

*CITY OF
HALFWAY, OREGON*

CODE OF ORDINANCES

AMERICAN LEGAL PUBLISHING CORPORATION

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**City Officials
Of
Halfway, Oregon
2023**

Mayor

City Recorder

Nora Aspy

Salli Hysell

Council

Harry Fain

Khris Lorence

Brandon Janes

Alan Hanley

Jean Fennern

Gene Zachary

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CODE OF ORDINANCES
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SECTION 10.01 TITLE OF CODE.

All ordinances of a permanent and general nature of the city, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the “city code,” for which designation “code of ordinances,” “codified ordinances” or “code” may be substituted. Code title, chapter, and section headings do not constitute any part of the law as contained in the code.

General Provisions

SECTION 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

SECTION 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

SECTION 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

SECTION 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY, MUNICIPAL CORPORATION, or MUNICIPALITY. The City of Halfway, Oregon. The area within the corporate boundaries of the city as presently established or as amended by ordinance, annexation, or other legal actions at a future time. The term **CITY** when used in this code may also be used to refer to the City Council and its authorized representatives.

CODE, THIS CODE, or THIS CODE OF ORDINANCES. This municipal code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

COUNTY. Baker County, Oregon.

GOVERNING BODY. City Council.

MAY. The act referred to is permissive.

General Provisions

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**.

OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT. An officer, office, employee, commission, or department of this city unless the context clearly requires otherwise.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PRECEDING or FOLLOWING. Next before or next after, respectively.

SHALL. The act referred to is mandatory.

SIGNATURE or SUBSCRIPTION. Includes a mark when the person cannot write.

STATE. The State of Oregon.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have **SUBCHAPTERS**.

WRITTEN. Any representation of words, letters, or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed.

SECTION 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this city shall be by the following rules, unless the construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(A) **AND or OR.** Either conjunction shall include the other as if written “and/or,” if the sense requires it.

(B) *Acts by assistants.* When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, the requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

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(C) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

SECTION 10.07 SEVERABILITY.

If any provision of this code as now or later amended 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 10.08 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

SECTION 10.09 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this city exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

SECTION 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, the spelling shall be corrected and such word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

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SECTION 10.11 OFFICIAL TIME.

The official time, as established by applicable state/federal laws, shall be the official time within this city for the transaction of all city business.

SECTION 10.12 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, *REASONABLE TIME* or *NOTICE* shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

SECTION 10.13 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

SECTION 10.14 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

SECTION 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body shall take effect as provided in the city charter. If there is no city charter, all ordinances passed by the legislative body shall take effect as provided by the legislative body or applicable state law.

SECTION 10.16 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect

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thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoined, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

SECTION 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of such chapter or section. In addition to such indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

SECTION 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance and any amending ordinances are listed following the text of the code section.

Example: (Ord. 161, passed 5-13-1960; Ord. 170, passed 1-1-1970; Ord. 180, passed 1-1-1980; Ord. 185, passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute.

Example: (O.R.S. 192.410)

(2) If a statutory cite is set forth as a *statutory reference* following the text of the section, this indicates that the reader should refer to that statute for further information.

Example:

SECTION 39.01 PUBLIC RECORDS AVAILABLE.

This city shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

General Provisions

Inspection of public records, see O.R.S. 192.420

SECTION 10.99 GENERAL PENALTY.

- (A) Any person violating any provision of this code for which no other specific penalty is provided shall, upon conviction, be punished by a fine not to exceed \$500, subject to division (B) of this section.
- (B) Any person violating any provision of this code which is identical to a state statute containing a lesser penalty shall, upon conviction, be punished by the penalty prescribed by state statute.
- (C) Each calendar date on which a violation occurs constitutes a separate violation.

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32. CITY POLICIES

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- 30.01 Rules and procedures for public contracts
- 30.02 Procurement policy
- 30.03 Adoption of Bancroft Bonding Act
- 30.04 Water System Repair and/or Replacement Fund
- 30.05 Sewer Reserve Fund

SECTION 30.01 RULES AND PROCEDURES FOR PUBLIC CONTRACTS.

City Council hereby resolves:

- (A) To designate the City Council as the local Contract Review Board and may hear any and all matters concerning contracting for the city while sitting in regular or special session;
- (B) To declare intent to adopt local rules and procedures for certain public contracts. Such rules and procedures shall be outlined in Resolution 279-05B;
- (C) To declare that department heads and the Mayor are hereby designated as purchasing agents. Purchasing agents shall use local rules adopted by resolution when applicable. Purchasing agents are delegated the following authority:
 - (1) Department heads and the Mayor may contract for goods for an amount up to \$500 without prior approval by the Contract Review Board;
 - (2) The Mayor may contract for services, including personal services, for an amount up to \$2,500 without prior approval by the Contract Review Board;
 - (3) The Mayor may determine when a contract may be selected through procedures for small contracts or informal selection;
 - (4) The Contract Review Board will determine when personal property belonging to an agent=s department is surplus city property; and

(5) The Contract Review Board will dispose of any surplus city personal property.

(D) Any purchases over \$2,500 must be brought before the Contract Review Board.
(Res. 279-05, passed 4-14-2005)

SECTION 30.02 PROCUREMENT POLICY.

(A) City Council resolves to abide by the state procurement policy, effective September 16, 1994.
(Res. passed 9-16-1994)

(B) The city will utilize its discretion and apply Oregon Administrative Rule 125-310-020 as authorized by O.R.S. 200.090, 279.840, and O.R.S. Chs. 279AC279C for certain contracts not exceeding \$25,000.
(Res. 01/97-1, passed 1-9-1997)

SECTION 30.03 ADOPTION OF BANCROFT BONDING ACT.

Whenever the Council causes any local improvement to be constructed or made and has assessed the costs of this improvement to the property benefitted, the owner of any property so assessed for such improvement in the sum of \$25 or more may make application to bond such assessments pursuant to O.R.S. 223.205C223.295. These provisions, known as the "Bancroft Bonding Act," together with all acts and amendments are adopted by reference and made a part of this section.
(Ord. passed - -)

SECTION 30.04 WATER SYSTEM REPAIR AND/OR REPLACEMENT FUND.

There is hereby established a fund hereinafter referred to as the Water System Repair and/or Replacement Fund.

(A) Said fund shall be established for the purposes of keeping the water system of the city in a state of good repair and compliance with state and federal laws and regulations by providing funds to repair, replace, or extend any part of the city water system.

(B) \$19,549.35 shall be placed in a certificate of deposit or interest-bearing account.

(C) A minimum of \$5,000 or a maximum of \$50,000 shall be retained in the account.

(D) Deposits into the Water System Repair and/or Replacement Fund will come from the Water Utility Fund, after all operating expenses for the water system, for the previous year, have been paid.

Finance

(E) Dependant upon the availability of funds, deposits of not less than \$500 nor more than \$5,000 may be made yearly during the second quarter of the fiscal year.

(F) Pursuant to the purpose of this resolution as stated in division (A) above, withdrawal may be made as the need arises.

(G) Any remaining monies in the Water System Repair and/or Replacement Fund shall revert to the Water Utility Fund.

(Res. 6.12.08, passed 6-12-2008)

SECTION 30.05 SEWER RESERVE FUND.

There is hereby established a fund, hereafter referred to as the Sewer Reserve Fund.

(A) The Fund shall be established for the purposes of a guarantee for one year's loan payment and/or repair and/or replacement of any portion of the city sewer system, due to emergency or uncommon wear.

(B) The Fund shall be placed in a certificate of deposit or other interest-bearing account.

(C) A minimum of \$21,000 shall be retained in the account (as guarantee of one year's payment on grant/loan), for the life of the loan.

(D) The last year for the fund will be 2022, at which time the loan will be paid in full.

(E) Any remaining monies in the Sewer Reserve Fund after the year 2022, shall revert to the Sewer Utility Fund.

(Res. 4-5, passed 6-12-1977)

Finance

CHAPTER 31: EMERGENCY MANAGEMENT

Section

31.01 Emergency Operations Plan adopted

31.02 City representation in the Northeast Oregon Regional Natural Hazard Mitigation Plan

SECTION 31.01 EMERGENCY OPERATIONS PLAN ADOPTED.

The Emergency Operations Plan known as “Exhibit A,” attached to Resolution No. 10.11.12, is hereby approved and adopted, to take effect on October 10, 2012.

(Res. 10.11.12, passed 10-10-2012)

SECTION 31.02 CITY REPRESENTATION IN THE NORTHEAST OREGON REGIONAL NATURAL HAZARD MITIGATION PLAN.

(A) The Common Council hereby accepts and approves of its section of the Northeast Oregon Regional Natural Hazard Mitigation Plan with future updates when funding becomes available, as a reasonable process to identify and plan for potential hazards in the city and Northeast Oregon.

(B) The agency personnel of the city are requested and instructed to pursue available funding opportunities for implementation of the plan and when funding becomes available for the actions and proposals designated therein.

(C) The city will, upon receipt of such funding or other necessary resources, seek to implement the mitigation proposals identified by the Jurisdiction’s Hazard Mitigation Planning Committee.

(D) The city will continue to participate in the updating and expansion of the Northeast Oregon Regional Natural Hazard Mitigation Plan in the years ahead when funding becomes available.

(E) The city will further seek to encourage the businesses, industries, and community groups operating within and/or for the benefit of the city to also participate in the updating and expansion of the Northeast Oregon Regional Natural Hazard Mitigation Plan in the years ahead, when funding becomes available.

(Res. 07.24.08, passed 7-24-2008)

Emergency Management

CHAPTER 32: CITY POLICIES

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- 32.02 Workers' compensation coverage for volunteers
- 32.03 Driving/vehicle policy
- 32.04 Approval of emergency call-out
- 32.05 Purchases of products or services by city personnel
- 32.06 Fees for vendor information program
- 32.07 Charges for viewing or copying documents

SECTION 32.01 EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION POLICY.

It is the policy of the city to:

- (A) Afford equal opportunities for employment to all persons regardless of race, color, religion, sex, handicap, or national origin;
- (B) Say the city is an equal opportunity employer in all job announcements; and
- (C) Take affirmative action steps when necessary to assure all persons are afforded an equal opportunity to apply for city employment.
(Res. 1.10/07, passed 11-8-2007)

SECTION 32.02 WORKERS' COMPENSATION COVERAGE FOR VOLUNTEERS.

Pursuant to O.R.S. 656.031, workers' compensation coverage will be provided to the classes of volunteer workers listed in this resolution and noted on CIS payroll schedule.

- (A) An aggregate assumed annual wage of \$2,500 will be used for volunteer, commission, and/or Council for the performance of administrative duties.
- (B) Non-public safety volunteers will keep track of their hours and have their assumed payroll reported

in the correct class code listed on the CIS Payroll Schedule for the type of work being performed using Oregon minimum wage.

(C) Court-mandated community service workers who are sentenced by Baker County Court will keep track of their hours and have their assumed payroll reported in Class Code 7720V using Oregon minimum wage.

(D) A roster of active volunteers will be kept monthly for reporting purposes. It is acknowledged that CIS may request copies of these rosters during year-end audit.

(Res. 5.11, passed 5-12-2011; Res. 12.01, passed 12-11-2014; Res. 04.01, passed 4-14-2016)

SECTION 32.03 DRIVING/VEHICLE POLICY.

The Driving/Vehicle Policy known as “Exhibit A,” attached to Resolution No. 10.12.12 is hereby approved and adopted, to take effect on October 10, 2012.

(Res. 10.12.12, passed 10-10-2012)

SECTION 32.04 APPROVAL OF EMERGENCY CALL-OUT.

The Mayor is the authority granting approval of emergency call-out. The Public Works Director shall consult with the Mayor for approval before going on an emergency call.

(Res. 3.06, passed 3-9-2006)

SECTION 32.05 PURCHASES OF PRODUCTS OR SERVICES BY CITY PERSONNEL.

(A) All purchases of products or services made by authorized city personnel, on the city=s behalf, shall be made only by telephone calls made at their instigation and not from telephone solicitation calls to the city.

(B) All purchases for the city, made by telephone calls placed by city personnel, shall have an itemized statement of purchases, date of order, and naming the person placing the telephone order.

(Res. 6-1/01, passed 6-21-2001)

SECTION 32.06 FEES FOR VENDOR INFORMATION PROGRAM.

(A) The city has received a software program announcing federal and state construction projects; and the city is offering the use of this program to private persons and contractors. A fair and equitable fee must be set for the use of this service.

City Policies

(B) Any person may look at the information without taking any information from it.

(C) Any person may use the program and information imparted therewith for a cost of \$2, plus \$0.25 per page of information printed for their use.

(D) Monies shall be paid to the order of ACity of Halfway@ and a receipt shall be issued to the payer for such payment.

(Res. 12/96-3, passed 12-13-1996)

SECTION 32.07 CHARGES FOR VIEWING OR COPYING DOCUMENTS.

(A) Any person, persons, club, company, agency, or organization will be charged, in advance, \$10 per hour, for staff time in responding to unusual requests for viewing or copies of documents requiring staff time to locate, copy, or monitor viewing.

(B) The City Council hereby further resolves, that this charge will accompany any charge the city requires for requested copies of documents and all copies of requested documents be clearly marked "COPY" on each page copied.

(Res. passed 6-10-1999)

Cross-reference:

Public records, see Chapter 34

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CHAPTER 33: INITIATIVE AND REFERENDUM PROCEDURES

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- 33.02 Form of petition for referendum to the people on any ordinance passed by City Council
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SECTION 33.01 FORM OF PETITION FOR ORDINANCE OR AMENDMENT TO THE CHARTER PROPOSED BY THE INITIATIVE.

The following shall be substantially the form of a petition for any ordinance or amendment to the Charter proposed by the initiative.

WARNING

It is a felony for any one to sign any Initiative or Referendum petition with any other name than his own, or to knowingly sign his name more than once for the same measure, or to sign such petition when he or she is not a legal voter.

Initiative and Referendum Procedures

INITIATIVE PETITION

To the Honorable _____
Recorder for the City of Halfway, Baker County, Oregon

We, the undersigned citizens and legal voters of the City of Halfway, Baker County, Oregon, respectfully demand that the following proposed ordinance (or amendment to the City Charter) shall be submitted to the legal voters of the City of Halfway, Baker County, Oregon, for their approval or rejection at the regular (or special) city election to be held on the _____ day of _____, 20____ and each for himself or herself says:

I have personally signed this petition; I am a legal voter of the City of Halfway, Baker County, Oregon, and my residence and street number are correctly written after my name.

<u>NAME</u>	<u>RESIDENCE</u>	<u>STREET</u>
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(Here follow 20 numbered lines for signatures)

(Ord. 148, passed 10-8-1925)

SECTION 33.02 FORM OF PETITION FOR REFERENDUM TO THE PEOPLE ON ANY ORDINANCE PASSED BY CITY COUNCIL.

The following shall be substantially the form of petition for referendum to the people on any ordinance passed by the City Council.

WARNING

It is a felony for any one to sign any Initiative or Referendum petition with any other name than his or her own, or to knowingly sign his or her name more than once for the same measure, or to sign such petition when he or she is not a legal voter.

REFERENDUM PETITION

To the Honorable _____,
Recorder of the City of Halfway, Baker County, Oregon.

We, the undersigned legal voters of the City of Halfway, Baker County, Oregon, respectfully demand that Ordinance No. _____ entitled (title of ordinance on which the referendum is sought), passed by the Common Council of the City of Halfway at its meeting on the day of _____, 20____,

Initiative and Referendum Procedures

shall be submitted to the legal voters of the City of Halfway for their approval or rejection at the regular (or special) city election to be held on the _____ day of _____, 20___, and each for himself or herself says: I have personally signed this petition; I am a legal voter of the City of Halfway, Baker County, Oregon, and my residence and street number are correctly written after my name.

NAME

RESIDENCE

STREET NUMBER

(Here follow 20 numbered lines for signatures)

(Ord. 148, passed 10-8-1925)

SECTION 33.03 FORM OF VERIFICATION.

Each and every sheet of every petition for either initiative or referendum containing signatures shall be verified on the back thereof in substantially the following form by the person who circulated such sheet of said petition by affidavit thereon as follows:

STATE OF OREGON)

)

County, of Baker) ss.

)

City of Halfway)

I, _____, being first duly sworn, say that (here shall be legibly written or typewritten the name of the signers of the sheet) signed this sheet of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, residence and street number correctly, and that each signer is a legal voter of the City of Halfway.

Subscribed and sworn to before me this
_____ day of _____, A.D. _____.

(Signature and title of officer and
his or her residence.)

(Ord. 148, passed 10-8-1925)

SECTION 33.04 SUFFICIENCY OF FORMS.

Initiative and Referendum Procedures

The forms herein given are not mandatory and if substantially followed in any petition it shall be sufficient, disregarding clerical and technical errors.

(Ord. 148, passed 10-8-1925)

SECTION 33.05 MAXIMUM NUMBER OF SIGNATURES; TITLE AND TEXT OF MEASURE REQUIRED ON EACH SHEET.

Not more than 20 signatures shall be signed to one sheet of a petition, and a full and correct copy of the title and text of the measure demanded for submission by the initiative or referendum petition, as the case may be, shall be attached to each sheet circulated for signature, and such full and correct copy of the title and text shall be shown to the voter before his or her signature is attached.

(Ord. 148, passed 10-8-1925)

SECTION 33.06 DUTIES OF RECORDER.

The City Recorder shall accept for filing any petition for the initiative or for the referendum, subject to the verification of the number and genuineness of the signatures and voting qualifications of the persons signing the same by reference to the registration books in the office of the County Clerk of Baker County, Oregon, and if a sufficient number of qualified voters be found to have signed said petition, he or she shall file same within ten days after presentation thereof to him or her.

(Ord. 148, passed 10-8-1925)

SECTION 33.07 NUMBERS OF VOTERS REQUIRED ON PETITIONS.

Initiative petition for any proposed ordinance, Charter amendment, or measure shall be signed by a number of legal voters equal to 15% of the votes cast for Mayor at the last preceding municipal election. Referendum petitions against any ordinance or measure proposed by the City Council shall be signed by a number of legal voters equal to 10% of the votes cast for Mayor at the last regular preceding municipal elections.

(Ord. 148, passed 10-8-1925)

SECTION 33.08 AMENDMENT TO CHARTER MAY BE PROPOSED AND SUBMITTED TO VOTERS WITHOUT PETITION.

(A) An amendment to the Charter of the city may be proposed and submitted to the legal voters thereof by resolution of the City Council without an initiative petition; said resolution shall be filed with the

Initiative and Referendum Procedures

Recorder for submission not later than 15 days before the election at which it is to be voted upon and no amendment to the Charter shall be effective until it is approved by a majority of the votes cast thereon by the legal voters thereof said municipality.

(B) When an amendment to the Charter of the city may be proposed and submitted to the legal voters thereof by resolution of the City Council without an initiative petition, the said resolution shall therein state the date of the regular municipal election, or the date of a special election at which said resolution will be submitted to be voted on.

(Ord. 148, passed 10-8-1925)

SECTION 33.09 BALLOT TITLE.

(A) When any measure for initiative or referendum legislation shall be filed by the Recorder after the number and genuineness of signatures thereto, as provided by ' 33.06 have been ascertained, or when any resolution of the City Council shall be filed with the Recorder as provided in ' 33.08(A) herein, the Recorder shall forthwith transmit to the Attorney of said municipality a copy of such measure, who shall within five days provide and return to the Recorder, a ballot title for such measure. The ballot title shall be printed with the number of the measure on the official ballot. In making such ballot title said Attorney shall to the best of his or her ability give a true and impartial statement of the purpose of the measure and in such language that the ballot title shall not be an argument for or liable to create prejudice against such measure. Any person who is dissatisfied with the ballot title provided by the said Attorney for any such measure may within five days after said ballot title is returned to the Recorder appeal to the City Council asking a different title and giving the reasons therefor, and stating why the title prepared by the Attorney is improper and the City Council shall by resolution approve the title prepared by said Attorney, or shall by resolution prescribe another title therefor and the ballot title so approved or so prescribed by the City Council shall be the title placed upon the ballot. Such ballot title shall in no case exceed 100 words, and shall not resemble in so far as possible any other ballot title filed for any measure.

(B) The Recorder of the city shall number such measures and ballot title in the most convenient and consecutive manner. The affirmative of the first measure shall be numbered 100 and the negative 101 in numerals, and the succeeding measures shall be numbered 102, 103, 104, 105, and so on. It shall be the duty of the Recorder to print said ballot titles and numbers upon the official ballot. Measures referred to the voters by petition shall be designated "Referendum ordered by petition of the people," measures proposed by the initiative petition shall be designated "Proposed by initiative petition." Charter amendments submitted by the City Council without initiative petition shall be designated "Charter amendments submitted to the voters by the City Council."

(C) When Charter amendments are to be submitted to the voters by resolution of the Council as in this section provided the Council may in said resolution provide for a ballot title for the measure so to be submitted and in the event of such provision being made by the Council the hereinabove provisions of

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this section relative to the filing of the measure with the City Attorney, the preparation by said Attorney of a ballot title therefor and the appeal to the Council from the ballot title so prepared shall not apply. (Ord. 148, passed 10-8-1925)

SECTION 33.10 PUBLICATION REQUIRED FOR SPECIAL ELECTION.

Where a special election is called, either on petition for proposed ordinances or Charter amendments by the initiative, or for submitting ordinances by the referendum, or on Charter amendments proposed by resolution of the City Council, the Recorder shall publish such proposed ordinances, referendum measure or Charter amendment with the ballot title and number in full in a newspaper published in the city, then, in a newspaper printed in Baker County and of general circulation in said city, said last mentioned newspaper to be designated by the Council in the resolution submitting such measure, for two consecutive publications within the 20 days immediately preceding the special election at which said proposed ordinance, referendum measure, or Charter amendment is to be voted on. A like rule as to publication shall be observed where proposed ordinances, referendum measure, or Charter amendments are to be submitted at the regular election.

(Ord. 148, passed 10-8-1925)

SECTION 33.11 ILLEGAL SIGNATURES.

Legal voters of the city are qualified to sign a petition for the referendum or for the initiative of any measure which he or she is entitled to vote upon. Any person signing any name other than his or her own to a petition, or knowingly signing his or her name more than once for the same measure at one election, or who is not at the time of signing the same a legal voter of the city, or any officer or other person violating any of the provisions of this chapter, shall be subject to the penalty provided in SECTION 33.99.

(Ord. 148, passed 10-8-1925)

SECTION 33.12 MANNER OF VOTING UPON MEASURES.

(A) The manner of voting upon measures submitted to the legal voters shall be the same as now is or may hereafter be provided by law. No measure shall be adopted unless it shall receive the affirmative majority of the total number of legal votes cast on such measure and entitled to be counted thereon. If two or more laws on the same subject or containing provisions that are conflicting, shall be approved by the voters at the same election, the measure receiving the greatest number of affirmative votes shall be proclaimed as the law adopted.

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(B) The votes on measures and Charter amendments shall be counted, canvassed, and returned as votes for candidates are counted, canvassed, and returned.

(Ord. 148, passed 10-8-1925)

SECTION 33.13 PUBLICATION OF ADOPTION OF MEASURE.

The Mayor shall within 15 days from the time of such election proclaim by publication thereof in full, once in a newspaper published in the city, or by posting printed or typewritten copies of such proclamation in at least two conspicuous places in the municipality, the adoption of such measure and amendment which shall have received the affirmative majority of the total votes cast thereon, and upon such proclamation, such measures and amendments shall become in full force and effect, except in cases provided for in SECTION 33.12(A) with reference to two or more laws on the same subject or containing provisions that are conflicting. In cases of ordinances which have been passed by the City Council and voted upon by referendum, proclamation of the result of such vote shall also be made, and such ordinance shall continue in effect or cease to be in effect according to such result from the time of such proclamation.

(Ord. 148, passed 10-8-1925)

SECTION 33.14 SIGNED PETITIONS TO BE FILED WITH RECORDER; EFFECT OF PASSED ORDINANCES.

(A) Where referendum petitions shall be signed by the required number of legal voters against any ordinance passed by the City Council, same shall be filed with the Recorder within 30 days after the passage and approval of the ordinance in question.

(B) No ordinance shall take effect and become operative until 30 days after its passage by the City Council and approval by the Mayor, or passage by a two-thirds vote the veto of the Mayor, except emergency measures necessary for the immediate preservation of the peace, health or safety of the city; and no such emergency measure shall become immediately operative until same is passed by a two-thirds majority of all of the members of the City Council and also approved by the Mayor.

(Ord. 148, passed 10-8-1925)

SECTION 33.15 CONFLICTING ORDINANCES.

All ordinances and parts of ordinances in conflict herewith be, and the same hereby are repealed.

(Ord. 148, passed 10-8-1925)

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SECTION 33.99 PENALTY.

Whoever violates the provisions of SECTION 33.11 shall upon conviction thereof be punished by a fine not exceeding \$500, or by imprisonment in the city jail not exceeding six months or by both fine and imprisonment in the discretion of the municipal court.

(Ord. 148, passed 10-8-1925)

CHAPTER 34: PUBLIC RECORDS

Section

- 34.01 Mayor to authorize orderly filing system
- 34.02 Annual disposal or destruction of records
- 34.03 Schedule of record retention

SECTION 34.01 MAYOR TO AUTHORIZE ORDERLY FILING SYSTEM.

The Mayor is authorized to cause to have all papers, documents, and records received in all city departments maintained and stored to assure an expeditious and orderly filing system. All records and documents to be stored shall be placed in transfer files or suitable containers that will ensure the safe keeping of all documents and records, and each file or container shall be clearly marked as to the type of record or document contained therein, with the date of disposal, if any, noted on each file or container.
(Ord. passed - -)

SECTION 34.02 ANNUAL DISPOSAL OR DESTRUCTION OF RECORDS.

Upon the completion of each fiscal year and completion of an independent post audit, the Mayor is authorized to cause to have examined all records proposed for disposal or destruction by each department. Following such examination the person making such examination shall complete a certificate authorizing the destruction of such records accompanied by samplings of the type or records proposed for destruction. Such certificates shall be presented to the City Council, and if said City Council authorized the destruction of said records, such authorization shall be in the form of a resolution. Records to be disposed of shall be destroyed by burning or in such other manner that the City Manager may direct. A certificate of the records authorized to be destroyed shall be filled out and shall be in the following form:

CERTIFICATE
Records Authorized to be Destroyed

Date

Public Records

I hereby certify that I have personally examined carefully the following described records and documents of the _____ Department of the City of Halfway that have been retained in this Department for the specified length of time as required by Resolution No. _____ of the City of Halfway, and that these records are no longer of any particular value to the City of Halfway.

Name

Title

Authorized to be destroyed this _____ day of _____ 20____ by
Resolution No. _____ of the City of Halfway.

Mayor

ATTEST:

City Recorder
(Ord. passed - -)

SECTION 34.03 SCHEDULE OF RECORD RETENTION.

Immediately after the passage of this chapter, the Mayor shall present to the City Council a resolution governing the schedule of record retention which will set forth the requirements of the retention and disposal of all files, documents, papers, and records now on file in each department of the city.
(Ord. passed - -)

CHAPTER 35: MUNICIPAL COURT

Section

35.01 Trial by jury

35.02 Place of imprisonment designated

SECTION 35.01 TRIAL BY JURY.

(A) By virtue of the provisions of O.R.S. 221.354, and notwithstanding provisions of the city Charter to the contrary, in all prosecutions for any crime or offense defined and made punishable by the city Charter or by ordinance of the city the defendant shall have the right of trial by jury, of six in number. The jurors shall be selected from the tax roll and registration books used at the last city election in the city in the same manner in which juries are selected for circuit courts in the state, save and except that in the selection of prospective jurors and the preparation of the jury list, the City Recorder shall perform all of the duties prescribed for the County Clerk or Clerk of the Circuit Court and the City Recorder, the Mayor and one member of the City Council, said member to be designated by the Mayor, shall select the names of the individuals which shall comprise the jury list and said list shall be prepared by said officials within ten days following the last city election, and shall remain in effect until the next city election.

(B) Any person charged with a violation of any city ordinance or any section thereof, who desires a trial by jury, shall at the time of arraignment give notice in open court or in writing filed with the court that he or she desires a trial by jury, and at the time of giving said notice shall deposit with the City Recorder or Municipal Judge the sum of \$30 for the purpose of compensating the members of said jury, as provided by O.R.S. 221.349, and in any case where the defendant is found not guilty upon such trial by jury, the said deposit shall be returned unto said defendant by the City Recorder or Municipal Judge.

(Ord. passed - -)

SECTION 35.02 PLACE OF IMPRISONMENT DESIGNATED.

Whenever any person shall be sentenced to imprisonment in jail in accordance with any ordinance of the city such person shall be imprisoned in the county jail at Baker, Oregon.

(Ord. 1-2.1, passed - -)

TITLE V: PUBLIC WORKS

Chapter

50. WATER

51. SEWERS

52. REFUSE

53. RECOVERY CHARGE FOR CAPITAL IMPROVEMENTS

CHAPTER 50: WATER

Section

General Provisions

- 50.01 Short title
- 50.02 Scope of regulations
- 50.03 Definitions
- 50.04 Authority of Mayor as to watering regulations
- 50.05 Digging wells and the like without permit

Service Regulations

- 50.20 Service area
- 50.21 Description of service
- 50.22 Application for service
- 50.23 Main extensions
- 50.24 Service connections
- 50.25 Meters

Rates, Charges, and Billing

- 50.40 Water rates
- 50.41 Notices
- 50.42 Billing and payments
- 50.43 Meter error
- 50.44 Discontinuance of service
- 50.45 Restoration of service
- 50.46 Unusual demands

Enforcement

- 50.60 Access to property
- 50.61 Responsibility for equipment
- 50.62 Fire hydrants
- 50.63 Suspension of rules

- 50.64 Easement
- 50.65 Prior ordinances
- 50.66 Severability

50.99 Penalty

Cross-reference:

Water System Repair and/or Replacement Fund, see 30.04

GENERAL PROVISIONS

SECTION 50.01 SHORT TITLE.

This chapter shall be known as “Rates, Rules, and Regulations for the Operation of the Water Department of the City of Halfway, Baker County, Oregon,” and may be so cited and pleaded.

(Ord. 3-2-87, passed 8-28-1987)

SECTION 50.02 SCOPE OF REGULATIONS.

The Water Department and all customers receiving services from the Water Department, whether inside or outside the city limits, are bound by these rules and regulations of the Water Department.

(Ord. 3-2-87, passed 8-28-1987) Penalty, see SECTION 50.99

SECTION 50.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. The person or persons, firm, or corporation, making application for water service from the Water Department under the terms of these regulations.

CITY. The legally constituted municipal government of the City of Halfway, Baker County, Oregon.

CITY COUNCIL. The legally elected group of members composing the City Council, including the Mayor, of the city.

CUSTOMER or USER. An applicant who has been accepted under the terms of these regulations and who received water service from the Water Department.

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LANDLORD. The owner of the property used as a rental, and shall require this individual, firm, or corporation to have the same definition as, and abide by the same terms of these regulations as, **CUSTOMER, USER, APPLICANT**, as set forth in this section and other sections of this chapter.

SUPERINTENDENT. The person appointed by the City Council to superintend the affairs of the Water Department.

WATER DEPARTMENT. The Water Department of the city.
(Ord. 3-2-87, passed 8-28-1987; Ord. 3-2-87B, passed 3-13-1997)

SECTION 50.04 AUTHORITY OF MAYOR AS TO WATERING REGULATIONS.

The City Council hereby grants to the Mayor the authority to enact watering regulations without Council approval, when the Water Superintendent gives notice of necessity.
(Res. passed 6-11-1981)

SECTION 50.05 DIGGING WELLS AND THE LIKE WITHOUT PERMIT.

(A) No person, persons, firm, or corporation shall dig, make, drill, bore, or sink any pit, hole, sink, well, reservoir, or other excavation of any nature whatsoever for the purpose of obtaining, holding, accumulating, recovering, or removing water for any purpose whatsoever within the city without first obtaining a permit so to do from the City Council.

(B) No permit provided for in division (A) above shall be granted, except by the majority vote of the Council taken at a regular meeting of the Council after application or such permit in writing.

(C) No person, persons, firm, or corporation shall pipe, transport, take, or otherwise convey water from any pit, hole, sink, well, reservoir, or other excavation within the city to any point or place without or outside or beyond the city limits of the city without first obtaining a special permit so to do from the Council.

(D) No permit provided for in division (C) above of this section shall be granted, except upon the favorable majority vote of the Council taken at a regular meeting of the Council after application in writing therefor.

(Ord. 5-6, passed - -) Penalty, see SECTION 50.99

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SERVICE REGULATIONS

SECTION 50.20 SERVICE AREA.

The area served by the Water Department shall be all that area included within the corporate limits of the city and such other contiguous and neighboring territory as the City Council shall, from time to time, deem necessary to serve.

(Ord. 3-2-87, passed 8-28-1987)

SECTION 50.21 DESCRIPTION OF SERVICE.

(A) *Supply.* The Water Department will exercise reasonable diligence and care to deliver a continuous and sufficient supply of water to the customer at a reasonable pressure and to avoid so far as reasonably possible any shortage or interruption in delivery. The Water Department shall not be liable for damage resulting from the interruption in service, from the lack of service, or temporary suspension of service by the Water Department for improvements. When time permits, all customers affected will be notified prior to shutdowns.

(B) *Quality.* The Water Department will exercise reasonable diligence to supply safe and potable water at all times.

(C) *Ownership of system.* All water mains, valves, fittings, hydrants, and other appurtenances, except a customer service lines, as defined in SECTION 50.24(A) of this chapter, shall be the property of the Water Department.

(D) *Classes of service.* The classes of service shall be non-benefitted user and benefitted user.

(1) Benefitted user shall consist of users serviced by a three-fourths-inch line.

(2) Non-benefitted user shall consist of users serviced by a two-inch line or larger.

(E) *Special contracts.* When the applicant's requirements for water are unusual or large, such as an independent water district, or necessitate considerable special or reserve equipment or capacity, the Water Department, by authorization of the City Council, reserves the right to make special contract, the provisions of which are different from and have exceptions to the regularly published water rates, rules, and regulations. This special contract shall be in writing, signed by the applicant and approved by the City Council and City Attorney and signed by the Mayor and City Recorder.

(F) *Resale of water.* Resale of water shall be permitted only under special contract, in writing, between

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the City Council and persons, parties, or corporations selling the water.

(G) *Service preference.* In case of shortage of supply, the Water Department reserves the right to give preferences in the matter of furnishing service to customers and interests of the Water Department from the standing of public convenience or necessity. Water service to users outside of the city limits shall at all times be subject to the prior and superior rights of the customers within the city limits.

(H) *Landlords.* Landlords shall retain water service in their name and be financially responsible for payment of services in the same manner as any other user as required by this chapter.

(Ord. 3-2-87, passed 8-28-1987; Ord. 3-2-87/A, passed 6-13-1991; Ord. 3-2-87B, passed 3-13-1997)

SECTION 50.22 APPLICATION FOR SERVICE.

(A) *Application form.* Each applicant for water service shall sign an application form provided by the Water Department giving the date of application, location of premises to be served, the date applicant desires services to begin, purpose for which service is to be used, the address for mailing of the billings, the class and the size of the meter service, and such other information as the Water Department may reasonably require. In signing the application, the customer agrees to abide by the rules and regulations of the Water Department. The application is merely a written request for service and does not bind the Water Department to serve.

(B) *Deposits and establishment of credit.* At the time application for service is made, the applicant shall establish his or her credit with the Water Department.

(1) *Establishment of credit.* The credit of the applicant will be deemed established if the applicant makes a cash deposit with the Water Department to secure the payment of bills for service. The deposit shall be a sum equal to the estimated bill for two months service but not less than \$40.

(2) *Deposits.* At the time the deposit is given to the Water Department, the applicant will be given a receipt for the same. The deposit is not to be considered as a payment on account. In the event the service is discontinued, the deposit will be applied to the closing bill and any amount in excess of the closing bill will be refunded. The Water Department will not pay interest on any deposit.

(3) *Forfeiture on deposit.* If an account becomes delinquent and it is necessary to turn off the service, the deposit shall be applied to the unpaid balance due. Water service will not be restored to that premise or that customer at different premises until all outstanding bills due the Water Department have been paid and the cash deposit replaced, together with a \$40 service charge as provided in ' 50.42 of this chapter.

(C) *Application amendments.*

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- (1) Customers desiring a material change in the size, character, or extent of equipment or operation which would result in a material change in the amount of water used shall give the Water Department written notice of such change prior to the change. The application for service shall be amended.
- (2) Customers desiring a change in the size, location, or number of services shall fill out an amended application.
(Ord. 3-2-87, passed 8-28-1987)

SECTION 50.23 MAIN EXTENSIONS.

- (A) *Within the city limits.* Water main extensions to areas within the city limits not presently served with water shall be installed under procedures to be established by the City Council. Subdividers for newly partitioned properties will assume all costs of main extensions with the approval of the City Council.
- (B) *Outside the city limits.* Water mains outside the city limits shall be extended only after annexation, and only at the expense of the developer. There shall be no main extensions outside the city limits. The main extensions shall become the property of the Water Department at the time installed. The City Council shall determine the size of the main extensions and all extensions shall be of a suitable material approved by the City Council. Extensions in newly annexed developments shall be installed by the Water Department or by contractors approved by the Water Department. The installation procedures and materials used shall be in accordance with the city and the state standards.
- (C) *Locations of extensions.* The Water Department will make water extensions only on rights-of-way, easements, or publicly owned property. Easements or permits secured for main extensions shall either be obtained in the name of the city, along with all rights and title to the main at the time the service is provided to the customers paying for the extension.
(Ord. 3-2-87, passed 8-28-1987)

SECTION 50.24 SERVICE CONNECTIONS.

- (A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CUSTOMER SERVICE LINE. The part of the piping on the customer's property that connects the service to the customer's distribution system.

SERVICE CONNECTION. The part of the water distribution system which connects the meter to the main and shall normally consist of corporation stop, service pipe, curb stop and box, meter, meter yoke, and meter box.

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(B) *Ownership, installation and maintenance.* The Water Department shall own, install, and maintain all services, and installation and maintenance shall only be performed by authorized employees of the Water Department. The customer shall own, install, and maintain the customer service line.

(C) *Service connection charge.*

(1) At the time the applicant files for service where no service previously existed, or if he or she is filing for a change in service size or location, he or she shall submit with his or her application the service connection charge.

(2) This charge is to cover the actual cost to the Water Department to install the service from the main to, and including, the meter and the meter housing. The service connection charge shall be as determined by the Water Department in the current published water rate schedule.

(D) *Size of service.* The Water Department will furnish and install a service of such size and at such locations as the applicant requests, provided such requests are reasonable and that the size requested is one that is listed by the Water Department. The minimum size of service shall be three-fourths inch. The Water Department may refuse to install a service line which is undersized or oversized as determined by a study and report of the Superintendent to the City Council.

(E) *Changes in service size.* Permanent changes in the size of the service line requested by the customer shall be paid by the customer on the basis of actual cost to the Water Department for making the change.

(F) *Length of service.*

(1) Where the main is in a public right-of-way, the meter will be placed at the right-of-way line nearest the property to be served for the standard connection fee, provided the length of service line does not exceed the width of the right-of-way.

(2) Where the main is on an easement or publicly owned property other than designated right-of-way, the services shall be installed to the boundary of the easement or public property by the Water Department provided the length of service does not exceed 30 feet.

(3) If, in either case cited above, the length of service line to the meter location exceeds the maximum stated, the applicant shall pay the extra cost of the line on the basis of actual cost to the Water Department for labor, materials, and equipment plus 15%.

(G) *Joint service connections.*

(1) The Water Department may, at its option, serve two or more premises with one connection. On new service connections, the inside diameter of such joint lines shall be sufficient to provide a carrying capacity of not less than the combined capacity of individual service lines of the same size as the meters

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installed.

(2) Service extensions from an existing service to other occupancies or ownerships than that for which the existing service was intended shall not be permitted nor shall separate residences be permitted to receive service through one meter, except under special considerations approved by the City Council.

(H) *Number of service connections on premises.* The owner of a single parcel or property may apply for and receive as many services as he or she and his or her tenants may require, provided his or her application or applications meet the requirements of the policies, rules, and regulations.

(I) *Standby fire protection service connections.*

(1) *Purpose.* Standby fire protection service connections of two-inch size and larger will be installed only if adequate provisions are made to prevent the use of water from such services for purposes other than fire extinguishing. Sealed fire sprinkler systems with water-operated alarms shall be considered as having such provisions. The Water Department may require that a suitable detector check meter be installed in the standby fire protection service connections, to which hose lines and hydrants are connected. All piping on the customer's premises shall be installed in accordance with the plumbing code of the state.

(2) *Charges for service.* Charges for standby fire protection service will be stated in the published water rate schedule. No charge will be made for water used in the standby fire protection services to extinguish accidental fire or for routine testing of the fire protection system. The customers shall pay the full cost of the standby protection service connection, any required special water meter installed for the service to the standby connection.

(3) *Violations of regulations.* If water is used from a standby pipe connection service in violation of these regulations, an estimate of the amount used will be computed by the Water Department. The customer shall pay for the water used at the regular rates, including the minimum charge based on the size of the service connection and subsequent bills rendered on the basis of the regular water rates.

(J) *Fire service connections other than standby.* A service having fire protection facilities on the premises and water for other purpose flowing through the same service connection shall be considered as an ordinary service and metered as such. All water used through that service, regardless of its use, will be charged at the regular rates.

