

ORDINANCE NO. 4086

AN ORDINANCE RELATING TO CODE SERVICES
AND AMENDING
CHAPTER TWO OF THE BEAVERTON CODE.

Whereas, ORS 9.160 provides that no person shall practice law unless that person is an active member of the Oregon State Bar, except as provided by ORS 9.320; and

Whereas, ORS 9.320 provides that in any action, suit, or proceeding, the state or a municipal corporation must appear by an attorney, unless otherwise specifically provided by law; and

Whereas, the City's Civil Infraction Ordinance, BC 2.10.010 - 2.10.050, is not as explicit as it could be in specifically providing that code services personnel are authorized to prosecute code violations;

Now, therefore,

The City of Beaverton Ordains as Follows:

Section 1. The following section is added to the City's Civil Infraction Ordinance, BC 2.10.010 - 2.10.050:

"2.10.023 Code Services Personnel to Prosecute Violations.

Notwithstanding ORS 9.160 and 9.320, in any trial of a violation and in any administrative enforcement proceeding, in which a city attorney or district attorney is barred from appearing by statute or ordinance, the code enforcement officer who issued the citation for the offense may present evidence, examine and cross-examine witnesses and make arguments relating to:

1. The application of statutes and rules to the facts in the case;
2. The literal meaning of the statutes or rules at issue in the case;
3. The admissibility of evidence; and
4. Proper procedures to be used in the trial."

Section 2. The following section is added to the City's Civil Infraction Ordinance, BC 2.10.010 - 2.10.050:

"2.10.024 Attorney Barred from Appearing: Exception

A district attorney or city attorney may aid in preparing evidence and obtaining witnesses but, except for good cause shown to the appropriate

tribunal, shall not appear in a violation proceeding or administrative enforcement proceeding brought under this ordinance unless counsel for the defendant appears. The tribunal with jurisdiction over the proceeding shall ensure that the district attorney or city attorney is given timely notice if defense counsel is to appear."

First reading this 24th day of January, 2000.

Passed by the Council this 7th day of February, 2000.

Approved by the Mayor this 8th day of FEBRUARY, 2000.

ATTEST:

APPROVED:

Darleen Coghlan
DARLEEN COGBURN, City Recorder

Rob Drake
ROB DRAKE, Mayor