

## TITLE 2. ADMINISTRATION AND PERSONNEL

### CHAPTER 2.20

#### MUNICIPAL COURT

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### 2.20.010 DEFINITIONS

Unless the context otherwise specifically requires, as used in this Chapter, the following mean:

1. **City Attorney** means the City Municipal Court individual appointed under Chapter 2.12 or that individual's deputy or assistant or a City Prosecutor as designated by the City.
2. **Counsel** means an attorney for a defendant, or an attorney appointed by the Municipal Court to act as a legal advisor to an indigent defendant.
3. **Defendant** means either the person charged with an offense in a proceeding in Municipal Court, or, if the person is represented, that person's counsel.
4. **Judge** means the Municipal Judge or a Municipal Judge pro tempore.
5. **Municipal Court** or **Court** means the Municipal Court of the City of Stayton, or any Judge exercising the power of a judicial officer in the Stayton Municipal Court.
6. **Municipal Judge** means the Municipal Judge holding the appointed office of the City of Stayton.
7. **Offense** means any matter over which the Municipal Court has jurisdiction pursuant to this Municipal Code

### 2.20.020 MUNICIPAL COURT

The Municipal Court is the judicial tribunal of the City of Stayton and shall exercise jurisdiction over offenses as provided by this Chapter and the laws of the State of Oregon, and over such other matters as provided by this Code. The Municipal Judge is the presiding Judge of the Municipal Court and shall have such judicial authority and such powers as are conferred by this Chapter, the Charter of the City of Stayton, the laws of the State of Oregon and the U.S. Constitution.

### 2.20.030 JURISDICTION OF MUNICIPAL COURT

The Municipal Court shall have jurisdiction over all offenses made punishable under the ordinances of the City of Stayton; all violations and misdemeanors, as defined by ORS; and all traffic offenses, as defined by ORS that are made punishable under the Oregon Revised Statutes, other than felony traffic crimes. The Municipal Court has jurisdiction over every offense created by City's Code. The Court may enforce forfeitures, Injunction Relief, and other penalties created by this Code. The Court may enforce Oregon State statute as permitted by law. The Court may hear and decide Civil hearings as allowed by State Law. The Court also has jurisdiction under state law unless limited by City this Code. This does not preclude the City from sending pertinent cases to the State Circuit Court. The City Council may transfer some or all of the functions of the Municipal Court to a State Court. All proceedings of this Court will conform to state laws governing justices of the peace and justice Courts.

### 2.20.040 JUDGE: JURISDICTION

The Municipal Judge shall exercise original and exclusive jurisdiction of all crimes, offenses, and violations defined and made punishable by this Code or any other ordinance of the City, and of all

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actions brought to recover or enforce forfeitures or penalties defined or authorized by this Code or other ordinances of the City, and all state offenses which may be brought in Municipal Court; and, in addition to the powers granted generally by the charter, the constitution of the state, and state statutes shall be vested with all powers of a justice of the peace in matters civil and criminal.

### 2.20.050 MEANS TO CARRY JURISDICTION INTO EFFECT; ADOPTION OF SUITABLE PROCESS OR MODE OF PROCEEDING.

When jurisdiction on a matter is conferred on the Municipal Court, all the means to carry such jurisdiction into effect is also given to the Municipal Judge; and in the exercise of such jurisdiction, if the rules of procedure are not specifically identified or made applicable to the Municipal Court under this Chapter, any suitable process or mode of proceeding may be adopted by the Municipal Judge which may appear most conformable to the exercise of such jurisdiction.

### 2.20.060 QUALIFICATIONS AND APPOINTMENT OF MUNICIPAL JUDGE AND MUNICIPAL JUDGES PRO TEMPORE.

1. The Mayor shall appoint and may remove a Municipal Judge with the consent of the Council. A Municipal Judge will hold Court in the City at such place as the Council directs.
2. The City of Stayton may have a two-year contract with the Municipal Judge. The contract may be renewed for two additional terms after the first, for a total of six years.
3. To be eligible to the position of Municipal Judge or Municipal Judge Pro Tempore, a person must be at least 21 years of age, a citizen of the United States, and an active member in good standing of the Oregon State Bar.
4. Oath of Office. Before entering upon the duties of Municipal Judge or Municipal Judge Pro Tempore, the person must take and subscribe, and submit to the City Recorder, an oath in the following form:

I, \_\_\_\_\_, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of Oregon, and the Charter, Code, and Ordinances of the City of Stayton, and that I will faithfully and impartially discharge the duties of Judge of the Municipal Court of the City of Stayton, according to the best of my ability.

