

Chapter 1.08

ARREST AND CITATION
PROCEDURE

1.08.020 Short-form citation
authorized.

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1.08.010 Definitions

“City” means the city of Port Orford.

“City” means the city of Port Orford municipal code.

“Codes enforcement officer” means the employee of the Police Department whose primary duty is enforcing the Municipal Code.

“Public safety officer” means the City of Port Orford chief of police or his or her designee. (Ord. 98-01 § 1, 1998)(Ord.2006-01 § 11, 2005)

A. A citation substantially conforming to the requirements of this section may be used by the codes enforcement officer or public safety officer for citing violations of a code provision.

B. The citation shall consist of the following:

1. Complaint;
2. Department record;
3. Summons.

C. A summons shall contain the following information:

1. The name of the court; the name of the person or persons cited; the date on which the citation was issued; the name of the complainant; and the time at which the person cited is to appear in court;

2. A statement or designation of the violation in such manner as can be readily understood by a person making a reasonable effort to do so; and the date and place the violation is alleged to have occurred;

3. A notice to the person or persons cited that a complaint will be filed with the court based on the violation;

4. The amount of penalty or bail if any, fixed for the violation.

D. A complaint shall contain the following information:

1. The name of the court; the name of the city in whose name action is being brought; and the name of the defendant or defendants;

2. A statement or designation of the violation in such a manner as can be readily understood by a person making a reasonable effort to do so; and the time and place of the alleged violation;

3. A verification that the complainant swears or affirms that he/she has reasonable

grounds to believe, and does believe, that the person or persons cited have violated a provision of the code.

E. The citation may also contain additional information as may be appropriate for administrative departments of the city, including and indication of whether a written warning was previously issued. (Ord. 98-01 § 2, 1998)

1.08.030 Persons authorized to issue citations.

A. A citation may be issued by the codes enforcement officer or public safety officer if either officer has reasonable grounds to believe that the person or persons to be charged are in actual violation of a provision, other than a criminal provision, of the code. A citation may be issued by the public safety officer if the officer has probable cause to believe that the person to be charged with the violation is in violation of a criminal provision of the code.

B. The verification shall be signed by the codes enforcement officer or the public safety officer or, in any case other than a violation of a criminal provision of the code, may be signed by a private citizen, provided that such private citizen can testify at trial to the material facts in the case. (Ord. 98-01 § 3, 1998)

1.08.040 Delivery and filing of the summons and complaint.

The codes enforcement officer or public safety officer shall serve the summons on the person cited and shall file the complaint along with proof of service of the summons with the court. (Ord. 98-01 § 4, 1998)

1.08.050 First appearance of defendant—Return of

summons.

The defendant shall either appear in court at the time indicated in the summons; or, prior to such time, deliver to the court the summons together with the amount of the penalty or bail set forth in the summons, along with a request for a hearing or a written statement in explanation or mitigation; or, prior to such time, deliver the summons together with a waiver of hearing and confession of judgment or plea of guilty, along with the penalty or bail set forth in the summons. (Ord. 98-01 § 5, 1998)

1.08.060 Effect of defendant’s written statement.

If the defendant submits a written statement in explanation or mitigation and does not request a hearing, the statement shall constitute a waiver of hearing, consent to judgment by the court, and assessment of penalty or forfeiture bail, if, based on the written statement and any testimony or written statements and any testimony or written statements of the codes enforcement officer, public safety officer or other witnesses, the court finds the defendant violated the provision of the code with which the defendant has been charged. If the defendant submits a request for a hearing along with the written statement or the court directs a hearing be held, the court shall fix the date and time for hearing and shall mail to the defendant notice of the date and time at least five days in advance of the hearing. (Ord. 98-01 § 6, 1998)

1.08.070 Court ordered hearing—Judgment on failure to appear.

In any proceeding, the court may direct a hearing be held at the time of first appearance. If the defendant fails to appear at the first appearance, the court may enter judgment for the amount of the penalty or impose a fine. In the case of a violation of a criminal provision, the court may direct that the fine be paid out of the bail deposited by the defendant and order remittance to the defendant any amount by which the fine exceeds the bail. In the case of a violation of a criminal provision of the code, no sentence to jail may be imposed nor any fine imposed in excess of the bail deposited by the defendant unless a hearing is held. (Ord. 98-01 § 7, 1998)

1.08.080 Procedure upon first appearance in court.

In all cases, the judge shall advise the defendant that he/she may plead guilty or not guilty, or confess judgment or deny the allegations in the complaint, as the case may be. Upon a plea of guilty or confession of judgment, judgment shall be entered as provided by this code. Upon a plea of not guilty or denial of the allegations in the complaint, the court shall try the case or set a trial date. In the case of a violation of a criminal provision of the code, when a defendant appears in court the judge shall explain that he/she is not under arrest and that bail may be deposited in such sum as the judge determines is fair and just. (Ord. 98-01 § 8, 1998)

1.08.090 Disposition of cases generally.

At trial, the defendant shall be entitled to present evidence and testimony relevant to the

violation. Prior to such presentation, the judge shall warn the defendant that any such evidence or testimony may be used against him/her. The judge may make such further investigation as deemed necessary to resolve the case, and may call witnesses who have knowledge of any facts that pertain to the matter. (Ord. 98-01 § 9, 1998)

1.08.100 Warrant of arrest for violation of criminal provision of code.

A. If a person cited for a violation of a criminal provision of the code fails to comply with Section 8, or fails to appear at the time of hearing as fixed by the court, a warrant for his/her arrest may be issued.

B. No warrant of arrest may be issued after sixty (60) days from the entry of an order declaring forfeiture of bail. Unless a warrant of arrest has been issued before that date, the order of forfeiture shall be deemed a final disposition of the case.

C. Nothing contained within this ordinance shall prevent the issuance of a warrant of arrest on the filing of a sworn complaint charging a violation of a criminal provision of the code, nor the arrest of a person violating any criminal provision of the code in the presence of a public safety officer.

D. When the city issues a warrant for the arrest of a defendant whose true name is unknown, the defendant shall be designated therein by the person's fictitious name, with a statement that his true name is unknown. (Ord. 98-01 § 10, 1998)