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(K) *Temporary service connections.* For water service of a temporary nature, applicants shall be required to pay in advance the estimated cost of installation and removal of metering equipment and materials, plus a reasonable depreciation charge for the use of equipment and material furnished by the Water Department. The applicant shall also pay his or her water bill in advance and based on an estimate of the quantity to be used, or he or she shall otherwise establish satisfactory credit.

(1) *Time limit.* Temporary service connections shall be disconnected and terminated within six months after installation unless an extension of time is granted in writing by the Water Department.

(2) *Charge for water served.* Charges for water furnished through a temporary service connection shall be at the established rates set forth in the current water rate schedule.

(Ord. 3-2-87, passed 8-28-1987)

SECTION 50.25 METERS.

(A) *Ownership.* The Water Department will own and maintain all water meters. The Water Department will not pay rent or any other charge for a meter or other water facilities, including housing and connections on a customer's premises.

(B) *Installation.* Installation of water meters shall be performed only by authorized employees of the Water Department. All meters shall be sealed by the Water Department at the time of installation, and no seal shall be altered or broken except by one of its authorized employees.

(C) *The size and type of meter.* Applicant may request and receive any size meter regularly stocked or furnished by the Water Department, provided the request is reasonable and further provided that the meter is not greatly oversized or undersized, as determined by the Water Superintendent. The Water Department reserves the right to determine the type of meter to be installed.

(D) *Location of meters.* Meters shall normally be placed at the curb or property lines; the meter will be installed wherever the applicant desires within reason, but the location must be approved by the Water Department. The meters will not be located in driveways or other locations where damage to the meter or its related parts may occur.

(E) *Joint use of meters.* The joining of several customers to take advantage of the single minimum charges and large quantity rates shall be prohibited, except under special contract, in writing, with the City Council.

(F) *Changes in size or location.* If for any reason a change in the size of a meter and service is required, the installation will be accomplished on the basis of a new connection, and the customer's application shall be amended. Meters or services moved for the convenience of the customer will be relocated only at the customer's expense.

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(G) *Removal; relocation of meter.* A meter may only be removed by the Water Department. Reinstallation of a meter removed at customer request will be performed by the Water Department on the basis of a new connection, with amendment to prior application, or a new customer application, and payment of \$500.

(Ord. 3-2-87, passed 8-28-1987; Ord. 3-2-87D, passed 11-9-2006)

RATES, CHARGES, AND BILLING

SECTION 50.40 WATER RATES.

The water rates to be charged for each class of service shall be as follows.

(A) The water rates to be charged for each class of service, including minimum charges, charges for water used over the minimum, service connection charges, and any increases or decreases in charges, shall be established by resolution of the City Council.

(B) Water rates shall be reviewed by the City Council annually during the month of January.

(C) If, at the annual review of the water rates, the City Council determines that revenues received from water rates are not sufficient for payment of costs for water system operation, maintenance, repair, and replacement reserve requirements, the water rates shall be increased by the most recent cost of living index for rural Oregon, as determined by Oregon statistics.

(D) A fee, named the Water Bond Payment Charge (WBPC), will be charged to the owner of record of every property having a water connection to the main line of the city water system that includes a water meter. Said fee will be accrued for the purpose of the yearly payments of the bonded debt on the water system, obtained in 1973 and 1989, for improvement of the system. The WBPC shall commence on metered connections on the effective date of Ord. 3-2-87C and shall continue through June 30, 2007.

(E) The Water Bond Payment Charge (WBPC) shall be set at \$9.50 per month and will be billed and collected with the water and sewer billing, beginning on the first monthly billing following the effective date of Ord. 3-2-87C, and continuing through the end of June, 2006. The following yearly payments for the water bonded debt shall be placed on the tax roll beginning July, 2007. For the 2007/2008 year and for every year thereafter, every taxable property within the legal limits of the city shall be taxed for yearly payment of the water bonded debt, until such time as the current debt is paid in full. As of this time the dates for final payment of the bonds are January 1, 2013 and February 7, 2019. The authority to levy this tax was voted on in 1973 and 1987, in qualified public elections, and passed by the electors of the city.

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(F) Adjustments to this fee may be increased or decreased by City Council resolution and will no longer be charged after the loan is paid in full.

(G) Late charges will be charged on all accounts one month in arrears and shall accrue at 3% per month. (Ord. 3-2-87, passed 8-28-1987; Ord. 3-2-87/A, passed 6-13-1991; Ord. 3-2-87/B, passed 5-8-2003; Res. 4.06/3-2-87, passed 4-13-2006; Ord. 3-2-87C, passed 11-9-2006; Ord. 3-2-87E, passed 11-9-2006)

SECTION 50.41 NOTICES.

(A) *Notice to customers.* Notices from the Water Department to the customer will normally be given in writing and either mailed to or delivered to him or her at his or her last known address. Where conditions warrant and in emergencies, the Water Department may notify either by telephone or messenger.

(B) *Notice from customers.* Notices from the customer to the Water Department may be given by the customer or his or her authorized representative orally or in writing at the office of the Water Department in the City Hall or to an agent of the Water Department duly authorized to receive notices or complaints. (Ord. 3-2-87, passed 8-28-1987)

SECTION 50.42 BILLING AND PAYMENTS.

(A) *Meter readings.*

(1) Meters will be read and customers billed on the basis of the meter reading to the nearest 100 gallons.

(2) The Water Department will keep an accurate account on its books of all readings of meters and such account so kept shall be offered at all times, places, and courts as prima facie evidence of the use of water service by the customer.

(B) *Rendering of bills.*

(1) *Billing period.* All meters shall be read and bills rendered therefor monthly.

(2) *Bills for other than normal billing period.* Opening or closing bills, or bills that for any other reason cover a period containing 10% more days or 10% less days than is a normal billing period shall be prorated.

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(3) *Bills for more than one meter.* All meters supplying a customer's premises shall be billed separately, except that where the Water Department has for operating purposes installed two or more meters in place of one, the reading may be combined for billing.

(C) *Disputed bills.* When a customer disputes the correctness of a bill, he or she shall deposit the amount of the disputed bill at the time the complaint is lodged, to preclude discontinuance of service pending final settlement of the bill or bills. Subsequent bills shall be paid or placed on deposit in a similar manner. Failure of the customer to make such a deposit shall warrant discontinuance of service as provided under division (F) below.

(D) *Failure to read meters.* In the event that it shall be impossible or impractical to read a meter on the regular reading date, the water consumption shall be prorated on the basis of 30 days per month and the total water consumption for billing purposes for that period shall be estimated.

(E) *Payment of bills.* Each bill rendered shall contain the final date on which payment is due. If the bill is not paid by that date, the account shall be considered delinquent, unless other arrangements have been made with the Water Department in writing that specify another due date.

(F) *Delinquent accounts.*

(1) *Delinquent notice.* A reminder of account delinquency may be sent, at the discretion of the City Recorder, to each delinquent account on or about ten days after the account becomes delinquent.

(2) *Turn-off notice.* On or about 15 days after an account becomes delinquent, a turn-off notice may be sent to the customer. Said notice shall state a date on which water will be turned off if delinquent account is not paid in full prior thereto.

(3) *Service turn-off.* On the turn-off date, the meter reader or other agent of the city shall deliver a written notice to the customer stating that the water service is being turned off until all delinquent amounts have been paid. The meter reader or other agent of the city shall immediately thereafter turn off the service. A delivery to the premises served by the meter shall be considered a delivery to the customer.

(4) *Service charge.* In all instances where water has been turned off because of delinquent accounts, a \$40 service charge for restoration of services and replacement of cash deposit as stated in SECTION 50.22(B), will be required.

(G) *Installment payments of delinquent accounts.* In cases of extreme hardship, the City Recorder shall have the discretion of renewing service to a delinquent account upon receipt of a satisfactory installment plan for the payment of the overdue amount, installment period not to exceed the period of time the account was delinquent. Minimum monthly payment of \$20 will be accepted.

(Ord. 3-2-87, passed 8-28-1987)

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SECTION 50.43 METER ERROR.

(A) *Meter accuracy.* All meters will be tested prior to installation. No meter will be placed in service or allowed to remain in service which is known to have an error in registration in excess of 2% under conditions of normal operation.

(B) *Meter test.*

(1) *Standard test.* Meter tests will be conducted in accordance with standard of practice established by the American Water Works Association.

(2) *On customer request.* A customer may, giving not less than seven days notice, request the Water Department to test the meter servicing his or her premises. The Water Department will require the customer to deposit the testing fee. This fee shall be \$20 for meters three-fourths inch and smaller and for meters larger than three-fourths inch shall be an estimate of the cost of testing the meter as determined by the Water Superintendent. The deposit will be returned to the customer if the test reveals the meter to over register more than 2% under the standard test conditions, and if not, the deposit shall be retained by the Water Department. Customers may at their option witness any meter tests which they request.

(3) *On Water Department request.* If, upon comparison of past water useage, it appears that a meter is not registering properly, the Water Department may at its option test the meter and adjust the charges accordingly if the meter over registers or under registers. No charge for meter testing will be made to the customer for the meter test under these conditions.

(C) *Adjustments of bill for meter error.*

(1) No credits or debits will be borne by the city or the customer should the tested meter show variance high or low, from the accuracy defined in division (A) above.

(2) The Water Department will bill the customer for water consumed while the meter was not registering. The bill will be computed upon an estimate of consumption based either upon the customer's prior use during the same season of the year, or upon a reasonable comparison with the use of other customers receiving the same class of service during the same season and under similar circumstances and conditions.

(Ord. 3-2-87, passed 8-28-1987)

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SECTION 50.44 DISCONTINUANCE OF SERVICE.

(A) *On customer request.*

(1) Each customer about to vacate any premises supplied with water service by the Water Department shall give the Water Department written notice of his or her intentions at least two days prior thereto, specifying the date service is to be discontinued; otherwise, he or she will be responsible for all water supplied to such premises until the Water Department shall receive notice of such removal.

(2) At the time specified by the customer that he or she expects to vacate the premises where service is supplied or that he or she desires to be discontinued, the meter will be read and a bill rendered which is payable immediately. In no case will the bill be less than the monthly minimum specified in the schedule applying to the class or classes of service furnished.

(B) *Nonpayment of bills.* A customer's water service may be discontinued if the water bill is not paid in accordance with the procedures listed in SECTION 50.42(F) of these rules and regulations.

(C) *Nonpayment of sewer service charges.* If said sewer service charges are not paid when due by any such person, firm, or corporation whose premises are served or who are subject to the charges herein provided, water service provided to that customer by the city Water Department may be discontinued because of the default in the payment of the sewer service charges. Interest on unpaid bills shall run from the due date thereof at the rate of 1% per month. Such unpaid charges may also be recovered in an action at law in the name of the city, with interest as aforesaid.

(D) *Improper customer facilities.*

(1) *Unsafe facilities.*

(a) The city has the right to refuse to furnish water and may discontinue services to any premises without prior notice where plumbing facilities, appliances, or uses of equipment are dangerous, unsafe, or not in conformity with the plumbing code of the state.

(b) The city has the right to refuse or terminate water services to any customer who does not install a backflow device or assembly, when necessary, test at least annually, and repair if necessary the backflow devices on the customer's property.

(c) The city reserves the right to demand a backflow device at the customer's side of the water meter if access is not available to determine if a backflow device or assembly is necessary.

(d) The city will allow a reasonable time to achieve compliance with the rules, but should a backflow incident occur, the city has the right to terminate service immediately and restore it only after compliance.

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(2) *Cross connection.*

(a) A **CROSS CONNECTION** is defined as any physical connection between the city's water system, and another water supply.

(b) Actual or potential cross connection is prohibited by the Oregon State Health Division and the U.S. Environmental Protection Agency. If a potential exists for a cross connection and this is necessary, the water system must be protected by a backflow prevention device or assembly. Most high hazards or health hazards are specified in the above listed Oregon Administrative Rules. They will be given the highest priority by the city.

(E) *Water waste.* Where water is wastefully or negligently used on a customer's premises, seriously affecting the general service, the Water Department may discontinue service if such conditions are not corrected after due notice by the Water Department.

(F) *Service detrimental to others.* The Water Department may refuse to furnish water and may discontinue service to any premises where excessive demands by one customer will result in inadequate service to others.

(G) *Fraud or abuse.* The Water Department will refuse or discontinue service to any premises where it is deemed necessary to protect the Water Department from fraud or abuse. Continuance of service from one or both of these causes will be made immediately upon receipt of knowledge by the Water Department that the condition or conditions exist.

(H) *Unauthorized turn-on.*

(1) Where water service has been discontinued for any reason and the water is turned on by the customer or other unauthorized person, the water may then be shut off at the main or the meter removed.

(2) The charges for shutting off the water at the main or removing the meter shall be computed at actual cost to the Water Department plus 15% overhead, but not less than \$20. These charges shall be billed to the offending customer and water shall not be furnished to the premises or customer until such charges are paid and the Water Department has reasonable assurance that the violation will not reoccur.

(I) *Noncompliance with regulations.* The Water Department may, upon five days notice, discontinue service to a customer's premises for failure to comply with any of the provisions of these regulations.

(Ord. 3-2-87, passed 8-28-1987; Ord. 3-2-87/A, passed 6-13-1991; Ord. 5-12-2011, passed 5-12-2011)

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SECTION 50.45 RESTORATION OF SERVICE.

(A) Restoration of service after discontinuance for nonpayment of bills shall be made after payment of current and past due charges plus \$40 for restoration charge and posting a deposit as hereinbefore provided.

(B) Restoration of service after discontinuance of service for unsafe facilities, water waste, fraud, abuse or for noncompliance with any of the policies, rules, and regulations will only be made after the irregularity has been corrected and the Water Department has been assured that the irregularity will not reoccur. The restoration charge shall be \$20 plus any other charges due or past due that the Water Department may have incurred to correct the irregularity.

(Ord. 3-2-87, passed 8-28-1987)

SECTION 50.46 UNUSUAL DEMANDS.

(A) When an abnormally large quantity of water is desired for filling a swimming pool, log pond, or for other purposes, arrangement must be made with the utility prior to taking such water.

(B) Permission to take water in unusual quantities will be given only if the Water Department facilities and other consumers are not inconvenienced.

(Ord. 3-2-87, passed 8-28-1987) Penalty, see SECTION 50.99

ENFORCEMENT

SECTION 50.60 ACCESS TO PROPERTY.

All duly appointed employees of the Water Department, under the direction of the Water Superintendent, shall have free access at all reasonable hours of the day to any and all parts of structures and premises in which water is or may be delivered for the purposes of inspecting connections, the conditions of conduits and fixtures, and the manner and extent in which the water is being used. The Water Department does not, however, assume the duty of inspecting the customer's line, plumbing, and equipment, and shall not be responsible therefor.

(Ord. 3-2-87, passed 8-28-1987)

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SECTION 50.61 RESPONSIBILITY FOR EQUIPMENT.

(A) Responsibility for customer equipment.

(1) The Water Department shall not be liable for any loss or damage of any nature whatsoever caused by any defect in the customer's line, plumbing, or equipment, nor shall the Water Department be liable for loss or damage due to interruption of service or temporary changes in pressure.

(2) The customer shall be responsible for valves on his or her premises being turned off when the water service is turned on.

(B) Responsibility for Water Department equipment. Water Department equipment on the customer's premises remains the property of the Department and may be repaired, replaced, or removed by the Department employees at any time without consent of the customer. No payment will be made to the property owner for the right to install, maintain, replace, or remove Water Department equipment on his or her premises. The property owner must keep vicious dogs or other animals secured or confined to avoid interference with the utility operation and maintenance.

(C) Damage to Water Department equipment. The customer shall be liable for any damage to equipment owned by the Water Department which is caused by an act of the customer, his or her tenants, agents, employees, contractors, licensees, or permittees. Damage to equipment shall include, but not be limited to, breaking of seals and locks, tampering with meters, injury to meters, including, but not limited to, damages by hot water or steam and damaged meter boxes, curb stops, meter stops, and other appurtenances.

(Ord. 3-2-87, passed 8-28-1987) Penalty, see SECTION 50.99

SECTION 50.62 FIRE HYDRANTS.

(A) Operation. No person or persons other than those designated and authorized by the Water Department, shall attempt to draw water from, or in any manner damage or tamper with fire hydrants. Any violation of this regulation will be prosecuted according to law. No tool other than special hydrant wrenches shall be used to operate a hydrant valve. In cases where a temporary service has been granted and received water through a fire hydrant, and auxiliary external valve will be provided to control the flow of water.

(B) Moving a fire hydrant. When a fire hydrant has been installed in the locations specified by the proper authority, the Water Department has fulfilled its obligation. If a property owner or other party desires to change the size, type, or location of the hydrant, he or she shall bear all costs of such changes. Any changes in the location of a fire hydrant must be approved by the Water Department and the Fire Department.

(Ord. 3-2-87, passed 8-28-1987) Penalty, see SECTION 50.99

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SECTION 50.63 SUSPENSION OF RULES.

No employee of the Water Department is authorized to suspend or alter any of the policies, rules and regulations cited herein without specific approval or direction of the City Council, except in cases of emergency involving loss of line or property or which would place the system operation in jeopardy.
(Ord. 3-2-87, passed 8-28-1987) Penalty, see SECTION 50.99

SECTION 50.64 EASEMENT.

Each applicant and user gives and grants to the city an easement and right-of-way on and across his or her property for the installation of water mains and the necessary valves and equipment in connection therewith.
(Ord. 3-2-87, passed 8-28-1987)

SECTION 50.65 PRIOR ORDINANCES.

The provisions of any prior ordinance of the city that may be in conflict with any of the rules, regulations, or provisions herein contained are hereby repealed and superceded.
(Ord. 3-2-87, passed 8-28-1987)

SECTION 50.66 SEVERABILITY.

If any clause, sentence, paragraph, section, or portion of this chapter for any reason shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder of this chapter, but shall be confined in its operation to the clause, sentence, paragraph, section, or portion of this chapter directly involved in the controversy in which the judgment is rendered.
(Ord. 3-2-87, passed 8-28-1987)

SECTION 50.99 PENALTY.

(A) Any person violating any of the provisions of the rules and regulations in this chapter, for which no specific penalty is otherwise provided, shall, upon conviction thereof, be punished by a fine not exceeding \$200 or by imprisonment in the city jail for a period not exceeding six months, or by both such fine and imprisonment.
(Ord. 3-2-87, passed 8-28-1987)

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(B) Any person, persons, firm, or corporation violating any of the provisions of SECTION 50.05 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment in the city jail not less than 30 days nor more than 90 days, or by both such fine and imprisonment. Each day during which any violation of SECTION 50.05 shall exist or continue shall constitute a separate offense and violation of that section shall be punishable accordingly.

(Ord. 5-6, passed - -)

Water

CHAPTER 51: SEWERS

Section

General Provisions

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Cross-reference:

Sewer Reserve Fund, see ' 30.05

GENERAL PROVISIONS

SECTION 51.01 PURPOSE.

(A) Pursuant to the General Laws of the State of Oregon and the powers granted in the Charter of the city, the Council of said city does hereby declare its intention to acquire, own, construct, equip, operate, and maintain within and without the city limits, a sewage disposal plant, or plants, sewers, equipment, and appurtenances necessary, useful, or convenient for a sewer system and disposal area, including the reconstruction of such sewers as may necessarily or conveniently be deemed proper by the Council.

(B) There is hereby levied and imposed upon all water users within the city, using water from the city water system, whether or not said premises are connected with the city sewer system, if a public sewer is available to which connection can be made to the premises, as herein provided and also against all premises connected with the sewer system, whether said premises be within or outside the city limits and whether or not said premises are connected to the city's water system, just and equitable charges for service, connection, maintenance, operation, extension, and reconstruction.

(Ord. 4-1, passed 6-8-1967)

SECTION 51.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense shall include the future, the singular number includes the plural, and the plural includes the singular.

BUILDING DRAIN. The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning five feet outside the inner face of a building wall.

BUILDING SEWER. The extension from the building drain to the public sewer, or other place of disposal.

COMMERCIAL. Includes all sewer users except residential.

GARBAGE. All putrescible waste, except sewage and body wastes, including wastes accumulated of animals, food, or vegetable matter, and including wastes that attends the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, and vegetables, and shall include all such wastes or accumulations of vegetable matter of residences, restaurants, hotels, and places where food is prepared for human consumption. The term **GARBAGE** shall not include recognized industrial by-products, nor shall it include cans, boxes, cartons, paper, or other objects which may or not have food or other objects

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which may or may not have food or other organic material of any nature in or adhering thereto.

INDUSTRIAL WASTE. The liquid wastes from industrial processes as distinct from sanitary sewage.

MAY. Is permissive.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.

PERSON. Any individual, firm, partnership, company, association, society, corporation, or group.

pH. The acidity or alkalinity of sanitary or industrial waste. This is equal to the hydrogen ion concentration as measured by the logarithm of the reciprocal of the weight of hydrogen ions in gram per liter of solution.

PLUMBING REGULATIONS. The Oregon State Plumbing Laws, Rules and Regulations, governing plumbing and water supply, as adopted by the Oregon State Board of Health, State Bureau of Labor Rules and Regulations, and city specifications, rules, and regulations.

PRIVATE SEWER. A sewer privately owned and constructed in conformance with the provisions hereof.

PROPERLY-SHREDDED GARBAGE. The waste from the preparation, cooking, and dispensing of food that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particles greater than one-half inch in any dimension.

PUBLIC SEWER. A pipe or conduit for carrying sewage, consisting of all conduits placed or accepted by the city for public usage.

RESIDENTIAL. One family unit under a single roof.

SANITARY SEWER. A sewer which carries sewage and from which storm, surface, and ground waters are prohibited.

SEWAGE TREATMENT PLANT. Any arrangement of devices or structures used for treating sewage.

SEWAGE WORKS. All facilities for collecting, pumping, treating, and disposing of sewage.

SHALL. Is mandatory.

STANDARD CITY SPECIFICATIONS. Those specifications which are on file in the office of the City

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Recorder to which all streets and sewer construction shall conform.

STORM SEWER or ***STORM DRAIN***. A sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial waters.

SUPERINTENDENT. The person designated by the City Council as being in charge of public works for the city.

SUSPENDED SOLIDS. Solids that float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently. (Ord. 4-1, passed 6-8-1967)

SECTION 51.03 TAMPERING WITH OR DAMAGING SEWAGE WORKS EQUIPMENT.

No person shall break, damage, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the municipal sewage works.
(Ord. 4-1, passed 6-8-1967) Penalty, see SECTION 51.99

SECTION 51.04 SANITARY SEWER MAINTENANCE POLICY.

The Sanitary Sewer Maintenance Policy, attached to Resolution No. 10.13.12 as Exhibit A, is adopted by reference and made a part of this code the same as if set forth in full herein.
(Res. 10.13.12, passed 10-10-2012)

SEWER CONNECTIONS AND CONSTRUCTION REQUIREMENTS

SECTION 51.15 APPLICATION AND PERMIT REQUIRED.

(A) No person, firm, or corporation shall make a stub connection to any part of the sanitary sewer system of the city, without first making an application and securing a permit therefor, and then only by using an approved connection, in accordance with the provisions of this chapter.

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(B) Application for sewer stub connection permits shall be made in writing to the Superintendent in the form prescribed by the city and shall give the location of the property, street number of the buildings to be connected, name of the person, firm, or corporation engaged to make the connection and a statement as to whether or not the premises to be connected was in the past assessed for the construction of a sanitary sewer onto which the applicant desires to connect, and such other information or plans as may be required by the city.

(Ord. 4-1, passed 6-8-1967) Penalty, see SECTION 51.99

SECTION 51.16 CONNECTION FEES.

(A) All applications for connection to the sanitary sewer system shall be accompanied by a payment of a service and inspection fee, the amount of such fee shall be set from time to time by resolution and made a part hereof as though fully set forth herein.

(B) If the property to which an applicant desires to make a sanitary sewer connection has never been assessed for sewer improvements, then in addition to the service and inspection fee, the applicant shall pay a connection fee, which said fee shall also be set by resolution, from time to time, and such resolution shall become a part hereof as though fully set forth herein.

(Ord. 4-1, passed 6-8-1967) Penalty, see SECTION 51.99

SECTION 51.17 REQUIRED CONNECTIONS.

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the city and abutting on any street, alley, or public right-of-way in which there is now located, or may in the future be located, a city sanitary sewer, is hereby required at his or her expense to install suitable toilet facilities therein, and to connect said facilities directly with the public sewer in accordance with the provisions of this chapter, within 90 days after the date of official notice to do so, provided that said public sewer is not more than 100 feet from said owner's nearest property line and connection is available through public right-of-way.

(Ord. 4-1, passed 6-8-1967) Penalty, see SECTION 51.99

SECTION 51.18 REPLACEMENT OF PUBLIC WAYS.

Applicant shall agree to pay the cost of replacing streets or alleys excavated for the purpose of making the sewer connections covered by the permit. Costs shall be paid in advance in accordance with rates established by resolution, from time to time, regulating street cuts and establishing reasonable rates for the replacement of the same. The widest cut at any one point shall be considered the width of such cut. The city shall make all street and alley cuts and replace the same.

(Ord. 4-1, passed 6-8-1967) Penalty, see SECTION 51.99

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SECTION 51.19 MATERIALS AND MANNER OF CONSTRUCTION.

(A) All laterals under public rights-of-way shall be constructed of one of the following approved materials: cement asbestos, concrete, or cast iron pipe. The city shall make and provide all connections to sewer mains, trunks, or laterals and extend any stub connections to the curb line of streets or property line of alleys.

(B) All sewer connections to such stubs shall be constructed to conform with the provisions of the Oregon State Plumbing Code. Connections to stubs within public rights-of-way shall be made only by a licensed plumber of the state and the city.

(C) The city shall not be liable for any cleaning, maintenance, upkeep, or repair to any sewer connection between the main, trunk, or lateral and the premises being served whether in public right-of-way, or not, unless the necessity thereof was caused by the city, its agents, or employees.

(Ord. 4-1, passed 6-8-1967) Penalty, see SECTION 51.99

SECTION 51.20 BUILDING SEWER SPECIFICATIONS.

(A) The building sewer shall be constructed of cast iron soil pipe within the street right-of-way if less than five feet deep. Over five feet deep and within property lines the building sewer shall be concrete, asbestos, cement, or cast iron pipe with rubber gaskets or lead calked joints. Concrete grout joints shall under no circumstances be an acceptable joint. Fittings for angles, and the like shall be prefabricated and standard. Mudding in angles will not be acceptable. Orangeburg or fiber type pipe shall not be an approved type conduit.

(B) The size and slope of the building sewer shall be set to the approval of the Superintendent, but in no event shall the diameter be less than four inches. The slope of such four-inch pipe shall not be less than one-fourth inch per foot, and the slope of pipe of larger diameter shall conform to standard city specifications.

(C) Where property owners cannot enter direct to the public sewer and have to enter an existing four-inch line of another property owner, from the point of connection, the building sewer pipe to the public sewer shall not be less than six-inch including wye connection.

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(D) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. Cast iron pipe shall not terminate less than five feet from the building, and a back water valve shall be at point of leaving building and a cleanout shall be placed in every building sewer at the junction with the soil pipe and at every change of alignment or grade exceeding and including a 45-degree bend. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost, and shall be laid with a minimum cover of 18 inches within the property line or alley grade within street or alley right-of-way. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings.

(E) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage carried by such drain shall be lifted by mechanical, electrical, or pneumatic means approved by the Superintendent and discharged to the building sewer and the property owner shall provide a back water valve to prevent backflow of sewage.

(F) The city shall not be liable for any damage caused by backflow.

(G) Whenever possible, all building drains and buildings sewers shall be installed not less than ten feet from a potable water line. In the event that this provision cannot be complied with, applicant will proceed only under special permit, and under the direction of the Superintendent. When circumstances force the installer to cross potable water lines with sewer lines, the sewer lines shall be installed under the water lines, and as near as possible to 90-degree angle. Cast iron pipe with caulked and leaded joints shall be used in crossing water mains unless the following requirements are met:

(1) The bottom of the water piping at all points shall be at least three feet above the top of the sewer piping; and

(2) The water piping shall rest on a solid shelf on both sides of the common trench crossing.

(H) All excavation required for the installation of a building sewer shall be open trench work. Pipe laying and backfill shall be performed in accordance with standard city specifications, except that no backfill shall be placed until the work has been inspected by the Superintendent.

(Ord. 4-1, passed 6-8-1967) Penalty, see ' 51.99

SEWER USE REGULATIONS

SECTION 51.35 PROHIBITIONS.

(A) It shall be unlawful for any person to place, deposit, or permit to be deposited in any insanitary

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manner upon public or private property within the city, or in any area under the jurisdiction of said city, any human or animal excrement, garbage, or other objectionable waste.

(B) It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of said city, any sanitary sewage, industrial waste, or other polluted waters, except where suitable treatment has been provided in accordance with this chapter.

(C) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(D) No person shall discharge or cause to be discharged any storm water surface water, ground water, roof run off, subsurface drainage, cooling water, or unpolluted industrial process waters into any sanitary sewer.

(E) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the Superintendent, to a storm sewer or natural outlet.

(F) No person shall discharge or cause to be discharged any of the following described waters or waste into any public sanitary sewer:

- (1) Any liquid or vapor having a temperature higher than 150° F.;
- (2) Any water or waste which contains more than 100 parts per million by weight, of fat, oil, or grease;
- (3) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;
- (4) Any garbage that has not been properly shredded;
- (5) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, paunch manure, or other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;
- (6) Any waters or wastes having a pH lower than 5.5 or higher than 9.0 or having any other corrosive property of causing damage or hazard to structures, equipment, and personnel of the sewage works;
- (7) Any waters or waste containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving water of the sewage treatment facilities. Among substances that may be toxic to sewer systems, humans, and animals are as follows: copper, chromium, cyanide, lead, zinc, arsenic, nickel, phenol detergents, and wastes from nuclear fission;

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- (8) Any water or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment facilities; or
- (9) Any noxious or malodorous gas or substance capable of creating a public nuisance.
(Ord. 4-1, passed 6-8-1967) Penalty, see SECTION 51.99

SECTION 51.36 INTERCEPTORS.

(A) Grease, oil, and sand interceptors shall be required in any commercial business, private living quarters, or dwellings unit if the city has found that the commercial business, private living quarters, or dwelling units have disposed of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, and other harmful ingredients into the wastewater system.

(B) It will be the duty of the Public Works Director of the city to monitor and inspect all manholes throughout the city. It will also be the duty of the Public Works Director to report to the city any build up of excessive amounts, or any flammable wastes, sand, and other harmful ingredients that are being deposited into the wastewater system. At that time the city will contact the property owner by letter informing him or her of the problem. The owner will be given 30 days to comply with this section. If after the 30 days owner has not eliminated or controlled the problem, starting on the thirty-first day the city will require a grease, oil, or sand interceptor be installed within 90 days.

(C) At time of installation all interceptors shall be of a type and capacity approved by the city and/or state building codes and shall be located so as to be readily and easily accessible for cleaning and inspection.

(D) Grease and oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperatures. They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be watertight.

(E) Where installed, all grease, oil, and sand interceptors shall be maintained by the owner, at his or her expense, and in continuously efficient operation at all times. The Public Works Director shall ascertain that all interceptors are inspected regularly and if needed cleaned at least once every month.
(Ord. 4-1, passed 6-8-1967; Ord. 4-4-1, passed 5-26-1999) Penalty, see SECTION 51.99

SECTION 51.37 PROPERLY SHREDDED GARBAGE.

All food wastes shall be considered as garbage and all shredded particles shall be of such size that they will be carried freely under the flow conditions normally prevailing in public sewers. All shredded particles shall have no dimensions greater than one-half inch.

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(Ord. 4-1, passed 6-8-1967) Penalty, see SECTION 51.99

SECTION 51.38 DISPOSAL OF PRIVATE SEWAGE.

(A) Where a public sanitary sewer is not available, the building sewer shall be connected to a private sewer disposal system complying with the provisions of this chapter.

(B) Before commencement of construction of a private sewage disposal system, or before issuance of a permit, if such system is planned to be constructed, whichever is prior, the owner shall first obtain a written permit signed by the Superintendent as required by ordinance of the city. Before issuing such permit, the Superintendent shall approve the plans and shall also have the plans approved by the County Sanitarian.

(C) A private sewage disposal system shall not be used until the installation is completed to the satisfaction of the Superintendent. The work shall be inspected at any stage of construction, and in any event, the applicant shall notify the Superintendent when work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 20 days of receipt of the notice, excluding Saturdays, Sundays, and legal holidays.

(D) The type, capacity, location, and layout of a private sewage disposal system shall comply with all requirements of this chapter. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 10,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(E) At such time as a public sewer becomes available to a property served by a private disposal system, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspool, and similar sewage disposal facilities shall be abandoned, cleaned, and filled with suitable material.

(F) All individual private sewage disposal systems shall comply with the following requirements.

(1) In determining a suitable location for the system, consideration shall be given to the size and shape of the land area available, type of soil, slope of natural and finished grade, depth of ground water, proximity to existing or future water supplies, and possible expansion of the system.

(2) The sewage disposal system shall consist of a house sewer and a septic or treatment unit with either a sub-surface disposal field or one or more seepage pits, or other disposal facilities approved by the Engineer.

(3) The system shall be designed to receive all sanitary sewage including kitchen and laundry wastes, but excluding footing, surface, and roof drainage.

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- (4) The system shall have adequate capacity to properly dispose of the maximum daily sewage flow.
 - (5) Bulldozers, trucks, or any other heavy equipment shall not be driven over the system during or after the construction.
- (Ord. 4-1, passed 6-8-1967) Penalty, see SECTION 51.99

RATES AND CHARGES

SECTION 51.50 SEWER SERVICE AND OTHER RELATED CHARGES.

- (A) A sewer service charge shall be established by resolution and shall be included in the water billing and collected monthly.
- (B) Sewer service charges shall be reviewed by the City Council annually during the month of January.
- (C) If, at the annual review of the sewer service charges, the City Council determines that revenues received from sewer service charges are not sufficient for payment of the cost for system operation, maintenance, repair, and replacement reserve requirements, the sewer service charges shall be increased by the most recent cost of living index for rural Oregon, as determined by Oregon statistics.
- (D) A fee will be charged to the owner of record of every property having a sewer connection or sewer stub connection, to the main line of the city sewer system. Said fee will be accrued for the purpose of the yearly payment of the Water/Wastewater Grant/Loan from Oregon Economic and Community Development Department, obtained by the city for the purpose of performing required upgrades and improvements to the city sewer system.
- (E) The fee will be set at \$9 per month and will be billed and collected with the water and sewer billing, beginning January 1, 1999, and continue for 25 years, or until such time as this loan is paid in full.
- (F) Adjustments to this fee may be increased or decreased by City Council resolution and will no longer be charged after the loan is paid in full.
- (G) Late charges will be charged on all accounts one month in arrears and shall accrue at 3% per month.
- (H) At the time application for service is made, the applicant shall establish his or her credit with the Sewer Department.
- (1) *Establishment of credit.* The credit of the applicant will be deemed established if the applicant makes

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a cash deposit with the Sewer Department to secure the payment of bills for service. The deposit shall be a sum equal to the estimated bill for two months service but not less than \$40.

(2) *Deposits.* At the time the deposit is given to the Sewer Department, the applicant will be given a receipt for the same. The deposit is not to be considered as a payment on account. In the event the service is discontinued, the deposit will be applied to the closing bill and any amount in excess of the closing bill will be refunded. The Sewer Department will not pay interest on any deposit.

(3) *Forfeiture on deposit.* If an account becomes delinquent and it is necessary to turn off the service, the deposit shall be applied to the unpaid balance due. Sewer service will not be restored to that premise or that customer at different premises until all outstanding bills due the Sewer Department have been paid and the cash deposit replaced.

(Ord. 4-1, passed 6-8-1967; Ord. 4-1.A, passed 4-11-2002; Ord. 4-1.B, passed 5-8-2003; Res. 4.06/4-1, passed 4-13-2006; Ord. 4-1.C, passed 5-10-2007)

SECTION 51.99 PENALTY.

Any person violating any of the provisions of this chapter, upon conviction thereof in the Municipal Court, shall be fined an amount not to exceed \$300, or imprisoned in the city jail not to exceed 30 days, or by both such fine and imprisonment. Every day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(Ord. 4-1, passed 6-8-1967)

CHAPTER 52: REFUSE

Section

- 52.01 Definitions
- 52.02 Containers
- 52.03 Removal of refuse
- 52.04 Separation and handling of swill
- 52.05 Transportation and disposal of refuse
- 52.06 Collection and transportation of refuse for hire
- 52.07 Award, termination, non-assignability
- 52.08 Compensation; charges
- 52.09 City empowered to collect and transport refuse

- 52.99 Penalty

SECTION 52.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ASHES. The solid waste products of coal, wood, and other fuels used for heating and cooking from all public and private establishment and from all residences.

CONTRACTOR. The persons or person who is awarded by the City Council the exclusive right within the city to collect, transport, and dispose of, for hire, any materials defined in this section as **REFUSE**.

COUNCIL. The City Council of the City of Halfway.

GARBAGE. Putrescible wastes, including vegetable wastes, animal offal (excepting viscera and hides from hair or fur-bearing animals), and carcasses of non-mammal animals. **GARBAGE** does not include bulky wastes, sewage, animal viscera, hides from hair or fur-bearing animals, mammal carcasses, recognized industrial by-products, grass clippings, hazardous wastes, and materials as from time to time defined by appropriate authorities, batteries, tires, motor oil, trees, limbs, leaves, major appliances, or building and fencing materials.

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PERSON. Every person, firm, partnership, limited partnership, limited liability partnership, limited liability company, association, institution, and corporation. The term shall also mean the occupant and/or owner of real premises within the city.

REFUSE. Includes garbage, rubbish, ashes, swill, and all other putrescible and nonputrescible wastes, from all public and private establishments and residences, except sewage.

RUBBISH. Includes all non-putrescible wastes, except ashes, from all public, private establishments and residences.

SWILL. Any refuse accumulation of animal, fruit, or vegetable matter, liquid or otherwise, that attends the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruits, and vegetables, except coffee grounds.

(Ord. 4-4, passed 4-8-1999)

SECTION 52.02 CONTAINERS.

(A) It shall be the duty of every person in possession, charge, or control of any dwelling, flat, rooming house, apartment, trailer camp, hospital, hotel, school, club-restaurant, boarding house, eating place, or in possession, charge, or control of any shop, place of business, or manufacturer's establishment, place, or facility where refuse is created or accumulated, at all times to keep or cause to be kept portable containers of approved size, type, and construction, and to deposit or cause to be deposited, said refuse therein.

(B) Containers shall be strong, watertight, rigid, not easily corrodible, rodent-proof, insect-proof, of not less than 20 and not more than 32 gallons capacity, and shall have tight-fitting lids. All such containers shall have handles or hand holds. Unless approved by the city no underground containers shall be allowed. When refuse is placed in or taken from the containers, the lids shall be promptly replaced. Containers shall be thoroughly cleaned from time to time to prevent any odor nuisance. Containers shall not be overloaded in such a manner that the covers may not be securely replaced. No container shall be loaded in such a manner as to exceed a weight of 75 pounds. Contractor shall not be required to remove any container which is excessively loaded so as to be unsafe to handle nor to retrieve any container from any enclosure unless contractor and the person in control of the container agree otherwise. Refuse shall be placed in such said containers and the area around the container shall be kept in a neat and sanitary condition.

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(C) Placement of other suitable and sufficient numbers of containers for collection of refuse may with the approval of the City Council and/or recommendation from the franchisee be provided by and used by motels, restaurants, boarding houses, eating places, apartments, schools, and hospitals, and in the business districts. Other suitable and sufficient numbers of containers for collection of refuse may not be placed on or adjacent to Main Street sidewalks. Placement of other suitable and sufficient numbers of containers for collection of refuse during special events may be placed on Main Street upon approval of the City Council. City Council has the right to condition and, if needed, set date specific for removal of the containers once event is over.

(D) The use of any container, other than prescribed herein, or approved by the Council and/or franchisee, shall be a violation of this chapter, and if such use is continued for a period of ten days after the user thereof has been notified in writing, by the Mayor of the violation, then such user shall be prosecuted in the municipal court for such violation.

(Ord. 4-4, passed 4-8-1999) Penalty, see SECTION 52.99

SECTION 52.03 REMOVAL OF REFUSE.

(A) It shall be unlawful for any person to burn, dump, or in any manner dispose of refuse upon any street, alley, public place, trail, or stream, or private property within the city, other than is herein provided. All persons shall promptly remove or otherwise dispose of all refuse accumulated at the premises owned or occupied by such persons. Refuse shall not be allowed to be accumulated or be maintained on any premises in such manner so as to tend to create a fire, health, or sanitation hazard. The removal, or other permitted disposal of refuse, at least once each week, within the residential area, shall be prima facie evidence of compliance with this chapter. Refuse from hotels, restaurants, boarding houses, eating places, apartments, schools, and hospitals, and in the business sections of the city shall be removed or otherwise disposed of as often as is necessary to comply with the terms of this chapter.

(B) The municipal court shall have jurisdiction to determine whether an accumulation of refuse tends to create a fire, health, or sanitation hazard. If, in the determination of the court, such a hazard is created, the owner and/or occupier, if different, of the premises shall be given notice by registered mail stating that, within seven days from the date of receipt of said notice, said refuse must be removed and disposed of in a sanitary manner in compliance with all applicable city, county, state, and federal laws, rules, orders, and regulations.

