

*City of Durham*

**ORDINANCE 270-25**

**AN ORDINANCE OF THE CITY OF DURHAM CONTINUING A MUNICIPAL COURT WITH JURISDICTION OVER VIOLATIONS OF CITY ORDINANCES, PROVIDING ORDINANCE ENFORCEMENT, CREATING PENALTIES FOR VIOLATIONS, REPEALING ORDINANCE 224-05, AND DECLARING AN EMERGENCY**

**WHEREAS**, the Durham City Charter grants the City all powers available under the Constitutions and laws of the United States and the State of Oregon, and ORS 221.336 provides that any City may establish a Municipal Court by charter or ordinance; and

**WHEREAS**, the City of Durham established a municipal court pursuant to Ordinance 224-05; and

**WHEREAS**, the Durham City Council finds that the public health, safety and welfare make it necessary and desirable to update and clarify the procedures for violations of City ordinances as now or hereafter provided for, to authorize the City Administrator to enforce City ordinances, and to create uniform penalties for violations of City ordinances; and

**WHEREAS**, it appears to the City Council that the above-described changes are appropriate, necessary and declared an emergency in the interest of public health and safety.

**NOW, THEREFORE, THE CITY OF DURHAM, OREGON ORDAINS AS FOLLOWS:**

- Section 1.** Ordinance 270-25 is adopted: The regulations regarding Municipal Court, ordinance enforcement, and penalties for violations set forth in Exhibit “A” are hereby adopted and incorporated into this Ordinance by reference. The City Administrator is authorized to correct any scrivener’s errors that may be found in Exhibit “A” during codification.
- Section 2.** Ordinance 224-05 is hereby repealed in its entirety.
- Section 3.** 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.
- Section 4.** With this Ordinance being necessary to protect the public’s health and safety, an emergency is declared, and the Ordinance shall take effect immediately upon being passed and adopted by the City Council.

**PASSED AND ADOPTED** by the City of Durham, Oregon, this 28<sup>th</sup> day of October 2025.

**First Reading:** October 28, 2025

**Second Reading:** October 28, 2025

**CITY OF DURHAM**

**By:** \_\_\_\_\_  
Joshua Drake, Mayor

**ATTEST:**

\_\_\_\_\_  
Jordan Parente, City Administrator/Recorder  
Ordinance 270-25

*City of Durham*

**ORDINANCE 270-25 EXHIBIT “A”**

**AN ORDINANCE OF THE CITY OF DURHAM CONTINUING A MUNICIPAL COURT WITH JURISDICTION OVER VIOLATIONS OF CITY ORDINANCES, PROVIDING ORDINANCE ENFORCEMENT AND CREATING PENALTIES FOR VIOLATIONS**

**1. Definitions.**

The following definitions apply to this ordinance unless inconsistent with the context:

“Complaint” is the charging document used by the City or its designee to cite the violation of a City ordinance. The term includes, where appropriate, the use of a “citation” in lieu of “complaint”.

“Party” is any person named by the City as a respondent in the complaint or any person requesting participation in a hearing as a party or a limited party that the Municipal Court determines has a personal, legal interest in the result of the proceeding.

“Respondent” is the party the City alleges in the complaint to have committed a violation.

**2. Purpose.**

The purpose of this ordinance is to establish a Municipal Court for the City of Durham with jurisdiction over all acts and omissions to act that are now or hereafter defined as a violation of a City ordinance. The Municipal Court shall not be a court of record as provided for in ORS 221.342. Further, this ordinance provides process for Municipal Court adjudication and for the effective and efficient enforcement of City policies established by Durham City Council resolution or ordinance. Proceedings of the Durham Municipal Court shall conform to ORS 221 and related administrative rules.

**3. Municipal Judge.**

Durham City Council may engage the services of one or more municipal judges by employment contract, by an agreement with an independent contractor, or by agreement with another city or with the State Court Administrator as provided for under ORS 190.010, ORS 221.355, or ORS 221.357, respectively. The municipal judge, other than a judge provided by the state or another City under an intergovernmental agreement, shall be appointed by and shall serve at the pleasure of the City Council.

**4. Process, Burden of Proof.**

The Municipal Court may adopt rules consistent with this ordinance concerning procedure, conduct of hearings and forms to implement the provisions of this ordinance. In any prosecution of a violation of a City ordinance, the burden of proof shall be a preponderance of the evidence. A violation of an ordinance shall not require pleading or proof of a culpable mental state as an element of the violation.