5. The Municipal Judge may:
  - a. Render judgments and impose sanctions on persons and property;
  - b. Order the arrest of anyone accused of an offense against the City;
  - c. Commit to jail or admit to bail anyone accused of a City offense;
  - d. Issue and compel obedience to subpoenas;
  - e. Compel witnesses to appear and testify and jurors to serve for trials before the Court;
  - f. Penalize Contempt of Court;
  - g. Issue processes necessary to enforce judgments and orders of the Court, including injunction relief;

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- h. Issue search warrants; and
- i. Perform other judicial and quasi-judicial functions assigned by ordinance.
- j. Authority to Administer Oaths. In addition to such other powers as may be conferred by law, any Judge of the Municipal Court has the power to administer oaths in an action, suit or proceeding pending therein, and in all other cases where it may be necessary in the exercise of its powers or the performance of its duties.

### 2.20.070 DISQUALIFICATION FOR PREJUDICE.

No Judge of the Municipal Court shall hear or try any action, matter or proceeding if a party thereto, or an attorney appearing therein, moves the Court for a change of Judge on grounds of prejudice. The motion shall be supported by an affidavit stating that the Judge before whom the action, matter or proceeding is pending is prejudiced against the party or attorney, and that the affiant or the client of the affiant cannot, or believes that the affiant or the client of the affiant cannot, have a fair and impartial trial or hearing before the Judge, and that such motion is made in good faith and not for the purpose of delay. The motion shall be filed before, or within five days after, a question of fact arises in the action, matter or proceeding is to be tried or heard, or within ten days after the assignment, appointment and qualification or election and assumption of office of another Judge to preside over such action, matter or proceeding. No party or attorney shall make more than one application in any action, matter or proceeding.

### 2.20.080 RULES OF PROCEDURE

- 1. The Municipal Judge may adopt rules necessary for the prompt and orderly conduct of the business of the Municipal Court. Rules adopted by the Municipal Judge pursuant to this section shall be consistent with the provisions of the ORS, and any rules adopted by the Oregon Supreme Court pursuant to ORS.
- 2. Any rule proposed by the Municipal Judge shall be presented to City Council for adoption by Resolution and if adopted filed with the City Recorder and shall be published upon the City's website.

### 2.20.090 VIOLATIONS BUREAU; ESTABLISHMENT; AUTHORITY OF VIOLATIONS CLERK.

- 1. In addition to, and not in lieu of, any authority conferred upon the Municipal Court of the City of Stayton under ORS, the Municipal Judge may establish a Violations Bureau and designate the Clerk or deputy Clerk of the Municipal Court or any other appropriate person to act as a Violations Clerk for the Violations Bureau. The Violations Clerk shall serve under the direction and control of the Municipal Judge.
- 2. The Municipal Judge shall by order specify the violations that are subject to the authority of the Violations Clerk.
- 3. Except as otherwise provided in SMC, the Violations Clerk shall accept:
  - a. Written appearance, waiver of trial, plea of guilty and payment of fine, costs and assessments for violations that are subject to the authority of the Violations Clerk; and,
  - b. Payment of base fine amounts for violations that are within the authority of the

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### Violations Clerk.

4. The Municipal Judge shall establish schedules, within the limits prescribed by law and upon review and approval of the Stayton City Council, of the amounts of penalties to be imposed for first, second and subsequent violations, designating each violation specifically or by class. The order of the Municipal Judge establishing the schedules shall be prominently posted in the place where penalties established under the schedule are paid and on the City's website. All amounts must be paid to, receipted by and accounted for by the Violations Clerk in the same manner as other payments on money judgments are received by the City of Stayton.
5. Any person charged with a violation within the authority of the Violations Clerk may:
  - a. Upon signing an appearance, plea of guilty and waiver of trial, pay the violations Clerk the penalty established for the violation charged, including any costs and assessments authorized by law.
  - b. Pay the Violations Clerk the base fine amount established for the violation. Payment of the base fine amount constitutes consent to forfeiture of the base fine amount and disposition of the violation by the Violations Clerk as provided by the rules of the Municipal Court. Payment of the base fine amount is not consent to forfeiture of the base fine amount if the payment is accompanied by a plea of not guilty or a request for hearing.
6. A person who has been found guilty of, or who has signed a plea of guilty or no contest to one or more previous offenses in the preceding 12 months within the jurisdiction of the Municipal Court shall not be permitted to appear before the Violations Clerk unless the Municipal Judge, by general order applying to certain specified offenses, permits such appearance.
7. Referenced in this Chapter, "violation" means any violation, as defined by this SMC and ORS, over which the Municipal Court has jurisdiction