(C) Such notice shall also state that if the owner or occupier fails to remove said refuse the city shall proceed to remove the refuse and the cost of removal shall be billed to the owner and or occupier of said property and/or a lien placed against the property.

(D) Furthermore such notice shall contain the statement that the owner or occupier in charge of the

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property may protest the action by giving notice to the City Recorder within seven days from the receipt of the notice. The giving of notice of protest shall entitle the owner and/or occupier the right to have a hearing before the City Council within 30 days of the notice of protest. At the hearing the city and the protestant(s) shall have the right to present and rebut evidence.

(E) If the Council finds against the protestant, and within the time fixed by this chapter the refuse has not been removed the Council shall cause the necessary removal. The Council shall maintain or cause to be maintained an accurate record of the expense incurred by the city in removing the refuse and shall include therein an overhead charge of 10% of the total cost for administrative services, which shall thereupon be assessed to the property as hereinafter provided.

(1) A notice of the assessment shall be forwarded by registered mail, postage prepaid, to the owner or agent in charge of the property by the City Recorder. The notice shall contain:

(a) The total cost, including the administrative overhead, of the abatement;

(b) A statement that the cost as indicated will become a lien against the property unless paid within 60 days; and

(c) A statement that if the owner or agent in charge of the property objects to the cost of the abatement as indicated, he or she may file a notice of objection with the City Recorder within 30 days from the date of the notice.

(2) Upon the expiration of 30 days after the date of the notice objections to proposed assessment shall be heard and determined by the Council in its regular course of business.

(3) An assessment for the cost of the abatement as determined by the Council shall be made by resolution of the Council and shall thereupon be entered in the docket of city liens, and upon such entry being made, it shall constitute a lien against the property from which the nuisance was removed or abated.

(4) The lien shall be collected in the same manner as liens for utility charges are collected, and shall bear interest at the rate of 6% per annum. Such interest shall commence 30 days after the entry of the lien in the lien docket.

(5) An error in the name of the owner or agent in charge of the property shall not void the assessment, nor will a failure to receive the notice of the assessment render the assessment void, but it shall remain a valid lien against the property.

(F) Waste paper, boxes, brush, leaves, grass, wood and cuttings from trees, lawns, and gardens may be burned in outside fireplaces, incinerators, or in open fires, but no person shall make or cause a fire to be

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made on any improved street or alley within the city, or make or cause to be made any open fire on any street, alley, lot, or other flammable material as to be dangerous to life or property, nor shall any outside fire be made within the city, without first obtaining the consent of the Fire Chief. No person shall burn or cause to be burned refuse that will emit an offensive odor within the vicinity.

(G) The use by any person of a garbage disposal unit, incinerator, fireplace, or other proper method of disposal of property items of refuse which may be safely and sanitarily disposed of in such manner shall not be in violation of this chapter.

(H) Any person removing or transporting refuse shall convey the same in such a manner that no refuse will fall out or be scattered upon any street, alley, public place, or upon private property within the city. In the event refuse does fall out and becomes so scattered, the same shall be immediately cleaned up and removed by the person transporting the said refuse.

(Ord. 4-4, passed 4-8-1999) Penalty, see SECTION 52.99

SECTION 52.04 SEPARATION AND HANDLING OF SWILL.

The city reserves the right to, and may have the option to, require the separation of paper or swill or other component parts of refuse and may require the deposit thereof in separate cans or receptacles.

(Ord. 4-4, passed 4-8-1999)

SECTION 52.05 TRANSPORTATION AND DISPOSAL OF REFUSE.

(A) All refuse, not otherwise disposed of as herein provided, shall be transported, either by the owner and/or occupant of the premises where the same accumulates, or by the contractor, to a transfer station or a sanitary landfill with a current valid permit from the Oregon Department of Environmental Quality to operate as a transfer station or sanitary landfill.

(B) No other person, firm, partnership, limited partnership, limited liability partnership, limited liability company, association, or corporation, other than a contractor, as defined above, shall collect, transport, or dispose of refuse, for hire, within the city, excepting any person engaged in the rendering of meat scraps, animal offal, and carcasses of dead animals and similar matter within the city may do so without being deemed a contractor within the meaning of this chapter.

(Ord. 4-4, passed 4-8-1999) Penalty, see SECTION 52.99

SECTION 52.06 COLLECTION AND TRANSPORTATION OF REFUSE FOR HIRE.

(A) The exclusive right to collect and transport refuse, for hire, from the residences, businesses, and

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schools of the city, and dispose of said refuse at a transfer station that is licensed with the Oregon State Department of Environmental Quality (DEQ) and to receive such refuse, may be awarded by the City Council, by resolution, from time to time, as necessary. Any such award shall not exceed five years, and be upon such terms and conditions as shall be acceptable to the City Council and according to such rules and regulations as shall be adopted by the City Council for the regulation of the collection and transporting of refuse. Different contractors may be given the exclusive right to collect, transport, and dispose of different kinds of refuse for hire upon City Council approval of type of refuse.

(B) The authorized contractor, prior to operating under any such award, shall furnish and deposit with the city, subject to the approval of the Council, evidence of public liability insurance in the amount of not less than \$50,000 property damage, \$200,000 personal injury to one person, and \$300,000 personal injury in any one accident. Contractor will sign a written agreement stating that he or she will faithfully perform according to the franchise award and pay all labor, mechanics, materialmen, and suppliers who shall supply said contractor with provisions, equipment, and supplies or perform labor on any such contractors equipment used in performing said award.

(Ord. 4-4, passed 4-8-1999)

SECTION 52.07 AWARD, TERMINATION, NON-ASSIGNABILITY.

(A) Every award given under the provisions of this chapter may be terminated by the city for cause or by the contractor for any reason, upon 60 days written notice given by certified mail, return receipt requested, with postage prepaid. If the city wishes to terminate this agreement the notice shall state with particularity the reasons and that the contractor shall have ten days from the date of mailing to request a hearing before the City Council. The notice requesting the hearing shall be given by the contractor by the same means as the city notice of termination. If the contractor requests a hearing, the 60-day period before termination occurs shall not begin until after the hearing. The hearing shall be held within 20 days of granting the request for hearing. At the hearing the contractor shall be allowed to refute any allegations contained in the termination notice through the production of oral and written testimony and exhibits. The city shall make its findings of fact in writing and present them to contractor in the same manner as provided for notice in this section.

(B) The contractor, under such award, and with the permission of the Council, may subcontract certain portions of said operations, and the subcontractor shall be bound by the terms of the award, and the rules and regulations adopted by the City Council, and shall gain no independent right.

(Ord. 4-4, passed 4-8-1999)

SECTION 52.08 COMPENSATION; CHARGES.

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(A) As compensation for the right and privilege of having the exclusive right to collect and transport refuse from the residences, businesses, and schools of the city, for hire as per current franchise agreement.

(B) Charges to be made by the contractor for collecting and transporting refuse in the city shall be approved by the Council, from time to time, by resolution. Upon sufficient showing by the contractor, or the residents of the city, the charges may be amended from time to time by resolution of the Council.
(Ord. 4-4, passed 4-8-1999)

SECTION 52.09 CITY EMPOWERED TO COLLECT AND TRANSPORT REFUSE.

The city is hereby empowered to carry out all the terms and provisions of this chapter and to dispose of refuse in the manner provided herein. However, it shall not exercise such power with regard to rights granted to the contractor if the contractor is faithfully performing under the terms and conditions of the award and observing the established rules and regulations pertaining to the same.
(Ord. 4-4, passed 4-8-1999)

SECTION 52.99 PENALTY.

Any person violating any of the provisions hereof shall be deemed guilty of a misdemeanor and upon conviction thereof in the municipal court shall be fined in a sum not exceeding \$500 or by imprisonment in the county jail for not more than 30 days or community service as deemed appropriate by the County Judge or by such fine, imprisonment, and service.
(Ord. 4-4, passed 4-8-1999)

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CHAPTER 53: RECOVERY CHARGE FOR CAPITAL IMPROVEMENTS

Section

- 53.01 Development of extensions
- 53.02 Purpose
- 53.03 Notice
- 53.04 Recovery charges
- 53.05 Application
- 53.06 Amount to be reimbursed
- 53.07 Notice
- 53.08 Fee adjustments
- 53.09 Non application of recovery charge payments
- 53.10 Time limitation

SECTION 53.01 DEVELOPMENT OF EXTENSIONS.

The city has developed ordinances providing for extension of water and sanitary sewer main lines that may be necessary to serve annexed properties, other than subdivisions. These improvements are constructed in accordance with city requirements and upon installation become dedicated to the city. The property owner may be required to pay for all costs associated with the extensions and often these improvements can and will benefit other property owners when their property is annexed into the city as provided for in the city ordinances.

(Ord. 7.1-02, passed 7-11-2002)

SECTION 53.02 PURPOSE.

The purpose of this chapter is to provide a method by which persons installing extensions for their property, which benefits other property, may recover a portion of the cost of the extension. This provides a mechanism for the city to examine the extensions which are constructed, their costs, and the properties which may be benefitted by them, and will provide a reasonable method of apportioning the reimbursable costs among the other properties to be paid at the time of their annexation.

(Ord. 7.1-02, passed 7-11-2002)

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SECTION 53.03 NOTICE.

Property owners whose property would be subject to the recovery charge will be provided an opportunity to review and comment on pertinent information prior to establishing a recovery charge pursuant to this chapter.

(Ord. 7.1-02, passed 7-11-2002)

SECTION 53.04 RECOVERY CHARGES.

(A) The recovery charges under this chapter become due and payable at the time of connection or initiation of the annexation or activity that would have required the extension of the public utility.

(B) The recovery charges established herein are in addition to and not in lieu of, other charges which the city may charge for connection to public utilities.

(Ord. 7.1-02, passed 7-11-2002)

SECTION 53.05 APPLICATION.

(A) *Application for reimbursement.* Any person financing some or all of the cost of a water or sanitary sewer extension which is available to provide service to properties other than the property owned by the person, may, by written application filed with the city, request that the city establish a reimbursement agreement. The application shall be accompanied by a fee as established by resolution sufficient to cover the cost of administrative review and notice pursuant to this chapter.

(B) *Application form.* The application shall include the following:

(1) A description of the location, type, size, and cost of the public improvement to be eligible for reimbursement;

(2) A map showing the properties that may be benefitted by the improvement, which map shall show the front footage and square footage of each property, or similar data as requested by the city, necessary for calculating the apportionment of the cost to be reimbursed;

(3) The actual cost of the improvements as evidenced by receipts, invoices, or other similar documents and any bids that the person may have received; and

(4) The date the city accepted the public improvements.

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(C) *Submitting application.* The application may be submitted to the city prior to the installation of the public improvement and if so, shall include the estimated cost of the improvements and the estimated date of completion. Upon completion the applicant shall then provide the required documents set forth in the preceding divisions. All applications shall be submitted not later than 180 days after installation of the water or sanitary sewer improvements.

(D) *Limits on previous improvements.* For any improvement completed within the three years preceding the date of this chapter, the city shall grant 180 days from the passage of this chapter for filing application of reimbursement.

(Ord. 7.1-02, passed 7-11-2002)

SECTION 53.06 AMOUNT TO BE REIMBURSED.

The applicant shall have the burden of establishing the cost of improvements and shall certify the accuracy of costs submitted to the city for which the applicant actually paid or financed.

(A) If the city determines that the contract amount exceeds prevailing market rates for a similar project, the recovery charge shall be based upon prevailing market rates.

(B) No more than 15% of the total eligible construction cost shall be credible for survey, engineering, construction management, and administrative costs. No more than 3% of the total eligible construction cost shall be credible for legal and financial costs.

(C) No applicant shall receive reimbursement for any amounts incurred for which the applicant shall receive credits, grants, or other sources. Partial reimbursement may be allowed on a proportionate share basis.

(D) The city shall review each application to determine whether or not other properties may benefit and if a recovery charge should be established. The city shall address the following factors:

(1) The extent to which the improvements have relieved another person or persons of the future requirement to construct all or a portion of the same improvements;

(2) The area or parcels which are specifically benefitted by the improvement and whether or not such parcels would, as a condition of future development, be required to construct all or any portion of the same improvements for which the recovery charge is sought;

(3) The portion of the cost of the improvement within the area of the proposed zone of benefit which is appropriate for reimbursement by the owners of property benefitted;

Recovery Charge for Capital Improvements

(4) A rational formula for apportioning the cost of the improvement among properties benefitted. The formula for recovery cost apportionment shall be the total cost of the extension, less 20%, divided by the cost per foot of the extension. This cost per foot shall be applied to the footage of connecting property; and

(5) The results of applying the formula refer to the parcels benefitted which becomes the proposed recovery charge.

(Ord. 7.1-02, passed 7-11-2002; Ord. 7.1-02.1, passed 10-10-2002)

SECTION 53.07 NOTICE.

The city shall provide notice to all of the owners of the properties determined by the city to have potential benefit from the improvements. Notice of the city's expected recovery charge for each parcel shall be given to the property owners. The property owners shall have 30 days from the date of such notice to review the city's determination and request a special hearing for determination of the total amount and specific amounts apportioned to each property owner. After the hearing the Council shall make a determination which shall be binding on all of the property owners.

(Ord. 7.1-02, passed 7-11-2002)

SECTION 53.08 FEE ADJUSTMENTS.

The City Council may impose a fee adjustment at the time of the application or at any annual anniversary date thereafter. Each year the city may adopt an interest rate to be used in determining an annual fee adjustment for reimbursement to be added to the reimbursement amount. The purpose is to provide for inflationary increases and cost of administration of the reimbursement account.

(Ord. 7.1-02, passed 7-11-2002)

SECTION 53.09 NON APPLICATION OF RECOVERY CHARGE PAYMENTS.

(A) *City development.* The obligation to pay a recovery charge shall not apply to that portion which is developed by the city for public purposes unless specifically provided by the City Council and reimbursable by grant.

(B) *Subsequent owners.* The obligation to pay a recovery charge shall not apply to subsequent owners of a property for which the original water or sanitary sewer extension was constructed and paid for by the original owners of the property.

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(C) *Development of subdivision.* The obligation to pay recovery charges shall not apply to development within a subdivision by a developer or company, as by city ordinances, for sale.

(Ord. 7.1-02, passed 7-11-2002)

SECTION 53.10 TIME LIMITATION.

The city shall collect, in addition to ordinary applicable fees and charges, the reimbursement fees as established by the City Council, together with any annual fee adjustment for a period of ten years from the time of approval and finalization of the application for reimbursement agreement. The city may, upon application for an extension by the applicant, authorize up to two five-year extensions of the right of reimbursement under the agreement.

(Ord. 7.1-02, passed 7-11-2002)

Recovery Charge for Capital Improvements

TITLE VII: TRAFFIC CODE

Chapter

70. GENERAL PROVISIONS

71. SNOWMOBILES

72. ALL-TERRAIN VEHICLES

73. PARKING REGULATIONS

CHAPTER 70: GENERAL PROVISIONS

Section

- 70.01 State law adopted by reference
- 70.02 Through streets designated
- 70.03 Traffic Safety Committee

70.99 Penalty

Cross-reference:

Duty of operator of motor vehicle when striking or injuring animal, see SECTION 91.03

SECTION 70.01 STATE LAW ADOPTED BY REFERENCE.

(A) (1) Except as provided herein, O.R.S. Chapter 153 and the State Vehicle Code, O.R.S. Chapters 801 to 826, are adopted by reference.

(2) Violation of an adopted provision of those chapters is an offense against this city.

(B) Violation of this provision as adopted herein is an offense against this city.

SECTION 70.02 THROUGH STREETS DESIGNATED.

(A) To facilitate traffic, Main Street of the city is hereby designated a through street and said Main Street at the intersection therewith with Record Street shall be marked with a sign “Stop” erected on each side of the Main Street on the right-hand side of said Record Street at the intersection, and the driver of every vehicle in approaching the street intersection on Record Street shall bring his or her vehicle to a full stop before entering or crossing said Main Street.

(B) The Mayor of the city is hereby authorized and empowered to designate any street to be a through street, and such streets at the intersection therewith shall be marked with the sign "Stop" erected on each side of the said through street on the intersection street, and the driver of every vehicle in approaching the said through street so marked shall bring his or her vehicle to a full stop before entering or crossing upon said street.

(Ord. passed - -) Penalty, see SECTION 70.99

SECTION 70.03 TRAFFIC SAFETY COMMITTEE.

The City Council hereby forms a Traffic Safety Committee. The Committee shall:

- (A) Consist of two persons - one Council member and one volunteer citizen;
- (B) Serve for one fiscal year - first Committee until July 1, 1998, thereafter July 1 to July 1;
- (C) Review applications for grants funding any traffic related endeavor;
- (D) Sign application, if Committee approves; and
- (E) Report Committee action to Mayor and City Council.
(Res. 4-4, passed 5-8-1997)

SECTION 70.99 PENALTY.

Any person violating any of the provisions of SECTION 70.02 shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than \$10 nor more than \$50 and costs, or shall be imprisoned in the city jail one day for each \$10 of the fine.

(Ord. passed - -)

CHAPTER 71: SNOWMOBILES

Section

- 71.01 Definition
- 71.02 Minimum age of drivers
- 71.03 Offenses by person owning snowmobile
- 71.04 Equipment required
- 71.05 Regulations for operation of snowmobiles
- 71.06 Severability

- 71.99 Penalty

SECTION 71.01 DEFINITION.

The term *SNOWMOBILES* shall mean every self-propelled device upon a combination of skis, skids, tracks, or endless belts, in and upon which any person or property is or may be transported or drawn upon snow or snow-covered surface areas, and expressly includes devices known as “snowmobiles” or “skimobiles”.

(Ord. passed 1-17-1985)

SECTION 71.02 MINIMUM AGE OF DRIVERS.

No person under the age of 16 years shall drive or operate a snowmobile in the city.

(Ord. passed 1-17-1985) Penalty, see SECTION 71.99

SECTION 71.03 OFFENSES BY PERSON OWNING SNOWMOBILE.

(A) It shall be unlawful for any person to knowingly permit, allow, or encourage the operation or driving of a snowmobile by a person under the age of 16 years.

(B) No snowmobile shall be operated in the city by any person unless such snowmobile has been licensed by the state.

(C) No snowmobile shall be operated by a person without a valid operator's license or certification.

(D) No snowmobiles shall be permitted upon Main Street, which is an Oregon State Highway, except for the purpose of crossing at posted crossing points.

(Ord. passed 1-17-1985) Penalty, see SECTION 71.99

SECTION 71.04 EQUIPMENT REQUIRED.

No snowmobile shall be operated in the city, unless it is equipped with the following:

(A) At least one and not more than two headlamps sufficient to render clearly discernable persons and vehicles at a distance of 250 feet ahead;

(B) Tail lamps, which when lighted, shall emit a red light plainly visible at a distance of 250 to the rear;

(C) At least one brake which may be operated by hand or foot;

(D) A muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke; and no person shall use a muffler cut out, by-pass, or similar device; and

(E) All snowmobiles operated in the city shall be equipped with a mast or antenna displaying a red or red-orange florescent flag or pennant a minimum of six feet above the ground; such flag or pennant shall be either rectangular or triangular in shape with the leading edge being of a minimum of six inches and the length a minimum, of 12 inches.

(Ord. passed 1-17-1985) Penalty, see SECTION 71.99

SECTION 71.05 REGULATIONS FOR OPERATION OF SNOWMOBILES.

(A) It shall be unlawful to drive, operate, or park a snowmobile on any sidewalk in the city.

(B) No snowmobile shall be operated at a speed in excess of 20 mph in the city.

(C) No snowmobile shall carry passengers or weights in excess of the capacity recommended by the manufacturer thereof.

(D) No sled, toboggan, trailer, or any other device shall be towed by a snowmobile, except by means of a rigid tow bar connecting the same to such device.

(E) No person on skis shall be towed behind a snowmobile.

(F) It shall be unlawful to drive or operate a snowmobile while under the influence of intoxicating liquor or a controlled substance.

Snowmobiles

(G) All snowmobiles shall come to a full stop at all street intersections.

(H) All snowmobiles on the streets of the city shall be operated in single file on the extreme right hand side of the street.

(I) No snowmobile shall be operated within the city limits after 10:00 p.m. except for the purpose of going directly to or from the place of residence of the operator of such snowmobile or to its place of storage.

(J) No person shall operate a snowmobile carelessly and heedlessly, or without due caution and circumspection and at a speed or in a manner as to endanger or be likely to endanger any person or property.

(Ord. passed 1-17-1985) Penalty, see SECTION 71.99

SECTION 71.06 SEVERABILITY.

If any portion of this chapter or the application thereof to any persons or circumstances is held to be invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

(Ord. passed 1-17-1985)

SECTION 71.99 PENALTY.

Any person convicted of a violation of this chapter shall be punished by a fine not to exceed \$50.

(Ord. passed 1-17-1985)

Snowmobiles

CHAPTER 72: ALL-TERRAIN VEHICLES

Section

- 72.01 Definition
- 72.02 Minimum age of drivers
- 72.03 Offenses by person owning all-terrain vehicle
- 72.04 Equipment required
- 72.05 Regulations for operation of all-terrain vehicles
- 72.06 Severability

- 72.99 Penalty

SECTION 72.01 DEFINITION.

The term *All-terrain VEHICLES*, or *ATV*. Commonly known as ATVs or 4-wheelers, shall mean a self-propelled device having four wheels upon which one person may be transported over road, lane, street, or rugged terrain; expressly excludes riding lawn mowers.
(Ord. 6-6, passed 5-11-2000)

SECTION 72.02 MINIMUM AGE OF DRIVERS.

No person under the age of 16 years shall drive or operate an ATV in the city.
(Ord. 6-6, passed 5-11-2000) Penalty, see SECTION 72.99

SECTION 72.03 OFFENSES BY PERSON OWNING ALL-TERRAIN VEHICLE.

- (A) It shall be unlawful for any person to knowingly permit, allow, or encourage the operation or driving of an ATV by a person under the age of 16 years.
- (B) No ATV shall be operated or driven in the city by any person without a valid driver's license, as issued by the Department of Motor Vehicles to drive an automobile.
- (C) No ATV shall be permitted upon Main Street or E. Record Street, both of which are Oregon State

Highways, except for the purpose of crossing at intersections.

(D) It shall be unlawful for any person to operate an ATV on city streets, except during daylight hours. (Ord. 6-6, passed 5-11-2000) Penalty, see SECTION 72.99

SECTION 72.04 EQUIPMENT REQUIRED.

No ATV shall be operated in the city unless it is equipped with the following:

(A) A “slow-moving vehicle” sign (a large orange fluorescent triangle on a black background), as required by farm equipment, affixed to the rear of the vehicle;

(B) A muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke; and no person shall use a muffler cut-out, bypass, or similar device;

(C) At least one working brake which may be operated by hand or foot; and

(D) Two tail lamps, which when lighted, shall emit a red light plainly visible at a distance of 250 feet to the rear.

(Ord. 6-6, passed 5-11-2000) Penalty, see SECTION 72.99

SECTION 72.05 REGULATIONS FOR OPERATION OF ALL-TERRAIN VEHICLES.

(A) No ATV shall be operated at a speed in excess of 20 mph in the city.

(B) It shall be unlawful to drive, operate, or park an ATV on any sidewalk in the city, other than for removing snow from the sidewalks.

(C) No sled, toboggan, trailer, or any other device shall be towed by an ATV except by means of a rigid tow bar connecting the same to such device.

(D) No person on skis shall be towed behind an ATV.

(E) It shall be unlawful to drive or operate an ATV while under the influence of intoxicating liquor or a controlled substance.

(F) All ATVs shall come to a full stop at all street intersections.

(G) All ATVs shall be driven on the right-hand side of the street.

All-Terrain Vehicles

(H) No person shall operate an ATV carelessly or heedlessly, or without due caution and circumspection and at a speed or in a manner as to endanger or be likely to endanger any person or property.

(I) Any person operating an ATV upon city streets shall use the proper handsignals for turning, slowing, or stopping.

(Ord. 6-6, passed 5-11-2000) Penalty, see SECTION 72.99

SECTION 72.06 SEVERABILITY.

If any portion of this chapter or the application thereof to any persons or circumstances is held to be invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

(Ord. 6-6, passed 5-11-2000)

SECTION 72.99 PENALTY.

Any person convicted of a violation of this chapter shall be punished by a fine not to exceed \$100.

(Ord. 6-6, passed 5-11-2000)

All-Terrain Vehicles

CHAPTER 73: PARKING REGULATIONS

Section

- 73.01 Winter parking on Main Street prohibited during certain hours
- 73.02 Parking and leaving vehicles on city streets for more than ten days

- 73.99 Penalty

SECTION 73.01 WINTER PARKING ON MAIN STREET PROHIBITED DURING CERTAIN HOURS.

(A) Winter parking prohibitions.

- (1) Parking on Main Street in the city shall be prohibited from October 15 through the end of March.
- (2) No person shall park or stand a vehicle on Main Street during the dates specified in division (A)(1) above between the hours of 2:30 a.m. to 6:00 a.m.

(B) Method of notification.

- (1) The Public Works Director shall see that signs stating prohibitions and penalties be erected on Main Street on the sidewalk, inside the curb, placed appropriately, by October 15.
- (2) The Public Works Director shall see that these signs are removed from Main Street by April 1.
- (3) Signs shall read: "NO PARKING 2:30 A.M. TO 6 A.M., VIOLATORS WILL BE TOWED."

(C) Violations.

- (1) A vehicle in violation of this section shall be towed by a person or persons licensed to tow vehicles and contracted with the city for such purpose. The Public Works Director is authorized by this section to call for a violating vehicle to be towed.

(2) The vehicle in violation of this section shall be towed to a designated place for storage until redeemed by the registered owner. The designated storage place shall be on property owned by the city and shall also be a place secured by lock and key.

(3) The stored vehicle shall be redeemed by the registered owner, after showing proof of ownership and paying the towing and storage cost at city hall during regular business hours.

(4) The towing cost will be determined by the city's contract with the towing company and the storage cost per day or part day will be set by the City Council at \$5 per day or part day. Storage cost may be adjusted by resolution of the City Council from time to time as the Council deems necessary.

(Ord. passed 2-11-1999)

SECTION 73.02 PARKING AND LEAVING VEHICLES ON CITY STREETS FOR MORE THAN TEN DAYS.

(A) It shall be unlawful for any person or persons to leave, park, or store any old vehicle, or new vehicle, not in running order and being used for transportation or general use upon any street or alley for a period of more than ten days.

(B) In connection with the prosecution of any person or persons for a violation of this section, each time a person or persons are found in violation of this section and are notified and given 24 hours in which to move said vehicle or vehicles, shall be a separate offense and a violation of provisions hereof.

(Ord. passed - -) Penalty, see SECTION 73.99

SECTION 73.99 PENALTY.

Any person or persons violating SECTION 73.02 or any provision thereof shall upon conviction thereof be punished by a fine of not less than \$10 nor more than \$25, or by imprisonment in jail for not more than ten days, or by both such fine and imprisonment at the discretion of the City Recorder, and for the cost of removing said vehicle.

(Ord. passed - -)

TITLE IX: GENERAL REGULATIONS

Chapter

90. STREETS AND SIDEWALKS

91. ANIMALS

92. PUBLIC NUISANCE

93. FAIR HOUSING

94. FIRE PREVENTION

95. WEEDS

CHAPTER 90: STREETS AND SIDEWALKS

Section

General Provisions

- 90.01 Jurisdiction and regulatory control of city
- 90.02 Maintenance of sidewalks and public ways
- 90.03 Curb line established; obstructions prohibited
- 90.04 Manner and proceedings for vacating or closing streets and alleys
- 90.05 Flooding of streets prohibited
- 90.06 Cleaning of ditches
- 90.07 Trimming of trees overhanging streets or sidewalks

Construction Requirements for Public Ways

- 90.20 Permit required; standard specifications
- 90.21 Permit application
- 90.22 Insurance requirement; safety
- 90.23 Permit suspension or revocation
- 90.24 Permit fees
- 90.25 Location of facilities
- 90.26 Municipal utilities and franchisee opening permits and inspection
- 90.27 Repair
- 90.28 Restoration and maintenance
- 90.29 Culvert installations

- 90.99 Penalty

Streets and Sidewalks

GENERAL PROVISIONS

SECTION 90.01 JURISDICTION AND REGULATORY CONTROL OF CITY.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The City of Halfway, Oregon.

PERSON. Individual, corporation, association, firm, partnership, joint stock company, and similar entities.

PUBLIC RIGHTS-OF-WAY. Include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements, and all other public ways or areas, including subsurface and air space over these areas.

WITHIN THE CITY. Territory over which the city now has or acquires jurisdiction for the exercise of its powers.

(B) *Jurisdiction.* The city has jurisdiction and exercises regulatory control over all public rights-of-way within the city under authority of the city Charter and state law.

(C) *Scope of regulatory control.* The city has jurisdiction and exercises regulatory control over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. The city has jurisdiction and regulatory control over each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure, or other means.

(D) *City permission requirement.* No person may occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use rights-of-way by franchises, licenses, and permits.

(E) *Obligations of the city.* The exercise of jurisdiction and regulatory control over a public right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.

(Ord. 2-97, passed 3-13-1997)

Streets and Sidewalks

SECTION 90.02 MAINTENANCE OF SIDEWALKS AND PUBLIC WAYS.

(A) *Non-liability for defective or un-maintained sidewalks, streets, avenues, alleys, or other public ways, within the city.* Maintenance of sidewalks includes, but is not restricted to, removal of snow and ice. No recourse shall be had against the city, for damage or loss to person or property suffered or sustained by reason of the defective condition of any sidewalk, street, avenue, lane, alley, or other public way, whether any of said defects originally existed, or whether they were occasioned by construction, excavation, or otherwise; nor shall there be any recourse against the city, for want of repair or maintenance of any sidewalk, street, avenue, lane, alley, or other public way; nor shall there be any recourse against the city for damage to person or property suffered or sustained by reason of accident or other casualty occurring in, upon, near, or in any manner connected with any sidewalk, street, avenue, lane, alley, or other public way within the city.

(B) *Duty of owners to maintain and make sidewalk repairs and power of the Council to require the same.* It is hereby made the duty of all the owners of land adjoining or adjacent to any street in the city to maintain in good repair and condition the sidewalks in front of said land. The Council shall have the power and authority to determine the grade and width of all sidewalks, material to be used, and the specifications for the repair and maintenance thereof, upon any street or part thereof, or within any district in the city.

(C) *Notice of defective sidewalks.* If the owner of any lot or part thereof, or parcel of land within the city, shall suffer any sidewalk along the same to become out of repair or maintenance, the City Engineer, or any person appointed by the Council for that purpose, when ordered to do so by the Council, shall post a notice on the adjacent property headed "A Notice to Repair/Maintain Sidewalk" and said notice shall direct the owner, agent, or occupant of said property to immediately repair/maintain the said sidewalk in a good and substantial manner, and the person posting said notice shall file with the City Recorder an affidavit of the posting of such notice stating the date when and the place where such notice was posted. The City Recorder shall upon receiving the affidavit of the person posting said notice, send by mail, with postage prepaid on the envelope, a notice to repair/maintain said sidewalk to the owner, if known, and directed to the post office address of such owner or agent, when such post office address is known to the City Recorder, and if such post office address be unknown to the City Recorder, such notice shall be directed to such owner or agent at Halfway, Baker County, Oregon. A mistake in the name of the owner or agent, or a name other than that of the true owner or agent of such property, shall not render void such notice, but in such case the posted notice shall be sufficient.

(D) *Permit for repairs.* The owner, agent, or occupant, before making said repairs shall obtain from the City Engineer or Public Works Director a permit so to do, which shall prescribe the kind of repair to be made, the material to be used, and specifications therefor, and the owner, agent, or occupant shall make said repairs within 30 days from the date of the posting of said notices. Removal of snow and ice does not require a permit, but such maintenance is expected to be performed immediately upon notification.

Streets and Sidewalks

(E) *Repairs by city, record and report.* If the owner or agent of any such lot or part thereof, or parcel of land, shall fail, neglect, or refuse to make the sidewalk repairs or required maintenance within the time designated, the City Engineer or Public Works Director shall make the same and keep an accurate account of the cost of the labor and materials used in making the repairs/maintenance in front of each lot or parcel of land, and shall report monthly to the Council, the cost of such repairs/maintenance and a description of the lot or part thereof or parcel of land fronting or abutting on the sidewalk upon which such repairs are made.

(F) *Assessment for sidewalk repairs/maintenance.* The Council shall, at least once each year, by ordinance assess upon each of the lots or parts thereof or parcels of land fronting upon sidewalks which have been so repaired, constructed, or maintained the cost of making such repairs, constructing the same, or performing the required maintenance, including legal, administrative, and engineering costs attributable thereto. In each case, all such assessments may be combined in one assessment roll and the same shall be entered in the docket of city liens and collected in the same manner as is provided by ordinance for collection of special assessments for local improvements.

(G) *Council authority over sidewalks.* The Council shall exercise the same general authority and supervision over sidewalk repairs/maintenance that it shall have in the matter of street improvements. The Council of the City of Halfway, Oregon, shall inspect the reports of sidewalk repairs/maintenance and the cost thereof, as made by the City Engineer or Public Works Director and if it deems the same to be reasonable it shall approve the same and make the assessments herein above referred to, in the event that the property owner does not pay for the same immediately after such repairs/maintenance have been made and the costs determined and assessed in connection with the making of such repairs/maintenance.

(H) *Advances from the General Fund.* Moneys to repair sidewalks when the repairs shall be made by the City Engineer may, in the discretion of the Council, be advanced from the General Fund to be reimbursed by the special assessment when collected.

(I) *Liability of owners for damages and negligence.* It is not only the duty of all owners of land within the city to keep in repair and maintained all sidewalks, constructed or existing in front of, along or abutting upon their respective lots or parts thereof and parcels of land owned by such owners, but such owners are hereby declared to be liable for all damages suffered or sustained by any person, whether to person or property, resulting or arising from or incurred by reason of the failure or neglect of such owners to keep in repair and maintenance any such sidewalks, or any reason of any defect, including removal of snow and ice, in any sidewalk adjacent to, abutting upon or along any property owned by such persons. (Ord. 2-3, passed - -1977; Ord. 1-3.94, passed 10-13-1994; Ord. 2-3.04, passed 1-15-2004) Penalty, see ' 90.99

Streets and Sidewalks

SECTION 90.03 CURB LINE ESTABLISHED; OBSTRUCTIONS PROHIBITED.

(A) A curb line or parking strip line is hereby established in and upon all the public streets of the city which said line shall run parallel with the property line abutting upon the respective streets and at a distance of 15 feet within the street therefrom, except that at the street intersections or corners the line intersecting shall be curved upon an arc with a radius which shall be hereafter determined by the City Council.

(B) It shall be unlawful for any person, persons, firm, or corporation to deposit within any street, alley, or public place within the limits of the city any box or boxes, can or cans, papers, trash, refuse, manure, bottle or bottles, glass of any nature, straw, or rubbish, or old pieces of machinery or automobiles, or other worthless matter that may be stacked or piled at the outer edge of the parking strip, between the curb line and the sidewalk line directly front of the real property owned or occupied by the owner of said waste or refuse matter for a period of time not exceeding 48 hours. No such matter shall be permitted to interfere with the free passage of pedestrians or to be upon the sidewalk or footpath along said street.

(C) It shall be unlawful for any person or persons, firm, or corporation to allow any lumber, wood, or other materials to be piled upon and remain in or upon any street, alley, or public place with the city for a period longer than 48 hours.

(D) It shall be unlawful for any person, persons, firm, or corporation to pile, stack, leave, or deposit any wood, lumber, or other material of any nature which is to be sold to others, or is for commercial use or sale, or which has been sold and is awaiting commercial delivery, in any street, alley, or public place, or upon the parking strip of any street within the limits of the city.

(E) If at any time it shall become necessary for any person or persons, firm, or corporation to use the public street directly in front of abutting property upon which any building or construction work is being or about to be done, for the storing or piling of building material during such construction, such person, persons, firm, or corporation shall make application to the City Council for a permit to make such use of said street, and if the said Council shall deem such use necessary and proper, it shall direct the issuance of a permit therefor, stating the termination of said permit and the material to be stored or piled together with the amount of street space which may be so used. Such permit may be renewed at the discretion of the Council upon proper showing of necessity therefor.

(F) It shall be the duty of the Marshal whenever he or she shall find any material or refuse matter of any nature or kind in any street or alley or public place within the city contrary to the provisions of this section, to notify the owner or person in possession of the abutting premises and order the same removed within 48 hours of such notification; and if the same be not removed within such time, the Marshal shall then proceed to have the same removed and the expense of such removal shall, if not immediately paid, be taxed as costs against the person, persons, firm, or corporation who shall be found guilty of a violation of this section in the placing, depositing, or leaving or piling of said material or refuse matter of any nature in said street, alley, or public place.

Streets and Sidewalks

(Ord. 5-4, passed - -) Penalty, see ' 90.99

SECTION 90.04 MANNER AND PROCEEDINGS FOR VACATING OR CLOSING STREETS AND ALLEYS.

(A) (1) Any person, firm, or corporation desiring to have vacated any street or alley, or any part thereof, shall submit a petition to the City Council setting forth:

- (a) The particular circumstances of the case;
- (b) An accurate description of the property to be vacated;
- (c) A plat showing the property to be vacated; and
- (d) The names of all persons owning property abutting the property to be vacated.

(2) The petition shall be filed with the City Recorder, accompanied by a fee collected from the petitioner which reimburses the city for all publication and recording costs involved. Notice of the pendency of the petition shall be published at least once each week for three successive weeks in a public newspaper published in the city, or posted in three public places in the city for at least 30 days prior to a hearing by the City Council upon the petition.

(B) (1) The City Council, upon hearing the petition, may grant or deny the petition in whole or in part or the City Council may grant the petition with such conditions as would appear to be for the public interest.

(2) No vacation shall be granted unless the written consent of all persons owning property abutting the property to be vacated is obtained. The consent shall be acknowledged before an officer authorized to acknowledge deeds and shall be filed with the City Recorder.

(C) The vacated property shall vest in the abutting properties in equal proportions and the ordinance granting the vacation and the plat showing the vacation shall be recorded in the deed records in the County Clerk=s office.

(D) All vacation of streets or alleys, or any part thereof, heretofore declared by the City Council are hereby declared valid and confirmed.

(Ord. passed - - ; Ord. 1-6.3, passed 8-10-2006) Penalty, see ' 90.99

SECTION 90.05 FLOODING OF STREETS PROHIBITED.

Streets and Sidewalks

(A) It shall be unlawful for any person or persons, corporations, or associations of persons to use or permit to be used any water ditch or conduit in any street, lane, alley, boulevard, or place within the corporate limits of the city in such manner as shall, at any time, flood any street or public place, or damage any private or public property within the corporate limits of the city, or to cause or permit or suffer any such ditch or water conduit to overflow in such manner as shall flood or injure or do damage to, or impair the use of any public street, lane, alley or place whatsoever.

(B) It shall be the duty of the Street Superintendent to cause the arrest of and file complaint against any person violating the provisions of this section.

(Ord. 110, passed 5-9-1918) Penalty, see ' 90.99

SECTION 90.06 CLEANING OF DITCHES.

(A) *Ditches, removal of debris from.* All owners of ditches, whether irrigation or other ditches, within the corporate limits of the city, and all persons having charge of such ditches, whether by lease or otherwise shall, when cleaning out or causing to be cleaned out, any ditch or ditches within the corporate limits of said city, cause all rubbish of any kind taken therefrom that may be injurious to the public health and welfare of the city, including, but not limited to, removal of brush, litter, debris, logs, lumber, and any other refuse material, to be forthwith removed from within the corporate limits of the city.

(B) *Culverts.*

(1) No person shall install a culvert in a ditch in the city without first applying to the City Council for approval. As to placement and size, culverts shall be installed in accordance with ordinary irrigation engineering principles and shall not be smaller than 15 inches in diameter nor larger than 20 inches in diameter.

(2) Applications shall be made in writing to the City Council with a map of the proposed culvert location, the specification of the proposed culvert, and a statement by the proposed installer regarding his or her plans.

(C) *Exceptions.* This section shall not apply to lateral ditches constructed within a garden or yard, or other enclosures or private use for irrigation purposes.

(Ord. 109, passed 5-9-1918; Ord. 603, passed 4-14-1977; Ord. 134, passed - -) Penalty, see ' 90.99

SECTION 90.07 TRIMMING OF TREES OVERHANGING STREETS OR SIDEWALKS.

Streets and Sidewalks

(A) All persons owning or maintaining trees of any kind upon or in front of any premises owned or occupied by such person shall in all cases where such trees are situated in such proximity to any street or sidewalk that any limbs or branches of such trees extend in any manner over any such street or sidewalk keep such trees trimmed to a height of at least eight feet above the curb, over both street and sidewalk. In all cases such trees shall be kept so trimmed that no limb or branch thereof shall impede or interfere with the ordinary use and travel of or upon any such street or sidewalk. Where such tree or trees become so tall, or grow, or are displaced in any manner, so that they do, or might come in contact, with any telephone or power wire, the owner or owners of the tree or the persons maintaining such trees shall trim, cut down, or otherwise take care of them so that there will be no interference with said lines.

