

TIGARD MUNICIPAL CODE

Chapter 7.16 DISPOSITION OF OFFENDERS.

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7.16.010 Sentences For Misdemeanors.

Sentences for misdemeanors shall be for a definite term. The Court shall fix the term of imprisonment within the following maximum limitations:

- (1) For a Class A misdemeanor, 1 year;
- (2) For a Class B misdemeanor, 6 months;
- (3) For a Class C misdemeanor, 30 days;
- (4) For an unclassified misdemeanor, as provided in the chapter defining the crime. (Ord. 84-6-5 §2(Exhibit A(part)), 1984).

7.16.020 Fines For Misdemeanors And Violations.

(a) A sentence to pay a fine for a misdemeanor shall be a sentence to pay an amount, fixed by the Court, not exceeding:

- (1) Two thousand five hundred dollars for a Class misdemeanor;
- (2) One thousand dollars for a Class B misdemeanor;

(3) Five hundred dollars for a Class C misdemeanor.

(b) A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the Court, as provided in the chapter defining the crime.

(c) A sentence to pay a fine for a violation shall be a sentence to pay an amount, fixed by the Court, not exceeding two hundred fifty dollars.

(d) If a person has gained money or property through the commission of a misdemeanor or violation, then upon conviction thereof the Court, instead of imposing the fine authorized for the offense under subsection (1), (2) or (3) of this section, may sentence the defendant to pay an amount fixed by the Court, not exceeding double the amount of the defendant's gain from the commission of the offense. In that event, ORS 161.625 (4) and (5) apply.

(e) This section shall not apply to corporation. (Ord. 84-65 §2(Exhibit A(part)), 1984).

7.16.030 Criteria For Imposition Of Fines.

In determining whether to impose a fine and its amount, the Court shall consider:

(1) The financial resources of the defendant and the burden that payment of a fine will impose, with due regard to the other obligations of the defendant; and

(2) The ability of the defendant to pay a fine on an installment basis or on other conditions to be fixed by the Court. (Ord. 84-65 §2(Exhibit A(part)), 1984).

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7.16.040 Fines For Corporations.

(a) A sentence to pay a fine when imposed on a corporation for an offense in this title or for an offense defined outside of this title for which no special corporate fine is specified, shall be a sentence to pay an amount, fixed by the Court, not exceeding:

(1) Five thousand dollars when the conviction is of a Class A misdemeanor or of an unclassified misdemeanor for which a term of imprisonment of more than six months is authorized;

(2) Two thousand five hundred dollars when the conviction is of a Class B misdemeanor or of an unclassified misdemeanor for which the authorized term of imprisonment is not more than six months;

(3) One thousand dollars when the conviction is of a Class C misdemeanor or an unclassified misdemeanor for which the authorized term of imprisonment is not more than thirty days;

(4) Five hundred dollars when the conviction is of a violation.

(b) A sentence to pay a fine, when imposed on a corporation for an offense defined outside of this title, if a special fine for a corporation is provided in the chapter defining the offense, shall be a sentence to pay an amount, fixed by the Court, as provided in the chapter defining the offense. (Ord. 84-65 §2(Exhibit A(part)), 1984).

7.16.050 Costs.

(a) The Court may require a convicted defendant to pay as costs those expenses specially incurred by the City in prosecuting the defendant. Costs include the compensation of counsel appointed pursuant to ORS 135.045 or 135.050

and expenses approved under ORS 135.055 (5). Cost shall not include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law.

(b) The Court, after the conclusion of an appeal of its initial judgment of conviction, may include in its final judgment or modify the judgment to include a requirement that a convicted defendant pay as costs the compensation of counsel appointed pursuant to ORS 138.500, including counsel who is the public defender established by ORS 151.280 or counsel who is under contract to provide services for the appeal pursuant to ORS 151.150, and costs and expenses allowed by the Appellate Court under ORS 138.500 (3).

(c) The Court shall not sentence a defendant to pay costs 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.

(d) A defendant who has been sentenced to pay costs and who is not in contumacious default in the payment thereof may at any time petition the Court which sentenced the defendant for remission of the payment of costs or of any unpaid portion thereof. 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 remit all or part of the amount due in costs, or modify the method of payment under ORS 161.675. (Ord. 84-65 §2(Exhibit A(part)), 1984).

7.16.060 Payment Of Fines And Costs.

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(a) When a defendant is sentenced to pay a fine or costs or ordered to make restitution, as defined in ORS 137.103, the Court may order payment to be made forthwith or within a specified period of time or in specified installments. If a defendant is sentenced to a term of imprisonment, an order of payment of a fine, costs or restitution shall not be enforceable during the period of imprisonment unless the Court expressly finds that the defendant has assets to pay all or part of the amounts ordered at the time of sentencing.

(b) When a defendant sentenced to pay a fine or costs or ordered to make restitution is also placed on probation or imposition or execution of sentence is suspended, the Court may make payment of the fine or costs or the making of restitution a condition of probation or suspension of sentence. (Ord. 84-65 §2(Exhibit A(part)), 1984).

7.16.070 Nonpayment Of Fines Or Costs--Consequences.

(a) When a defendant sentenced to pay a fine or to make restitution, as defined in ORS 137.103, defaults in the payment thereof or of any installment, the Court on motion of the City Attorney or upon its own motion may require him to show cause why his default should not be treated as contempt of court, and may issue a show cause citation or a warrant of arrest for his appearance.

(b) Unless the defendant shows that his default was not attributable to an intentional refusal to obey the order of the Court or to a failure on his part to make a good faith effort to make the payment, the Court may find that his default constitutes contempt and may order him committed until the fine or the restitution, or a specified part thereof, is paid.

(c) When a fine or an order of restitution is

imposed on a corporation or unincorporated association, it is the duty of the person authorized to make disbursement from the assets of the corporation or association to pay the fine or make the restitution from those assets, and his failure to do so may be held to be contempt unless he makes the showing required in subsection (b) of this section.

(d) The term of imprisonment for contempt for nonpayment of fines or failure to make restitution shall be set forth in the commitment order, and shall not exceed one day for each twenty-five dollars of the fine or restitution, thirty days if the fine or order of restitution was imposed upon conviction of a violation or misdemeanor, or one year in any other case, whichever is the shorter period. A person committed for nonpayment of a fine or failure to make restitution shall be given credit toward payment for each day of imprisonment at the rate specified in the commitment order.

(e) If it appears to the satisfaction of the Court that the default in the payment of a fine or restitution is not contempt, the Court may enter an order allowing the defendant additional time for payment, reducing the amount thereof or of each installment or revoking the fine or order of restitution or the unpaid portion thereof in whole or in part.

(f) A default in the payment of a fine or costs or failure to make restitution or any installment thereof may be collected by any means authorized by law for the enforcement of a judgment. The levy of execution for the collection of a fine or restitution shall not discharge a defendant committed to imprisonment for contempt until the amount of the fine or restitution has actually been collected. (Ord. 84-65 §2(Exhibit A(part)), 1984).■