### 2.20.100

### MUNICIPAL COURT DOCKET

The Municipal Court shall maintain a docket, which may be maintained in electronic form. The Clerk of the Court shall enter the following information in the docket:

1. The title of every action or proceeding commenced in the Court, with the names of the parties thereto and the time of commencement thereof.
2. The date of making or filing any pleading.
3. An order allowing a provisional remedy, and the date of issuing and returning the summons or other process.
4. The time when each party appears, or a party's failure to do so.
5. If defendant waived counsel, the fact of such waiver and the basis for the Court's conclusion that such waiver was knowing and voluntary.
6. Every postponement of a trial or proceeding, upon whose application and to what time.
7. The demand for a jury, if any, or the waiver of the right to jury trial, and by whom made.

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8. The order for a jury and the time appointed for trial.
9. The return of an order for a jury, the names of the persons impaneled and sworn as a jury and the names of all witnesses sworn and at whose request.
10. The verdict of the jury and when given or, if the jury disagrees and is discharged without giving a verdict, a statement of such disagreement and discharge.
11. The judgment of the Court and when given.
12. The date on which any judgment is docketed in the docket.
13. The fact of an appeal having been made and allowed, and the date thereof, with a memorandum of the undertaking, and the justification of the sureties.
14. Satisfaction of the judgment or any part thereof.
15. A memorandum of all orders relating to security release.
16. All other matters that may be material or specially required by the SMC or any statute.

### 2.20.110

#### CRIMINAL PROCEDURE STATUTES TO GOVERN GENERALLY.

1. Except as otherwise specifically provided in ORS, this Chapter, and the criminal procedure statutes of the State of Oregon, a violation proceeding in Municipal Court shall be commenced and shall proceed to final determination, and the judgment therein shall be enforced, in the manner provided in ORS and this Chapter.
2. Except as specifically provided in this Chapter, a misdemeanor proceeding in Municipal Court shall be commenced and shall proceed to final determination, and the judgment therein shall be enforced, in the manner provided in the criminal procedure statutes of the State of Oregon.
3. Notwithstanding subsection (1) and (2) of this section, the procedures described in this section shall not apply to violations that govern the parking of vehicles and that are created by ordinance or administrative rule, and the Municipal Judge shall adopt rules for the conduct of such proceedings.

### 2.20.120

#### APPLICABILITY OF STATE LAWS

Except as otherwise provided by City Charter, ordinance, or SMC, proceedings in the Municipal Court for the violations designated by SMC, State statute, or ordinance shall be governed by the applicable general laws of the state governing justices of the peace and justice Courts.

### 2.20.130

#### RIGHT TO TRIAL BY JURY

1. In all prosecutions for any crime or offense defined and made punishable by any jail term or by the Charter or by any City ordinance or by the SMC, and tried before the Municipal Judge, the defendant is entitled to be tried by a jury, if the defendant requests a jury in accordance with applicable Court rules.

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2. The Court shall advise the defendant of the right to trial by jury at the time of arraignment and shall ask whether the defendant wishes to waive the right. The defendant may elect to waive trial by jury and agree to a trial by a Judge alone, provided the election is in writing and has been approved by the Judge as a knowing and voluntary waiver.
3. The jury shall consist of six persons selected in the manner prescribed in this Chapter. The verdict of the jury shall be unanimous, and shall be in writing, and signed by the foreperson.

2.20.140

### RIGHT TO COUNSEL

1. Any person charged in the Municipal Court with an offense for which a sentence of imprisonment may be imposed have the right to counsel.
2. If the defendant appears for arraignment without counsel, the defendant shall be informed by the Court that the defendant has a right to have counsel before being arraigned and shall be asked if the defendant desires the aid of counsel.
3. If the defendant indicates a desire to obtain counsel, the Court shall allow the defendant a reasonable time and opportunity to obtain counsel. If the defendant wishes to waive counsel, the Court shall determine whether the defendant has made a knowing and voluntary waiver of counsel. If the Court determines the defendant has made a knowing and voluntary waiver of counsel, such fact shall be noted on the Municipal Court docket for the matter.