(B) Whenever any tree or trees mentioned or referred to in division (A) above shall not be trimmed as in said section provided, or whenever any limb or branch of any such tree or trees shall in any manner interfere with the ordinary use of or travel upon any such street or sidewalk, or telephone or power line, the official of said city shall cause notice in writing to be given to the owner or occupant of such premises to trim such tree or trees as herein provided. If such owner or occupant shall fail or neglect to so trim such tree or trees within six days after serving or mailing of such notice, the official may thereupon cause such tree or trees to be trimmed as herein provided, and the costs and expenses thereof shall be charged to the owner or owners of the property upon or in front of which such tree or trees are situated, or to the persons maintaining such property upon or in front of which such tree or trees are situated.

(Ord. 5-10, passed 5-9-1918) Penalty, see ' 90.99

CONSTRUCTION REQUIREMENTS FOR PUBLIC WAYS

SECTION 90.20 PERMIT REQUIRED; STANDARD SPECIFICATIONS.

(A) As used in this section, ***WORK AFFECTING THE PUBLIC WAY*** includes, but is not limited to: installation or construction of any structure, pipe, pole, conduit, culvert, facility, including a communications facility, or other wire line utilities in or on a public way; construction, reconstruction, grading, oiling, repair, opening, or excavation of a public improvement performed under a contract executed by the City Council or work performed by city employees under the City Council direction.

(B) No person, municipal utility, or operator of a communications system shall do work affecting a public way without first obtaining a permit from a city representative. A license issued pursuant to city land use ordinances shall not constitute authorization to perform work affecting a public way; all such work shall require a permit pursuant to this section.

(C) Work affecting a public way shall be performed in accordance with this subchapter, the standard specifications and design standards adopted pursuant previously adopted city land use ordinances, administrative rules issued by the City Council pursuant to the same land use ordinances, sound

Streets and Sidewalks

engineering and design practices, and such other reasonable conditions required by the City Council to protect the public health, safety, and welfare, including proof that the contractor performing the work is licensed and bonded.

(D) If an applicant for a permit or the contractor performing the work for the applicant:

(1) Is delinquent in performing the obligations required by previously issued permits, the City Council may refuse to issue a new permit for other work affecting a public way until the delinquency is corrected; and

(2) Has been delinquent in performing the obligations required by previously issued permits more than two times in the previous 24 months, the City Council may require a bond or other reasonable security, which may be a cash deposit, be posted with the city against which the city may collect its cost of enforcing this subchapter and the conditions of any permit issued thereunder against the permittee.

(Ord. 10-16, passed 2-10-2011)

SECTION 90.21 PERMIT APPLICATION.

(A) Unless otherwise permitted, application for a permit to perform work affecting a public way shall be made to the City Council on forms provided by a city representative. The city representative may waive the requirement to complete the application form and pay the permit fees and restoration deposit when the amount of work to be done in the public way does not warrant the cost of processing the application.

(B) If the City Council determines that it is proper that the proposed work be done, the application shall be approved. After approval, and upon receipt of the required fee, deposit, and possibly proof of license and bond required, the City Council shall issue a revocable permit.

(C) The City Council may deny a permit for work affecting a public way if the applicant has failed to comply with the permit conditions or with provisions of this subchapter or applicable administrative rules on two or more occasions in the previous 24 months, or if the City Council determines that the work is incompatible with other uses of the public way.

(D) If the City Council denies a permit, or revokes a permit because of a failure to comply with the provisions of this chapter or because another public purpose is to be accomplished which is inconsistent with the permittee's use of the public way, the applicant or permittee shall have the right of appeal to the City Council.

(E) Permits issued pursuant to this section do not authorize vehicle parking in the public way.

(Ord. 10-16, passed 2-10-2011) Penalty, see ' 90.99

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SECTION 90.22 INSURANCE REQUIREMENT; SAFETY.

(A) No permit shall be issued under this section unless an applicant agrees to save the city, its officers, employees, and agents harmless from all costs, damages, and liabilities, which may accrue or be claimed to accrue by reason of any work performed under said permit and provides proof of the license and bond required under ' 90.21. The acceptance of a permit under ' 90.20 shall constitute such an agreement by the applicant whether the same is expressed or not.

(B) A permittee shall preserve and protect from injury other permittees= facilities in the public way, the public using the public way and any adjoining property, and take other necessary measures to protect life and property, including, but not limited to, buildings, walls, fences, trees, or utilities that may be subject to damage from the permitted excavation. A permittee shall be responsible for all damage to public or private property resulting from its failure to properly protect people and property and to carry out the work.

(Ord. 10-16, passed 2-10-2011) Penalty, see ' 90.99

SECTION 90.23 PERMIT SUSPENSION OR REVOCATION.

(A) The City Council may suspend or revoke a permit issued under ' 90.21 if:

- (1) The permittee fails to restore the public way in a safe and timely manner;
- (2) The permittee fails to comply with any condition of the permit or any requirement of this subchapter adopted by the City Council;
- (3) An error or omission is discovered in the plans;
- (4) New conditions at the location of the work are discovered that require changes to design, capacity, or location of the work subject to the permit; or
- (5) The work that is the subject of the permit is not completed in a timely manner.

(B) The City Council shall suspend rather than revoke a permit under this section if it reasonably appears that cause for suspension or revocation can be remedied in a reasonable period of time.

(Ord. 10-16, passed 2-10-2011) Penalty, see ' 90.99

SECTION 90.24 PERMIT FEES.

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(A) The fee for a permit required by ' 90.20 shall be set by the City Council pursuant to that established in a previous land use ordinance in an amount sufficient to fully recover all of the city's costs related to processing the application for the permit and inspecting the work during and after completion of the work.

(B) Except when the permittee is a municipal utility, a franchisee, or a licensee otherwise obligated to compensate the city for ongoing use of the public way, in addition to the fee required in division (A) above, a fee for leaving any structure, pipe, conduit, culvert, or facility in the public way may be set by the City Council pursuant to this subchapter to provide a reasonable return to the public for the permitted on-going use of the public way.

(Ord. 10-16, passed 2-10-2011) Penalty, see ' 90.99

SECTION 90.25 LOCATION OF FACILITIES.

The administrative rules issued by the City Council hereunder shall include, but are not limited to the following:

(A) Requirements for prior notice to other licensed providers before performing work, and establishment of criteria to address the frequency that street openings will be permitted;

(B) Location criteria and regulations for installation of above ground facilities, such as junction boxes, controllers, distribution centers, and the like, within the general right-of-way, including the ability to require under-grounding;

(C) Standards for when and under what conditions existing above-ground utilities and telecommunications facilities shall be placed underground;

(D) Standards for conduit size, location, and capacity to be installed by providers, which may be different for different areas of the city. Class of street, location, and other factors are required;

(E) Standards that ensure initial providers in an area provide extra capacity for later providers and a procedure that enables the initial provider to recover a portion of its costs incurred, is not discriminatory, does not prevent competition in service delivery, or become a barrier to other providers;

(F) Criteria for providing exceptions to the requirement that later providers utilize the extra capacity of initial providers;

(G) The format for the manner in which data on the construction and location of services is provided to the city;

(H) Procedures that ensure providers belong to the local utility notification service and can document

Streets and Sidewalks

their ability to provide locating the service for their facilities;

(I) Requirements for public notice;

(J) Traffic control plans; and

(K) Requirements for indemnity, performance bonds, and project completion bonds.
(Ord. 10-16, passed 2-10-2011)

SECTION 90.26 MUNICIPAL UTILITIES AND FRANCHISEE OPENING PERMITS AND INSPECTION.

If the applicant for a permit required by ' 90.20 is a municipal utility or a franchisee, the City Council's stamp of approval on the municipal utility's or franchisee's drawings for the proposed work shall constitute issuance of a permit. The work performed under such a permit shall comply with the requirements of ' 90.20(C). The municipal utilities or the franchisee's drawings shall designate in the permit, with accurate dimensions shown, the part of the public way to be used, and the municipal utility or franchisee shall strictly conform to the designation so made, unless re-approval is given by the City Council.

(Ord. 10-16, passed 2-10-2011) Penalty, see ' 90.99

SECTION 90.27 REPAIR.

(A) Except where waived by the City Council, the permittee shall temporarily patch with asphalt material any backfilled trench in any vehicle traffic lane the same day of trench backfill, until the final pavement repair is placed. Temporary trench repair shall be maintained sufficiently to prevent settlement or irregular surface. Within 60 days of completion of the work and at permittee's expense, the permanent pavement repair of the public way to city standards shall be done by a qualified contractor or by the permittee if the City Council has determined the permittee has the resources and trained personnel. If the permittee fails to make the permanent pavement repair within the time specified, the city may make the repair and charge the cost thereof to the permittee without prior notification.

(B) A permittee shall be responsible to promptly remove and clean all excess earth, stone, crushed rock, rubbish, debris, and any unused material from the public way surface that results from work performed. As work progresses, all public ways shall be thoroughly cleaned of all rubbish, excess earth, rock, and other debris resulting from such work. All cleanup shall be at the permittee's expense.

(Ord. 10-16, passed 2-10-2011) Penalty, see ' 90.99

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SECTION 90.28 RESTORATION AND MAINTENANCE.

(A) If the work permitted is in an unimproved public way, the permittee shall be responsible for restoration and maintenance of the area of the public way affected by the work.

(B) If the work permitted is in an improved public way, the permittee shall be responsible for restoration and maintenance of the area of the public way affected by the work. If more than one permittee has performed work in the same area, the City Council shall allocate the responsibility and cost for restoration and maintenance taking into account the nature of the work done, and of the deterioration that has occurred, when each permittee performed the work, the kind of equipment and construction techniques used, and such other factors as the City Council deems relevant.

(C) Upon reasonable notice under the circumstances, if the permittee fails to restore and maintain the public way affected by its work, the city may perform the work and charge the cost to the permittee.
(Ord. 10-16, passed 2-10-2011)

SECTION 90.29 CULVERT INSTALLATIONS.

If the permit is for installation of a culvert for access to property, the culvert must be installed in the size designated by the City Council, are considered temporary, and may be removed at anytime.
(Ord. 10-16, passed 2-10-2011) Penalty, see ' 90.99

SECTION 90.99 PENALTY.

(A) Whoever violates any provision of this chapter, for which no specific penalty is otherwise provided, shall be subject to the provisions of ' 10.99.

(B) Any person, persons, firm, or corporation who shall violate any of the provisions of ' 90.03, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$10 nor more than \$50, or by imprisonment in the city jail for a period of not more than 25 days, or by both such fine and imprisonment; and each day during which a violation of ' 90.03 shall continue shall be and constitute a separate offense and violation of that section.
(Ord. 5-4, passed - -)

(C) Any person violating any of the provisions of ' 90.05 shall, upon conviction thereof, be punished for the first offense by a fine of not less than \$25; and for a second offense by a fine of not less than \$50. Each day's continuance of such violation of any provision of ' 90.05 shall constitute a separate offense.
(Ord. 110, passed 5-9-1918)

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(D) Any person violating the provisions of ' 90.06 shall, upon conviction before the municipal judge, be fined not less than \$10 nor more than \$100, and in default of payment thereof shall be confined in the county jail one day for each \$2 not exceeding 30 days.

(Ord. 109, passed 5-9-1918; Ord. 603, passed 4-14-1977; Ord. 134, passed - -)

(E) Any person violating any of the provisions of ' 90.07 shall upon conviction thereof before the municipal judge be punished by a fine of not less than \$10 nor more than \$25 for each offense, and in case of failure or refusal to pay such fine, such person so convicted may be imprisoned in jail one day for each \$5 of such fine.

(Ord. 5-10, passed 5-9-1918)

Streets and SidewalksORDINANCE NO. An.023
SERIES 2023 / CHAPTER 91Ordinance for the Regulating of Animals within the City Limits of the City of
HalfwaySec. 1 - Repeal

The ordinance numbers: Ord. 6-89, 6-89/B, 6-89/C, 6-89-96A and all resolutions, ordinances, or parts of ordinances in conflict with any provisions contained hereinafter, the same are hereby repealed. Updated: 3 - 09 - 23.

Be it ordained by the people of the City of Halfway as follows;

Sec. 2 - Definitions

As used in this ordinance unless the context requires otherwise:

1. Animal - Any animal owned by a person whether a pet or livestock.
2. Animal Control Officer - Any person assigned by the City of Halfway as an Animal Control Officer. This person may be a Council person or citizen; who has been granted authority to seize an animal that has been court ordered to be destroyed, (killed or put down), removed from being at large and seized or impounded. And who has the authority to inspect the outside enclosures and care conditions of animals, issue written and/or verbal notices, warnings and citations to violators and those deemed to be in non-compliance with this ordinance.
3. Animal Fighting - Defined in Section 12
4. Animal neglect - When the animal is not given minimum care, which would preserve the health and well-being of the animal. To be determined by the Animal Control Officer or City Official.
5. At large - An animal outside the premises of the owners property and immediate control of the owner or handlers, not restrained by a rope, line, leash, chain, or other similar means.
6. City Official or Representative - A city appointed person who functions as an Animal Control Officer unless an Animal Control Officer has been appointed.
7. Commercial breeding kennel - A place of business and/or selling of dogs. The term is not intended to include an animal hospital or noncommercial kennel.

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8. Commercial kennel - A place of business where dogs are boarded. No more than two (2) of the dogs shall be used for breeding. The term is not intended to include an animal hospital or noncommercial kennel.
9. Continuous annoyance - Permitting any animal to cause annoyance, alarm, or disturbance for more than five (5) continuous minutes at any time of the day or night (be it repeated barking, whining, howling, or other like sounds) which can be heard beyond the boundary of the owner's property and thereby unreasonably depriving a person of peace and quiet.
10. Dangerous animal - Any animal which bites or demonstrates menacing or aggressive behavior toward human beings, dogs, cats, or livestock.
11. Dog - Any mammal of the canine family.
12. Deputy - A Deputy or Police Officer of the State of Oregon or Baker County Sheriffs Office.
13. Handler - A person hired or volunteering to walk or maintain a dog owned by a separate person from themself.
14. Impounded or Seized -
 - (A) Impounded - Housed in a qualified animal shelter or pound.
 - (B) Seized - Removal from being at large for the safety of the animal and/or public and returned to the owners property or temporarily housed or impounded until owner can be found, or removal from the owner as court ordered. The owner may reclaim the animal from the qualified animal shelter or pound after proving ownership, and covering all related costs, and may reclaim the animal from temporary housing after first proving ownership of the animal.
15. Livestock - Any animal bred and maintained commercially or otherwise, cattle, horses, sheep, llamas, goats, swine, turkey, chickens, and other fowl properly maintained in an enclosure.
16. Minimum care - Care sufficient to preserve the health and well-being of an animal and except for emergencies or circumstances beyond the reasonable control of the owner. (Sec. 11, (a)-(d)) Determined by the Animal Control Officer or City Official.
17. Menacing or Aggressive behavior - The baring of teeth, charging at a victim, growling in a threatening manner, or approaching a victim within ten feet while barking.
18. Non-commercial dog kennel - An establishment or premises where five (5) or more

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dogs, over six months of age are kept or maintained for the hobby of breeding for no monetary gain. No more than two of the dogs shall be used for breeding. The term does not include any animal hospital or family pets.

19. Non-Compliance - Refusal to adhere to this ordinance and the requirements therein.

20. Owner - any person who keeps, has custody of, possesses, harbors or exercises control over a dog or other animal, except for a veterinary hospital and pet shops.

21. Public Nuisance - Any animal that is habitually running at large, bites a person, habitually chases vehicles or persons, damages or destroys property other than that of the owner, scatters garbage on property other than that of the owner, habitually trespasses on private property or on public lands unattended or beyond control of the owner or handler, makes frequent or prolonged noise, chases or injures livestock. A dangerous animal.

22. Secure enclosure - A structure in which an animal is confined such that the animal does not have access to humans or other animals. The structure must be secure on all sides, top, and bottom. If the floor is not secure, the outside walls must extend into the ground not less than one foot to prohibit the digging out of a dog or other animal. Enclosure must be of proper size for the animal being kept. To be determined by the Animal Control Officer or City Official.

Sec. 3 - Animal Control District

The City of Halfway hereby establishes an animal control district to include all property within the limits of the City of Halfway, and the boundary of the animal control district will be the same as the city limits boundary.

Sec. 4 - Violations or Non-Compliance

It shall be a violation or non-compliance for an owner of any animal to:

- (1) Not have dogs vaccinated against rabies by the age of six months.
- (2) Not have dogs licensed each year.
- (3) Permit an animal to run at large becoming a nuisance or threatens to cause personal injury or property damage off the premises of the owner.
- (4) Permit an animal to chase a human or engine powered vehicle or walking pedestrian.

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- (5) Permit any animal to scatter garbage.
- (6) Permit any animal to damage or destroy property of persons other than the owner of the animal.
- (7) Permit any animal to cause continued annoyance, which may be heard beyond the boundary of the owner's property.
- (8) Keep a dangerous animal not properly confined.
- (9) To leave an animal unattended for more than 24 consecutive hours without adequate food, water, shelter, care or supervision. Shelter shall include a structure or other means of protection from the weather and injury.
- (10) To injure or chase livestock.
- (11) To engage in any and all animal or dog fighting practices or activities.
- (12) Physically mistreat any animal, either by deliberate abuse or neglecting to furnish adequate care including medical attention. It is a violation for any person to tease or mistreat or allow any animal to be teased or mistreated.
- (13) Intimidate an Animal Control Officer or City Official.
 - (A) "Intimidation" as used in this section means the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person.
 - (B) No person shall intentionally intimidate someone known by them to be an Animal Control Officer or City Official who is enforcing any provision of this ordinance.

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The City Council of the City of Halfway will appoint an Animal Control Officer or City Official to carry out animal control enforcement duties and who will work under the guidance and direction of the City Manager after direction from council is obtained. The Animal Control Officer or City Official will be contacted for all animal complaint issues.

Sec. 6 - Violations or Non-Compliance

The City of Halfway hereby declares that violations of this ordinance shall carry penalties including verbal and written warnings, verbal and written notices of violation or non-compliance; and fines and penalties imposed by the authorized Animal Control Officer or City Official as determined by resolution by the City Council in accordance with this ordinance. And which fines and penalties are subject to review by the City of Halfway on an annual basis.

Sec. 7- Fines and Penalties

The City Council of the City of Halfway by resolution shall set fines and penalties in accordance with this animal ordinance and may change the amount of such fines and penalties upon yearly review.

Sec. 8 - Fees and Fines

(A) License fees collected under the provisions of this ordinance shall be paid to the City of Halfway and shall be placed in the General Fund for Dog Licenses.

(B) One half of all fines collected by the Justice Court of Baker County, under the provisions of this ordinance shall be reimbursed to the City of Halfway and shall be placed in the General Fund for animal control.

Sec. 9- Complaints

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Any person who has cause to believe an animal is a public nuisance or is neglected, may complain in writing to the City Recorder at the City Hall Office. The victim/s must leave their name/s, address, file a complaint, and be willing to testify against the defendant if necessary.

An animal is a public nuisance if it:

- (A) Is habitually running at large
- (B) Off the premises of the owner.
- (C) Bites a person.
- (D) Habitually chases vehicles or a person.
- (E) Damages or destroys property.
- (F) Scatters garbage on property other than that of its owner.
- (G) Habitually trespasses on private property or on public lands unattended or beyond control of the owner or handler.
- (H) Makes frequent or prolonged noise.
- (I) Chases or injures livestock.
- (J) Is kept in an enclosure or kennel that creates offensive odors due to improper care by the owner.

An animal is considered neglected if it:

- (A) Is kept in an enclosure or kennel that is lacking in minimum care. (Sec. 13, (a) - (d))

Sec. 10 - Impounding and animal seizing procedures

An animal may be impounded or seized by an Animal Control Officer or City Official where violations or non-compliance have been found in accordance with Section 4, lines (2)-

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(6) and (8), provided the animal remains at large and the owner is unknown or cannot be contacted.

(A) Impounded - Housed in a qualified animal shelter or pound.

(B) Seized - Removal from being at large for the safety of the animal and/or public and returned to the owners property or temporarily housed or impounded until owner can be found, or removal from the owner as court ordered. The owner may reclaim the animal from the qualified animal shelter or pound after proving ownership, and covering all related costs, and may reclaim the animal from temporary housing after first proving ownership of the animal unless the seizure of the animal was court ordered. If the seizure was court ordered the owner must comply with courts conditions of reclaiming the animal.

(C) It is recommended that the Animal Control Officer or City Official work in cooperation with the Baker County Sheriff's Office and a Deputy thereof in cases where the impounding or seizure of an animal may be necessary.

(D) A Deputy is authorized under this ordinance to assist the City's Animal Control Officer or City Official upon request of the City.

Sec. 11 - Defenses

In a prosecution, "Nuisances", it is an affirmative defense that:

1. The animal's owner proves they did not allow the dog to be a public nuisance.
2. The animal bites or attempts to bite a person wrongfully harassing or assaulting the animal's owner or the animal.
3. The animal bites a person or attempts to bite a person trespassing upon premises occupied by the animal's owner without implied consent.

Sec. 12 - Dangerous Dog and Other Animals

Streets and Sidewalks

The purpose of this section is to establish a clarification of a dangerous dog and other animals.

1. An animal, while confined, causes the physical injury or death of a person or domestic animal or livestock. Unless the animal is acting in self defense of its owner, handler or private property.
2. An animal, while at large, causes the physical injury or death of a person or domestic animal or livestock.
3. An animal engages in or found to have been trained to engage in exhibitions of fighting.
4. Has rabies
5. If an animal has been deemed "dangerous" by the City of Halfway and has not been ordered destroyed by the Justice Court, the animal must be restrained in a secure enclosure. Said enclosure shall comply with the following requirement:
 - (A) The enclosure shall consist of a pen, kennel, or other secure enclosure with secure sides, secured bottom, and a secure top.
 - (B) If the enclosure does not have a secured bottom, the sides shall be embedded in the ground no less than one foot.
 - (C) The enclosure must be of a proper size for the animal, kept clean, and secured with a padlock or key lock.
 - (D) The owner will not permit the animal to leave the owner's property unless muzzled and/or restrained.
 - (E) If the owner chooses to keep such an animal, they must provide proof to the City Recorder of public liability insurance in a single incident of five hundred thousand dollars (\$500,000.00) for bodily injury or death of any person or persons or damage to property owned by any persons which may result from the ownership, keeping, or maintenance of such animal.

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(F) Such insurance policy shall provide that no cancellation of the policy will be made unless ten days written notice is first given to the City Recorder. And shall list the City of Halfway as additionally insured.

(G) The owner shall provide two color photographs of the animal in question.

(H) Failure to comply will be a violation of the ordinance.

6. An animal will not be deemed dangerous if the dog bites, attacks, or menaces a trespasser on the property of its owner or anyone wrongfully assaulting or harassing that dog or its owner.

Sec. 13 - Animal Neglect

As used in this section, "minimum care" means care sufficient to preserve the health and well-being of an animal and except for emergencies or circumstances beyond the reasonable control of the owner; includes, but is not limited to, the following requirements:

(A) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight.

(B) Open or adequate access to potable water in sufficient quantity to satisfy the animal's needs. Snow or ice is not an adequate water source.

(C) A doghouse or other enclosed structure must be sufficient to protect the dog from wind, rain, snow, or sun and which has adequate bedding to protect against cold and dampness.

(D) Veterinary care deemed necessary by a reasonable prudent person to relieve distress from injury, neglect, or disease.

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(E) Confinement areas must be kept reasonably clean and free from excess waste or other contaminants which could affect the dog's health. Shade necessary for animals during hot weather.

(F) Purposefully mistreats, abandons, injures or causes the death of an animal in the owner's care.

Sec. 14 - Involvement in Animal Fighting Practices - In accordance with ORS 167.355, ORS 167.370, ORS 167.372

1. ORS 167.355-

(A) A person commits the crime of involvement in animal fighting if the person:

1. Owns or trains an animal with the intention that the animal engage in an exhibition of fighting;
2. Promotes, conducts, participates in or is present as a spectator at an exhibition of fighting or preparations thereto;
3. Keeps or uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to any place kept or used for the purpose of an exhibition of fighting; or
4. Knowingly suffers or permits any place over which the person has possession or control to be occupied, kept or used for the purpose of an exhibition of fighting.

(B) For purposes of this section:

1. "Animal" means any bird, reptile, amphibian, fish or nonhuman mammal, other than a dog or a fighting bird as defined in ORS 167.426 (Definitions for ORS 167.426 to 167.439).
2. "Exhibition of fighting" means a public or private display of combat between two or more animals in which the fighting, killing, maiming or injuring of animals is a significant feature. "Exhibition of fighting" does not include demonstrations of the

Streets and Sidewalks

hunting or tracking skills of an animal or the lawful use of animals for hunting, tracking or self-protection.

Involvement in animal fighting is a Class C felony. [Formerly 167.865; 1987 c.249 §6; 2003 c.484 §9; 2009 c.796 §2]

2. ORS 167.370-

(A) A person commits the crime of participation in dogfighting if the person knowingly:

1. Attends or has paid admission at any place for the purpose of viewing or betting upon a dogfight.
2. Advertises or otherwise offers to sell equipment that the person knows or reasonably should know will be used for the purpose of training and handling a fighting dog.

Participation in dogfighting is a Class C felony. [1987 c.249 §3; 2008 c.42 §1]

3. ORS 167.372-

(A) A person commits the crime of possessing dog fighting paraphernalia if the person owns or possesses dogfighting paraphernalia with the intent that the paraphernalia be used to train a dog as a fighting dog or be used in the furtherance of a dogfight.

Possessing dog fighting paraphernalia is a Class C felony. [2005 c.467 §3; 2008 c.42 §2]

4. Penalty Animal Fighting practices - Involvement in Animal fighting, Dog fighting and Possessing dog fighting paraphernalia are Class C Felonies as per ORS 167.355, ORS 167.370, ORS 167.372 and are subject to the laws and penalties as determined by The State of Oregon and Baker County.

LICENSES AND FEES

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Sec. 15 - Dog Licenses

Every person who keeps a dog which has attained the age of six months, shall obtain a license for said dog.

(A) Licenses shall be issued on a fiscal year basis and shall be valid for the year issued. The year will be from July 1 through June 30 of the following year.

(B) No license shall be issued until a certificate of vaccination for rabies, valid for the license year is presented to the City Recorder.

(C) Dog owners shall renew the dog license annually for as long as they own the dog.

(D) A license tag issued to a dog owner shall be attached securely to a collar or harness on the dog or kept readily available if questioned about licensing. If a license is lost, the owner may obtain a duplicate license.

(E) A lower fee for individual dog licenses will be provided for dogs which have been spayed/neutered. Dog owners applying for this reduced fee must present to the City Recorder a certificate from a licensed veterinarian stating that the dog to be licensed has been spayed / neutered.

Sec. 16 - License Fees - generally

The dog license fee is due and payable upon the issuance of a license. The cost is five dollars (\$5.00) for all dogs not spayed/neutered or two dollars and fifty cents (\$2.50) for any spayed/neutered dog.

Sec. 17 - License fees – exceptions

No license fee shall be required for any dog when the owner can provide a service card (card proving service animal status) or letter from a doctor authorizing service animal status, as well as proof of current rabies vaccination. A copy of letter and rabies certificate shall be filed with the City Recorder.

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REGULATIONS

Sec. 18 - Kennel Notification

No person shall operate a kennel, whether commercial or non-commercial, without the appropriate kennel notification. Kennel notifications shall be valid for one year from date of issuance.

(A) A person who has a commercial kennel, commercial breeding kennel, non-commercial dog kennel shall license the individual dogs if they live at the kennel.

(B) The kennel must conform with applicable zoning statutes and ordinances

Sec. 19- Reporting of Dog Biting

The owner of a dog that bites shall immediately notify the City Recorder, the Animal Control Officer, City Official or the Baker County Health officer of such a bite, the time and circumstances of the bite and the name and address of the person bitten, if known. The owner must show proof of a rabies vaccination and if there is no such proof, the dog must be quarantined for a minimum of ten days at the owner's expense, and under care of a veterinarian. If a dog exhibits symptoms of rabies while it is under quarantine, the dog may be ordered destroyed at owner's expense.

Sec. 20 - Preclusions

This ordinance does not preclude owners of livestock or citizens to pursue or take action afforded to them under Baker County or State of Oregon statutes, rules, or regulations (ORS 609.150 and ORS 609.140). Any citizen of Halfway has the right to make complaints directly to Baker County or the State of Oregon.

Sec. 21 - Validity

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If any part or section of this ordinance is declared by the courts to be unconstitutional or in violation of any of the provisions of the charter of the City of Halfway, Oregon or in violation of any State law of the State of Oregon, or invalid for any other reason, such declaration shall not affect the validity of any other portion or section of this ordinance.

EFFECTIVE DATE: This ordinance will become effective immediately upon passing (under the Home Rule, for emergency ordinance passing).

PASSED AND APPROVED by the City Council of the city of Halfway of this 9th day of march, 2023. Ayes: 5 Nays:___

APPROVED by the Mayor of the City of Halfway, Oregon this 9th day of February, 2023

Nora Aspy_____
Nora Aspy, Mayor

ATTEST BY THE CITY RECORDER this 9th day of March. 2023

Salli Hysell_____
Salli Hysell, City Recorder

CHAPTER 91: ANIMALS

Section

- 91.01 Definitions
- 91.02 Duties of owner
- 91.03 Duties of the public
- 91.04 Prohibited activities
- 91.05 Dangerous or potentially dangerous animals
- 91.06 Cruelty to animals
- 91.07 Involvement in animal fighting
- 91.08 Impounding procedures
- 91.09 Powers and duties of animal control officer

- 91.99 Penalty

SECTION 91.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL. Shall include dogs, both male and female, but not other common house pets, but includes livestock and fowl, both male and female.

ANIMAL CONTROL OFFICER. Any individual employed by the city to act and perform the duties set forth in this chapter.

AT LARGE. Off the premises of an owner and not restrained by a physical control device and under reasonable control or a capable person.

DANGEROUS ANIMAL. An animal that constitutes a physical threat to human beings or other domestic animals or bites any human being or another domestic animal. This does not include an animal which bites, attacks, or menaces a trespasser, or a person or animal that has tormented or abused the allegedly dangerous animal. Minors under 12 years of age should not be considered trespassers unless the property owner proves that the minor entered with the intent to commit a crime.

DANGEROUS DOG. Any dog that has been found to have engaged in any of the behaviors specified in ' 91.05(A)(2).

EUTHANIZED. Put to death in a humane manner by a licensed veterinarian or certified euthanasia technician.

LIVESTOCK. Includes, but is not limited to, horses, mules, jennies, jackasses, cattle, sheep, hogs, goats, rabbits, chickens, ducks, geese, and turkeys.

MINIMUM CARE. Care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the owner, includes, but is not limited to, the following requirements:

- (1) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight;
- (2) Open or adequate access to potable water in sufficient quantity to satisfy the animal=s needs. Snow or ice is not an adequate water source;
- (3) In the case of pet or domestic animals, access to a barn, dog house, or other inclosed structure sufficient to protect the animal from wind, rain, snow, or sun and which has adequate bedding to protect against cold and dampness;
- (4) Veterinary care deemed necessary by a reasonable prudent person to relieve distress from injury, neglect, or disease; and
- (5) Pet or domestic animals shall not be confined to an area without adequate space for exercise necessary for the health of the animal or which does not allow access to a dry place for the animal to rest. The air temperature in a confinement area must be suitable for the animal involved. Confinement areas must be kept reasonably clean and free from excess waste or other contaminants which could affect the animal=s health.

OWNER. Any person, firm, association, or corporation that has a possessory property right in an animal or who harbors, cares for, exercises control over, or knowingly permits an animal to remain on the premises occupied by that person, firm, association, or corporation.

PHYSICAL CONTROL DEVICE. A sufficiently strong collar connected to a leash or tether made of chain links, or other material as strong, or fenced or enclosed in a structure so as to prevent the escape or a dog by breaking of the device.

PHYSICAL INJURY. Impairment of physical condition or substantial pain.

POSSESS. To have physical possession or otherwise to exercise dominion or control over property.

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POTENTIALLY DANGEROUS DOG. Any dog that has been found to have engaged in any of the behaviors specified in ' 91.05(A)(1).

SERIOUS PHYSICAL INJURY. Physical injury which creates a substantial risk of death or which causes serious and protracted loss or impairment of the function of any bodily organ, or any other medical condition determined by the Municipal Judge, in consultation with the County Health Officer, the County Health Officer=s designee or a licensed physician, to be of equal or greater severity.

(Ord. 6-89, passed 6-8-1989)

SECTION 91.02 DUTIES OF OWNER.

(A) *Licensing of dogs.*

(1) It shall be unlawful for any person to own, keep, or harbor either for himself or herself or any other person, a dog in the city without first securing a current dog license, in the actual owner=s name, therefore; said license shall be for a period of one year, commencing July 1; provided, however, a license shall not be required in the following circumstances:

- (a) A dog less than six months old;
- (b) An owner temporarily residing in the city less than 30 days; and/or
- (c) A blind person who uses the dog as a guide.

(2) An animal control officer shall consider a dog not displaying a valid and current license as probable cause that the dog is unlicensed unless the owner shows a valid and current license to the officer, or the officer is able to ascertain the validity of the licensing through records.

(3) If a dog that has been impounded for license violation is later found to have been licensed properly at the time of the impoundment, then that dog shall be released to the owner, after payment of impoundment costs if the dog was transported to Baker City, unless the dog was also impounded for another violation of this chapter.

(B) *Disease control.*

(1) No owner shall permit any animal or bird that is afflicted with a communicable disease to come in contact with another animal, bird, or human that is susceptible to the affliction.

(2) No owner shall permit the body of an animal to remain upon the public streets or private property for a period of time longer than is reasonably necessary to remove such carcass.

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- (3) No owner shall cause or allow any stable or place where any animal is, or may be kept, to become unclean or unwholesome.
- (4) Any animal that is placed under quarantine by a licensed veterinarian shall be kept separated from any other animals or people other than the owner's family or pets for a period of not less than ten days.
- (5) Whenever any animal bites a person, the owner of said animal shall immediately notify an animal control officer or County Sheriff's Department, who shall order the animal held on the owner's premises or shall have it impounded for a period of not less than ten days if it has been determined that there is no proof of proper rabies inoculation which is current. The animal shall be examined immediately after it has bitten anyone and again at the end of the quarantine period for signs of disease or injury. If at the end of the quarantine period the licensed veterinarian is convinced that the animal is then free from rabies, the animal shall be released from quarantine or from impoundment as the case may be, unless it is being held for another violation of this chapter, cost to be borne by the animal owner. If the animal dies during quarantine, its head shall be examined for rabies at the owner's expense.
- (6) No person shall own, keep, or harbor any dog over six months of age unless the dog is vaccinated for rabies. The provisions of this section do not apply to animals owned by a licensed research facility, or government operated or licensed animal shelter.

(C) *Animal housing and restraint.*

- (1) Housing structures shall be sound and maintained in good repair to protect animals from injury, safely confine any animal housed therein, and prevent entry of other animals that may be dangerous to the animals the enclosure is meant for.
- (2) Housing structures for dogs shall, in addition to division (C)(1) above, be dry and adequately sealed to prevent cold air and moisture from entering the enclosure.
- (3) Outdoor facilities shall provide protective shading and adequate shelter areas designed to minimize harmful exposure to weather conditions for those animals not acclimatized to the environment.
- (4) The primary enclosure for dogs shall be of sufficient size to permit each dog housed therein to stand freely, sit, turn about, and lie in a comfortable normal position.
- (5) When restraining devices are used in connection with a primary enclosure intended to permit movement outside the enclosure, such devices shall be installed in a manner to prevent entanglement with the devices or other animals or objects and shall be fitted to the animal by a harness or well-fitted collar, other than a choke type collar, and shall not be shorter than three times the length of the animal as measured from the tip of its nose to the base of its tail.

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(6) Excrement shall be removed from primary enclosure and areas as often as necessary to prevent contamination, reduce disease hazards, and minimize odors. Storage of food supplies and bedding materials shall be designed to prevent vermin infestation.

(Ord. 6-89, passed 6-8-1989; Ord. 6-89/B, passed 5-15-1991; Ord. 6-89/C, passed 5-14-1992) Penalty, see ' 91.99

SECTION 91.03 DUTIES OF THE PUBLIC.

(A) Aiding injured animals.

(1) Any person operating a vehicle, as defined by the Motor Vehicle Act of the State of Oregon, who runs over, strikes, injures, maims, or kills any domestic animal shall immediately stop and take one of the following actions:

(a) Notify the owner of the animal, if known;

(b) If the person feels that aid may be given to the animal without danger of the animal injuring or biting the person, the person may take the animal directly to a veterinary hospital; or

(c) Notify the local animal control or other law enforcement agency and remain at the scene until such time as an animal control or peace officer arrives.

(2) The liability for any injuries caused to an animal in any such situation shall be that of the animal's owner.

(3) The responsibility of the responding animal control or law enforcement agency will be to insure that any report of an injured animal is investigated. If the owner of the injured animal cannot be immediately located, and/or the person responsible for injury cannot be found, then the animal control officer or peace officer may remove the animal to an animal care facility for emergency treatment. If the owner or person responsible for the injury is later located, the agency responding shall be released from responsibility for any and all fees and charges for the care of the injured animal. If the responding agency has already paid fees for the care of the injured animal then the owner will be held responsible for said fees.

(4) Any animal control officer or peace officer who cares or provides for any animal pursuant to this section and any person into whose care an animal is delivered by an animal control officer or peace officer acting under this section shall be immune from civil or criminal liability based upon an allegation that such care was negligently provided.

(5) Failure to render aid to an injured animal is a Class B traffic infraction.

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(B) *Victims of animal bites.* Any person who is bitten by an animal in such a manner that the bite causes blood to appear shall immediately notify the animal control or other law enforcement agency and give such details as are required.

(Ord. 6-89, passed 6-8-1989; Ord. 6-89/B, passed 5-15-1991) Penalty, see ' 91.99

SECTION 91.04 PROHIBITED ACTIVITIES.

(A) *Exhibition of fighting or animal fighting.* A public or private display of combat between two or more animals in which the fighting, killing, maiming, or injuries of animals is a significant feature, is prohibited by this chapter. Any and all equipment used for this activity is also prohibited. This section does not include demonstrations of the hunting or tracking skills of an animal or the lawful use of animals for hunting, tracking, or self-protection.

(B) *Interference with an officer.* It shall be unlawful for any person to interfere with, hinder, or molest an animal control officer or peace officer while in the exercise of his or her duties in enforcing this chapter.

(C) *Removal of animal.* It shall be unlawful for any person to remove or cause the removal of any animal from Baker County for which the owner has been cited under ' ' 91.02(B), 91.04(A), 91.05, 91.06, or 91.07 of this chapter until the Municipal Court of the city has made a final ruling on the offense. The Court may grant exception to this upon the request of the animal owner if the owner can show just cause for the removal.

(D) *Animals at large.* It shall be unlawful for any owner to negligently permit an animal to run at large. An animal found at large will be considered to be prima facie evidence of negligent conduct on behalf of the owner. Domestic cats are exempt from the definition of "at large."

(E) *Public nuisances.* It shall be unlawful to keep or maintain within the city limits any animal which is a nuisance. An animal is a nuisance as described if it:

- (1) Causes a disturbance by excessive barking or noise making plainly audible from inside any neighboring building, vehicle, or residence;
- (2) Habitually chases vehicles or persons;
- (3) Damages or destroys property of a person other than the owner or custodian of the animal;
- (4) Scatters garbage; and/or
- (5) Molests, attacks, or interferes with persons or other domestic animals on property other than the owner's property.

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(F) *Court ordered removal.*

(1) The Municipal Court by written notice shall order the owner or keeper of an animal to remove that animal from the city permanently if, upon a complaint signed by two separate householders made to the Court, the Court finds that the animal is a nuisance as herein defined and that the animal's owner knew, or should have known that the animal has created the nuisance and permitted that nuisance to continue or be repeated; or upon a third conviction of any section of this chapter, the Court may declare an animal a public nuisance and order that animal's owner or keeper to remove the animal from the city permanently.

(2) The notice shall state the cause of its issuance, order the owner of the animal to immediately confine the animal, and, within five days, to remove the animal from the city permanently. The notice shall be sent by certified mail to the owner of the animal or shall be posted prominently upon the property on which the animal is kept. After delivery or posting of the notice, it is unlawful not to immediately confine the animal, or to release the animal or permit it to be kept anywhere within the city.

(Ord. 6-89, passed 6-8-1989; Ord. 6-89/A, passed 12-14-1989) Penalty, see ' 91.99

SECTION 91.05 DANGEROUS OR POTENTIALLY DANGEROUS ANIMALS.

(A) *Classification of levels of dangerousness of dogs.*

(1) A dog shall be classified as potentially dangerous if it menaces, chases, bites, causes physical injury, displays threatening or aggressive behavior, or otherwise threatens or endangers the safety of any person or domestic animal while:

(a) It is at large;

(b) It is off the property of the owner and on a physical control device; or

(c) It is in or on a motor vehicle and not restrained or otherwise physically prevented from reaching any area outside the perimeter of the vehicle.

(2) A dog shall be classified as dangerous if it:

(a) Causes the serious physical injury or death of any person;

(b) While at large or off the property of the owner it kills any domestic animal; or

(c) Is a dog classified as a potentially dangerous dog because the dog bit or caused physical injury to any person that after the owner has received notice of the potentially dangerous dog classification, again

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bites or causes physical injury to any person.

