

ORDINANCE NO. NS-2473

AN ORDINANCE AMENDING BEND MUNICIPAL CODE SECTION 1.40.060 CIVIL INFRACTION APPEALS

Findings:

- A. Bend Municipal Code Section 1.40.060 governs judgments and appeals in civil infraction proceedings before the Bend Municipal Court. The City first adopted this section in 2011 by Ordinance No. NS-2159. It was amended in 2015 by Ordinance No. NS-2235.
- B. Section 1.40.060 presently provides that judicial review of civil infraction decisions in Municipal Court shall be by writ of review under ORS Chapter 34. Civil infractions proceedings are "criminal actions" under state law.
- C. Writs of review have been abolished in criminal actions arising in municipal courts. *See, e.g., Shelton v. Allen*, 77 Or App 177 (1985).
- D. ORS Chapter 221 describes the appropriate procedure for appeals of civil infraction decisions in municipal courts.
- E. The City now wishes to clarify that Section 1.40.060 requires appeals of civil infraction judgments in municipal court be taken as provided by ORS Chapter 221 or as otherwise allowed by state law.

Based on these findings, THE CITY OF BEND ORDAINS AS FOLLOWS:

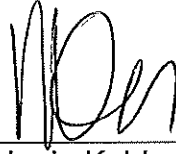
- Section 1. Section 1.40.060 of the Bend Code is amended to read as shown on the attached Exhibit A.
- Section 2. If any provision, section, phrase, or word of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

First Reading: April 19, 2023

Second reading and adoption by roll call vote: May 3, 2023

YES: Mayor Melanie Kebler
Councilor Barb Campbell
Councilor Anthony Broadman
Councilor Megan Perkins
Councilor Ariel Méndez
Councilor Megan Norris
Councilor Mike Riley

NO: none



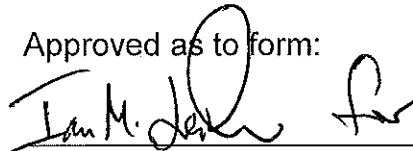
Melanie Kebler, Mayor

ATTEST:



Robyn Christie, City Recorder

Approved as to form:



Mary Winters, City Attorney

1.40.060 Decision – Appeal.

A. The court shall determine whether the infraction alleged in the citation was committed and shall enter judgment accordingly, including the amount of any penalty imposed. The court, in addition to imposing a penalty, may require the defendant to abate the infraction and may require the defendant to pay restitution to persons harmed by the infraction. The court may impose a community service requirement as an alternative to payment of all or part of the penalty. A copy of the judgment shall be delivered to the respondent personally or by mail. The judgment may provide that payment be suspended if the violation is cured within a specified time.

B. The decision of the Municipal Court shall be final. ~~Judicial review of the Municipal Court decision shall be by writ of review under ORS Chapter 34~~Appeals from a decision involving a civil infraction shall be taken to circuit court in the manner provided by state law. [Ord. NS-2235, 2015; Ord. NS-2159, 2011]