2.20.150

### COURT-APPOINTED COUNSEL

1. Suitable counsel for a defendant shall be appointed by the Municipal Court if:
  - a. The defendant has been charged with an offense for which a sentence of imprisonment may be imposed or is before the Court in any proceeding concerning an order of probation where a sentence of imprisonment may be imposed, including, but not limited to, revoking or amending the order of probation; and,
  - b. The defendant requests aid of counsel; and,
  - c. The defendant provides the Court with a written and verified financial statement; and,
  - d. It appears to the Court that the defendant is financially unable to retain adequate representation without substantial hardship in providing basic economic necessities to the defendant or the defendant's dependent family. In making such determination, the Court may question the defendant, under oath, regarding the defendant's verified financial statement and any matter bearing upon the defendant's inability to pay for counsel.
2. Appointed counsel may not be denied to any defendant merely because the defendant's friends or relatives have resources adequate to retain counsel or because the defendant has deposited or is capable of depositing security for release. However, appointed counsel may be denied to a defendant if the defendant's spouse has adequate resources which the Court determines should be made available to retain counsel.
3. The defendant's financial statement under subsection (a) of this section shall include, but not be limited to:
  - a. A list of bank accounts in the name of defendant or defendant's spouse, and the

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balance in each;

- b. A list of defendant's interests in real property and those of defendant's spouse;
  - c. A list of vehicles and other personal property of significant value belonging to defendant or defendant's spouse;
  - d. A list of debts in the name of defendant or defendant's spouse, and the total of each; and,
  - e. A record of earnings and other sources of income in the name of defendant or defendant's spouse, and the total of each.
4. Unless otherwise ordered by the Court, the appointment of counsel shall continue during all criminal proceedings resulting from defendant's arrest through acquittal or the imposition of punishment. The Court may not substitute one appointed counsel for another, except pursuant to the policies, procedures, standards and guidelines adopted by the Public Defense Services Commission under ORS.
5. If, at any time after counsel has been appointed, the Court finds that the defendant is financially able to pay, or to make partial payment, for counsel, the Court may terminate the appointment of counsel and require payment or partial payment for counsel and order the defendant to pay the City such amounts as the City has paid for assistance of counsel to the person. If, at any time during the criminal proceedings, the Court finds that the defendant is financially unable to pay counsel whom the defendant has retained, that Court may appoint counsel as provided herein.
6. In addition to any criminal prosecution, a civil proceeding may be initiated by the City Attorney or City Prosecutor within two years of judgment if the City has expended moneys for the defendant's legal assistance and the defendant was not qualified for legal assistance in accordance with this section. Any such civil proceeding shall be subject to the exemptions from execution as provided by Oregon law.

### 2.20.160

#### COMPENSATION AND EXPENSES OF APPOINTED COUNSEL

- 1. Counsel appointed pursuant to this Chapter shall be paid fair compensation by the City for representation in the case.
- 2. Compensation payable to appointed counsel under subsection (1) of this section may not be less than \$50 per hour.
- 3. A person determined to be eligible for appointed counsel is entitled to necessary and reasonable fees and expenses for investigation, preparation and presentation of the case for trial, negotiation and sentencing.
- 4. Non-Routine Fees; Preauthorization.
  - a. The defendant or the counsel for that person shall upon written request secure preauthorization to incur fees and expenses that are not routine to representation but are necessary and reasonable in the investigation, preparation and presentation of the case, including but not limited to non-routine travel, photocopying or other reproduction of non-routine documents, necessary costs associated with obtaining the attendance of witnesses for the defense, investigator fees and expenses, expert witness fees and expenses and fees for



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interpreters and assistive communication devices necessary for the purpose of communication between counsel and a defendant or witness in the case.

- b. The request must be in the form of a motion to the Court. The motion must be accompanied by a supporting affidavit that sets out in detail the purpose of the requested expenditure, the name of the service provider or other recipient of the funds, the dollar amount of the requested expenditure that may not be exceeded without additional authorization and the date or dates during which the service will be rendered or events will occur for which the expenditure is requested.
- c. Entitlement to payment of non-routine fees and expenses is dependent upon obtaining preauthorization from the Court. Preauthorization to incur a fee or expense does not guarantee that a fee or expense incurred pursuant to the preauthorization will be determined to be necessary or reasonable when the fee or expense is submitted for payment.