(3) The Municipal Judge shall have the authority to refrain from classifying a dog as dangerous or potentially dangerous, even if the dog has engaged in the behaviors specified in divisions (A)(1) or (A)(2) above, if the Municipal Judge determines that the behavior was caused by abuse or torment of the dog or other unjustifiable provocation.

(4) No dog shall be found to be dangerous or potentially dangerous if it is a dog trained for law enforcement purposes and is on duty under the control of a peace officer at the time it exhibits behavior under paragraph division (A)(1) or (A)(2) above.

(B) Identification of dangerous or potentially dangerous dogs; appeals; restrictions pending appeal.

(1) The Municipal Judge shall have authority to determine whether any dog has engaged in the behaviors specified in division (A) above. The determination shall be based upon an investigation that includes observation of the dog's behavior by an animal control officer or peace officer, or by other witnesses who personally observed the behavior. Observations must be in writing attesting to the observed behavior and witnesses must be willing to provide testimony to validate their statements, if called upon to do so.

(2) The Municipal Judge shall give the dog's owner written notice by certified mail or personal service of the dog's specific behavior, or the dog's classification as a dangerous or potentially dangerous dog and of the additional restrictions applicable to that dog by reasons of its classification. If the owner denies that the behavior in question occurred, the owner may appeal the Municipal Court's decision to the Circuit Court by filing with the Municipal Judge, within ten days of the date the notice was mailed or the owner was personally served, a written request for a hearing.

(3) The Circuit Court shall hold a public hearing on any appeal from the Municipal Court's decision to classify a dog as potentially dangerous. The owner and any other persons having relevant evidence concerning the dog's behavior as specified in division (A) above shall be allowed to present testimony. The Circuit Court shall determine whether behavior specified in division (A) above was exhibited by the dog in question. The Circuit Court shall issue an order containing the Court's determination, which shall be final.

(4) Once the owner has received notice of the dog's classification pursuant to division (B)(2) above, the owner shall comply with the restrictions specified in the notice until such time as the Municipal Judge's decision is reversed on appeal. Failure to comply with the specified restrictions pending the completion of all appeals shall be a violation of this section for which a fine can be imposed. Additionally, the Municipal Judge shall have authority to impound the dog pending completion of all appeals.

(5) If the Municipal Judge finds that a dog is a dangerous dog, the dog shall be impounded pending the completion of all appeals. If the Municipal Judge's decision is upheld on appeal, the dog's owner shall be liable for the cost of the dog's impoundment.

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(C) *Regulations of potentially dangerous dogs.* In addition to complying with all other requirements of this section the owner of a potentially dangerous dog shall comply with the following requirements.

- (1) Restrain the dog to prevent it from interfering with the public's legal access to the owner's property or from reaching any public sidewalk or road or adjoining property.
- (2) Pay an annual fee of \$25 at the time the city issues the tag described in (b) above and a like fee each year thereafter so long as the dog is alive and kept within the city limits. This fee shall be in addition to any other required license fee.
- (3) Notify the city by certified mail or personal service where the dog is kept within ten days of any change in location.
- (4) Post a warning sign supplied by the owner at the location the dog is kept, in a conspicuous place visible from the public sidewalk or road adjoining the property or if no such public sidewalk or road adjoins the property then at the boundary line of the property where access is provided to the property.
- (5) The requirements of this section shall apply to any person who is transferred ownership or who keeps a potentially dangerous dog.

(D) *Euthanasia for dangerous dogs.* Any dog that has been found to be a dangerous dog shall be euthanized. If such dog is euthanized by a licensed veterinarian, the veterinarian shall certify to the Municipal Court that the dog has been euthanized.

(E) *Dog owner regulations.* It is unlawful for any person to:

- (1) Be an owner of a dangerous dog;
- (2) Fail to comply with the requirements applicable to potentially dangerous dogs; or
- (3) Be an owner of a dog which engages in any of the behaviors described in this section whether or not such behavior was caused by abuse, torment, or other provocation or is exempted under division (A)(4) above, if that behavior is deemed to be in violation of the intent of this section.

(F) *Dangerous animals generally.*

- (1) It shall be unlawful to keep any animal that is dangerous in the city unless that animal is confined by its owner within a building or secure enclosure that is not accessible to the public in general.
- (2) An animal control officer or peace officer is authorized to kill a dangerous animal when it is necessary to prevent imminent injury to any person.

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(3) The Municipal Court may order that a dangerous animal be euthanized in addition to penalties for separate ordinance violations. The veterinarian may hold the animal until a determination has been made by the Municipal Court at the owner's expense.

(Ord. 6-89, passed 6-8-1989; Ord. 6-89/B, passed 5-15-1991) Penalty, see ' 91.99

SECTION 91.06 CRUELTY TO ANIMALS.

(A) Animal abuse in the second degree.

(1) A person commits the crime of animal abuse in the second degree if, except as otherwise authorized by law, the person intentionally, knowingly, or recklessly causes physical injury to an animal.

(2) Any practice of good animal husbandry is not a violation of this section.

(3) Animal abuse in the second degree is a Class B misdemeanor.

(B) Animal abuse in the first degree.

(1) A person commits the crime of animal abuse in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly, or recklessly:

(a) Causes serious physical injury to an animal; or

(b) Cruelly causes the death of an animal.

(2) Any practice of good animal husbandry is not a violation of this section.

(3) Animal abuse in the first degree is a Class A misdemeanor.

(C) Animal neglect in the second degree.

(1) A person commits the crime of animal neglect in the second degree if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly, or with criminal negligence fails to provide minimum care for an animal in such person's custody or control.

(2) Animal neglect in the second degree is a Class B misdemeanor.

(D) Animal neglect in the first degree. A person commits the crime of animal neglect in the first degree if, except as otherwise authorized by law, the person intentionally, knowingly, recklessly, or with criminal negligence:

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- (1) Fails to provide minimum care for an animal in such person's custody or control; and
 - (2) Such failure to provide care results in serious physical injury or death to the animal.
- (E) *Animals confined in vehicles.*
- (1) No animal shall be confined within or on a motor vehicle at any location under such conditions as may endanger the health or well-being of the animal, including, but not limited to, a dangerous temperature, lack of food or water or attention, or a confinement with a dangerous animal.
 - (2) Any animal control officer or peace officer is authorized to remove any animal from a motor vehicle at any location when the officer reasonably believes it is confined in violation of division (E) of this section. Any animal so removed shall be delivered to an animal control shelter after the removing officer leaves written notice of the removal and delivery, including the officer's name, in a conspicuous secure location on or within the vehicle.
 - (3) No animal control officer or peace officer shall be held criminally or civilly liable for action under this division (E), provided the officer acts in good faith on probable cause and without malice.
- (F) *Poisoned food.* No person shall knowingly place food of any description containing poison or other injurious ingredients in any area reasonably likely to be accessible to animals.
- (G) *Treatment of livestock.* Unless gross negligence can be shown, the provisions of divisions (A) through (E) above shall not apply to the treatment of livestock being transported by owner or common carrier, animals involved in rodeos or similar exhibitions, or commercially grown poultry.
- (H) *Entering premises.* If there is probable cause to believe that any animal is being subjected to treatment in violation of divisions (A) through (D) above, an animal control officer or peace officer, after obtaining a search warrant in the manner authorized by law, may enter the premises where the animal is being held, provide food and water, and impound such animal. If after reasonable search the owner or person having custody of such animal cannot be found and notified of the impoundment, such notice shall be conspicuously posted on such premises and within 72 hours after the impoundment such notice shall be sent by certified mail to the address, if any, at which the animal was impounded.
- (I) *Animal abandonment.*
- (1) A person commits the crime of animal abandonment if the person intentionally, knowingly, recklessly, or with criminal negligence leaves a domesticated animal at a location without providing for the animal's continued care.
 - (2) It is no defense to the crime defined in division (I)(1) above that the defendant abandoned the animal

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at or near an animal shelter, veterinary clinic, or other place of shelter if the defendant did not make reasonable arrangements for the care of the animal.

(3) Animal abandonment is a Class C misdemeanor.

(J) *Forfeitures and costs.*

(1) In addition to and not in lieu of any other sentence it may impose, the Municipal Court may require a defendant convicted under divisions (A) through (E) and (I) above to forfeit any rights of the defendant in the animal subjected to abuse, neglect, or abandonment, and to repay the reasonable costs incurred by any person or agency prior to judgement in caring for each animal subjected to abuse, neglect, or abandonment.

(2) When the Municipal Court orders the defendant=s rights in the animal to be forfeited, the court may further order that those rights be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals. This division shall not constitute or authorize any limitation upon the rights of the person or agency to whom rights are granted to resell or otherwise make disposition of the animal. A transfer of rights under this division constitutes a transfer of ownership.

(K) *Arrest for violations of this section.*

(1) Any person violating divisions (A) through (F) and (I) above may be arrested and held without warrant, in the same manner as in the case of persons found breaking the peace.

(2) The person making the arrest, with or without warrant, shall use reasonable diligence to give notice thereof to the owners of the animals found in the charge of the person arrested, and shall properly care and provide for such animals until the owners or their duly authorized agents take charge of them, provided, such owners or agents shall claim and take charge of the animals within 60 days from the date of said notice.

(3) The person making such arrest shall have a lien upon the animals for the expense of such care and provisions.

(4) Any animal control officer or peace officer who cares or provides for an animal pursuant to this section and any person into whose care an animal is delivered by an animal control officer or peace officer acting under this section shall be immune from civil or criminal liability based upon an allegation that such care was negligently provided.

(L) *Duty to arrest and prosecute.*

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- (1) It shall be the duty of any animal control officer to arrest and prosecute any violator of divisions (A) through (F) and (I) above for any violation which comes to the knowledge or notice of the officer.
- (2) The Municipal Judge shall have concurrent jurisdiction over all offenses committed under this section.
(Ord. 6-89, passed 6-8-1989) Penalty, see ' 91.99

SECTION 91.07 INVOLVEMENT IN ANIMAL FIGHTING.

(A) *Involvement in animal fighting.* A person commits the crime of involvement in animal fighting if the person does any of the following:

- (1) Owns, keeps, possesses, breeds, trains, buys, sells, or offers to sell a fighting dog;
- (2) Promotes, conducts, participates in, or performs a service in the furtherance of an exhibition of animal fighting, including, but not limited to, refereeing, handling of animals at a fight, transportation of spectators to a fight, organizing a fight, advertising a fight, providing or serving concessions at a fight, or serving as a stakes holder for any money wagered on a fight;
- (3) Keeps or uses, or in any way is connected with or interested in the management of, or receives money for the admission of, any person to any place kept or used for the purpose of an exhibition of fighting; or
- (4) Knowingly suffers or permits any place over which he or she has possession or control to be occupied, kept, or used for the purpose of an exhibition of fighting.

(B) *Advertising.* For the purposes of this section, any person who knowingly places an advertisement to breed or sell a fighting dog, or who knowingly causes their name to appear in any such advertisement or other article in any publication that promotes, reports on, or advertises animal fighting or the sale of fighting dogs shall be considered to be in violation of division (A) above.

(C) *Impoundment of fighting animals.* When a person is arrested for a violation or involvement in animal fighting, the Municipal Court may order that in lieu of impounding any alleged fighting dogs or animals involved in fighting, at the county or humane society facility, the animals may be impounded on the property of their owner or keeper. In such cases, the Municipal Court shall require the owner or keeper to provide all necessary care for the animals, to allow regular and continuing inspection of the animals by licensed veterinarians, animal control, humane society, and law enforcement officials, at the owners cost, and not to sell or otherwise dispose of any of the animals until a judgement is made by the Municipal Court.

(D) *Aiding or abetting animal fighting.* A person commits the crime of aiding or abetting animal fighting

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if a person:

(1) Is knowingly present as a spectator or bettor, or has knowingly paid any admission to any place, building, or other site where preparations are being made for an exhibitions of fighting or where such an exhibition is taking place; or

(2) Knowingly places an advertisement to sell or offers to sell equipment used for training or handling a fighting dog, regardless of whether that person has been convicted of involvement in animal fighting, when such an advertisement appears in any publication that promotes, reports on, or advertises animal fighting or the sale of fighting dogs.

(E) *Forfeiture.*

(1) In addition to and not in lieu of any other sentence it may impose, the Municipal Court shall order a defendant convicted under any violation of this section to forfeit to the city any rights of the defendant in any equipment used for training or handling a fighting dog, any equipment used for transporting a fighting dog, any concession equipment, any equipment used to promote or advertise an animal fight, any equipment used to stage an animal fight, and any fighting animals.

(2) When the Municipal Court orders the defendant's right in any fighting dog to be forfeited, the court shall further order that the dog be destroyed in accordance with state law by an animal control agency, a humane society or a licensed veterinarian. No fighting dog shall be released or given to any other person or agency. All costs incurred by any person or agency in caring for fighting dogs held as evidence prior to judgement shall be the responsibility of the owner or keeper of the dogs, upon conviction. If the owner or keeper is not convicted, the costs shall be the responsibility of the city.

(Ord. 6-89, passed 6-8-1989) Penalty, see ' 91.99

SECTION 91.08 IMPOUNDING PROCEDURES.

(A) *Violations.* Any animal which is:

(1) Unlicensed;

(2) Running at large;

(3) A public nuisance;

(4) Diseased;

(5) Dangerous or potentially dangerous;

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- (6) Subject to abuse, neglect, or abandonment;
- (7) Improperly housed or restrained;
- (8) In violation of land use restrictions;
- (9) Involved in animal fighting;
- (10) Chasing or harassing wildlife; or is

(11) Sick, injured, or dead as provided herein is in violation of this chapter and may be impounded by any animal control officer of the city.

(B) *Shelter regulations.* Whenever any animal is impounded pursuant to the provisions of this chapter at a suitable shelter facility:

- (1) In case the owner or custodian of the animal is known to the person doing the impounding, that person shall forthwith give notice of the impounding by personal service or by registered or certified mail upon the owner or custodian, and if the owner or custodian does not within five days after the date of service of the notice, claim the animal and pay any fees assessed by the city, the animal may be euthanized or released to a person who agrees to provide the animal a suitable home; or
- (2) In case the owner or custodian of the animal is not known to the person doing the impounding, that person shall post a notice of impoundment on the door of city hall. Said notice shall state the date, time, and place the animal was picked up, give a brief description of the animal, state the date of deadline, five days from date of impoundment, for claiming. If neither the owner nor custodian claims the animal and pays any fees assessed by the city, the animal may be euthanized or released to a person who agrees to provide the animal a suitable home.

(C) *Appeal.* An animal owner, believing himself or herself aggrieved by the seizure and impounding of his or her animal, may petition the Municipal Court for the release of his or her animal and the Municipal Court shall thereupon set a time and place for hearing the petition and notify the impounding officer. Upon a hearing, the Municipal Court shall have full power to determine whether the animal was wrongfully impounded and whether the animal should be returned to the owner and upon what terms.

(D) *Fees.*

- (1) Impoundment fee will be set at \$50 plus a \$6.50 per day assessment fee while the animal is impounded.
- (2) All fees that are to be collected for the impounding of an animal shall be collected regardless of whether or not the animal is claimed by its owner. An owner who has been properly notified of an

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impoundment and who fails to acknowledge the notification by paying all necessary fees for the impoundment shall be considered to have illegally abandoned the animal. Impoundment fees and assessment fees will be collected at city hall before the impounded animal can be claimed.

(3) Impoundment fees and per day assessment fees may be amended as needed by resolution of the City Council.

(E) *Liability*. No animal control officer, euthanasia technician, or employee of the city shall be held criminally or civilly liable for impounding, releasing, handling, or euthanizing an animal pursuant to this section provided the officer or employee acts in good faith and without malice.

(Ord. 6-89, passed 6-8-1989; Ord. 6-98/D, passed 1-12-1995; Res. 1.6-89, passed 11-16-2004) Penalty, see ' 91.99

SECTION 91.09 POWERS AND DUTIES OF ANIMAL CONTROL OFFICER.

(A) *Entry onto private land*. Any animal control officer, in the course of his or her duties in enforcing this chapter, shall have the privilege of entering onto private land without permission, but shall not enter into any dwelling or building without permission, authorization, or search warrant.

(B) *Specific powers*. The powers and duties of an animal control officer shall be as follows:

(1) To have full authority in the enforcement of all provisions of this chapter including, but not limited to:

- (a) Impounding of animals;
- (b) Citing violators of this chapter as prescribed; and
- (c) Seizing evidence related to violations of this chapter;

(2) To utilize available shelters within Baker County where all animals subject to impoundment may be kept and held safely and provided with proper and sufficient food, water, shelter, and care;

(3) To receive and collect any costs and charges herein set forth by this chapter as deemed necessary by the city.

(Ord. 6-89, passed 6-8-1989) Penalty, see ' 91.99

SECTION 91.99 PENALTY.

Animals

(A) *Separate violations.* Each day's violation of a section or division of this chapter constitutes a separate offense.

(B) *Fines (excluding state assessments).*

(1) Violation of ' 91.02(A), Licensing of Dogs, shall be punishable by a minimum fine of \$50 and a maximum fine of \$100. Assessment fees will be added to minimum and maximum fines.

(2) Violations of the following sections are violations punishable by a minimum fine of \$100, maximum fine \$200, and/or community service. Assessment fees will be added to minimum and maximum fines.

(a) Section 91.02(B), Disease Control.

(b) Section 91.02(C), Animal Housing and Restraint.

(c) Section 91.03(B), Victims of Animal Bites.

(d) Section 91.04(C), Removal of Animal.

(e) Section 91.04(D), Animals at Large.

(f) Section 91.04(E), Public Nuisances.

(3) Violation of Section 91.03(A), Aiding Injured Animals, is a Class B traffic infraction and is punishable by a fine not to exceed \$250, and/or community service.

(4) Violation of Section 91.06(I), Animal Abandonment, is a Class C misdemeanor and is punishable by a fine not to exceed \$500, and/or community service.

(5) Violation of the following sections are Class B misdemeanors and are punishable by a fine not to exceed \$1,000, and/or community service:

(a) Section 91.05, Dangerous or Potentially Dangerous Animals;

(b) Section 91.06(A), Animal Abuse Second Degree;

(c) Section 91.06(c), Animal Neglect Second Degree; and

(d) Section 91.06(E), Animals Confined in Vehicles.

(6) Violation of the following sections are Class A misdemeanors and are punishable by a fine not to exceed \$2,500, and/or community service:

Animals

- (a) Section 91.06(b), Animal Abuse First Degree;
- (b) Section 91.06(d), Animal Neglect First Degree;
- (c) Section 91.06(f), Poisoned Food;
- (d) Section 91.07, Involvement in Animal Fighting;
- (e) Section 91.04(a), Exhibition of Fighting or Animal Fighting; and
- (f) Section 91.04(b), Interference with an Officer.

(C) *Penalty for Section 91.07.*

(1) Involvement in animal fighting is a Class A misdemeanor as set forth in division (B) above. In addition to this criminal penalty, the Municipal Court shall prohibit any person convicted of involvement in animal fighting with dogs from owning a dog for a period or at least two years, not including any time served in a jail or prison.

(2) Aiding or abetting animal fighting is a Class A misdemeanor.

(Ord. 6-89, passed 6-8-1989; Ord. 6-89/B, passed 5-15-1991; Ord. 6-89/C, passed 5-14-1992; Ord. 6-89-96A, passed 12-12-1996)

CHAPTER 92: PUBLIC NUISANCE

Section

- 92.01 Adoption of county ordinance by reference
- 92.02 Enforcement

SECTION 92.01 ADOPTION OF COUNTY ORDINANCE BY REFERENCE.

The city hereby adopts the Baker County Public Nuisance Ordinance No. 07.2015.01 by reference as though fully incorporated within this code.

(Ord. 2007-01, passed 4-12-2007; Ord. 07.2015.01, passed 7-9-2015)

SECTION 92.02 ENFORCEMENT.

(A) Upon receiving a written complaint of a possible nuisance within the city, the Mayor or his or her designee shall investigate the possible nuisance. If determined that a potential nuisance exists, the city shall send a letter by certified mail to the property owner stating that the City Council is planning to take action and stating time and place of such action. The City Council in open public meeting declares that a nuisance exists and requests that Baker County enforce the city ordinance. This procedure is set forth by Baker County and shown as attachment A of the Baker County Nuisance Ordinance #2006-02.

(B) If an emergency situation is deemed to exist by the Mayor or his or her designee, the City Council hereby grants to the Mayor or his or her designee the authority to immediately notify the property owner to have the emergency situation abated. If the property owner does not abate the situation within a given time frame, the Mayor or his or her designee has the authority to notify the proper authorities and see that the situation is taken care of.

(Ord. 2007-01, passed 4-12-2007)

Public Nuisance

CHAPTER 93: FAIR HOUSING

Section

General Provisions

93.01 Fair housing resolution

Prohibiting Discrimination

93.15 Declaration of policy

93.16 Definitions

93.17 Unlawful practices

93.18 Exemptions

93.19 Procedure

93.20 Other remedies

GENERAL PROVISIONS

SECTION 93.01 FAIR HOUSING RESOLUTION.

(A) Within the resources available to the city through city, county, state, federal, and community volunteer sources, the city will assist all persons who feel they have been discriminated against because of race, color, religion, national origin, sex, disability, familial status, sexual orientation, marital status, and source of income in the process of filing a complaint with the Oregon Civil Rights Division or the U.S. Department of Housing and Urban Development, Seattle Regional Office Compliance Division, that they may seek equity under federal and state laws.

(B) The city shall publicize this resolution and through this publicity shall cause real estate brokers and sellers, private home sellers, rental owners, rental property managers, real estate and rental advertisers, lenders, builders, developers, home buyers, and home or apartment renters to become aware of their respective responsibilities and rights under the Fair Housing Amendments Act of 1988 and any applicable state or local laws or ordinances.

Fair Housing

(C) The Fair Housing Program, for the purpose of informing those affected by their respective responsibilities and rights concerning Fair Housing Law and Complaint procedures, will at a minimum include, but not be limited to:

- (1) The printing, publicizing, and distribution of this resolution;
 - (2) The distribution of posters, flyers, pamphlets, and other applicable fair housing information provided by local, state, and federal sources, through local media of community contacts; and
 - (3) The publicizing of locations where assistance will be provided to those seeking to file a discrimination complaint.
- (Res. 2.14/08 A, passed 2-26-2008)

PROHIBITING DISCRIMINATION

SECTION 93.15 DECLARATION OF POLICY.

It is hereby declared to be the policy of the city in the exercise of its police power for the public safety, public health, and general welfare to assure equal opportunity to all persons to live in decent housing facilities regardless of race, color, religion, national origin, sex, disability, familial status, sexual orientation, marital status, and source of income and, to that end, to prohibit discrimination in housing any persons.

(Ord. 1-8, passed 9-13-1984)

SECTION 93.16 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DISCRIMINATION or ***DISCRIMINATORY HOUSING PRACTICE***. Any difference in treatment based upon race, color, religion, sex, or national origin; or any act that is unlawful under this subchapter.

FINANCIAL INSTITUTION. Includes any person, as defined herein, engaged in the business of lending money or guaranteeing losses.

Fair Housing

HOUSING ACCOMMODATION or ***DWELLING***. Any building, mobile home or trailer, structure, or portion thereof which is occupied as, or designed, or intended for occupancy, as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, mobile home or trailer, structure, or portion thereof or any real property, as defined herein, used or intended to be used for any of the purposes set forth in this subchapter.

MORTGAGE BROKER. An individual who is engaged in or who performs the business or services or a mortgage broker as the same are defined by Oregon Statutes.

OPEN MARKET. The market which is informed of the availability for sale, purchase, rental, or lease of any housing accommodation, whether informed through a real estate broker or by advertising by publication, signs, or by any other advertising methods directed to the public or any portion thereof, indicating that the property is available for sale, purchase, rental, or lease.

OWNER. Includes a lessee, sublessee, co-tenant, assignee, managing agent, or other person having the right or ownership or possession, or the right to sell, rent, or lease any housing accommodation.

PERSON. Includes individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

REAL ESTATE BROKER or ***REAL ESTATE SALESPERSON***. Includes any individual, qualified by law, who, for a fee, commission, salary, or for other valuable consideration, or who with the intention or expectation of receiving or collecting same, lists, sells, purchases, rents, or leases any housing accommodations, including options thereupon, or who negotiates or attempts to negotiate such activities; or who advertises or holds himself or herself out as engaged in such activities; or who negotiates or attempts to negotiate a loan, secured by a mortgage or other encumbrance, upon transfer of any housing accommodation; or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he or she undertakes to promote the sale, purchase, rental, or lease of any housing accommodation through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

REAL PROPERTY. Includes buildings, structures, lands, tenements, leaseholds, cooperatives, and condominiums.

(Ord. 1-8, passed 9-13-1984)

SECTION 93.17 UNLAWFUL PRACTICES.

In connection with any of the transactions set forth in this section which effect any housing accommodation on the open market, or in connection with any public sale, purchase, rental, or lease of any housing accommodation, it shall be unlawful within the city for a person, owner, financial institution, real estate broker, real estate salesperson, or any representative of the above, to:

Fair Housing

(A) Refuse to sell, purchase, rent, or lease, or deny to, or withhold, any housing accommodation from a person because of his or her race, color, religion, national origin, sex, disability, familial status, sexual orientation, marital status, and source of income;

(B) Discriminate against a person in the terms, conditions, or privileges of the sale, purchase, rental, or lease of any housing accommodation, or in the furnishing of facilities or services in connection therewith;

(C) Refuse to receive or transmit a bona fide offer to sell, purchase, rent, or lease any housing accommodation from or to a person because of his or her race, color, religion, national origin, sex, disability, familial status, sexual orientation, marital status, and source of income;

(D) Refuse to negotiate for sale, purchase, rental, or lease of any housing accommodation to a person because of his or her race, color, religion, national origin, sex, disability, familial status, sexual orientation, marital status, and source of income;

(E) Represent to a person that any housing accommodation is not available for inspection, sale, purchase, rental, or lease when in fact it is so available, or to refuse to permit a person to inspect any housing accommodation, because of his or her race, color, religion, national origin, sex, disability, familial status, sexual orientation, marital status, and source of income;

(F) Make, publish, print, circulate, post, or mail, or cause to be made, published, printed, circulated, posted, or mailed, any notice, statement, or advertisement, or to announce a policy, or to sign or to use a form of application for the sale, purchase, rental, lease, or financing of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease, or financing of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease, or financing of any housing accommodation, which indicate any discrimination or any intent to make a discrimination;

(G) Offer, solicit, accept, or use a listing of any housing accommodation for sale, purchase, rental, lease with the understanding that a person may be subjected to discrimination in connection with such sale, purchase, rental, or lease, or in the furnishing of facilities or services in connection therewith;

(H) Induce directly or indirectly, or attempt to induce directly or indirectly, the sale, purchase, rental, or lease, or the listing for any of the above, or any housing accommodation by representing that the presence or anticipated presence of persons of any particular race, color, religion, national origin, sex, disability, familial status, sexual orientation, marital status, and source of income in the area to be affected by such sale, purchase, rental, or lease will or may result in:

(1) The lowering of property values in the area;

(2) An increase in criminal or antisocial behavior in the area; or

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(3) A decline in the quality of schools serving the area;

(I) Make any misrepresentations concerning the listing for sale, purchase, rental, or lease, or the anticipated listing for any of the above, or the sale, purchase, rental, or lease of any housing accommodation in any area in the city for the purpose of including or attempting to induce any such listing or any of the above transactions;

(J) Engage in, or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest, or create or play upon fear, with the purpose of either discouraging or inducing, or attempting to induce, the sale, purchase, rental, or lease, or the listing for any of the above, of any housing accommodation;

(K) Retaliate or discriminate in any manner against a person because he or she has opposed a practice declared unlawful by this subchapter, or because he or she has filed a complaint, testified, assisted, or participated in any manner in the investigation, proceeding, hearing, or conference under this subchapter;

(L) Aid, abet, incite, compel, or coerce any person to engage in any of the practices prohibited by this subchapter, or to obstruct or prevent any person from complying with the provisions of this subchapter; or any order issued thereunder;

(M) By canvassing to commit any unlawful practices prohibited by this subchapter;

(N) Otherwise to deny to, or withhold any housing accommodation from a person because of his or her race, color, religion, ancestry, national origin, sex, or place of birth;

(O) For any bank, building and loan association, insurance company or other corporation, association, firm, or enterprise whose business consists in whole or in part, in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him or her in the fixing of the amount, interest rate, duration, or other terms or conditions of such loans or other financial assistance, because of the religion, national origin, sex, disability, familial status, sexual orientation, marital status, and source of income of such person or of any person associated with him or her in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given; or

(P) Deny any qualified person access to or membership or participation in any multiple-listing service, real estate brokers= organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or access, membership, or participation, on account of race, color, religion, sex, or national origin.

(Ord. 1-8, passed 9-13-1984) Penalty, see ' 10.99

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SECTION 93.18 EXEMPTIONS.

This subchapter shall not apply to:

(A) A religious organization, association, or society or any nonprofit institution or organization operating, supervised, or controlled by, or in conjunction with a religious organization, association, or society, which limits the sale, rental, or occupancy, of dwellings which it owns or operates for other than commercial purpose to persons of the same religion, or which gives preference to such persons, unless membership in such a religion is restricted on account of race, color, religion, national origin, sex, disability, familial status, sexual orientation, marital status, and source of income;

(B) A private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, and which limits the rental or occupancy of such lodgings to its members or gives preference to its members;

(C) Any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three such single-family houses at any one time; provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this section shall apply only with respect to one such sale within any 24-month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or served on his or her behalf, under any express or voluntary agreement, title to or any right to, all or a portion of the proceeds from the sale or rental or, more than three such single-family houses at any one time; provided further, the sale or rental of any such single-family house shall be excepted from the application of this subchapter only if such house is sold or rented:

(1) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and

(2) Without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of the provisions of 42 U.S.C. SECTION 3604(c) or of SECTION 93.17 of this chapter; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title; or

(D) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

(Ord. 1-8, passed 9-13-1984)

Fair Housing**SECTION 93.19 PROCEDURE.**

Any person aggrieved by an unlawful practice prohibited by this subchapter may file a complaint with the City Recorder within 30 days after the aggrieved person becomes aware of the alleged unlawful practice, and in no event more than 60 days after the alleged unlawful practice occurred. The City Recorder, Mayor, and City Council shall investigate each complaint and attempt to resolve each complaint. Failure to achieve a resolution acceptable to both parties and in compliance with this subchapter shall cause the Mayor to forward the complaint and any and all findings to the appropriate state and federal officials.

(Ord. 1-8, passed 9-13-1984)

SECTION 93.20 OTHER REMEDIES.

Nothing herein contained shall prevent any person from exercising any right or seeking any remedy to which he or she might otherwise be entitled or from filing his or her complaint with any appropriate governmental agency.

(Ord. 1-8, passed 9-13-1984)

Fair Housing

CHAPTER 94: FIRE PREVENTION

Section

- 94.01 Regulating fires and dangerous burning situations
- 94.02 State laws regulating sale and use of fireworks adopted

- 94.99 Penalty

SECTION 94.01 REGULATING FIRES AND DANGEROUS BURNING SITUATIONS.

(A) No person shall burn any material less than 20 feet from a building in the city limits, unless such burning is done in an incinerator or other enclosed burning device which is approved by the District Fire Chief. An incinerator or enclosed burning device shall be covered by wire mesh grating no greater than one-fourth inch mesh and located no closer than ten feet from any building.

(B) No person shall burn any material within the city limits, except, in the summer, during the hours between 6:00 a.m. and 10:00 a.m., beginning on the day Daylight Savings Time (DLST) begins and ending when DLST ends. Winter burning hours will be during the hours between 6:00 a.m. and 11:00 a.m., beginning when DLST ends and ending when DLST begins. All burning, and/or smoldering, must cease at 10:00 a.m. in summer season and 11:00 a.m. in winter season.

(C) No person shall burn wet garbage, or any materials that emit foul and nauseous odors when burned.

(D) No person shall engage in any burning, inside or outside of a building, which, in the opinion of the District Fire Chief, poses a threat to property in the city. All open burning and all burning in burn barrels and incinerators, shall require a burn permit issued at City Hall, by the city, with a copy to be sent to the District Fire Chief. During times of the year when the State Fire Marshal or Baker County has declared a fire danger, there will be ANO@ open burning allowed.

(E) The District Fire Chief is empowered to issue a citation requiring an individual or a corporation in violation of this section to appear before the Municipal Court of the city, pursuant to the ordinances of the city.

(Ord. 5-11, passed 1-13-1994; Ord. 5-11A, passed 8-14-2003; Ord. 5-11.06, passed 4-13-2006; Ord. 5-11-07, passed 1-11-2007) Penalty, see SECTION 94.99

SECTION 94.02 STATE LAWS REGULATING SALE AND USE OF FIREWORKS ADOPTED.

The following enumerated laws of Oregon as amended, are hereby adopted by reference and made a part of this code.

O.R.S. 480.110

O.R.S. 480.120

O.R.S. 480.130

O.R.S. 480.140 (1)

O.R.S. 480.150

(Ord. passed - -) Penalty, see SECTION 94.99

SECTION 94.99PENALTY.

Any person found guilty of violation of this chapter may be fined in an amount not less than \$50, but not to exceed \$250.

(Ord. 5-11, passed 1-13-1994)

CHAPTER 95: WEEDS

Section

- 95.01 Adoption of Baker County Policy on Mandatory Control of Noxious Weeds
- 95.02 Owners or occupants required to remove brush, grass, and weeds
- 95.03 Notice to remove
- 95.04 Abatement by city; costs

- 95.99 Penalty

SECTION 95.01 ADOPTION OF BAKER COUNTY POLICY ON MANDATORY CONTROL OF NOXIOUS WEEDS.

The Baker County Policy on Mandatory Control of Noxious Weeds is hereby adopted and made a part of this code as if set forth in full herein, with particular attention to “whitetop,” as so stated within the policy. The city will notify the owners of property with noxious weeds by letter, with a copy of the notification also being sent to Baker County Weed Control Department as a means of notifying that department of location of noxious weeds for enforcement of the policy.

(Res. 7/2-03, passed 7-10-2003)

SECTION 95.02 OWNERS OR OCCUPANTS REQUIRED TO REMOVE BRUSH, GRASS, AND WEEDS.

(A) The owner, occupant, or person in custody of all lots and parcels of land in the city shall cut and remove or destroy all brush, weeds, thistles, grass, or other rank or noxious plant growth growing to the height of ten inches or more upon said lots or parcels, and also upon any parkway abutting said lot or parcel. For purposes of this chapter only, **PARKWAY** shall be defined to mean that portion of the street not used as a roadway or as a sidewalk.

(B) No person who has any property abutting a public street shall allow weeds, brush, grass, and rank or wild growth to in any manner infringe upon said street and said abutting land owner shall be responsible for removal of said growth pursuant to the terms of this chapter.

(Ord. 4-3, passed - -) Penalty, see SECTION 95.99

SECTION 95.03 NOTICE TO REMOVE.

If any person, firm, or corporation owning, possessing, or having the care or custody of any lot or parcel of land within the city shall fail or neglect to remove said brush, grass, or weeds as hereinabove required, the Mayor or Fire Chief shall cause to be served upon said person, firm, or corporation a written notice to remove said brush, grass, or weeds within five days, or the city will cause the same to be done and charge the cost thereof as a lien against the property. Such notice shall be served upon such owner or occupant if he or she is found upon said premises or within the city, and in case said owner or occupant cannot be found within the city after reasonable diligence and inquiry, such notice shall be posted in a conspicuous place upon said premises and a copy thereof mailed by certified mail to the last known address of such owner or occupant.

(Ord. 4-3, passed - -)

SECTION 95.04 ABATEMENT BY CITY; COSTS.

(A) If any person, firm, or corporation owning, possessing or having the care of any lot or parcel of land within the city shall fail or neglect to destroy the said brush, grass, or weeds thereon or on any parkway abutting said lot or parcel within five days of the mailing of said notice, the Mayor may go upon such lots, parcels, or parkways with such assistance as he or she may deem necessary and destroy and eradicate said brush, grass, or weeds in such manner as shall be most effective in his or her judgment.

(B) Upon the completion of said work, the Mayor shall file with the City Council an itemized statement of the cost thereof plus 10% to cover the expense of inspection, overhead, enforcement of this chapter, and the service or posting of the notice hereinabove required, but the minimum charge for any lot or parcel of land shall be \$1. After a reasonable opportunity to be heard in objection thereto, the City Council shall then by ordinance declare the correctness of said statement and declare the same to be a lien upon the property involved, to be entered in the minor lien docket and enforced against said property in the same manner provided for the enforcement of liens for street improvements.

(Ord. 4-3, passed - -)

SECTION 95.99 PENALTY.

Any person, firm, or corporation violating any of the provisions of SECTION 95.02 through 95.04 shall, upon conviction thereof, be punished by a fine of not more than \$10.

(Ord. 4-3, passed - -)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. TRANSIENT ROOM TAX

111. SOCIAL GAMES

112. ALCOHOLIC BEVERAGES

113. TAXICABS

114. PEDDLERS AND SOLICITORS

CHAPTER 110: TRANSIENT ROOM TAX

Section

- 110.01 Definitions
 - 110.02 Tax imposed
 - 110.03 Duties of operator
 - 110.04 Exemptions
 - 110.05 Operator's registration form
 - 110.06 Certificate of authority
 - 110.07 Collection, returns, and payments
 - 110.08 Delinquency penalties
 - 110.09 Deficiency determinations
 - 110.10 Notice of determination
 - 110.11 Redetermination
 - 110.12 Appeals
 - 110.13 Fraud; refusal to collect; evasion
 - 110.14 Security for collection of tax
 - 110.15 Liens
 - 110.16 Refunds
 - 110.17 Records to be kept; examination of records
 - 110.18 Confidentiality
 - 110.19 Transient Room Tax Review Committee
 - 110.20 Disposition and use of funds
 - 110.21 Sole tax
 - 110.22 Sunset
- 110.99 Penalty
- Appendix: Baker County Transient Room Tax Review Committee

SECTION 110.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCRUAL ACCOUNTING. A system of accounting in which the operator enters the rent due from a

transient into the record when the rent is earned, whether or not it is paid.

BAKER COUNTY TRANSIENT ROOM TAX REVIEW COMMITTEE. (Referred to as the Committee). A nine-member committee appointed to budget revenue from the transient room tax and to hear appeals.

CASH ACCOUNTING. A system of accounting in which the operator does not enter the rent due from a transient into the record until the rent is paid.

HOTEL. A part of a structure that is occupied or designed for occupancy by transients for lodging or sleeping, including a hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home, or house trailer at a fixed location, or other similar structure.

OCCUPANCY. Use or possession of, or the right to use or possess, a room in a hotel or a space in a recreation park for lodging or sleeping.

OPERATOR. A person who is the proprietor of a hotel or recreation park in any capacity. When an operator's functions are performed through a managing agent of a type other than an employee, the managing agent shall also be considered an operator. For purposes of this chapter, compliance by either the operator or the managing agent shall be considered by both.

PERSON. An individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or another group or combination acting as a unit.

RECREATION PARK. Any area designated by the person establishing, operating, managing, or maintaining the same for overnight camping by the general public. **RECREATION PARK** shall mean only those areas available for use through the payment of a fee, and shall include spaces for recreational vehicles under the general heading of "camping". **RECREATION PARK** shall mean only those areas available for use through the payment of a fee, and shall include spaces for recreational vehicles under the general heading of "camping".

RENT. The gross rent, exclusive of other services.

TAX. Either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which the operator is required to report collections.

TAX ADMINISTRATOR. Initially Baker City, Oregon.

Transient Room Tax

TRANSIENT. An individual who occupies or is entitled to occupy space in a hotel or a recreation park for a period of 30 consecutive days or less, counting portions of days as full days. The day a transient checks out of a hotel shall not be included in determining the 30-day period if the transient is not charged rent for that day. A person occupying space in a hotel shall be considered a **TRANSIENT** until a period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy or the tenant actually extends occupancy more than 30 consecutive days. A person who pays for lodging on a monthly basis regardless of the number of days in the month, shall not be considered a **TRANSIENT**.

(Ord. 1-02, passed 1-10-2002)

SECTION 110.02 TAX IMPOSED.

(A) During the months of May through October of each year, a transient shall pay a tax in the amount of 7% of the rent charged for the privilege of occupancy in a hotel in the county or occupancy of a space in a recreational park. Hereafter, unless otherwise specified, references to hotel and rooms shall be deemed to include “recreation parks” and “spaces,” respectively. The tax constitutes a debt owed by the transient to the county, and the debt is extinguished only when the tax is remitted by the operator to the county. The transient shall pay the tax to the operator at the time rent is paid. The operator shall enter the tax into the record when rent is collected if the operator keeps records on the cash accounting basis and when earned if the operator keeps records on the accrual accounting basis. If the rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, rent paid or charged for occupancy shall exclude the sale of goods, services, or commodities.

(B) During the months of November of each year through April of the following year, the tax set forth above shall be imposed at the rate of 5% of the rent charged. All other terms and conditions of the tax shall remain the same.

(C) The amount of the tax imposed shall be reviewed and subject to request for modification at least every five years by a majority of members of the Transient Room Tax Review Committee as set forth hereinafter. In the event the tax is modified, it shall be brought before the Council for approval and made a part of this chapter.

(Ord. 1-02, passed 1-10-2002)

SECTION 110.03 DUTIES OF OPERATOR.

(A) *Rules for collection of tax by operator.*

(1) Every operator renting space for lodging, sleeping, or camping, shall collect a tax from the occupant. The tax collected or accrued constitutes a debt owed by the operator to the city.