**5. Ordinance Enforcement.**

Durham City Council designates the City Administrator, the City Administrator’s designee, and all sworn law enforcement officers employed by, or under contract or intergovernmental

agreement with, the City, as ordinance enforcement officers authorized to issue citations or summons and complaints for all violations of City ordinances, now existing or hereafter enacted, that provide for monetary penalties or forfeitures of property, or both.

A private party may not commence a violation proceeding to enforce the City of Durham Charter. A private party may commence a violation proceeding to enforce a City of Durham ordinance only if expressly stated in an ordinance.

An ordinance enforcement officer may issue a violation citation for conduct that does not take place in the presence of the enforcement officer provided that the enforcement officer has reasonable grounds to believe that the conduct has occurred and that it constitutes a violation.

## **6. Notice and Citation.**

City ordinances and the City Development Code shall be enforced in accordance with this ordinance. A proceeding before the municipal court shall be initiated only by the city filing a complaint with the municipal court.

A citation issued under this ordinance must include: (A) the name(s) of the respondent(s), (B) the address or location of the alleged violation, (C) the code or ordinance section(s) alleged to have been violated, (D) a concise description of the violation, (E) the amount of any penalty or other nature of relief sought by the city, (F) the location of the Municipal Court, (G) the name, title, and signature of the person initiating the proceeding on behalf of the city, and (H) such other information as the municipal court may require.

Service of the citation may be made personally or by United States mail, postage prepaid, to the last known address of the respondent, unless otherwise expressly required by ordinance. Service by mail shall be deemed complete three business days after deposit in the mail.

## **7. Appearance and Default.**

Upon receiving a filed citation, the municipal court shall specify a date, time, and place for an initial hearing on the citation and the matters alleged therein. The date set for the hearing shall not be less than fourteen (14) nor more than thirty (30) calendar days after the date the citation is first received by the court.

The municipal court shall give notice of the initial hearing to the respondent(s) and all other parties not less than five (5) calendar days prior to the date set for the hearing. The notice of hearing shall specify the time, date and place for the hearing. Service of the notice may be made personally or by United States mail, postage prepaid, to the last known address of the respondent, unless otherwise expressly required by ordinance. Service by mail shall be deemed complete three business days after deposit in the mail. The failure of any person to receive actual notice of the proceeding shall not invalidate the hearing or any determination, decision or order of the municipal court. Failure to appear or respond shall constitute a default, and the Municipal Judge may enter a default judgment and impose any applicable fine or penalty.

## **8. Hearings.**

Hearings shall be conducted in accordance with Oregon law for violation proceedings and any rules of procedure adopted by the Municipal Court. Hearings may be postponed or rescheduled upon motion of a party or by the Court for good cause shown.

## **9. Orders and Enforcement.**

The Municipal Court may issue orders to ensure compliance with City ordinances and may impose penalties, require corrective actions, or order abatement of violations. The Court's orders may be enforced as provided under ORS 221.346 and related statutes. If any party fails to comply with any provision of an order of the municipal court (except a provision requiring payment of a civil penalty only), the municipal court may authorize the city to undertake such actions as the municipal court may determine are reasonably necessary to correct the violation and/or eliminate or mitigate the effects thereof. The city's reasonable costs of such actions may be made a lien against the affected real property.

## **10. Fines and Payment.**

A violation of a City ordinance or the Durham Development Code shall be a violation and shall be punishable by a fine not exceeding \$1,000 for each violation, unless provision is explicitly made otherwise by ordinance or resolution. Each calendar day of violation shall constitute a separate violation for the purposes of imposing penalties. All fines, penalties, and fees shall be payable to the City of Durham. The City may register judgments with the Oregon Department of Revenue for collection as provided in ORS 221.344 and ORS 221.346.

In establishing the amount of any civil penalty, the City Administrator may consider any of the following factors that the City Administrator deems relevant:

1. The actions taken by the person or entity to mitigate or correct the violation;
2. The financial condition of the person or entity charged with the violation;
3. Whether the violation or the failure to comply is repeated or continuous in nature;
4. The magnitude or gravity of the violation or failure to comply;
5. The cooperativeness of the person or entity with the city;
6. The cost to the city of investigating, correcting, attempting to correct, and/or prosecuting the violation or failure; and
7. Any other factor deemed by the City Administrator to be relevant.

## **11. Appeals.**

The determination of the municipal court shall be final. Review of the court's determination shall be to the Circuit Court by writ of review.

## **12. Severability.**

If any provision of this ordinance is found invalid or unenforceable, such invalidity shall not affect other provisions that can be given effect without the invalid provision.