### 5. Review by Court; Certification; Payment

- a. Upon completion of all services, the appointed counsel shall submit to the Court a statement of all necessary and reasonable fees and expenses of investigation, preparation and presentation and legal representation, supported by appropriate receipts or vouchers and certified by the appointed counsel to be true and accurate.
- b. The total fees, expenses and verification submitted by appointed counsel are subject to the review of the Court. The Court shall determine whether the amount submitted is necessary and reasonable reimbursement for fees and expenses for representation in the case. After such review and determination, the Court shall certify to the Finance Director the amount that the Court determines was necessary and reasonable and that the amount is properly payable out of public funds. Upon the receipt of such certification, the amount of the fees and expenses certified by the Court shall be paid to the appointed counsel by the City.

## 2.20.170 QUALIFICATIONS OF JURORS.

To act as a juror in Municipal Court, the person shall:

- 1. Qualify to serve as a juror in a Circuit Court proceeding as prescribed in ORS, and must have been a resident of the City of Stayton for not less than three months preceding the date the person is summoned for jury service.
- 2. No Mayor, Council member, City officer, or City employee shall be allowed to serve as a juror while in office or employed.

## 2.20.180 MASTER JURY LIST; TIME AND MANNER OF PREPARATION; TERM OF PROSPECTIVE JURORS.

- 1. The City Administrator shall, at least once a year, make a list containing the names of not less than 50 nor more than 250 persons by selecting names by lot from the voter registration list used at the last preceding general City election. Said list shall be known as a "Master Jury List."
- 2. The City Administrator shall then delete from the Master Jury list the names of those persons known not to be qualified by law to serve as jurors, and the remaining names shall constitute

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the Master Jury List.

3. The names of those persons deleted from the Master Jury List shall be placed on a separate list known as rejected prospective jurors, and opposite each name the reason for removing the name shall be stated.
4. The Master Jury List shall be placed on public record in the City Administrator's office within ten (10) days from the time it is prepared.
5. The Master Jury list shall be prepared and certified once each year prior to the last day of January, unless circumstances make such preparation not feasible, in which case the Master Jury List shall be prepared as soon thereafter as possible. The jury service term shall be the period of time between the filing of the Certification of Master Jury List and the date of the next such filing.
6. Any person whose name is selected for the Master Jury List shall be subject to service as a juror from the effective date of the List until the effective date of next term's Master Jury List, even though the date set for trial may be after certification of the next term's Master Jury List.
7. When the Master Jury List is complete, and the Municipal Judge is satisfied that there are no persons thereon who the Municipal Judge knows to be incompetent to serve as jurors, the Municipal Judge shall certify that Master Jury List in substantially the following form:

I, (name of Municipal Judge), certify that I am the duly appointed and acting Municipal Judge of the City of Stayton, Oregon; and that the foregoing Master Jury List is composed of the names of persons selected in accordance with the provisions of the Stayton Municipal Code. DATED this day of , 20\_\_.

8. Upon certification of the Master Jury List, the Municipal Judge shall cause the same to be filed in the records of the Municipal Court, at which time, the List shall become effective.

2.20.130

### SELECTION OF ADDITIONAL NAMES FOR MASTER JURY LIST.

1. The Municipal Judge may, at any time in the Municipal Judge's discretion, and shall, whenever the number of the names on the Master Jury List falls below 50, cause the names of additional persons to be selected as a supplement to the Master Jury List. The additional names shall be selected using the same source Lists and in the same manner as the Master Jury List.
2. Upon selection of additional names as provided in subsection (1) of this section, the Municipal Judge shall certify the supplement to the Master Jury List of those additional names and file the List in the Municipal Court records. From the date of such filing, the jurors may be chosen to serve during the jury service term of the Master Jury List.

2.20.200

### SELECTION OF JURY PANEL AND SIX PERSON TRIAL JURY

1. If trial by jury has not been waived, the Clerk of the Court shall generate by means of electronic equipment or other random selection method, a Preliminary Jury List of not less than twelve persons from the Master Jury List, who shall comprise the jury panel for a particular date.
2. The jury shall consist of six persons. An alternate may be chosen if the Judge deems it appropriate.