Transient Room Tax

(2) In the cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectible accounts.

(3) The Tax Administrator shall enforce this chapter and may adopt rules and regulations necessary for enforcement.

(B) *Operator's duties.* An operator shall collect the tax when the rent is collected from the transient. The amount of tax shall be stated separately in the operator's records and on receipt given by the operator. An operator shall not advertise that the tax will not be added to the rent, that a portion of it will be assumed or absorbed by the operator, or that a portion will be refunded, except in the manner provided by this chapter.

(Ord. 1-02, passed 1-10-2002)

SECTION 110.04 EXEMPTIONS.

The tax shall not be imposed on:

(A) An occupant staying for more than 30 consecutive days; and/or

(B) A person who rents a private home, vacation cabin, similar facility, or camping space, from an owner who personally rents the facility incidentally to the owner's personal use.

(Ord. 1-02, passed 1-10-2002)

SECTION 110.05 OPERATOR'S REGISTRATION FORM.

(A) An operator of a hotel shall register with the Tax Administrator, on a form provided by the Administrator, within 15 days after beginning business or within 30 calendar days after passage of this chapter.

(B) The registration shall include:

(1) The name under which the operator transacts or intends to transact business;

(2) The location of the hotel;

(3) Any other information the Tax Administrator may require to facilitate collection of the tax; and

(4) The signature of the operator.

Transient Room Tax

(C) Failure to register does not relieve the operator from collecting the tax or a person from paying the tax.

(Ord. 1-02, passed 1-10-2002) Penalty, see SECTION 110.99

SECTION 110.06 CERTIFICATE OF AUTHORITY.

(A) The Tax Administrator shall issue a certificate of authority to the registrant within ten days after registration.

(B) Certificates are non-assignable and non-transferable and shall be surrendered immediately to the Tax Administrator on cessation of business at the location named or when the business is sold or transferred; however, in the event the business is transferred to a partnership or corporation wherein the proprietor still retains a majority interest, then the operator is only required to register the new name and other required information with the Tax Administrator.

(C) Each certificate shall state the place of business to which it applies and shall be prominently displayed.

(D) The certificate shall state:

(1) The name of the operator;

(2) The address of the business;

(3) The date when the certificate was issued; and

(4) “This Transient Occupancy Registration Certificate signifies that the person named on the certificate has fulfilled the requirements of this Transient Room Tax Ordinance by registering with the Tax Administrator for the purpose of collecting the room tax imposed by this chapter and remitting the tax to the Tax Administrator.”

(Ord. 1-02, passed 1-10-2002)

SECTION 110.07 COLLECTION, RETURNS, AND PAYMENTS.

(A) The taxes collected by an operator are payable to the Tax Administrator on a monthly basis on the fifteenth day of the following month for the preceding month, and are delinquent on the last day of the month in which they are due.

(B) A return showing tax collections for the preceding quarter shall be filed with the Tax Administrator,

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in a form prescribed by the Tax Administrator, before the sixteenth day of the month following each collection quarter.

- (C) The operator may withhold 5% of the tax to cover the expense of collecting and remitting the tax.
- (D) Returns shall show the amount of tax collected or due for the related period. The Tax Administrator at his or her discretion may require returns to show the total rentals on which the tax was collected or is due, a detailed explanation of any discrepancy between the amounts, and the amount of rentals exempt.
- (E) The operator shall deliver the return and the tax due to the Tax Administrator's office. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.
- (F) For good cause, the Tax Administrator may extend the time for filing a return or paying the tax for not more than one month. Further extension may be granted only by the Transient Room Tax Committee. An operator to whom an extension is granted shall pay interest at the rate of 1.5% per month on the amount of tax due, without prorating for a fraction of a month. If a return is not filed and if the tax and interest due are not paid by the end of the extension granted, the interest shall become a part of the tax for computation of penalties prescribed in SECTION 110.08.
(Ord. 1-02, passed 1-10-2002)

SECTION 110.08 DELINQUENCY PENALTIES.

- (A) An operator who has not been granted an extension of time for remittance of tax due and who fails to remit the tax prior to delinquency shall pay a penalty of 10% of the tax due in addition to the tax. The Tax Administrator will inform the Committee in writing of any delinquency of more one month.
- (B) An operator who has not been granted an extension of time for remittance of tax due and who fails to pay a delinquent remittance before the expiration of 31 days following the date on which the remittance became delinquent shall pay a second delinquency penalty of 15% of the tax due, the amount of the tax, and the 10% penalty first imposed.
- (C) If the Committee determines that nonpayment of a remittance is due to fraud or intent to evade the tax, a penalty of 25% of the tax shall be added to the penalties stated in divisions (A) and (B) above.
- (D) In addition to the penalties imposed by this section, an operator who fails to remit the required tax shall pay interest at the rate of 1.5% per month, without prorating for portions of a month, on the tax due, exclusive of penalties, from the date on which the tax first became delinquent until paid.
- (E) Each penalty imposed and the interest accrued under provisions of this section shall be merged with and become part of the tax required to be paid.

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(F) An operator who fails to remit the tax within the required time may petition the Transient Room Tax Committee for waiver and refund of the penalty or a portion of it. The Committee may, if good cause be shown, direct a refund of the penalty or a portion of it. If any such refund shall exceed \$100, the action of the Committee must be confirmed by the governing body before it is final.

(Ord. 1-02, passed 1-10-2002)

SECTION 110.09 DEFICIENCY DETERMINATIONS.

(A) The Tax Administrator shall review returns filed in accordance with this chapter. In doing so, he or she shall have the power to determine if the returns are incorrect and the amount required to be paid on the basis of the facts contained in the return or on the basis of any other information.

(B) A deficiency determination may be made on the amount due for one or more than one period. The determined amount shall be payable immediately on service of notice, after which the determined amount is delinquent. Penalties on deficiencies shall be applied as provided in SECTION 110.08.

(C) In making a determination, the Tax Administrator may offset overpayments that have been made against a deficiency for a subsequent period or against penalties and interest on the deficiency. The interest on the deficiency shall be computed as provided in SECTION 110.08.

(Ord. 1-02, passed 1-10-2002)

SECTION 110.10 NOTICE OF DETERMINATION.

(A) The Tax Administrator shall give the operator a written notice of the determination either personally or by mail. If the notice is mailed it shall be done by certified mail, return receipt requested and addressed to the operator at the address that appears on the records of the Tax Administrator, and service is complete when the notice is received by the operator.

(B) Except in the case of fraud or intent to evade the tax, a deficiency determination shall be made and notice mailed within three years after the last day of the month following the close of the monthly period for which the determination has been made or within three years after the return is filed, whichever is later.

(Ord. 1-02, passed 1-10-2002)

SECTION 110.11 REDETERMINATION.

(A) A determination becomes payable immediately on receipt of notice and becomes final within ten days after the operator has received notice. However, the operator may petition for redetermination and refund by filing a petition before the determination becomes final as set forth herein.

Transient Room Tax

(B) An operator against whom a determination is made under SECTION 110.09, or a person directly interested, may petition the Committee for a redetermination, redemption, and refund within the time required in division (A) above provided by the Tax Administrator. If a petition for redetermination and refund is not filed within the time required, the determination is final on expiration of the allowable time.

(C) If a petition for redetermination and refund is filed within the allowable period, the Committee shall reconsider the determination and, if the operator requested a hearing in the petition, shall grant the hearing and give the operator 15 days notice of the time and place of the hearing. The Tax Administrator may continue the hearing if necessary.

(D) The Committee may change the amount of the determination as a result of the hearing. If an increase is determined, the increase is payable immediately after the hearing.

(E) The decision of the Committee on a petition for redetermination becomes final 20 days after service of notice on the petitioner unless appeal of the decision is filed with the County Commission by the County Recorder within 20 days after notice is served per SECTION 110.12 herein.

(Ord. 1-02, passed 1-10-2002)

SECTION 110.12 APPEALS.

A person aggrieved by a decision of the Committee may appeal to the governing body in the form prescribed by the Tax Administrator within 20 days of service or mailing by certified or registered mail a copy of the decision. The Commission shall consider the matter at its next regular meeting but may adjourn the matter for a maximum period of one month from the date of that meeting in order to fully investigate the facts. They shall render their decision in writing and no other appeals shall be heard. If not paid within 30 days after the decision is made, collection procedures may begin. The lien mentioned herein becomes effective upon the initial determination.

(Ord. 1-02, passed 1-10-2002)

SECTION 110.13 FRAUD; REFUSAL TO COLLECT; EVASION.

(A) If an operator fails or refuses to collect the tax, make the report, or remit the tax, or makes a fraudulent return or otherwise willfully attempts to evade the tax payment, the Tax Administrator shall obtain facts and information on which to base an estimate of the tax due. After determining the tax due and the interest and penalties, the Tax Administrator shall give notice of the total amount due.

(B) Determination and notice shall be made and mailed by certified mail return receipt required within three years after discovery of fraud, intent to evade, failure or refusal to collect the taxes, or failure to file a return. The determination becomes payable immediately on receipt of notice and becomes final ten days after the operator has received notice.

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(C) The operator may petition for redemption and refund if the petition is filed before the determination becomes final as set out in SECTION 110.13 herein.

(Ord. 1-02, passed 1-10-2002)

SECTION 110.14 SECURITY FOR COLLECTION OF TAX.

(A) The Transient Tax Committee may require an operator to deposit security in the form of cash, bond, or other security in the event an operator is found to be delinquent in his or her taxes pursuant to any portion of this chapter. However, this section shall not apply if the operator has filed a form of petition affecting payment or any amount of tax due. The amount of security shall be fixed by the Tax Review Committee and shall be not greater than twice the operator's estimated average quarterly liability for the period for which the operator files returns or \$5,000, whichever amount is less.

(B) Within three years after the tax becomes payable or within three years after a determination becomes final, the Tax Administrator may bring an action in the name of the city in the courts of this state, another state, or the United States to collect the amount delinquent and penalties and interest.

(Ord. 1-02, passed 1-10-2002)

SECTION 110.15 LIENS.

(A) The tax, interest, penalty, and filing fees paid to the Tax Administrator and any advertising costs incurred when the tax becomes delinquent shall be a lien from the date of its recording with the County Clerk until the tax is paid. The lien shall be superior to all subsequently recorded liens on all tangible personal property in the operator's hotel. The lien may be foreclosed and the necessary property may be sold to discharge the lien.

(B) Notice of the lien shall be issued by the Tax Administrator when the operator has defaulted in payment of the tax, interest, and penalty. A copy of the notice shall be sent by certified mail to the operator.

(C) Personal property subject to the lien may be foreclosed in the same manner as a nonpossessory chattel lien as set forth in O.R.S. Chapter 87.

(D) A lien for the tax, interest, and penalty shall be immediately released by the Tax Administrator when the full amount has been paid to the Tax Administrator. The operator or person making the payment shall receive a receipt stating that the full amount of the tax, interest, and penalty has been paid, that the lien is released, and that the record of the lien is satisfied.

(Ord. 1-02, passed 1-10-2002)

Transient Room Tax**SECTION 110.16 REFUNDS.**

(A) *Refunds by city to operator.* When the tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator, it may be refunded if a written claim stating the specific reason for the claim is filed within three years from the date of payment. The claim shall be submitted on forms provided by the Tax Administrator. If the claim is approved by the Review Committee, the excess amount may be refunded to the operator or it may be credited to an amount then due and payable by the operator at the option of the Review Committee and any balance refunded.

(B) *Refunds by city to transient.* If the tax has been collected by the operator and deposited with the Tax Administrator and it is later determined that the tax was erroneously or illegally collected or received by the Tax Administrator, it may be refunded to the transient if a written verified claim by the transient stating the specific reason for the claim is filed with the Tax Administrator within three years from the date of payment. Notice of the refund available shall be mailed to the transient at the address the operator has on file or is known to the operator. The county shall give the transient 30 days from the date of mailing in which to file a verified claim for refund. In the event a claim is not made within the 30-day period or in the event the county is unable to locate the transient, said amount shall be deposited into the transient room tax fund. The county is authorized to pay over any refund to an employer of the transient employee or to the transient's agent or successor upon filing the verified claim as herein set forth.

(C) *Refunds by operator to transient.* If the tax has been collected by the operator and it is later determined that the transient occupied the hotel for a period exceeding 30 days without interruption, the operator shall refund the tax to the transient. The operator shall account for the collection and refund to the Tax Administrator. If the operator has remitted the tax prior to refund or credit to the transient, the operator shall be entitled to a corresponding refund.

(Ord. 1-02, passed 1-10-2002)

SECTION 110.17 RECORDS TO BE KEPT; EXAMINATION OF RECORDS.

(A) Every operator shall keep guest records, accounting books, and records of room rentals for a period of three years and six months.

(B) During normal business hours and after 72-hour notice to the operator, the Tax Administrator may examine books, papers, and accounting records related to room rentals to verify the accuracy of a return or, if no return is made, to determine the amount to be paid. In the event the operator refuses to turn over the books, then the Tax Administrator shall be entitled to injunctive relief.

(Ord. 1-02, passed 1-10-2002)

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SECTION 110.18 CONFIDENTIALITY.

The Tax Administrator or a person having an administrative or clerical duty under the provisions of this chapter shall not make known in any manner the business affairs, operations, or information obtained by an investigation of records and equipment of a person required to file a return or pay a transient occupancy tax or a person visited or examined in the discharge of official duty; or the amount or source of income, profits, losses, or expenditures contained in a statement or application; or permit a statement or application, or a copy of either, or a book containing an abstract or particulars to be seen or examined by any person. However, nothing in this section shall be construed to prevent:

- (A) Disclosure to or examination of records and equipment by a city official, employee, or agent for collecting taxes for the purpose of administering or enforcing the provisions or collecting the taxes imposed by this chapter;
- (B) Disclosure, after filing a written request, to the taxpayer, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information concerning tax paid, unpaid tax, amount of tax required to be collected, or interest and penalties. However, the Baker County Attorney shall approve each disclosure, and the Tax Administrator may refuse to make a disclosure referred to in this section when, in the Tax Administrator's opinion, the public interest would suffer;
- (C) Disclosure of names and addresses of persons making returns; and
- (D) Disclosure of general statistics regarding taxes collected or business done in the county.
(Ord. 1-02, passed 1-10-2002)

SECTION 110.19 TRANSIENT ROOM TAX REVIEW COMMITTEE.

(A) There shall be appointed a nine-member committee known as the Transient Room Tax Review Committee, as outlined in the appendix to this chapter. The Committee shall appoint one member to act as chair and one member to act as Secretary who shall keep accurate minutes of all discussion and decisions made. The Committee shall have the duty of drawing a budget annually and submitting it to the Budget Board or City Council for approval. After the budget is approved, the Committee shall make arrangements for the disbursement of funds in accordance with the budget and to utilize the monies in accordance with the purposes of this chapter.

(B) Additionally, the Committee shall:

- (1) Hear and determine appeals of orders or decisions of the Tax Administrator and prescribe the forms, rules, and regulations relating to appeals. The Committee may affirm, modify, or reverse a decision or dismiss an appeal. In reviewing a decision of the Tax Administrator, the Committee may take evidence and make an investigation. It shall give notice of its determination in the manner prescribed for serving

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notice of a Tax Administrator's decision and shall file a certified copy of each determination with the Tax Administrator. A determination becomes final after 20 days and becomes due, subject to interest and penalties and enforceable by the Tax Administrator in the same manner as an order or decision of the Tax Administrator;

(2) Approve, modify, or disapprove all forms, rules, and regulations prescribed by the Tax Administrator if the forms, rules, and regulations are challenged in the administration and enforcement of this chapter;

(3) Hear and determine protests made to a form, rule, or regulation approved or prescribed by the Tax Administrator;

(4) Prescribe rules for extensions and, for good cause, grant extensions of time in excess of one month for filing a return or paying the tax;

(5) Make investigations regarding imposition and administration of the tax and report its findings to the County Commission; act in an advisory capacity to the County Commission on matters pertaining to the tax and enforcement problems; and recommend to the County Commission the adoption, amendment, or repeal of legislation pertaining to the tax; and

(6) Any other duties as otherwise set out herein.

(C) In the event that this chapter is amended to change the requisite qualifications for members, sitting members of the Committee who do not then qualify for membership because of such amendment shall have a period of 210 days in which to qualify. If any member does not so qualify within said 210 day period, then that member shall be removed from the Committee.

(Ord. 1-02, passed 1-10-2002)

SECTION 110.20 DISPOSITION AND USE OF FUNDS.

(A) All revenues received from the tax shall be deposited into a special fund known as the Transient Room Tax Fund. The Tax Administrator's office shall be allocated not more than 5% of the revenue (net of the 5% to the collector) collected for administration of this chapter. The remaining revenue shall be spent in the following manner:

(1) Seventy-five percent - Promotion, acquisition, construction, operation, and maintenance of recreational, cultural and tourist related services. It is the intent that the revenue be used to promote Baker County, Oregon.

(2) Twenty-five percent - Economic development. Any unused revenues may be invested by the Tax Administrator at the highest rate available and such revenues and interest shall be allocated to the

Transient Room Tax

Transient Room Tax Fund to be used for the purposes of this chapter.

(B) Effective with the start date and thereafter, all revenues received from the tax shall be deposited by the Tax Administrator into a special fund known as the Transient Room Tax Fund. Revenues received from the tax shall be allocated and expended as follows and not otherwise.

- (1) To the organization that is contracted and approved to Market Baker County by the Tax Committee.
- (2) All funds must be expended for the promotion, acquisition, construction, operation, and maintenance of recreational and tourist-related services. It is the intent that the revenue so raised be used to promote the county.
- (3) Prior to May 1 of each year, the organizations that are proposing to market the county shall submit a budget indicating how those agencies intend to expend the funds allocated as a result of this chapter. The Committee shall have the power to review said budgets and approve expenditure of funds.
- (4) Any unused revenues may be invested by the Tax Administrator at the highest rate available, and such revenues and interest shall be allocated to the Transient Room Tax Fund to be used for the purposes of this chapter.
(Ord. 1-02, passed 1-10-2002)

SECTION 110.21 SOLE TAX.

In the event any other tax of this nature is assessed upon the operation affected by this chapter, then from the effective date of the new, this tax shall cease and this chapter shall be of no further force and effect.
(Ord. 1-02, passed 1-10-2002)

SECTION 110.22 SUNSET.

This chapter shall be reviewed in two years and five years after its adoption, and at least every five years thereafter by the governing body.
(Ord. 1-02, passed 1-10-2002)

§ 110.99 PENALTY.

Failure to register pursuant to this chapter is punishable by a fine not to exceed \$100 per day for each continuing day of violation, in addition to the penalties assessed for non-payment as set forth herein.
(Ord. 1-02, passed 1-10-2002)

Transient Room Tax

Transient Room Tax**APPENDIX: BAKER COUNTY TRANSIENT ROOM TAX REVIEW COMMITTEE**

- (A) Comprised of nine persons.
- (B) Each outlying Baker County community (Haines, Richland, Halfway, Sumpter, Unity, and Huntington) will appoint one member.
- (C) The Baker County Commission will appoint one member.
- (D) Communities that do not enact TRT will not be allowed representation on the TRT Committee.
- (E) A minimum of four must represent the lodging industry.
- (F) If the lodging requirement is not met, the cities and the county will be asked to reconsider their appointments to meet the requirement.
- (G) At no time can there be more than three TRT members who simultaneously serve on the board of any recipient marketing agent.
- (H) Committee decisions will be made by consensus (with an emergency escape provision in case of serious deadlock).
- (I) For periods after June 30, 2003, the TRT Committee shall have the power to replace the marketing agent in the event that circumstances make that necessary. In that case, the TRT Committee could distribute to a new marketing agent or agents for carrying on efforts as envisioned in the ordinances.
- (J) The initial marketing agent shall be Baker County Unlimited, Inc.
(Ord. 1-02, passed 1-10-2002)

Transient Room Tax

CHAPTER 111: SOCIAL GAMES

Section

- 111.01 Definitions
- 111.02 Gambling prohibited
- 111.03 Premise license
- 111.04 Considerations when reviewing application
- 111.05 Temporary suspension of license
- 111.06 Regulations
- 111.07 Powers of city

- 111.99 Penalty

Statutory reference:

Authority to regulate and license social games, see O.R.S. 167.121

SECTION 111.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GAMBLING. Any contest, game, gaming scheme, or gaming device played for anything of value in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein; except the term ***GAMBLING*** shall not include social games as defined herein.

SOCIAL GAMES.

(1) A game, other than a lottery, between players in a private home where no house player, house bank, or house odds exist, and there is no house income from the operation of the social game.

(2) The game of black-jack or otherwise known as “21” between players and a private business, in a private club or place of public accommodation where no house player, house bank, or house odds exist, and there is not income from the operation of the social game.

(Ord. 6-88, passed 6-19-1988)

SECTION 111.02 GAMBLING PROHIBITED.

No person shall participate in, operate, or assist in operating any gambling game or activity.
(Ord. 6-88, passed 6-19-1988) Penalty, see SECTION 111.99

SECTION 111.03 PREMISE LICENSE.

(A) No person who owns, manages, or operates a private business, private club, or place of public accommodation shall permit a social game between players at a place without first securing a premise license for such purpose from the City Council.

(B) The cost of a premise license shall be \$100 annually, with renewal due when establishment=s liquor license is due, during the first week of September. Premise licenses in effect and due for renewal more than one month from the first week of September when this amendment is passed, shall have the fee prorated for this renewal only. There shall be no prorata refund of said fee in the event the license is revoked. In accordance with SECTION 111.06 of this chapter, only one table will be permitted per license. However, a special permit may be obtained for special occasions, limited to three consecutive days, allowing licensee more than one table. Cost for this special permit will be \$25 per additional table per three-day occasion.

(C) Application for a premise license shall include the following:

(1) Name of proposed licensee, date of birth, social security number, ODL number, location of place of business, place of residence for past five years, and any criminal record; and

(2) Maximum betting of the game.

(D) The premise license issued under this section shall not be assignable or transferable. A change in ownership of licensed business shall require a new application for license.

(E) The premises shall provide all cards and gaming equipment.

(Ord. 6-88, passed 6-19-1988; Ord. 9.1-01, passed 9-13-2001) Penalty, see SECTION 111.99

SECTION 111.04 CONSIDERATIONS WHEN REVIEWING APPLICATION.

When reviewing an application for a premise license, the City Council shall consider:

(A) Applicant's criminal record, if applicable;

(B) Completeness, authenticity, and accuracy of the application;

Social Games

(C) Prior gaming violations; and

(D) Evidence of good character.
(Ord. 6-88, passed 6-19-1988)

SECTION 111.05 TEMPORARY SUSPENSION OF LICENSE.

(A) A premise license shall be temporarily suspended if there are reasonable grounds to suspect that the holder of the premise license has violated any provision of this chapter or has committed any act that would have denied him or her from receiving the initial license under SECTION 111.04.

(B) Any premise licensee who has been temporarily suspended pursuant to division (A) above, shall be entitled to a hearing to be held by the City Council.
(Ord. 6-88, passed 6-19-1988)

SECTION 111.06 REGULATIONS.

(A) The City Council may limit the types of games played.

(B) Violation of the following acts is hereby unlawful.

(1) Each licensee shall have only one "21" table except as provided by SECTION 111.03 of this chapter.

(2) Any winning player may take the deal if he or she prefers, providing that player proves his or her financial capability of covering all bets before each hand. Any player may waive his or her turn a deal.

(3) All premises shall be opened to police inspection during all hours of operation. The premise license must be displayed for public view at all times.

(4) The playing of all card games shall be so arranged as to provide free access and visibility to any interested party. Doors leading into the premises must remain unlocked during all hours of operation with games limited to legal liquor hours.

(5) No person under the age of 21 years shall be permitted to participate in any card game or to enter or remain upon such premises.

(6) No charge shall be collected from any player for the privilege of participating in any game.

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(7) No signs or advertising of gambling, playing of cards, or advertising specific forms of card playing, enticing participants, or procuring players shall be permitted. Signs visible from inside the building informing the public in which areas cards may be played will be allowed.

(8) The licensee may set a minimum bet not to exceed \$1 and a maximum bet not to exceed \$5. Splitting or doubling shall constitute more than one hand.

(9) No premise licensee shall participate in any social gaming, nor procure players, back, farm out, assign, or sublet in card games lawfully permitted under this chapter on the premises in which said licensee has an interest or works.

(10) No premise licensee shall permit persons who are visibly intoxicated to participate in gaming activities. The licensee shall supply the Police Department with the hours of operation of the establishment. These hours must be displayed in public view in the premises at all times.

(11) No alcoholic drinks or beverages shall be purchased for or furnished at no cost to the players by a premise owner, manager, employee, or supervisor.

(12) No guns or firearms of any kind will be allowed on anyone's person inside the premise, except as carried, by official law enforcement officers.

(13) Each premise shall have assigned to it a person whose duties shall include supervision of any games played within the premises and see to it that they are played strictly in accordance with this chapter, and within the provisions of the Oregon Revised Statutes. No premise licensee shall permit any person to engage in unlawful gambling in or upon any licensed premises. The premise licensee shall regulate the times for the use of its premises.

(Ord. 6-88, passed 6-19-1988) Penalty, see SECTION 111.99

SECTION 111.07 POWERS OF CITY.

The city and its law enforcement agencies shall have, in addition to any other powers that it may have conferred by statute, ordinance, or otherwise, the right to inspect and examine, in connection with social games, all premises, equipment, and supplies in, upon, or about premises where cards are played. In the course of exercising their duties under this section, they may summarily seize and remove from such premises and impound any gaming equipment or supplies for the purposes of examination and inspection of said gaming equipment and supplies.

(Ord. 6-88, passed 6-19-1988)

Social Games**SECTION 111.99 PENALTY.**

Upon certification by any member of a law enforcement agency that any of the regulations of SECTION 111.06 have been violated, the affected premise license shall be suspended until a court hearing and trial have been completed. Violation of this chapter is punishable, upon conviction, by a fine of not more than \$2,500, or imprisonment in the county jail for a period not to exceed one year, or both, and where other city ordinances or state laws are violated, such violations are punishable in accordance with such acts. Each day of violation constitutes a separate offense. Conviction of a violation shall result in the permanent revocation of a license.

(Ord. 6-88, passed 6-19-1988)

Social Games

CHAPTER 112: ALCOHOLIC BEVERAGES

Section

112.01 Adoption of specified state liquor laws

SECTION 112.01 ADOPTION OF SPECIFIED STATE LIQUOR LAWS.

The following enumerated liquor laws of Oregon as amended are hereby adopted by reference and made a part of this chapter.

O.R.S. 471.035	O.R.S. 471.475
O.R.S. 471.130	O.R.S. 471.480
O.R.S. 471.135	O.R.S. 471.485
O.R.S. 471.405	O.R.S. 471.490
O.R.S. 471.410	O.R.S. 471.657
O.R.S. 471.425	O.R.S. 471.660
O.R.S. 471.430	O.R.S. 471.675
O.R.S. 471.440	O.R.S. 471.680
O.R.S. 471.445	O.R.S. 471.990

(Ord. 5-1, passed 9-14-1967) Penalty, see SECTION 10.99

Alcoholic Beverages

CHAPTER 113: TAXICABS

Section

- 113.01 Definitions
- 113.02 Operator's license
- 113.03 Investigation of application
- 113.04 Decision of City Council; public hearing
- 113.05 Number of licenses; temporary licenses; emergency licenses
- 113.06 Transfer, cancellation, suspension, or revocation of license
- 113.07 License fees; expiration date; renewal
- 113.08 Taxicab equipment and maintenance
- 113.09 Charges and fares

SECTION 113.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. City of Halfway, Oregon.

COUNCIL. The City Council of the City of Halfway.

PERSON. Any natural person, firm, partnership, association, or corporation, whether acting by themselves, by servant, agent, or employee.

TAXICAB. Every self-propelled vehicle having seating capacity of five passengers or less, as per manufacturer's rating, except cars for rent without drivers, used for the transportation of passengers for hire, and not operated exclusively over a fixed and defined route.

(Ord. 5.9, passed - -)

SECTION 113.02 OPERATOR'S LICENSE.

(A) Every owner of a taxicab shall, before operating or permitting the operation of such taxicab, secure a license from the city.

(B) An application for a license for the operation of one or more taxicabs shall be filed with the City Recorder, along with an application fee of \$10. Each application shall be verified under oath and provide the following information:

- (1) The name, business address, and residence address of owner;
 - (2) The number of vehicles owned and the number of vehicles operated by the owner on the date of application;
 - (3) The number of vehicles for which a license is desired;
 - (4) The number and suggested location of taxicab stands if any are sought;
 - (5) The make, type, year of manufacture, and passenger seating capacity of each taxicab for which application for a license is made;
 - (6) A statement whether the applicant or any officers of the applicant have been convicted of any crime, misdemeanor, or violation of any municipal ordinance or state law (other than minor traffic and parking offenses), the nature of the offense, and the punishment or penalty set; and
 - (7) Such other information as the City Council may deem necessary in all applications or in individual application for the proper protection of the public.
- (Ord. 5.9, passed - -) Penalty, see SECTION 10.99

' 113.03 INVESTIGATION OF APPLICATION.

(A) Before any taxicab application (except application for renewal and temporary licenses) is acted upon by the City Council the Council shall have the resident city deputy make an investigation within 30 days from the date the application is brought before the City Council. A committee may be appointed to assist him or her in said investigation. The resident city deputy may require the applicant or any person named in the application to be finger printed and photographed when he or she considers such action necessary to complete his or her investigation.

(B) Upon completion of such investigation, the resident city deputy and the committee, if one is appointed, shall transmit to the City Council their recommendation for or against the issuance of the license. The findings in writing on the following:

- (1) The demand of the public for additional taxicab service;
- (2) The adequacy of existing mass transportation and taxicab services;

Taxicabs

- (3) The financial responsibility and experience of the applicant;
 - (4) The number, kind, and type of equipment to be used;
 - (5) The effect the additional taxicab service may have upon traffic congestion and parking;
 - (6) Whether the additional taxicab service will result in a greater hazard to the public; and
 - (7) Such other relevant facts as the City Council may deem advisable or necessary.
- (Ord. 5.9, passed - -)

SECTION 113.04 DECISION OF CITY COUNCIL; PUBLIC HEARING.

- (A) In deciding whether or not to grant a license for which application is made, the City Council shall consider whether or not the public convenience and necessity require the operation of a taxicab for which application is made; along with all other matters contained in the report of the resident city deputy and committee if one is appointed.
 - (B) In determining whether the public convenience and necessity require the operation of a taxicab for which application is made, the City Council may hold a public hearing.
 - (C) The City Council may grant a license to any applicant and may determine the number of licenses to be granted to any applicant in accordance with the provisions of this chapter.
 - (D) No license other than an emergency license may be issued to any person who has not complied with all the requirements of this chapter before commencement of the proposed service.
 - (E) In considering applications, an application for renewal shall be given preference over new applications, providing the applicant for renewal has met and is meeting the requirements of this chapter.
- (Ord. 5.9, passed - -)

SECTION 113.05 NUMBER OF LICENSES; TEMPORARY LICENSES; EMERGENCY LICENSES.

- (A) No more than one taxicab shall be licensed by the provisions of this chapter for each 1,000 people residing within the city, as shown by the last official census, provided however, that temporary licenses may be issued for a period of not to exceed one week upon the payment of a fee of \$7.50 for each additional taxicab used for conveying passengers at such times as there may be in the city a public gathering, celebration, or other temporary increase in the number of visitors as to warrant, in the judgment of the City Council, the issuing of such additional temporary license of licenses. Said temporary licenses

Taxicabs

may be issued by the City Council without an investigation.

(B) The City Council, where it finds it advisable, may issue an emergency license or licenses to an applicant for a period of not more than 30 days while said applicant is being investigated.

(C) Any party holding a valid license at the time this chapter is passed shall continue to operate under such license for 30 days from the date this chapter takes effect.

(Ord. 5.9, passed - -)

SECTION 113.06 TRANSFER, CANCELLATION, SUSPENSION, OR REVOCATION OF LICENSE.

(A) No license may be sold, assigned, or mortgaged or otherwise transferred without the consent of the City Council by resolution. The City Council may grant, or deny or impose such conditions with respect to the transfer of a license as it may deem to be in the best interests of the public safety and the general welfare.

(B) An application for transfer of any license is subject to the same terms, conditions, and requirements as the application for the original license.

(C) If a persons sells his or her taxi business or discontinues the taxi business for a period of ten consecutive days without obtaining permission for cessation of such operation from the City Council, all licenses held by said persons shall be automatically cancelled and may be re-issued only in accordance with this chapter.

(D) Any license may be suspended or revoked by the City Council at any time, whenever any one or more of the following conditions exist:

- (1) The City Council finds the owner's past record to be unsatisfactory;
- (2) The owner failed to operate the taxicab in accordance with the provisions of this chapter;
- (3) The owner ceases to operate any taxicab for a period of ten consecutive days without obtaining permission for cessation for such operation from the City Council;
- (4) Taxicabs are operated at a rate of fare other than that approved by Council resolution; and/or
- (5) The owner neglects to pay any of the fees or payments required to be paid by him or her by the provisions of this chapter.

(Ord. 5.9, passed - -) Penalty, see SECTION 10.99

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SECTION 113.07 LICENSE FEES; EXPIRATION DATE; RENEWAL.

The bi-annual fee for licenses issued under the provisions of this chapter, except temporary and emergency licenses, shall be \$50 for each vehicle, payable in advance, and said licenses shall expire two years after the date of issuance and no license shall be issued hereunder otherwise than on payment of the full amount of the required license fee. A license may be renewed by the City Council upon application of the licensee without an investigation.

(Ord. 5.9, passed - -) Penalty, see SECTION 10.99

SECTION 113.08 TAXICAB EQUIPMENT AND MAINTENANCE.

(A) Taxicab equipment.

- (1) No person shall be granted a license to operate a taxicab unless the vehicle conforms with all the provisions of this chapter.
- (2) Each taxicab shall bear a number on the outside of the vehicle in a conspicuous place in a legible manner.
- (3) All taxicabs shall be equipped with and carry a sign bearing the word "Taxi" together with the name of the concern, company, corporation, or association operating the taxicab.

(B) Taxicab maintenance.

- (1) The resident city deputy may at any time after displaying proper identification enter any licensed cab to ascertain whether any of the provisions of this chapter are being violated.
 - (2) Any taxicab observed or found to be in violation of any safety requirement of the state or the city shall be ordered immediately out of service, and before being placed in service said defect shall be corrected.
 - (3) The interior of every taxicab shall be kept thoroughly clean at all times.
- (Ord. 5.9, passed - -) Penalty, see SECTION 10.99

SECTION 113.09 CHARGES AND FARES.

- (A) No person owning, operating, managing, or driving any taxicab in the city shall make a charge at any greater or lesser rate than authorized by the City Council.

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(B) The city shall be divided into zones for the purpose of setting standard taxi fares. Said zones and fares shall be set by resolution of the City Council and may be changed from time to time by a like resolution.

(C) There shall be displayed in the passenger compartment of each taxicab in full view of the passenger, in large bold type, the correct schedule of rates to be charged and a certified copy of the map showing the zones as established by Council resolution.

(Ord. 5.9, passed - -) Penalty, see SECTION 10.99

CHAPTER 114: PEDDLERS AND SOLICITORS

Section

- 114.01 License required
- 114.02 Definitions
- 114.03 Applications
- 114.04 Investigation of applicant; issuance or disapproval
- 114.05 License fee
- 114.06 Transfer of license
- 114.07 Exhibition of license
- 114.08 Enforcement of regulations
- 114.09 Revocation of license
- 114.10 Appeal

SECTION 114.01 LICENSE REQUIRED.

It is unlawful for any person to engage in business as a peddler or solicitor, as defined in this chapter, within the corporate limits of the city, without first obtaining a license as herein provided.

(Ord. 5-9, passed - -) Penalty, see SECTION 10.99

SECTION 114.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

NONPROFIT ORGANIZATIONS. Any corporation, association, society, or other organization which is organized or associated together on a nonprofit basis and the purpose of such organization or association in its operations is conducted without the intent to produce profit in money and an officer of such organization or association has filed an affidavit of nonprofit status with the City Recorder.

PEDDLER.

(1) Includes any person traveling by any means from place to place, house to house, or street to street offering or exposing goods, wares, merchandise, or services for sale, or making sales and delivering

articles to purchasers.

(2) Shall not be interpreted to include those persons calling upon business firms, either in delivery of goods or soliciting orders for merchandise, goods, or services which are regularly handled or used by the business firms in their regular course of business.

(3) This chapter shall not be interpreted to apply to milk, groceries, or other merchandise deliveries or services ordered by a resident or sold by an area merchant and delivered to the purchaser as a service.

PERSON. Includes the singular, plural, firm, corporation, association, partnership, society, or other organizations.

SOLICITOR.

(1) Includes any person traveling by any means from place to place, house to house, or street to street taking or attempting to take orders for sale of goods, wares, merchandise or services for future delivery or to be furnished in the future, regardless of the method of payment.

(2) Shall not be interpreted to include those persons calling upon business firms, either in delivery of goods or soliciting orders for merchandise, goods, or services which are regularly handled or used by the business firms in their regular course of business.

(3) This chapter shall not be interpreted to apply to milk, groceries or other merchandise deliveries or services ordered by a resident or sold by an area merchant and delivered to the purchaser as a service.
(Ord. 5-9, passed - -)

SECTION 114.03 APPLICATIONS.

A licensee, under this chapter, must file with the City Recorder a sworn application, in writing, on a form to be furnished by the City Recorder, which shall give the following information:

(A) The name and description of the applicant or if made on behalf of a nonprofit organization, the name and address of an officer whose residence is in the city;

(B) Address, both permanent and local address, if any;

(C) A brief description of the nature of business and the goods or services to be sold. In the case of products of farms or orchards, a statement whether the produce to be sold is grown by the applicant; and

Peddlers and Solicitors

(D) If the applicant is employed, the name and address of the employer, together with credentials establishing an exact relationship. Except in the case of a nonprofit organization, a photograph of the applicant shall be furnished which photograph shall have been taken within 60 days immediately prior to the date of the filing of the application and shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.

(Ord. 5-9, passed - -)

SECTION 114.04 INVESTIGATION OF APPLICANT; ISSUANCE OR DISAPPROVAL.

(A) Upon receipt of an application, the same shall be referred to the resident deputy sheriff who shall cause investigation of the applicant's business and moral character to be made as shall be deemed necessary for the protection of the public interest.

(B) The Chief of Police, within seven days from the date of the application, shall endorse the application as "satisfactory" or "unsatisfactory" and, if the same shall be endorsed "unsatisfactory," the reason for such endorsement shall be set forth thereon. If the application is not returned to the City Recorder within 15 days, it shall be presumed that the endorsement is satisfactory.

(C) Where the application is endorsed "satisfactory" or if days have elapsed without the return of the application by the Chief of Police, the City Recorder shall then issue a license card addressed to the applicant for the carrying on of the business applied for. The license shall contain the signature and seal of the issuing officer and shall show the name, address, and photograph of the licensee, if the licensee is not a nonprofit organization, and the kind and goods to be sold thereunder, the date of issuance and the expiration date of the license. The City Recorder shall keep a permanent record of all licenses for a period of two years from the date of issuance.

(D) If the application is returned from the Chief of Police endorsed "unsatisfactory," the City Recorder shall notify the applicant that his or her application has been disapproved and the reasons therefor.

(Ord. 5-9, passed - -)

SECTION 114.05 LICENSE FEE.

(A) Except as herein specifically exempted for payment of fees, all persons applying for a license shall pay a fee in the sum of \$5 as an application fee and an annual license fee in the sum of \$1. Licenses may be renewed on an annual basis upon payment of a license fee in the amount of \$1.

(B) No application or license fee shall be required of one selling products of the farm or orchard actually produced by the seller, a newspaper carrier soliciting subscriptions, or a nonprofit organization making application on behalf of its members.

Peddlers and Solicitors

(C) All licenses run from January 1 to December 31 inclusive. Licenses issued after the first of July shall pay one-half of the annual license fee.

(Ord. 5-9, passed - -) Penalty, see SECTION 10.99

SECTION 114.06 TRANSFER OF LICENSE.

No license shall be used at any time by any person other than the one to whom it is issued.

(Ord. 5-9, passed - -) Penalty, see SECTION 10.99

SECTION 114.07 EXHIBITION OF LICENSE.

Peddlers and solicitors are required to exhibit their license card at the request of any citizen.

(Ord. 5-9, passed - -) Penalty, see SECTION 10.99

SECTION 114.08 ENFORCEMENT OF REGULATIONS.

It shall be the duty of any police officer of the city to require any person seen peddling or soliciting and who is not known by the officer to be duly licensed to produce his or her license card and to enforce the provisions of this chapter against any person found to be violating the same.

(Ord. 5-9, passed - -) Penalty, see SECTION 10.99

SECTION 114.09 REVOCATION OF LICENSE.

(A) Licenses may be revoked by the City Recorder, after notice of hearing for any of the following causes:

- (1) Fraud and misrepresentation or false statement contained in an application for license;
- (2) Fraud and misrepresentation or false statement made in the course of carrying on the business as peddler or solicitor;
- (3) Any violation of this chapter;
- (4) Conviction of any crime or misdemeanor involving moral turpitude; and/or
- (5) Conducting the business of peddling or soliciting in an unlawful manner or in such a manner to constitute a menace to the health, safety, or general welfare of the public.

