of not more than five hundred dollars (\$500.00).

D. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the code of the city is committed, continued or permitted by any such person, and such person shall be punishable accordingly. (Ord. 299 § 1, 2002)