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### 2.20.210 JUROR QUESTIONNAIRE; ELIGIBILITY TO SERVE AS JUROR; DISCHARGE FROM JURY SERVICE

1. A person whose name is included on the preliminary jury List shall be notified that they have been selected for jury service. Before or at the time a person is scheduled to appear for jury service, a Judge or the Clerk of the Court shall question the person as to the person's competency to act as a juror. If a Judge or Clerk of the Court determines that a person so questioned is incompetent to act as a juror, the person shall be discharged from jury service.
2. A person may be questioned about the person's competency to act as a juror either in person or by mail.
  - a. To question a person "in person" about the person's competency to act as a juror, a Judge or the Clerk of the Court shall first require the person to declare by oath or the affirmation that the answers to the questions about the person's competency to act as juror shall be truthful.
  - b. To question a person by mail about the person's competency to act as a juror, the Judge may cause to be mailed or delivered, with or without a juror's summons, a juror questionnaire along with instructions for completion of the questionnaire and return of the completed questionnaire by mail or personal delivery to the Clerk of the Court. A completed juror questionnaire shall contain the questioned person's signed declaration that the responses to the questions on the form are true to the best of the person's knowledge. Notarization of a completed questionnaire shall not be required.
  - c. Copies of completed questionnaires shall be provided to counsel at the time of trial. The specific address of the juror shall be redacted from the questionnaire before distribution, but sufficient information shall be provided to allow counsel to identify the area of the City where the juror resides.
3. A person who knowingly makes a false statement of material fact in response to a question regarding the person's competency to serve as a juror may be punished for contempt.
4. If a person fails to return a properly completed juror questionnaire as instructed, the Municipal Judge may direct the person to appear forthwith and properly complete a questionnaire. If the person fails to appear as directed, the Municipal Judge may order the person to appear and show cause for that failure. If the person fails to appear pursuant to the order or appears and fails to show good cause, the person may be punished for contempt.
5. Before or at the time a person reports for jury service, or at the time jurors are being examined by counsel pursuant to this Section, the Municipal Judge or the Clerk of the Court may discuss with the person any questions on the juror questionnaire and the grounds for any incompetency of the person to act as a juror. Any pertinent information so acquired may be noted on the form.

### 2.20.220 SUMMONS OF JURORS

1. The Court shall issue a summons for each person on the final jury panel. Not less than twenty days prior to the date set for trial, the Clerk of the Court shall cause the summons to be served on each person on the Preliminary Jury panel by first class mail, or by forwarding the summons to the Chief of Police together with an order signed by the Court Municipal Judge commanding the Chief of Police to cause personal service to be made upon the person identified on the summons, and make true return thereupon.

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2. Any person summoned to appear as a juror may be punished by the Court for contempt of Court if:
  - a. The person fails to appear before the Court as required or fails to give a valid excuse for not appearing;
  - b. The person fails to give attention to matters before the jury;
  - c. The person leaves the Court without permission of the Court while the Court is in session; or,
  - d. The person fails to complete jury service without valid excuse.
  - e. If a person duly summoned to attend the Municipal Court as a juror fails to attend as required or to give a valid excuse therefore, that person may be fined by the Municipal Judge in a sum not to exceed twenty-five dollars (\$25.00)

### 2.20.230 PERSONS INELIGIBLE FOR JURY SERVICE; EXCUSES FROM JURY DUTY

1. When it is found by the Court that the person called for jury service is dead or lacks the qualifications to serve as a juror, as established by this Chapter, the person's name shall be removed from the Preliminary Jury Panel and another name may be selected from the Master Jury List to replace such person.
2. The Court may excuse a person from jury service upon a showing of undue hardship or extreme inconvenience to the person, the person's age, the person's family, the person's employer or the public served by the person. In granting excuses, the Court shall carefully consider and weigh both the public need for juries that are representative of the full community and the individual circumstances offered as a justification for being excused from jury service.
3. If the person is dead or lacks the qualifications to serve as a juror, that person's name shall be removed from the Master Jury List; in all other cases, the person's name shall remain on the Master Jury List and may later be called for jury service.

### 2.20.240 PROCEDURES FOR JURY SELECTION AND PEREMPTORY CHALLENGES

The procedure for jury selection and peremptory challenges will be set by Court Rule.