Peddlers and Solicitors

(B) Notice of hearing for revocation of a license shall be given in writing setting forth the grounds of the complaint and the time and place for hearing. The notice shall be mailed, postage prepaid, to the licensee at his or her last known address at least five days prior to the date set for hearing.

(Ord. 5-9, passed - -)

SECTION 114.10 APPEAL.

Any person aggrieved by the action by the Chief of Police or the City Recorder in denial or revocation of his or her license shall have the right to appeal to the City Council. The appeal shall be taken by filing with the Council within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for the hearing of the appeal and notice of the hearing shall be given to the appellant in the same manner as notice of revocation. The decision and order of the Council on the appeal shall be final and conclusive.

(Ord. 5-9, passed - -)

Peddlers and Solicitors

TITLE XIII: GENERAL OFFENSES

Chapter

130.GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

- 130.01 Adoption of specified state statutes by reference
- 130.02 Discharge of weapons
- 130.03 Consuming alcoholic beverages in public
- 130.04 Curfew for minors

130.99 Penalty

Cross-reference:

Gambling prohibited, see SECTION 111.02

SECTION 130.01 ADOPTION OF SPECIFIED STATE STATUTES BY REFERENCE.

The following enumerated laws of Oregon as amended are hereby adopted by reference and made a part of this chapter.

O.R.S. 161.015	O.R.S. 161.566	O.R.S. 162.105
O.R.S. 161.025	O.R.S. 161.568	O.R.S. 162.115
O.R.S. 161.055	O.R.S. 161.585	O.R.S. 162.145
O.R.S. 161.085 - 161.125	O.R.S. 161.615	O.R.S. 162.175
O.R.S. 161.150 - 161.175	O.R.S. 161.635	O.R.S. 162.195
O.R.S. 161.190 - 161.275	O.R.S. 161.645	O.R.S. 162.235
O.R.S. 161.290 - 161.400	O.R.S. 161.665	O.R.S. 162.245
O.R.S. 161.405 - 161.485	O.R.S. 161.675	O.R.S. 162.255
O.R.S. 161.505	O.R.S. 161.685	O.R.S. 162.285
O.R.S. 161.515	O.R.S. 162.075	O.R.S. 162.295

O.R.S. 161.545	O.R.S. 162.085	O.R.S. 162.305
O.R.S. 161.555	O.R.S. 162.095	O.R.S. 162.315
O.R.S. 162.325	O.R.S. 164.815	O.R.S. 164.805
O.R.S. 162.355	O.R.S. 164.825	O.R.S. 166.330
O.R.S. 162.365	O.R.S. 164.845	O.R.S. 166.360
O.R.S. 162.375	O.R.S. 164.855	O.R.S. 166.645
O.R.S. 163.160	O.R.S. 165.065	O.R.S. 167.002
O.R.S. 163.190	O.R.S. 166.025	O.R.S. 167.007
O.R.S. 163.195	O.R.S. 166.065	O.R.S. 167.027
O.R.S. 163.200	O.R.S. 166.075	O.R.S. 167.060
O.R.S. 163.435	O.R.S. 166.095	O.R.S. 167.075
O.R.S. 163.445	O.R.S. 166.180	O.R.S. 167.080
O.R.S. 163.465	O.R.S. 166.190	O.R.S. 167.085
O.R.S. 164.245	O.R.S. 166.210	O.R.S. 167.090
O.R.S. 164.255	O.R.S. 166.220	O.R.S. 167.095
O.R.S. 164.354	O.R.S. 166.240	O.R.S. 167.100
O.R.S. 164.775	O.R.S. 166.250	O.R.S. 167.568
O.R.S. 164.785	O.R.S. 166.260	

(Ord. 5-2, passed - - ; Ord. 5-10.2, passed 7-14-1977) Penalty, see SECTION 130.99

SECTION 130.02 DISCHARGE OF WEAPONS.

(A) No person, other than an authorized peace officer in the exercise of his or her official duties, shall fire or discharge within the city limits any gun or weapon which acts by force of gunpowder or other explosive, or by the use of jet or rocket propulsion.

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(B) The provisions of this section shall not be construed to prohibit the firing or discharging of any weapons at a place duly designated for target practice for that particular weapon, or by any person in the defense or protection of his or her person or family.

(Ord. 5-12, passed 6-11-1981) Penalty, see SECTION 130.99

SECTION 130.03 CONSUMING ALCOHOLIC BEVERAGES IN PUBLIC.

(A) No person shall drink or consume any alcoholic beverage in or upon any public street, public place, alley, park, school grounds, or other public grounds unless such public place is so licensed.

(B) Whenever any officer arrests any person for violation of any of the provisions of this section, he or she shall take into his or her possession all alcoholic beverages and other property which the person so arrested has in his or her possession or on his or her property or premises, which is apparently being used in violation of this section. If the person so arrested is convicted and it is found that the alcoholic beverage and other property has been used in violation of this section, the same shall be forfeited to the city or the Oregon Liquor Control Commission.

(Ord. 5-5, passed 8-16-1934) Penalty, see ' 130.99

SECTION 130.04 CURFEW FOR MINORS.

(A) Except as provided in division (B) of this section, it shall be unlawful for any person of the age of 17 years and under to be upon the streets or in any public place within the city, between the hours of 10:00 p.m. of Sunday, Monday, Tuesday, Wednesday, and Thursday, and the hours of 4:00 a.m. of the following day; and between the hours of midnight of Friday and Saturday and the hours of 4:00 a.m. of the following day.

(B) This section does not apply to a minor who is:

- (1) Accompanied by the minor's parent or guardian;
- (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (5) Involved in an emergency;

General Offenses

(6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;

(C) If any such child is found upon the streets or in any public place in violation of this section, and such violation is his or her first offense, it shall be the duty of any peace officer to place such child under custody and to take, or cause such child to be taken, to his or her home. The parent, guardian, or other person having the custody and care of such child shall be notified of such violation.

General Offenses

(D) Any child found to be in violation of this section, or any parent, guardian, or other responsible adult person who shall suffer or permit his or her child or ward to be a second time upon the streets or in any public place in violation of the provisions of this section, shall be subject to the penalty provisions of ' 130.99.

(E) Whenever any child shall be found committing a second offense against provisions of this section under such circumstances or under such conditions as may, in the opinion of any peace officer, tend to render such child dependent or delinquent, such peace officer shall forthwith lodge an appropriate complaint with the juvenile court for such further proceedings as such court may deem appropriate under the circumstances.

(Ord. 5-3, passed - -) Penalty, see SECTION 130.99

SECTION 130.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is otherwise provided, shall be subject to the provisions of SECTION 10.99 of this code.

(B) Any person violating any of the provisions of SECTION 130.02 shall, upon conviction thereof, be punished by imprisonment in the jail designated by the city for a period not to exceed 30 days or by a fine not to exceed \$100, or both.

(C) Any person violating any provision of SECTION 130.03 shall upon conviction thereof before the City Recorder be punished by a fine of not less than \$25 nor more than \$100.

(D) Any child found to be in violation of SECTION 130.04, or any parent, guardian, or other responsible adult person who shall suffer or permit his or her child or ward to be a second time upon the streets or in any public place in violation of the provisions of SECTION 130.04, shall be deemed guilty of a fine of not less than \$10 nor more than \$50, or by imprisonment in the city jail for a term of not less than one nor more than 25 days, or by both such fine and imprisonment, in the discretion of the court.

(Ord. 5-3, passed - - ; Ord. 5-5, passed 8-16-1934; Ord. 5-12, passed 6-11-1981)

General Offenses

TITLE XV: LAND USAGE

Chapter

150.LAND USE AND DEVELOPMENT

151.FLOOD DAMAGE PREVENTION

CHAPTER 150: LAND USE AND DEVELOPMENT

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INTRODUCTORY PROVISIONS

150.001 TITLE.

This chapter shall be known as the City of Halfway Land Use and Development Ordinance.
(Ord. 10-15, passed 6-9-2005)

150.002 PURPOSE.

It is the purpose of this chapter to:

- (A) Implement the comprehensive plan as adopted by the City Council;
- (B) Comply with O.R.S. Chapter 195, 197, and 227;
- (C) Promote the public health, safety, and welfare of the citizens of the city; and
- (D) Replace the prior zoning and subdivision ordinances with an up to date set of implementation measures for the city.
(Ord. 10-15, passed 6-9-2005)

Land Use and Development

150.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. As used in this chapter, the singular includes the plural and the masculine includes the feminine and neuter; the word *MAY* is discretionary, the word *SHALL* is mandatory.

ACCESS. The way or means by which pedestrians and vehicles enter and leave property, which is commonly open to use by the public.

ACCESSORY USE or ACCESSORY STRUCTURE. A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use.

ACCESSWAY. A walkway that provides pedestrian and bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. **ACCESSWAYS** generally include a walkway and additional land on either side of the walkway, often as an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. **ACCESSWAYS** through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where **ACCESSWAYS** cross driveways, they are generally raised, paved, or marked in a manner that provides convenient access for pedestrians.

ALLEY. A street which affords only a secondary means of access to the property.

APARTMENT. A building (or portion thereof) consisting of separate living units designed for occupancy by three or more families living independently of each other.

APPEAL. A request for a review of the interpretation of any provision of this chapter or a request for a variance.

AUTOMOBILE WRECKING YARD. Premises used for the commercial storage or sale of used automobile or truck parts or for the storage, dismantling, or abandonment of junk, obsolete automobiles, trailers, trucks, machinery or parts thereof, unless said activity takes place solely within an enclosed structure.

BED AND BREAKFAST. An establishment in a residential district that contains up to five guest bedrooms, is owner or manager occupied, provides a morning meal, and limits the length of stay to 15 days.

BICYCLE. A vehicle designed to operate on the ground on wheels, propelled solely by human power, upon which any person or persons may ride, and with two tandem wheels at least 14 inches in diameter. An adult tricycle is considered a **BICYCLE**.

Land Use and Development

BICYCLE FACILITIES. A general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities and all bikeways.

BIKEWAY. Any road, path, or way that is in some manner specifically open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are shared with other transportation modes. The five types of **BIKEWAYS** are:

- (1) **BIKE LANE.** A four to six-foot wide portion of the roadway that has been designated by permanent striping and pavement markings for the exclusive use of bicycles.
- (2) **MULTI-USE PATH.** A paved ten to 12-foot wide way that is physically separated from motorized vehicular traffic; typically shared with pedestrians, skaters, and other non-motorized users.
- (3) **MULTI-USE TRAIL.** An unpaved path that accommodates all-terrain bicycles; typically shared with pedestrians.
- (4) **SHARED ROADWAY.** A travel lane that is shared by bicyclists and motor vehicles.
- (5) **SHOULDER BIKEWAY.** The paved shoulder of a roadway that is four feet or wider; typically shared with pedestrians in rural areas.

BOARDING HOUSE, LODGING, OR ROOMING HOUSE. A building where lodging with or without meals is provided for compensation, for over four guests to a maximum of 12 guests.

BUILDING. A structure or mobile home unit built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

CC&R. A method of controlling development in an area, usually a subdivision, that is enforced by the business of the area involved. The city cannot enforce the **CC&Rs**.

CHURCH. A building or edifice used primarily for religious worship.

CITY. City of Halfway.

CITY COUNCIL. Halfway City Council

CONTIGUOUS LAND. Two or more parcels or units of land, including water, under a single ownership which is not separated by an intervening parcel of land under a separate ownership (including limited access rights-of-way) which would deny access between the two parcels under single ownership.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, or drilling

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operations, located within the area of special flood hazard.

DRIP-LINE. A line on the ground when water drips off a roof.

DUPLEX. A building containing two dwelling units in which each dwelling unit is designed for occupancy by one family.

DWELLING, SINGLE-FAMILY. Any building designed or used exclusively for occupancy by one family and containing one dwelling unit, including manufactured homes meeting the requirements of ' 150.064.

FAMILY. An individual or two or more persons related by blood or marriage, or a group of not more than five persons (excluding servants) who need not be related by blood or marriage, living together in a dwelling unit. **FAMILY** shall include two or more persons with a handicap as defined in the Fair Housing Amendments Act of 1988, 42 U.S.C. ' 3601 and following, living as a single housekeeping unit.

FOURPLEX. A building containing four dwelling units in which each dwelling unit is designed for occupancy by one family.

HOME OCCUPATION. The lawful occupation carried on by a resident of a dwelling as an accessory use solely within the same dwelling, provided:

- (1) There is no more than one additional person employed other than the resident of the dwelling; and
- (2) The occupation is carried on in such a manner as not to impact the outward appearance of a business in an ordinary meaning of the term, or cause or lead to unreasonable increase of the flow of traffic in the neighborhood or production of noise or other forms of environmental pollution.

LOT. A parcel or tract of land.

LOT AREA. The total area of the lot measured in the horizontal plane within the lot boundary lines.

LOT DEPTH. The average horizontal distance between the front lot line and the rear lot line.

LOT LINE, FRONT. The line on the lot facing the street from which the access to the lot is commonly made.

LOT WIDTH. The average horizontal distance between the side lot lines ordinarily measured parallel to the front lot line.

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MANUFACTURED DWELLING.

(1) ***MANUFACTURED HOME.*** Only those manufactured dwellings manufactured after June 15, 1976 and conforming to Housing and Urban Development Standards (HUD).

(a) For any purpose other than that set forth in division (b) below ***MANUFACTURED HOME*** means a structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction; or

(b) For purposes of implementing any contract pertaining to manufactured homes between the department and the federal government, ***MANUFACTURED HOME*** has the meaning given the term in the contract.

(c) ***MANUFACTURED DWELLING*** does not mean any building or structure subject to the structural specialty code adopted pursuant to O.R.S. 455.100 through 455.450 or any unit identified as a recreational vehicle by the manufacturer.

(2) ***MOBILE HOME.*** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon Mobile Home law in effect at the time of construction.

(3) ***RESIDENTIAL TRAILER.*** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed before January 1, 1962.

MOBILE HOME PARK. Any privately owned place where four or more mobile homes used for human occupancy are parked within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is the rental of spaces.

MULTIPLE-FAMILY DWELLING. A structure containing dwelling units designed or intended for the residence of three or more families.

NEIGHBORHOOD ACTIVITY CENTER. An attraction or destination for residents of surrounding residential areas which includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops, employment areas.

NEW CONSTRUCTION. Structures for which the “start of construction” commenced on or after the effective date of this chapter.

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NON-CONFORMING STRUCTURE OR USE. A lawfully existing structure for use at the time this chapter or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

OWNER. A person, his or her authorized agent or representative having legal authority to use, transfer, or lease land.

PARKING PLACE. A rectangular area not less than 20 feet long and ten feet wide, together with maneuvering and access space for an automobile, equipment, or other vehicle to park within the rectangle without the necessity of maneuvering other parked vehicles.

PEDESTRIAN FACILITIES (ALSO WALKWAYS). A general term denoting improvements and provisions made to accommodate or encourage walking, including sidewalks, accessways, crosswalks, ramps, paths, and trails.

PERSON. A natural person, firm, partnership, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

REASONABLY DIRECT. A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.

RECREATIONAL VEHICLE. A vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreational or emergency purposes and has a gross floor space of less than 400 square feet. The unit shall be identified as a **RECREATIONAL VEHICLE** by the manufacturer.

RECREATIONAL VEHICLE PARK. Any area designed to establish, operate, manage, or maintain the same for picnicking or overnight recreational vehicle or tent camping by the general public or any other segment of the public includes but is not limited to the areas open to use free of charge or through a payment of a tax or fee or by virtue of rental, lease, license, membership, association, or common ownership, and further includes but not limited to those areas divided into two or more lots, parcels, units, or other interests for the purposes of such use. Such **RECREATIONAL VEHICLE PARKS** as defined are not intended for residential occupancy.

RESIDENTIAL FACILITY. A residential care, residential training, or residential treatment facility licensed or registered by or under the authority of the Department, as defined in O.R.S. 443.400 under O.R.S. 443.400 through O.R.S. 443.460, or licensed by the Children's Services Division under O.R.S. 418.205 through O.R.S. 418.327 which provides residential care alone or in conjunction with treatment or training, or the combination thereof, for six to 15 individuals who need not be related. Staff persons required to meet the licensing requirement shall not be counted in the number of facility residences and need not be related to each other or to any resident of the **RESIDENTIAL FACILITY**.

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RESIDENTIAL HOME. A residential treatment or training or adult foster home licensed by or under the authority of the Department as defined O.R.S. 443.400, under O.R.S. 443.400 through 443.825, a residential facility registered under O.R.S. 443.480 through O.R.S. 443.500, or an adult foster home licensed under O.R.S. 443.705 through 443.825, which provides residential care alone or in conjunction with treatment or training, or a combination thereof, of five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any residents of the **RESIDENTIAL HOME**.

RESIDENTIAL USE. A structure or use designed or used for occupancy as a human dwelling or lodging place, such as single family dwelling, duplex, apartment, boarding, lodging or rooming house, mobile home or mobile home park, or labor camp.

SAFE AND CONVENIENT. Bicycle and pedestrian routes that are:

- (1) Reasonably free from hazards; and
- (2) Provide a reasonably direct route of travel between destinations, considering that the optimum travel distance is one-half mile for pedestrians and three miles for bicyclists.

SETBACK. An area established for the purpose of defining limits within which no building or structure or any part thereof shall be erected or permanently maintained.

SIGN. An outdoor display, message, emblem, device, figure, painting, drawing, placard, poster, billboard, or other thing that is used, designed, or intended for advertising purposes or to inform or attract the attention of the public. The term includes the **SIGN** supporting structure, display surface, and all other component parts of the **SIGN**. When dimensions of the **SIGN** are specified, the term includes the panels and frames, and the term includes both sides of the **SIGN** of specified dimension or area, but the term shall not include a **SIGN** as reasonably necessary or required by any branch or agency of the government pursuant to any public law or regulation.

START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual **START** means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation of the property or accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual **START OF CONSTRUCTION** means the first alternation of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. The City

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Council may, at its discretion, extend authorization for an additional 180 days on request.

STREET. The entire width between the right-of-way lines of every public way for vehicular and pedestrian traffic, and includes the terms road, highway, lane, place, avenue, alley, or other similar designation which is commonly open to use by the public.

STRUCTURE. A walled and roofed building including a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE.

(1) Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure either:

(a) Before the improvement or repair is started; or

(b) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition Asubstantial improvement@ is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

(2) The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

TRACT OR AREA. The area within a measurable boundary of land or contiguous parcels of land.

TRIPLEX. A building containing three dwelling units in which each dwelling unit is designed for occupancy by one family.

USE. The purpose, for which land or building is designed, arranged, or intended, or for which it is occupied or maintained.

URBAN GROWTH BOUNDARY or **UGB.** Refers to the boundary lines of descriptive areas of land outside the incorporated boundary of the city, which areas are considered to be **URBANIZABLE LAND.**

URBANIZABLE LAND.

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- (1) Land areas outside the incorporated boundary of the city but within the UGB, which land areas are identified and determined to be necessary and suitable for future urban uses; can be served by urban services and facilities and are needed for the expansion of the urban area.
- (2) The annexation of urbanizable land shall be consistent with the applicable provisions of the land use plan and state law.
- (3) The land use regulations of the city shall apply to lands annexed; provided, however, that newly annexed land shall take the zoning designation of the contiguous land use zone until changed by the City Council. A zoning change shall be consistent with the land use plan.

VARIANCE. A grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

WALKWAY. A hard-surfaced area intended and suitable for pedestrians, including sidewalks and the surfaced portions of accessways.

YARD. An open space on a lot, which is unobstructed except as otherwise provided in this chapter, and includes driveways.

YARD, FRONT. A yard between the side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of a building. Any yard meeting this definition abutting on a street other than an alley shall be considered a **FRONT YARD**.

YARD, REAR. Yard between the side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building.

YARD, SIDE. The yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building.
(Ord. 10-15, passed 6-9-2005)

BASIC PROVISIONS

' 150.015 COMPLIANCE WITH CHAPTER PROVISIONS.

The land may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied, or used only as this chapter shall permit.
(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

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‘ 150.016 ESTABLISHMENT OF LAND USE ZONE.

This chapter hereby establishes the following land use zones for the city.

<i>Zone</i>	<i>Abbreviated Designations</i>
Residential	R
Commercial-Residential	CR
Public	P

(Ord. 10-15, passed 6-9-2005)

‘ 150.017 LOCATION OF ZONES.

The boundaries of the zones listed in this chapter are indicated on the zoning map, which is attached to Ordinance 10-15.

(Ord. 10-15, passed 6-9-2005)

‘ 150.018 ZONING MAP.

The zoning map of the city is attached to Ordinance 10-15 and is hereby adopted by reference as a part of this code. Zoning map amendments shall be dated with the effective date of the ordinance that adopts the map amendment and filed in the office of the City Recorder.

(Ord. 10-15, passed 6-9-2005)

‘ 150.019 ZONING BOUNDARIES.

Unless otherwise specified, zone boundaries are centerlines of streets, lot lines, and city limits lines.

(Ord. 10-15, passed 6-9-2005)

‘ 150.020 APPLICATION.

The provisions of this chapter shall apply to all land areas inside the incorporated boundary of the city.

(Ord. 10-15, passed 6-9-2005)

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' 150.021 VIOLATIONS; PERMITS.

(A) No person shall locate, construct, maintain, repair, alter the use, or transfer land in violation of any provisions of this chapter.

(B) Where a permit or approval is required by any provision of this chapter, no person shall take any action or do any of the things mentioned in division (A) above without such permit or approval.

(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

LAND USE ZONES

' 150.035 RESIDENTIAL ZONE "R".

Buildings or structures hereafter erected, structurally altered, enlarged, or moved and land hereafter used in the AR@ Residential Zone shall comply with the following regulations:

(A) *Permitted uses.*

(1) Single-family dwellings;

(2) Duplexes, two unit dwellings;

(3) Accessory uses and buildings customarily incidental to the above uses. Detached accessory buildings shall not be located within the required setback areas. Accessory uses are those which are clearly incidental and subordinate to the primary use of the main building;

(4) Name plates and signs. One non-illuminated nameplate not to exceed one and one-half square feet in area placed flat against the building, for each dwelling containing a home occupation. One temporary non-illuminated sign not to exceed eight square feet in area appertaining to the lease, rental, or sale of a building or premises upon which it is located. One bulletin board not to exceed 12 square feet in area for each church, public library, neighborhood or community center;

(5) Residential homes; and

(6) Utilities facilities necessary for public service.

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(B) *Conditional uses.* Permitted with approval of the City Council in accordance with ' 150.080;

- (1) Churches;
- (2) Mobile home parks;
- (3) Schools and libraries;
- (4) Home occupation;
- (5) Lodge for civic or fraternal organization carrying on no commercial activity;
- (6) Triplexes, three-family dwellings; and four-plexes, four-family dwellings;
- (7) Necessary public utilities and public services, city and county service buildings;
- (8) Bed and breakfast facilities meeting the provisions of ' 150.065;
- (9) Boarding house;
- (10) Residential facilities;
- (11) Golf course or other outdoor recreation;
- (12) Wireless telecommunication facilities. See ' 150.068;
- (13) Parks, playgrounds, or community centers owned and operated by a public agency or non profit community organization; and
- (14) Recreational vehicles for residential use.

(C) *Height.* Buildings, structures, or portions thereof shall not be erected to exceed a height of two stories or 28 feet at grade of front door, or whichever is less.

(D) *Area requirements.*

- (1) *Front yard.* There shall be a front yard of not less than ten feet in depth.
- (2) *Side yard.* On interior lots, there shall be a side yard on each side of the main building and each side yard shall have a width of not less than five feet from the drip-line. On corner lots the interior side yards shall have a width of not less than five feet from the drip-line but the side yard on the street side of such corner lot shall not be less than ten feet in width.

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- (3) *Rear yard.* There shall be a rear yard of not less than five feet from the drip-line in depth.
- (4) *Lot area.* In the “R” Zone the minimum lot or parcel size shall be as follows:
 - (a) Single, two family, and mobile home dwellings: 5000 square feet;
 - (b) Multiple family dwellings: 5000 square feet for two dwellings units plus:
 - 1. 1000 square feet for each additional one-bedroom dwelling unit;
 - 2. 1350 square feet for each additional two-bedroom dwelling unit;
 - 3. 1600 square feet for each additional three-bedroom dwelling unit; and
 - 4. 1800 square feet for each additional four-bedroom dwelling unit.
 - (c) All uses shall have adequate area to meet the property line setback requirements and the off street parking space requirements of this chapter; and
 - (d) All uses shall have a frontage on the street of a minimum of 25 feet.
- (E) *Parking regulations.*
 - (1) *Dwellings.* Two parking spaces shall be provided on the lot for each dwelling unit.
 - (2) Uses other than dwellings. See ' 150.056.
- (F) *Sanitation regulations.* Before any dwelling is occupied, it must be connected to an approved subsurface disposal system and, ultimately, to the city sewer system at such time as the city sewer system becomes available to the property on which the dwelling is located.
(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

' 150.036 COMMERCIAL-RESIDENTIAL ZONE “CR”.

Buildings and structures hereafter erected, structurally altered, enlarged, or moved, or land hereafter used in the “CR” Commercial-Residential Zone shall comply with the following regulations.

- (A) *Permitted uses.*
 - (1) Residential uses listed in ' 150.035(A);

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- (2) Retail trade and service establishments in which the operation takes place solely within an enclosed building;
 - (3) Public buildings, structures, and services;
 - (4) Retail trade establishments, personal, and business services in which the operation takes place solely within an enclosed building and the owner, operator, or lessee of the business lives in an apartment on the premises;
 - (5) Existing residential uses at the time of adoption of this chapter;
 - (6) Utilities facilities necessary for public service; and
 - (7) Any commercial use according to this section shall be reasonably free of objectionable odor, noise, glare, heat, vibration, or other adverse effect on neighboring property.
- (B) *Conditional uses*. Permitted with approval of the City Council in accordance with ' 150.080 of this chapter:
- (1) Churches;
 - (2) Service commercial establishments, such as drive-in restaurant or gasoline service station;
 - (3) Retail trade and service establishments in which some activities take place in an enclosed building;
 - (4) Agricultural support services including produce storage facilities;
 - (5) Commercial amusement;
 - (6) Single-family dwellings, duplexes, and apartments on second floor of structure above existing commercial uses on ground floor;
 - (7) Recreational vehicle park;
 - (8) Light industrial uses provided that all activities and operations except off street parking and loading take place wholly within an enclosed building and that it is not deemed to be incompatible with surrounding uses because of noise, odor, sight, or other kinds of environmental pollution;
 - (9) Lodge for civic or fraternal organization;
 - (10) Mini storage units with the condition that the design and landscaping must be approved by the

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City Council prior to construction of the buildings;

(11) Wireless telecommunications facilities. See ' 150.068; and

(12) Recreational vehicles for residential use.

(C) *Height.* Buildings, structures, or portions thereto shall not be erected to exceed a height of two stories or 28 feet at grade of front door, or whichever is less.

(D) *Area requirements.* In the Commercial-Residential zone, setbacks shall be as follows.

(1) *Front yard.* There shall be a front yard of not less than ten feet in depth.

(2) *Side yard.* On interior lots, there shall be a side yard on each side of the main building and each side yard shall have a width of not less than five feet from the drip-line. On corner lots the interior side yards shall have a width of not less than five feet from the drip-line but the side yard on the street side of such corner lot shall not be less than ten feet in width.

(3) *Rear yard.* There shall be a rear yard of not less than five feet from the drip-line in depth.

(4) *Lot area.* In the "C-R" Zone the minimum lot or parcel size shall be as follows:

(a) Single, two-family and mobile home dwellings: 5000 square feet.

(b) Commercial use, single family, two-family, and mobile home dwellings: 4000 square feet.

(c) Multiple family dwellings: 4000 square feet for two dwellings units plus:

1. One thousand square feet for each additional one-bedroom dwelling unit;
2. One thousand three hundred fifty square feet for each additional two-bedroom dwelling unit;
3. One thousand six hundred square feet for each additional three-bedroom dwelling unit; and
4. One thousand eight hundred square feet for each additional four-bedroom dwelling unit.

(d) All uses shall have adequate area to meet the property line setback requirements and the off street parking space requirements of this chapter.

(e) All uses shall have a frontage on the street of a minimum of 25 feet.

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(E) *Parking regulations.*

(1) *Residential off-street parking.* For residential uses, two parking spaces for each dwelling unit.

(2) *Off-street parking.* See ' 150.056.

(3) *Parking area approval.* Land used for parking areas, other than residential, in this zone shall be developed in accordance with a plan approved in writing by the City Council. The area must be surfaced with asphalt, concrete, or other type of surfacing approved by the City Council and all parking spaces should be individually marked.

(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

' 150.037 PUBLIC ZONE "P".

(A) *Conditional uses.* The following uses and their accessory uses are permitted when authorized:

(1) Public reserve areas of natural, historical, or geological facilities;

(2) Public wildlife reserve or management area;

(3) Public and private schools;

(4) Public buildings and uses including community centers;

(5) Commercial, private, or public picnic or campground;

(6) Utility facility. Facilities necessary for the health, safety, and welfare of residents;

(7) Public or private golf courses.

(8) Commercial recreation use, including marina, riding stable, resort type establishment, gun club, recreation camp, and dude ranch;

(9) Public marina, recreation camp, or resort;

(10) Public picnic grounds, parks, playgrounds, campgrounds, fairgrounds, or nature trails; and

(11) Single family dwelling, including a mobile home for administrative or maintenance personnel of approved uses.

(B) *Standards.* In the "P" Zone, the following standards shall apply if determined to be the best interest

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and welfare of residents.

(1) The minimum lot size shall be the minimum necessary to accommodate the use determined by the City Council to be necessary for the protection of public health and safety and natural resources.

(2) Setback dimensions shall be the minimum necessary to accommodate the use determined by the City Council.

(C) *Limitations on conditional use.* In addition to the approval standards that may be attached to the approval of a conditional use as provided by the zoning ordinance, the following limitations shall apply to a conditional use in a “P” Zone.

(1) The city may require establishment and maintenance of fire breaks, the use of fire resistant material in construction and landscaping, or may attach other similar conditions or limitations that will serve to reduce fire hazards or prevent the spread of fire to surrounding areas.

(2) The city may limit changes in the natural grade level, or the alteration, removal, or destruction of natural vegetation in order to prevent or minimize erosion, pollution, or degradation of the natural resources or features of the area.

(3) An application for a conditional use in a “P” Zone shall be denied if, in the opinion of the city, the proposed use would exceed the carrying capacity of the area or would be detrimental to the natural resources or features of the area.

(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

SUPPLEMENTARY PROVISIONS

' 150.050 MAINTENANCE OF MINIMUM ORDINANCE REQUIREMENTS.

No lot area, yard, or other open space existing on or after the effective date of this chapter shall be reduced below the minimum required for it by this chapter, and no lot area, yard, or other open space which is required by this chapter for one use shall be used as the required lot area, yard, or other open space for another use.

(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

' 150.051 ACCESS.

Every lot shall abut a street, other than an alley, for at least 25 feet.

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(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

' 150.052 ESTABLISHMENT OF CLEAR-VISION AREAS.

(A) In all zones, a clear-vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear-vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding two and one-half feet in height, measured from the top of the curb or where no curb exists, from the established street center line grade; except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight feet above the grade.

(B) A clear-vision area shall consist of a triangular area two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in this regulation, or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the nonintersecting ends of the other two sides. The clear vision area shall be 20 feet within the city.

(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

' 150.053 PROJECTIONS FROM BUILDINGS.

Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, and flues shall not project more than three feet into a required yard from the drip line, provided that the projection is not closer than three feet to a property line.

(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

' 150.054 AUTHORIZATION OF SIMILAR USES.

The City Council may permit, by following the procedures outlined in ' 150.080, in a particular zone, a use not listed in this chapter, provided the use is of the same general type as the uses permitted there by this chapter. However, this section does not authorize the inclusion in a zone where it is not listed of a use specifically listed in another zone or which is of the same general type and is similar to a use specifically listed in another zone.

(Ord. 10-15, passed 6-9-2005)

' 150.055 OFF-STREET PARKING REQUIREMENTS.

At the time of construction, reconstruction, or enlargement of a structure, or at the time a use is changed

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in any zone, off-street parking spaces shall be provided as follows unless other requirements are established. Where square feet of the structure or use are specified as the basis for the requirements, the area measured shall be the gross floor area primary to the functioning of the particular use of the property. When the requirements are based on the number of employees, the number counted shall be those working on the premises during the largest shift at peak season. Fractional space requirements shall be counted as a whole space.

Use	Minimum Requirements
(A) Residential	
(1) One, two, and three family dwelling	Two spaces per dwelling unit
(2) Residential use containing four or more dwelling units	1 2 spaces per dwelling unit
(3) Rooming or boarding house	Spaces equal to 80% of the number of guests accommodations plus one additional space for the owner or manager
(B) Commercial Residential	
Hotel, motel, bed & breakfast	One space per guest room or suite plus one additional space for the owner or manager
(C) Institutional	
(1) Welfare or correctional institution	One space per six beds for patients or inmates
(2) Convalescent hospital, nursing home, sanitarium, rest home, home for the aged	One space per four beds for patients or residents
(3) Hospital	1 2 spaces per bed
(D) Place of Public Assembly	
(1) Church	One space per six seats or eight feet of bench length in the main auditorium or one space for each 75 feet of floor area of main auditorium not containing fixed seats
(2) Library, reading room	One space per 400 sq. ft. of floor area plus one space per two employees
(3) Pre-school nursery, kindergarten	Two spaces per teacher
(4) Elementary or junior high school	One space per classroom plus one space per administrative employee or one space per four seats or

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Use	Minimum Requirements
	eight feet of bench length in the auditorium or assembly room whichever is greater
(5) High school, college, commercial school for adults	One space per classroom plus one space per administrative employee plus one space for each six students or one space for four seats or eight feet of bench length in the main auditorium or assembly room, whichever is greater
(6) Other auditorium or meeting room	One space per six seats or eight ft. of bench length, or one space for each 75 sq. ft. of floor area for assembly room not containing fixed seats
(E) Commercial Amusement	
(1) Stadium, arena, theater	One space per four seats or eight feet of bench length
(2) Bowling alley	Five spaces per alley plus one space for two employees
(3) Dance hall, skating rink	One space per 100 sq. ft. of floor area plus one space per two employees
(F)	
(1) Retail store except as provided in division (F)(2) below of this section	One space per 300 sq. ft. of floor area designated for retail sales
(2) Service or repair shop, retail store handling, exclusively bulky merchandise such as automobiles and furniture	One space per 600 sq. ft. of floor area
(3) Bank, office (except medical and dental)	One space per 600 sq. ft. of floor area plus one space per two employees
(4) Medical and dental clinic	One space per 300 sq. ft. of floor area plus one space per two employees
(5) Eating or drinking establishment	One space per 250 sq. ft. of floor area
(6) Mortuaries	One space per six seats or eight ft. of bench length in chapels
(G) Industrial	
(1) Storage warehouse, manufacturing establishment, rail or trucking freight terminal	One space per employee

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Use	Minimum Requirements
(2) Wholesale establishment	One space per employee plus one space per 700 sq. ft. of patron-serving area

(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

' 150.056 OFF-STREET PARKING AND LOADING.

Buildings or structures to be built or substantially altered which receive and distribute materials and merchandise by trucks shall provide and maintain off-street loading areas in sufficient number and size to handle adequately the needs of the particular use. Off-street parking areas used to fulfill the requirements of these requirements shall not be used for loading and unloading operations except during periods of the day when not required to care for parking needs. General provisions are as follows:

(A) In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

(B) Owners of two or more uses, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the city in the form of deeds, leases, or contracts to establish the joint use.

(C) Off-street parking spaces for dwellings shall be located on the same parcel with the dwelling. Other required parking spaces for residential uses shall be located not farther than 500 feet from the building or use they are required to serve, measured in a straight line from the building.

(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

' 150.057 DESIGN AND IMPROVEMENT STANDARDS FOR PARKING LOTS.

(A) Areas used for parking for more than two vehicles may be required to have durable and dust-less surfaces.

(B) Except for parking in connection with a single-family residential dwelling, parking and loading areas adjacent to or within a residential zone or adjacent to a dwelling shall be designed to minimize disturbances to residents.

(C) Parking spaces along the outer boundaries of a parking lot may be required to be contained by a bumper rail or by a curb which is at least four inches high and which is setback a minimum of one and one-half feet from the property line.

(D) The standards set forth in the table below shall be the minimum for parking lots approved under this

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chapter (all figures are in feet except as noted):

A	B	C	D	E	F1	F2
Parking width Angle	Stall two-row bin	Stall to Width	Aisle Curb (19' long stall)	Curb Width per car	Center-to-center Length of access road curb-to-curb overlap	
01	8'6"	8.5	12.0	23.0	29.0	--
201	8'6"	14.5	11.0	24.9	40.0	32.0
301	8'6"	16.9	11.0	17.0	44.8	37.4
401	8'6"	18.7	12.0	13.2	49.4	42.9
451	8'6"	19.4	13.5	12.0	52.3	46.3
501	8'6"	20.0	12.5	11.1	52.5	47.0
601	8'6"	20.7	18.5	9.8	59.9	55.6
701	8'6"	20.8	19.5	9.0	61.1	58.2
801	8'6"	20.2	24.0*	8.6	64.4	62.9
A	B	C	D	E	F1	F2
Parking width Angle	Stall two-row bin	Stall to Width	Aisle Curb (19' long stall)	Curb Width per car	Center-to-center Length of access road curb-to-curb overlap	
901	8'6"	19.0	25.0*	8.5	63.0	--
* Two-way circulation						

(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

' 150.058 STANDARDS FOR TRANSPORTATION IMPROVEMENTS.

The standards in the City of Halfway Transportation Plan adopted October 16, 2001 shall apply.
(Ord. 10-15, passed 6-9-2005)

' 150.059 TRANSPORTATION SYSTEM PROVISIONS.

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The standards in the City of Halfway Transportation Plan adopted October 16, 2001 shall apply.
(Ord. 10-15, passed 6-9-2005)

‘ 150.060 GENERAL PROVISIONS REGARDING ACCESSORY USES.

An accessory use shall comply with the requirements for a principal use, except as this chapter specifically allows to the contrary.

(Ord. 10-15, passed 6-9-2005) Penalty, see ‘ 150.999

‘ 150.061 FENCES.

Fences are permitted in any zone and do not require a zoning permit for construction. Such fencing shall, however, be in compliance with the following provisions:

(A) Fences within the setback areas of yards shall not exceed six feet in height;

(B) Vision clearance areas on corner lots shall meet standards in ‘ 150.052;

(C) Fences shall be maintained in good condition at all times and shall not create an unsightly or hazardous condition;

(D) All fences, or portions thereof, shall be located or constructed in such a way as to not prevent reasonable access to abutting properties for building maintenance or fire protection purposes; and

(E) The height of a fence shall be measured from the ground level where located.

(Ord. 10-15, passed 6-9-2005) Penalty, see ‘ 150.999

‘ 150.062 HISTORIC STRUCTURE PRESERVATION.

Upon receiving an application for demolition or major exterior alteration involving an historic area, site, structure, or object, as designated by the comprehensive plan, the City Council in a public meeting shall review the application to determine its conformance with the historic preservation factors of this chapter.

(A) *Demolition procedure.*

(1) If it is determined the land use action will result in the demolition or extensive exterior modification of any historical building, the City Council shall review the application taking into account the following:

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- (a) State of repair of the building;
 - (b) The reasonableness of the cost of restoration or repair;
 - (c) The purpose of preserving such designated historical building and sites;
 - (d) The character of the neighborhood; and
 - (e) All other factors the City Council feels are appropriate.
- (2) Following City Council review, the City Council may approve or deny the permit for land use action or delay action for 60 days to allow cognizant agencies to explore alternatives. If no suitable alternatives are available, the permit may be issued. The City Council, upon finding significant progress is being made toward preserving the structure, may extend the delay for an additional 30 days.
- (B) *Major exterior alteration procedure.* Exterior alterations shall be in accordance with the following.
- (1) Upon receipt of an application for a major exterior alteration of an historic structure listed in the comprehensive plan, the City Council, in a public meeting, shall review the proposed alteration to determine if the resource's historical significance will be altered. This review shall be based on the criteria for determining historic significance contained in the comprehensive plan.
 - (2) Major exterior alterations as defined by this section include any change or alteration of facade, texture, design, materials, fixtures, or other treatment.
 - (3) All applications for major exterior alteration shall be accomplished by plans and specifications of the proposed alteration. The City Council may request additional sketches and other information deemed necessary to make an informed decision.
 - (4) (a) In order to approve the application, the City Council shall find the alteration harmonious and compatible with the resource with respect to style, scale, texture, and construction materials and/or find the alteration will enhance the historical value of the resource. Conditions may be attached to the approval if the City Council deems it necessary to achieve the above objectives. The City Council shall disapprove the request if the proposal would reduce the resource's value or historic significance.
 - (b) Conditions attached to a permit for major exterior alteration of a historic structure shall be limited to permit requirements addressing architectural design, surface texture, materials, fixtures, or other facade or surface treatments which are deemed inconsistent with the integrity of the historic values being preserved.
 - (c) The City Council shall not make any recommendation or requirement except for the purpose of

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preventing developments out of character with the historic aspects of the resource.

(5) Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in design, or the construction, reconstruction, or alteration of such feature which the building inspectors certify is required by the public safety because of unsafe conditions.

