

NOT ENACTED

**ORDINANCE NO. 286**

AN ORDINANCE GRANTING THE MUNICIPAL COURT CERTAIN AUTHORITY OVER PENALTIES IMPOSED PURSUANT TO CITY ORDINANCES AMENDING ORDINANCE NO. 275

The City of Coos Bay ordains as follows:

**Section 1:** Ordinance No. 275 is amended by the addition of the following sections:

**Section 33: Duty of Court to Ascertain and Impose Penalties.**

- (1) The ordinances that define violations impose a duty upon the court to pass judgment in accordance with this section, unless otherwise provided by law.
- (2) If the court is of the opinion that it is in the best interest of the public as well as the defendant, the court may suspend the imposition of all or part of a penalty for a period of not more than five years.
- (3) When a person is convicted of a violation and the court does not suspend the imposition of the penalty, or suspends part but not all of the penalty, or when a suspended penalty is revoked, the court shall impose penalty.

**Section 34: Time for Pronouncing Judgment.**

- (1) After a plea or judgment of guilty, the court shall appoint a time for assessing penalty. The time appointed shall be as soon as practicable, and may be immediately after acceptance of plea or after judgment by the court, unless the City has filed notice, in writing, of its desire to appear and make a statement in consideration of circumstances in aggravation or mitigation, in which case the time appointed shall be not later than the next following court session.
- (2) Penalties may be assessed and entered in the absence of the defendant.

**Section 35: Consideration of Circumstances in Aggravation or Mitigation of Penalty.**

- (1) After a plea or judgment of guilty in a case where discretion is conferred upon the court as to the extent of the penalty to be assessed, the court, upon suggestion by either the City or the defendant that there are circumstances which may properly be considered in aggravation or mitigation of the penalty, may, in its discretion, hear the same summarily at the time of such suggestion, or at another specified time and upon such notice to the adverse party as it may deem appropriate.
- (2) In determining whether aggravation or mitigation exists, the court shall consider

any evidence received during the proceedings and any other evidence relevant to aggravation or mitigation that the court finds trustworthy and reliable.

(3) If the defendant consents thereto, the defendant may be examined as a witness by the City in relation to the circumstances which are alleged by the City to justify aggravation or mitigation of the punishment. But if the defendant gives testimony regarding circumstances alleged to justify aggravation or mitigation at the request of the defendant, then the defendant must submit to be examined generally by the City.

### **Section 36: Community Service.**

(1) For the purposes of this section, “community service” means uncompensated labor for a nonprofit agency or public body, the purpose of which is to enhance environmental quality or social welfare.

(2) The court may impose community service as an alternative to a penalty. Prior to an order of community service, the defendant must consent to donate labor for the welfare of the public. The court may select community service tasks that are within the defendant’s capabilities and may be performed within a reasonable length of time during the hours the defendant is not working or attending school.

(3) The length of community service imposed shall not exceed forty-eight hours of total service.

(4) The court shall order the defendant to appear at a time certain and demonstrate that the defendant has performed the required community service. Failure to perform community service may be grounds for contempt of court, and imposition of penalty.

**Section 37: Post-Judgment Procedures.** When the court enters judgment, the clerk shall enter the judgment in the judgment docket, and shall forward a record of any judgment requiring the payment of money to the Finance Director. The clerk shall briefly state in the judgment docket the violation for which the defendant was convicted.

### **Section 38: Disposition of Penalties, Costs and Forfeited Bail.**

(1) Except as otherwise specifically provided by law or ordinance, all penalties, costs and forfeited bail ordered to be paid are a monetary obligations payable to the City.

(2) All penalties, costs, assessments, and other monetary obligations imposed by the court shall constitute a single obligation on the part of the convicted person.

### **Section 2: Amendment and Renumbering.**

(1) Ordinance 275, Section 31 is hereby renumbered as Section 38, Subsection (3), and amended to read as follows:

(3) Any judgment for the payment of money shall constitute a lien against any real property owned by the defendant in the City, and shall be entered in the City's lien docket by Finance Director, and may be foreclosed according to law or ordinance. Judgments may be assigned by the Finance Director to a private collection agency for collection.

(2) Ordinance 275, Section 31 is hereby reserved for future expansion.

**Section 3: Renumbering.** Ordinance 275, Sections 33 and 34 are renumbered as Section 39 and 40, respectively.

**Section 4: Severability.** The sections and subsections of this ordinance are severable. The invalidity of any one section or subsection shall not affect the validity of the remaining sections or subsections.

**Section 5: Emergency.** Because the prompt and continuous enforcement of the City of Coos Bay Municipal Code is necessary to the peace, health, and safety of the people of the City of Coos Bay, an emergency is declared and this ordinance is effective upon its passage by the Council.

The foregoing ordinance was enacted by the City Council of the City of Coos Bay this \_\_\_\_ day of November, 1999.

Yes:

No:

Absent:

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Joanne Verger, Mayor  
City of Coos Bay  
Coos County, Oregon

ATTEST:

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Joyce Jansen  
Deputy Recorder of the City of Coos Bay  
Coos County, Oregon