### 2.20.270 COMPENSATION OF JURORS

Jurors who appear at the trial and serve as jurors shall receive such compensation for their services as is provided by state statute

### 2.20.280 SUBPOENAS

1. It shall be the duty of any person subpoenaed in any proceeding pending before the Municipal Court to appear and testify in accordance with such subpoena.
2. Any person who refuses to appear or to testify as required by subsection (1) Court may issue a warrant for the arrest of such person, and, on being brought before the Court, unless the person shows good cause why the person was unable to attend or testify, the Court shall impose one or more of the sanctions.

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### 2.20.290 WITNESS FEES

Witness fees and mileage shall be paid by the City as provided by ORS.

### 2.20.300 ASSESSMENT OF COURT COSTS

1. There shall be assessed Court costs fee in each case or matter brought before the Municipal Court. The amount is set by the City's Municipal Court Fees and Charges Resolution.
2. The Municipal Judge has the power to assess any other reasonable Court costs against any person found guilty in a criminal or civil penalty case or against the losing party in any civil case, not exceeding any actual sum expended by the City for juror, witness, or mileage fees.
3. Court costs shall be assessed against each defendant being cited into the Municipal Court for any violation of the SMC or State Statute which may be prosecuted in Municipal Court, whether the defendant answers, fails to appear, or is convicted after a trial, except for violations of the SMC pertaining to motor vehicle parking violations and regulations, unless a warrant is issued to enforce the defendant's appearance.
4. 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. Monies collected as Court costs under this section shall be disposed of and handled in the same manner in which other fines and penalties accruing from other matters in the Municipal Court are handled.
5. All defendants posting bail shall be required, prior to their release, to post the additional sum of Court costs as provided in this section. If the defendant is acquitted after a trial on the merits or if the case is dismissed for any cause, the court costs paid by the defendant must be reimbursed to the defendant.
6. The Court shall, upon conviction, collect any costs authorized by law.
7. Except in the circumstances set forth in ORS, the Court, only in the case of a defendant for whom it enters a judgment of conviction, may include in its sentence thereunder a provision that the convicted defendant pay as costs expenses specially incurred by the City in prosecuting the defendant. Costs include a reasonable attorney fee for counsel appointed pursuant to SMC and Court Rules and a reasonable amount for fees and expenses incurred pursuant to preauthorization under SMC. A reasonable attorney fee is presumed to be the amount certified to the Finance Director under SMC. Costs do not include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of the Court that must be made by the public irrespective of specific violations of law.
8. The Court may not sentence a defendant to pay costs under this section unless the defendant is or may be able to pay them. In determining the amount and method of payment of costs, the Court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.
9. A defendant who has been sentenced to pay costs under this Section and who is not in willful default in the payment of costs may at any time petition the Court that sentenced the defendant for remission of the payment of costs or of any unpaid portion of costs. If it appears to the satisfaction of the Court that payment of the amount due will impose manifest hardship on the defendant or the immediate family of the defendant, the Court may waive all or part of the amount due in costs, or modify the method of payment according to SMC.

## TITLE 2. ADMINISTRATION AND PERSONNEL

10. Fee for Dishonored Payments. The Court shall, in the event a defendant who makes a payment that is dishonored, collect the fee authorized by ORS,

2.20.310

### 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 (1) year. The Court further may, as a condition of any penalty of imprisonment imposed, direct that the defendant be required to work upon the streets or other City projects or in service of an approved registered non-profit organization, in which case the defendant shall receive credit for two (2) days' imprisonment for each day so employed. The Court further may, as a condition of probation, require the defendant to work upon public property or in service of an approved registered non-profit, provided that the defendant may not be required to work in excess of one (1) day for each two (2) days' imprisonment provided by the maximum penalty for the offense for which that person was convicted.
2. The Municipal Judge may, upon conviction of an offense bearing a penalty of imprisonment, order the convicted party imprisoned in any jail within or without the City which the City may operate or in which, by contract, the City prisoners may be housed.
3. 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 shall be payable immediately.
4. 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.

2.20.320

### TRANSFER OF FUNCTIONS TO COUNTY JUSTICE COURT

The Stayton City Council may, upon agreement, transfer any or all functions of the Municipal Court and Municipal Judge to the county justice Court and the county justice Court Judge as set forth in this chapter.