(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

' 150.063 MOBILE HOMES AND RESIDENTIAL TRAILERS PLACED IN MOBILE HOME PARKS.

(A) When a mobile home or residential trailer is installed in a mobile home park, it shall comply with the state installation standards. The mobile home or residential trailer shall comply with the following additional provisions.

(1) The mobile home or residential trailer shall have an Oregon insignia. No reconstruction or equipment installation shall have been made to the mobile home unless it has been state approved as evidenced by an appropriate insignia. Before installation, the mobile home or residential trailer shall be inspected by the Building Official and installation shall be approved only if the Building Official determines the mobile home or residential trailer substantially meets the state standards for mobile home construction, and notwithstanding any deterioration which may have occurred.

(2) The mobile home or residential trailer shall be tied down with devices to meet state standards.

(3) The mobile home or residential trailer shall have a water closet, lavatory, and bathtub or shower.

(4) The mobile home or residential trailer shall have a kitchen area or room containing a sink.

(5) The mobile home or residential trailer plumbing shall be connected to a potable water supply and approved sewage disposal system.

(6) The mobile home or residential trailer shall have continuous fireproof skirting.

(7) Wheels of the mobile home or residential trailer shall be removed when the unit is installed.

(8) Except for a structure, which conforms to the state definition of a mobile home accessory structure, no extension shall be attached to the mobile home or residential trailer. Accessory buildings shall be separated from the mobile home by not less than five feet.

(9) The mobile home or residential trailer shall contain at least 500 square feet of space as determined by measurement of the exterior dimensions of the unit, exclusive of any trailer hitch device.

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(B) The area of a mobile home accessory structure shall not be included.
(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

' 150.064 MANUFACTURED HOME SITING STANDARDS.

Manufactured homes meeting the following criteria are allowed on individual lots in specified residential zones. Only those manufactured homes used as permanent residences, and:

(A) The manufactured home shall have a foundation of sufficient strength to support the loads imposed by the manufactured home as specified by the manufacturer's installation instructions. Manufactured home placements shall be reviewed and approved by the city's designated building official. In the absence of the specific manufactured home installation instructions, installation of the manufactured home shall follow the installation requirements outlined in Oregon Administrative Rules, Chapter 918. Skirting of a non-corrosive, noncombustible material which matches the exterior color of the unit shall be provided; and

(B) The manufactured home shall have a pitched roof, except that no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.
(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

' 150.065 BED AND BREAKFAST FACILITIES DEVELOPMENT STANDARDS.

A bed and breakfast facility approved as a conditional use in the residential zones of the city shall have the following approval standards.

(A) The structure shall retain the characteristics of a single-family dwelling.

(B) The number of guest rooms shall be limited to five.

(C) In addition to the required off-street parking for each residential use, one off-street parking space for each bed and breakfast guest room shall be provided.

(D) Signs shall be limited to one non-illuminated sign, not exceeding one and one-half square feet. No off-premises signs are permitted.

(E) Submission of an acceptable site plan that meets off-street parking requirements and provides landscaping appropriate to a residential neighborhood.

(F) City Council has the authority to modify the above requirements.

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(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

' 150.066 EARTH MOVEMENT AND REMOVAL.

A written permit approved by the City Council shall be required to remove 50 cubic yards or more of earth material from any individual property within a calendar year.

(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

' 150.067 SIGNS IN COMMERCIAL ZONE.

Any signs erected or to be erected in Commercial or Industrial zones shall be reviewed and approved by the City Council and shall meet the standards outlined below. A sign application may be picked up at city hall.

(A) *Principal signs.* A principal sign advertising the business may be a combination of freestanding, flush-mounted or projecting signs. Freestanding and projecting sign areas are computed by totaling both sides of the signs.

(B) *Sign area.* The amount of area of the sign is computed on a basis of one square foot of sign for each lineal foot of frontage the property or business has on the public right-of-way in the city. In the case of multiple businesses within the same building, the amount of frontage of the business within the building will be the determining factor. In the case of a corner lot, the sign size facing each street shall be limited to the amount of lineal frontage on each street. In no case shall the total signage area exceed 200 square feet for each business.

(C) *Prohibited signs.* The following signs are prohibited in the city.

(1) Any flashing, moving, animated, blinking, or rotating signs whose illumination changes with time or which is designed in a manner to simulate motion. Time and temperature reader boards are excluded.

(2) The sign would extend, such as a roof sign, above the roof line of the building to which it is to be attached.

(3) The Building or Zoning Official determines a sign to be in violation of O.R.S. 810.230, which applies to signs creating confusion with or interfering with the effectiveness of traffic or signals.

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- (4) The sign is placed on, affixed to or painted on a motor vehicle, vehicle, or trailer and placed on public or private property for the primary purpose of providing a sign not otherwise permitted by this chapter.
- (5) The sign is a private sign placed on, painted on, or affixed to a utility pole, tree, or rock.
- (6) The sign would bear or contain statements, words, or pictures of an obscene, indecent, or immoral character such as will offend the public morals or decency.
- (7) Projecting or freestanding signs which would project into the public right-of-way.
- (8) The sign advertises goods or services not available on the premises.
(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

' 150.068 WIRELESS TELECOMMUNICATIONS FACILITIES.

(A) *Application requirements.* An application for a wireless telecommunications facility shall comply with the following meeting, notice, and submittal requirements.

- (1) *Neighborhood meeting.* Prior to scheduling a pre-application conference with the Planning Department staff, the applicant shall provide notice of and hold a meeting with interested owners of property nearby to a potential facility location. Notice shall be in writing and shall be mailed no less than ten days prior to the date set for the meeting to owners of record of property within: 1,320 feet for a tower or monopole no greater than 100 feet in height; and 2,000 feet for a tower or monopole at least 100 feet and no higher than 150 feet in height. Such notice shall not take the place of notice required by ' ' 150.150 through 150.153 of this chapter. A tower or monopole more than 150 feet shall require a variance as required in ' ' 150.110 through 150.113 of this chapter, but does not require additional notice requirements as set forth in Subsection (B) below of this section.
- (2) *Pre-application conference.* The applicant shall attend a scheduled pre-application conference prior to submission of a land use application. An application for a wireless telecommunications facility permit will not be deemed complete until the applicant has had a pre-application conference with the Planning Department staff.
- (3) *Submittal requirements.* An application for a conditional use permit for a wireless telecommunications facility shall include:
 - (a) A copy of the blank lease form;
 - (b) A copy of the applicant=s Federal Communications Commission license;

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- (c) A map that shows the applicant's search ring for the proposed site and the properties within the search ring, including locations of existing telecommunications towers or monopoles;
 - (d) A copy of the written notice of the required neighborhood meeting and a certificate of mailing showing that the notice was mailed to the list of property owners falling within the notice area designated under division(A) of this section;
 - (e) A written summary of the neighborhood meeting detailing the substance of the meeting, the time, date, and location of the meeting and a list of the meeting attendees;
 - (f) A site plan showing the location of the proposed facility and its components. The site plan shall also identify the location of existing and proposed landscaping, and any equipment shelter, utility connections, and any fencing proposed to enclose the facility;
 - (g) A copy of the design specifications including proposed colors and elevation of an antenna array proposed with the facility;
 - (h) An elevation drawing of the facility and a photographic simulation of the facility showing how it would fit into the landscape; and
 - (i) A copy of a letter of determination from the Federal Aviation Administration (FAA) or the Oregon Department of Aviation (ODA) whether or not aviation lighting would be required for the proposed facility.
- (B) *Approval criteria.* An application for a wireless telecommunication facility will be approved upon findings that:
- (1) The facility will not be located on irrigated land;
 - (2) The applicant has considered other sites in its search area that would have less visual impact as viewed from nearby residences than the site proposed and has determined that any less intrusive sites are either unavailable or do not provide the communications coverage necessary. To meet this criterion, the applicant must demonstrate that it has made a good faith effort to co-locate its antenna on existing monopoles in the area to be served. The applicant can demonstrate this by submitting a statement from a qualified engineer that indicates whether the necessary service can or cannot be provided by co-location within the area to be served;
 - (3) The facility is sited using trees, vegetation, and topography to the maximum extent practicable to screen the facility from view of nearby residents;

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- (4) The applicant shall site the facility in a manner to minimize its impact on scenic views and shall site the facility using trees, vegetation, and topography in order to screen it to the maximum extent practicable from view from protected roadways. Towers or monopoles shall not be sited in locations where there is no vegetative, structural, or topographic screening available;
- (5) A tower or monopole is finished with natural wood colors or other colors approved by the City Council;
- (6) A required aviation lighting is shielded to the maximum extent allowed by FAA and/or ODA;
- (7) The form of lease for the site does not prevent the possibility of co-location of additional wireless telecommunication facilities at the site;
- (8) Any tower or monopole shall be designed in a manner that it can carry the antennas of at least two additional wireless carrier. This criterion may be satisfied by submitting that statement of a licensed structural engineer licensed in Oregon that the monopole or tower has been designed with sufficient strength to carry such an additional antenna array and by elevation drawings of the proposed tower or monopole that identifies an area designed to provide the required spacing between antenna arrays of different carriers; and
- (9) An approval of a wireless telecommunication facility shall include a condition that if the facility is left unused or is abandoned by all wireless providers located on the facility for more than one year the facility shall be removed by the landowner, or as set forth in the lease between the landowner and the applicant.
(Ord. 10-15, passed 6-9-2005)

CONDITIONAL USES

' 150.080 AUTHORIZATION TO GRANT OR DENY CONDITIONAL USES.

(A) *Authority of City Council.* Conditional uses listed in this chapter may be permitted, enlarged, or otherwise altered upon authorization by the City Council in accordance with the standards and conditions in this section. In permitting a conditional use or the modification of a conditional use, the City Council may impose, in addition to those standards and requirements expressly specified by this chapter, any additional conditions which the City Council considers necessary to protect the best interest of the surrounding property or the city as a whole.

(B) *Standards for conditional uses.*

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- (1) The proposal will be consistent with the comprehensive plan and the objectives of the zoning ordinance and other applicable policies of the city.
 - (2) Taking into account location, size, design, and operation characteristics, the proposal will have minimal adverse impact on the:
 - (a) Livability;
 - (b) Value; and
 - (c) Appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.
 - (3) The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants.
 - (4) The proposal will preserve assets of particular interest to the community.
 - (5) The applicant has a bona fide intent and capability to develop and use the land as proposed and has some appropriate purpose for submitting the proposal, and is not motivated solely by such purposes as the alteration of property values for speculative purposes.
- (C) *Placing conditions on a permit.* In permitting a new conditional use or the alteration of an existing conditional use, the City Council may impose conditions, which it finds necessary to avoid a detrimental impact and to otherwise protect the best interests of the surrounding area or the community as a whole. These conditions may include the following:
- (1) Increasing the required lot size or yard dimension;
 - (2) Limiting the height, size, or location of buildings;
 - (3) Controlling the location and number of vehicle access points;
 - (4) Increasing the street width;
 - (5) Increasing the number of required off-street parking spaces;
 - (6) Limiting the number, size, location and lighting of signs;
 - (7) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;

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- (8) Designating sites for open space;
- (9) Requiring proper drainage and pest control; and/or
- (10) Placing time limits on the use and requiring periodic reviews.

(D) *Procedure for taking action on a conditional use application.*

(1) *Application for a conditional use.* A property owner may initiate a request for a conditional use or the modification of a conditional use by filing an application with the City Recorder. The City Council may require other drawings or information necessary to an understanding of the proposed uses and its relationship to surrounding properties.

(2) *Public hearings on conditional use.* Before the City Council may act on a request for a conditional use, it shall hold a public hearing following the notice procedures of ' ' 150.150 through 150.153.

(3) *Notification action.* Within ten days after a decision has been rendered by the City Council with reference to a request for conditional use, the city shall provide the applicant with written notice of the decision of the Council.

(4) *Time limit on a permit for conditional use.* Authorization of a conditional use shall be void after six months, unless substantial construction pursuant thereto has taken place. However, the City Council may, at its discretion, extend authorization for an additional six months on request.

(E) *Resubmittal.* If a request is denied by the City Council, no new request for the same or substantially similar proposal shall be filed within six months after the date of final denial. An application may be denied without prejudice and a waiver of the six-month restriction granted. If conditions have changed to an extent that further consideration of an application is warranted, the City Council, on its own motion, may consider new evidence and waive the six-month restriction.

(F) *Final action.* Except as provided for under O.R.S. 227.178, the city shall take final action on conditional use permits and variances, including the resolution of all appeals to the City Council under O.R.S. 227.180, within 120 days from the date a complete application is submitted to the city. Within 30 days of receipt of an application, the city will review the application to determine whether it is complete. The applicant will be notified of any missing materials within the 30-day period. The 120-day time period will commence on the date the application is deemed complete.

(G) *Existing land uses.*

(1) Land uses which lawfully existed at the time of the adoption of the minimum necessary to accommodate the use of this chapter and which would be considered as conditional uses in this chapter shall be considered as existing conditional uses.

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(2) An expansion, enlargement, or change of use to another listed conditional use shall be required to be approved by the City Council in accordance with this section.

(H) *Revocation of conditional use permit.*

(1) Any conditional use permit shall be subject to denial or revocation by the City Council if the application includes or included any false information, or if the conditions of approval have not been complied with or are not being maintained.

(2) In order to consider revocation of a conditional use permit, the City Council shall hold a public hearing as prescribed under this section in order for the holder of a conditional use permit to show cause why the permit should not be revoked.

(3) If the City Council finds that the conditions of approval have not been complied with or are not being maintained, a reasonable time shall be given for making corrections. If corrections are not made, revocation of the conditional use permit shall become effective ten days after the time specified.

(4) Reapplication for a conditional use which has been revoked cannot be made within one year after the date of the City Council's action, except that the City Council may allow a new application to be considered if new evidence or a change in circumstances warrant it.

(Ord. 10-15, passed 6-9-2005)

SUBDIVISIONS AND PARTITIONING

150.095 PURPOSE.

It is the purpose of this subchapter, in accordance with the provisions of O.R.S. Chapters 92 and 227, to provide for minimum standards governing the approval of land divisions within the city, including subdivision and land partitionings, as necessary to carry out the city's needs and policies for traffic movement, water supply, sewage disposal, drainage, and other community facilities, to improve land records and boundary monuments, and to ensure equitable processing of subdivision, partitioning, and other land division activities.

(Ord. 10-15, passed 6-9-2005)

150.096 APPLICABILITY.

No person may subdivide, partition, or otherwise divide land, or create a planned unit or cluster

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development, or create a street for the purpose of developing land, except in accordance with the provisions of this subchapter, this chapter, and O.R.S. Chapter 92.

(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

' 150.097 LAND PARTITIONING.

(A) *Applicability of regulations.* As defined in this section and this chapter, all land partitioning within the city, except as set forth in division (B) below, must be approved by the city as provided for in this section.

(B) *Exemptions.* The following land divisions shall be exempt from the land partitioning requirements set forth by this section and this chapter:

(1) The partitioning of a tract of land in which not more than one parcel is created and said parcel is being transferred to a public or semi-public agency for the purpose of a public road, street, canal, or utility right-of-way, or for public park, school, recreation facility, trail, bikeway, or other similar public purpose; and

(2) The transfer of one parcel between two adjoining ownerships where an additional parcel is not created and where no new or additional dwellings or other structures are involved, and where the existing ownership reduced in size by the transfer is not reduced below the applicable minimum lot size.

(C) *Filing procedures and requirements.* Any person proposing a land partitioning, or the authorized agent or their representative, shall prepare and submit ten copies of the tentative plan for the proposed partitioning, together with the prescribed application form and required filing fee, to the City Recorder.

(1) The tentative plan of a proposed partitioning shall be drawn on a sheet 18 x 24 inches in size at a scale of one inch equals 50 feet.

(2) The plan shall include the following:

(a) A vicinity map locating the proposed partitioning in relation to adjacent subdivisions, roadways, properties, and land use patterns;

(b) A plan of the proposed partitioning showing tract boundaries and dimensions, the area of each tract or parcel, and the names, right-of-way widths, and improvement standards of existing roads;

(c) Names and addresses of the landowner, the partitioner, the mortgagee if applicable, and the land surveyor employed (or to be employed) to make necessary surveys and prepare the final partitioning map;

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(d) A statement regarding provisions for water supply, sewage disposal, solid waste disposal, fire protection, access, utilities, and the like;

(e) North point, scale, and date of map, and the property identification by tax lot, map number, section, township and range, subdivision lot and block, or other legal description; and

(f) Statement regarding past, present, and proposed use of the parcel(s) to be created, or the use for which the parcel(s) is to be created.

(D) *Partitioning*. An application and tentative plan for a partitioning shall be referred to the City Council for review and action within 30 days of its receipt by the City Council. The City Council may approve the application as submitted, approve with modifications or conditions, or deny the application.

(E) *Requirements for approval-partitioning*. No partitioning shall be approved unless the following requirements are met:

(1) Proposal is in compliance with the city's comprehensive plan and the applicable zoning regulations;

(2) Each parcel is suited for the use intended or to be offered, including but not limited to sewage disposal, water supply, guaranteed access, and utilities;

(3) All public services deemed necessary are reasonably available or are proposed to be provided by the partitioner;

(4) Proposal will not have any identifiable adverse impacts on adjoining or area land uses, public services and facilities, resource carrying capacities, or on any significant resources; and

(5) An approved water rights plan as applicable.

(F) *Survey and improvement requirements*. In the approval of any land partitioning, the need for a survey, and the need for street and other public facility improvements shall be considered and such may be required as a condition of approval. Any survey and/or improvement requirements that may be required for a subdivision or other land development may be required for a partitioning, including bonding or other assurance of compliance.

(G) *Final map requirements*. Within 45 days of the approval of a partitioning, the partitioner shall have prepared and submitted to the City Council a final partitioning map prepared by a licensed surveyor and any other materials or documents required by the approval. The final map shall provide a certificate for approval of the subject partitioning by the City Council. Upon such approval, the petitioner shall file a copy of the final map with the City Recorder, the County Clerk, the County Surveyor, and the County Assessor. A final partitioning map prepared for this purpose shall comply with the recording

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requirements applicable to a final plat for a subdivision.
(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

Statutory reference:

For state law provisions, see O.R.S. 92.090

' 150.098 SUBDIVISIONS.

(A) *Application.* Any person proposing a subdivision, or their authorized agent or representative, shall submit an application for a subdivision to the City Recorder. Said application shall be accompanied with ten copies of either an outline development plan as provided for in division (B) below, or a tentative plan as set forth in division (C) below, together with improvement plans and other supplementary material as may be required, and the appropriate filing fee as established by the City Council. The time of filing shall be construed to be the time when all of the foregoing materials are received by the appropriate city official and are certified as being complete.

(B) *Outline development plan (optional).* The submittal of an outline development plan in the subdivision application process is at the option of the applicant and/or developer. If an outline development plan is prepared and submitted with the application for a subdivision, it shall include both maps and written statements as set forth in this division.

(1) The map(s) which are part of an outline development plan may be in schematic form, but shall be to scale and shall contain the following information:

- (a) The existing topographic character of the land;
- (b) Existing and proposed land uses and the approximate location of buildings and other structures on the project site and adjoining lands;
- (c) The character and approximate density of the proposed development;
- (d) Public uses including schools, parks, playgrounds, and other public spaces or facilities proposed;
- (e) Common open spaces and recreation facilities and a description of their use;
- (f) Landscaping, irrigation, and drainage plans; and
- (g) Road, street, and other transportation facility schematic plans and proposals.

(2) Written statements which shall be part of the outline development plan submittal shall contain the following information:

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- (a) A statement and description of all proposed onsite and offsite improvements;
 - (b) A general schedule of development and improvements;
 - (c) A statement setting forth proposed types of housing and other uses to be accommodated, and a projection of traffic generation and population;
 - (d) A statement relative to the impact on the carrying capacities of public facilities and services including water and sewer systems, schools, serving utilities, and streets, and the like; and
 - (e) A statement relative to compatibility with adjoining land uses, present and future, environmental protection and/or preservation measures, and impacts on natural resource carrying capacities of the site and surrounding/adjacent areas.
- (3) City Council approval of an outline development plan for a subdivision shall constitute only a conceptual approval of the proposed development for “general” compliance with the city comprehensive plan, applicable zoning and development standards.
- (4) Council review and action on an outline development plan shall be completed within 45 days from the date of submittal and certification of a complete application.
- (C) *Tentative plan required.* Following submittal and approval of an outline development plan and subdivision application, or of an initial subdivision application, any person proposing a subdivision shall submit a tentative plan, together with the required application, accompanying information and supplemental data, and required filing fee, prepared and submitted in accordance with the provisions of this division.
- (1) *Scale of tentative plan.* The tentative plan of a proposed subdivision shall be drawn on a sheet 18 x 24 inches in size or multiples thereof at a scale of one inch equals 100 feet or multiples thereof as approved by the City Council.
- (2) *Information requirements.* The following information shall be shown on the tentative plan or provided in accompanying materials. No tentative plan submittal shall be considered complete unless all such information is provided unless approved otherwise by the City Council.
- (a) *General information required.*
1. Proposed name of the subdivision;
 2. Names, addresses, and phone numbers of owner of record and subdivider, authorized agents or representatives, surveyor, and any assumed business names filed or to be filed by the owner or subdivider in connection with the development;

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3. Date of preparation, north point, scale, and gross area of the development;
4. Identification of the drawing as a tentative plan for a subdivision; and
5. Location and tract designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relation to existing plats and streets.

(b) *Information concerning existing conditions.*

1. Location, names, and widths of existing improved and unimproved streets and roads within and adjacent to the proposed development;
2. Location of any existing features such as section lines, section corners, city and special district boundaries, and survey monuments;
3. Location of existing structures, fences, irrigation canals and ditches, pipe-lines, water-ways, railroads, and natural features such as rock outcroppings, marshes, geological features, and natural hazards;
4. Location and direction of water courses, and the location of areas subject to erosion, high water tables, storm water runoff, and flooding;
5. Location, width, and use or purpose of any existing easements or right-of-ways within and adjacent to the proposed development;
6. Existing and proposed sewer lines, water mains, culverts, and underground or overhead utilities within and adjacent to the proposed development, together with pipe sizes, grades, and locations; and
7. Contour lines related to some established bench mark or other acceptable datum and having minimum intervals of not more than 20 feet.

(c) *Information concerning proposed subdivision.*

1. Location, names, width, typical improvements, cross-sections, approximate grades, curve radii, and length of all proposed streets, and the relationship to all existing and projected streets;
2. Location, width, and purpose of all proposed easements or right-of-ways, and the relationship to all existing easements or right-of-ways;
3. Location of at least one temporary bench mark within the proposed subdivision boundary;
4. Location, approximate area, and dimensions of each lot, and proposed lot and block numbers;

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5. Location, approximate area and dimensions of any lot or area proposed for public, community, or common use, the use proposed and plans for improvements and/or development;
6. Proposed use, location, area, and dimensions of any lot which is intended for nonresidential use and the intended use;
7. An outline of the area proposed for partial recording on a final plat if phased development and recording is contemplated or proposed;
8. Source, method, and preliminary plans for domestic water supply, sewage disposal, solid waste collection and disposal, and all utilities; and
9. Storm water and other drainage plans.

(D) *Master development plan.* An overall master development plan shall be submitted for all developments planning to utilize phase or unit development. Said plan shall include, but not be limited to, the following elements:

- (1) Overall development plan, including phase or unit sequences;
- (2) Schedule of improvements initiation and completion;
- (3) Sales program timetable projection;
- (4) Development plans of any common elements or facilities; and
- (5) Financing plan for all improvements.

(E) *Supplemental information required.* The following supplemental information shall be submitted with the tentative plan for a subdivision.

- (1) Proposed deed restrictions or protective covenants, if such is proposed to be utilized for the proposed development.
- (2) Reasons and justifications for any variances or exceptions proposed or requested to the provisions of this subchapter, the applicable zoning regulations, or any other document, ordinance, or regulation.

(F) *Tentative plan review procedures.*

- (1) Within ten days of the receipt of a completed tentative plan filing, the City Recorder shall provide each City Council member with a copy of the subject plan for review.

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(2) Within five working days of the receipt of a completed tentative plan filing, the City Recorder shall notify the Superintendent of Public Works, the Fire Chief, the City Engineer, representatives of any affected special district, utilities, school district, and any other identifiable public or private agency persons that the plan has been filed and provide an opportunity for each such person or party to review the plan.

(3) Such persons or parties shall be provided not less than ten days nor more than 20 days to prepare and submit written reviews and recommendations regarding the subject proposed plan.

(4) Within 45 days of receipt of notification of such filing by the City Recorder, the City Council shall conduct a public hearing on the proposed development plan in accordance with the notification and public hearing procedure requirements of ' ' 150.150 through 150.153. Within 15 days of such hearing the Council shall either approve, approve with modifications, conditionally approve, or disapprove the subject development plan, and set forth the findings, conclusions, and reasoning for the decision. The City Council may recess or continue the hearing for good cause for a period not to exceed 35 days. If no action is taken by the City Council within 120 days from the date of the notification of the City Council of the receipt of a completed application, the tentative plan as filed shall be deemed to be approved, and it shall be the duty of the City Recorder to certify such approval, on agreement of the applicant and/or developer, however, the 120-day limitation may be extended.

(5) Following City Council approval of a tentative plan, said plan, together with the City Council=s written decision and all accompanying information shall be forwarded to the City Council for informational review.

(G) *Tentative plan approval relative to final plat.* Approval of the tentative plan shall not constitute final acceptance of the final plat of the proposed subdivision for recording. However, approval of the tentative plan shall be binding upon the city for preparation of the final plat, and the city may require only such changes as are necessary for compliance with the terms of its approval of the tentative plan.

(H) *Re-submission of denied tentative plan.* If the tentative plan for a subdivision is denied, re-submittal of an application for a subdivision of the subject property shall not be accepted by the city for a period of six months after the date of the final action denying said plan. Re-submittal shall be considered a new filing, but shall require the applicant to consider all items for which the prior denial was based, in addition to the other filing requirements set forth by this document.

(I) *Requirements for approval.* The City Council shall not approve an outline development plan or a tentative plan for a subdivision unless the Council finds, in addition to other requirements and standards set forth by this document and other applicable city ordinances, that:

(1) The proposed development is consistent with applicable goals, objectives and policies set forth by the city=s comprehensive plan;

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- (2) The proposal is in compliance with the applicable zoning regulations applicable thereto;
- (3) The subdivision will not create an excessive demand on public facilities and services required to serve the proposed development, or that the developer has proposed adequate and equitable improvements and expansions to such facilities with corresponding approved financing to bring such facilities and services up to an acceptable capacity level; (Goal 11)
- (4) The development provides for the preservation of significant scenic, archaeological, natural, historic, and unique resources; (Goal 5)
- (5) The proposed name of the subdivision is not the same as, similar to, or pronounced the same as the name of any other subdivision in the city or within a six-mile radius thereof, unless the land platted is contiguous to and platted as an extension thereof;
- (6) The streets and roads are laid out so as to conform to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction, and in all other respects unless the city determines it is in the public interest to modify the street or road pattern;
- (7) Streets and roads for public use are to be dedicated to the public without any reservation or restriction;
- (8) Street and roads for private use are approved by the city as a variance to public access requirements;
- (9) Adequate mitigation measures are provided for any identified adverse impacts on or by neighboring properties or their uses or on the natural environment;
- (10) Provisions are made for access to abutting properties that will likely need such access in the future, including access for vehicular and pedestrian traffic, public facilities and services, and utilities;
- (11) Provisions of the proposed development to provide for a range of housing needs, particularly those types identified needed or being in demand; (Goal 10)
- (12) Before a house is occupied, that street and the access to that street must be paved to city standards; and
- (13) The following minimum geometric and structural design standards shall apply to all roads or streets created in subdivisions or major partitions of land.
 - (a) *Right-of way*. Sixty feet for all roads or streets, except that a cul-de-sac shall have a turn-around radius of 50 feet; and an alley shall be 16 feet.

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- (b) *Angle of intersection.* All roads or streets shall intersect at right angles where reasonably practical; in any event the smallest angle or any intersection shall be no less than 60 degrees.
- (c) *Radius of curvature.* The radius of curvature for the centerlines of arterials shall be 300 feet; 200 feet for collectors and 100 feet for all other roads and streets.
- (d) *Tangents.* Where topographic conditions will allow, tangents between curves shall be 100 feet in length; tangents for arterials and collectors shall have a length of 100 feet prior to the point of intersection of the right-of-way line of another street.
- (e) *Grade.* Maximum of 6% for arterials and 10% for all other roads and streets.
- (f) *Paving or surfacing width.* 40 feet for arterials; 16 feet for alleys and 30 feet for all others, except that the turn-around for cul-de-sacs shall have a paving radius of 40 feet.
- (g) *Base.* Ten inches of compacted pit run gravels for all roads or streets.
- (h) *Paving or surfacing.*
1. Two inches of compacted asphalted concrete; two and one-half inches of oil-crushed rock mat (Macadam); or four inches of three-fourths inch -0 crushed rock.
 2. The paving or other surfacing of roads or streets shall be determined by the existing street surfaces to be extended into a subdivision or major partition. In any event, however, all roads or streets created shall have at least a three-fourths inch -0 crushed rock surface.
- (J) *Final plat for a subdivision.*
- (1) *Submission of final plat.*
- (a) *Time requirement.* Within one year after date of approval of the tentative plan, the subdivider shall prepare and submit the final plat that is in conformance with the tentative plan as approved and with all applicable conditions. The subdivider shall submit not less than ten prints of the original drawing and any supplemental information or material required by this document and by the tentative plan approval. Said filing shall be to the City Recorder. If the subdivider fails to file the final plat before the expiration of the one-year period, the tentative plan approval shall be declared null and void and a new submittal required if the subdivider wishes to proceed with the development.
- (b) *Form of final plat.* The final plat shall be made in permanent black India type ink or silver having permanent photocopy, upon material 18 x 24 inches in size, that is suitable for binding and copying, and that has acceptable characteristics of strength and permanency. Applicable standards set forth by state statute shall be complied with.

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(a) The survey for the plat of a subdivision shall be of such accuracy that the error of closure shall not exceed one foot in 4,000 feet.

(b) The survey and plat shall be made by a registered professional land surveyor.

(c) The plat shall be of such scale that all survey and mathematical information, and all other details may be clearly and legibly shown.

(d) The locations and descriptions of all monuments shall be recorded upon all plats and the proper courses and distances of all boundary lines shown.

(3) Monument requirements. Monumentation of all subdivisions and plats therefor shall be in compliance with the provisions of O.R.S. 92.060 and 92.065.

(4) Information required on final plat. In addition to that required by the tentative plan approval or otherwise required by law, the following information shall be shown on the final plat.

(a) All survey reference information.

(b) Tract, block, and lot boundary lines and street right-of-way and centerlines, with dimensions, bearings, or deflection angles. Tract boundaries and street bearings shall be to the nearest second; distances to the nearest 0.01 feet. No ditto marks are permitted.

(c) Width of streets being dedicated. Curve data based on centerlines for streets on curvature; the radius, central angle, and length of curve shown.

(d) Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference.

(e) Lot numbers beginning with the number "1" and numbered consecutively in each block.

(f) Block numbers beginning with the number "1" with no omission or duplication.

(5) Certificates required on final plat. The following certificates are required on the final plat.

(a) Certificate signed and acknowledged by all parties having record title interest in the land, consenting to the preparation and recording of the plat.

(b) Certificate signed and acknowledged as above dedicating all land intended for public use.

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- (c) Certificate with the seal of and signed by the land surveyor responsible for the survey and the final plat preparation.
 - (d) Certificate for execution by the County Surveyor.
 - (e) Certificate for execution by the Mayor.
 - (f) Certificate for execution by the County Tax Collector.
 - (g) Certificate for execution by the County Assessor.
 - (h) Other certificates required by state law.
 - (i) Certificate for approval for execution by the City Council.
- (6) *Supplemental information with final plat.* The following data, in addition to any other data required as a part of the tentative plan approval, shall be submitted with the final plat.
- (a) A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary, and evidence of a clear and marketable title.
 - (b) A copy of any deed restrictions or protective covenants applicable to the subdivision.
 - (c) A copy of any dedication requiring separate documents such as for parks, playgrounds, and the like.
 - (d) A copy of any homeowner=s association agreements proposed or required for the development.
 - (e) For any and all improvements such as streets, sewer, water, utilities, and the like that are required or proposed as a part of the tentative plan approval, the following shall be required to be submitted with the final plat, and such shall be prepared by a licensed surveyor or engineer:
 - 1. Cross-sections of proposed streets, widths of roadways, types of surfacing, curb locations and specifications, width and location of sidewalks, other pedestrian ways and/or bikeways;
 - 2. Plans and profiles of proposed sanitary sewers, location of manholes, and proposed drainage facilities;
 - 3. Plans and profiles of proposed water distribution systems showing pipe sizes, location of valves, and fire hydrants as applicable;
 - 4. Specifications for the construction of all proposed utilities; and

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5. Proof of guaranteed access to the primary serving street or highway, state, county, or city street or highway.

(7) *Technical review of final plat.* Within five working days of receipt of the final plat submittal, the City Recorder shall initiate a technical review of said submittal as provided below.

(a) Notification of the receipt of and opportunity for review shall be given to the Superintendent of Public Works, the Fire Chief, City Engineer, City Attorney, representatives of any serving special districts, utility companies, and any other affected agencies. Said parties shall complete such technical plat review within ten days of such notice and shall submit findings to the City Council.

(b) Based on such review, should the City Council determine that full conformity has not been made, the subdivider shall be advised of the needed changes or additions and shall be afforded a reasonable opportunity (not to exceed 30 days) to make such changes or additions.

(8) *Council review and approval of final plat.* Within 30 days following the receipt of the final plat with the results of the technical plat review, the City Council shall determine whether or not the submittal complies with this document and the tentative plan approval. If the City Council does not approve the final plat, it shall advise the subdivider of the reasons, and shall provide an opportunity to make corrections. If the Council approves the final plat, approval shall be indicated by the signature of the Mayor on said plat.

(9) *Final plat approval requirements.* No final plat for a proposed subdivision shall be approved unless it is found to comply with the following minimum standards:

(a) The final plat is found to be in strict compliance with the tentative plan approval and all conditions set forth;

(b) Streets and roads for public use are dedicated without any reservation or restriction;

(c) Streets and roads held for private use are clearly indicated;

(d) The plat contains a donation to the public of all common improvements and public uses proposed or required as a condition of approval of the tentative plan; and

(e) All proposed or required improvements have either been completed and approved by the city, or that a bond, contract, or other assurance has been provided for and approved by the City Council.

(10) *Recording of final plat.* The subdivider shall, without delay, submit the final plat for the approval and signatures of other public officials required by law. Approval of the final plat shall be null and void if the plat is not recorded within 45 days after the date of approval of the City Council. After obtaining

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all required approvals and signatures, the subdivider shall file the plat and an exact copy in the County Clerk's office. Not less than five copies of the recorded plat shall be provided to the City Recorder or City Council at the developer's expense.

(a) No plat shall be recorded unless all ad valorem taxes and special assessments, fees, or other charges required by law to be placed upon the tax rolls which have become a lien or which will become a lien during the calendar year on the subdivision have been paid.

(b) No plat shall be recorded without a statement of water rights and a copy of the acknowledgment from the State Department of Water Resources under O.R.S. 92.122.

(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

Statutory reference:

For statutory provisions concerning subdivisions, see O.R.S. 92.040, 92.050, 92.070 through 92.120, 197.175, 197.303 through 197.307, 227.175 and 227.178

EXCEPTIONS AND VARIANCES

' 150.110 NONCONFORMING USES.

(A) A nonconforming use or structure may be continued, but may not be altered or expanded. The expansion of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this chapter is not an enlargement or expansion of a nonconforming use. A nonconforming structure, which conforms with respect to use, may be altered or expanded if the alteration or expansion does not cause the structure to deviate further from the standards of this chapter. A nonconforming use that does not conform with respect to use, may be reconstructed, altered, replaced in the same location as long as the construction does not cause the structure to deviate any further from the standards of this chapter than the original structure.

(B) If a nonconforming use is discontinued for a period of one year, further use of the property shall conform to this chapter.

(C) If a nonconforming use is replaced by another use, the new use shall conform to this chapter.

(D) Nothing contained in this chapter shall require any change in the plans, construction, alteration, or designated use of a structure for which a permit has been issued by the city and construction has commenced prior to the adoption of this chapter provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within two years from the time the permit is issued.

(Ord. 10-15, passed 6-9-2005) Penalty, see ' 150.999

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‘ **150.111 AUTHORIZATION TO GRANT OR DENY VARIANCES.**

The City Council may authorize a variance from the requirements of this chapter where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of this chapter would cause an undue or unnecessary hardship. In granting a variance, the City Council may attach conditions which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of this chapter.

(Ord. 10-15, passed 6-9-2005)

‘ **150.112 CIRCUMSTANCES FOR GRANTING A VARIANCE.**

A variance may be granted only in the event that all of the following circumstances exist.

(A) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of this chapter have had no control.

(B) The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity possess.

(C) The variance would not be materially detrimental to the purposes of this chapter, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy.

(D) The variance requested is the minimum variance which would alleviate the hardship.

(Ord. 10-15, passed 6-9-2005)

‘ **150.113 PROCEDURE FOR GRANTING A VARIANCE.**

(A) *Application for a variance.* A property owner may initiate a request for a variance by filing an application with the City Recorder.

(B) *Public hearing on a variance.* Before the City Council may act on a request for a variance, it shall hold a public hearing following the notification and public hearing procedures of this section.

(C) *Notification of decision.* Within ten days after a decision has been rendered by the City Council with reference to a request for a variance, the City Recorder shall provide the applicant with the notice of the decision of the City Council.

(D) *Time limit for a permit for a variance.* Authorization for a variance shall be void after six months,

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unless substantial construction pursuant thereto has taken place. However, the City Council may, at its discretion, extend the authorization for an additional six months on request.

(E) *Resubmittal*. If a request is denied by the city staff or City Council and no appeal is filed, or if upon review or appeal the denial is affirmed, no new request for the same or substantially similar proposal shall be filed within six months after the date of final denial. An application may be denied without prejudice and a waiver of the six-month restriction granted. If conditions have changed to an extent that further consideration of an application is warranted, the City Council, on its own motion, may consider new evidence and waive the six-month restriction.

(F) *Final action*. Except as provided for under O.R.S. 227.178, the city shall take final action on conditional use permits and variances, including the resolution of all appeals to the City Council under O.R.S. 227.180, within 120 days from the date a complete application is submitted to the city. Within 30 days of receipt of an application, the city will review the application to determine whether it is complete. The applicant will be notified of any missing materials within the 30-day period. The 120-day time period will commence on the date the application is complete.

(Ord. 10-15, passed 6-9-2005)

AMENDMENTS

‘ 150.125 FORMS OF AMENDMENTS.

There are two types of amendments to this chapter.

(A) Amendment to the text (legislative revision).

(B) Amendment to the map (legislative revision or quasi-judicial change).

(Ord. 10-15, passed 6-9-2005)

‘ 150.126 LEGISLATIVE REVISIONS.

(A) Proposed amendments to this chapter shall be deemed legislative revisions if:

(1) The proposed amendment involves the text of this chapter; and/or

(2) The proposed amendment involves the map, when such an amendment would have widespread and significant impact beyond the immediate area of the proposed amendment.

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(B) Legislative revisions shall be initiated by:

- (1) A majority vote of the City Council; or
- (2) A request by the City Attorney or City Planner.
(Ord. 10-15, passed 6-9-2005)

' 150.127 QUASI-JUDICIAL REVISIONS.

(A) A proposed amendment to this chapter shall be deemed a quasi-judicial change if the proposed amendment involves the zoning map and does not have widespread and significant impact beyond the immediate area of the proposed amendment.

(B) Quasi-judicial changes may be initiated by:

- (1) Property owners or contract purchaser or an authorized agent;
- (2) A majority vote of the City Council; or
- (3) A request by the City Attorney or City Planner.

(C) In case of a controversy as to whether an amendment is deemed a legislative or quasi-judicial matter, city staff shall make the initial determination. The staff decision may be appealed to the City Council.
(Ord. 10-15, passed 6-9-2005)

' 150.128 HEARING REQUIREMENTS FOR LEGISLATIVE OR QUASI-JUDICIAL REVISIONS TO THE ZONING ORDINANCE.

Public hearings, under the provisions of ' 150.129, shall be required for both legislative and quasi-judicial amendments to the zoning ordinance. A public hearing before the City Council is mandatory. (See procedures in ' 150.130 below.)

(Ord. 10-15, passed 6-9-2005)

' 150.129 NOTICE REQUIREMENTS.

For both legislative and quasi-judicial revisions to the zoning ordinance, a series of public notices are required. These notices are as follows.

(A) *Post-acknowledgement plan amendment notice to DLCD.* The Department of Land Conservation

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and Development requires notice of the first evidentiary hearing on a proposed amendment to a jurisdiction=s zoning ordinance to be submitted to the Department on their forms at least 45 days in advance of the first hearing. Notice must be in the Salem office 45 days or earlier than the date of the proposed hearing before the City Council.

(B) *Notices of both legislative and quasi-judicial hearings.* Notices of both legislative and quasi-judicial hearings must be published in the local newspaper following the requirements of division (D) below.

(C) *Legislative revisions Cballot measure 56.* Ballot Measure 56, passed by general vote in the 1998 election, requires specific notices be mailed to all affected landowners in the instance of a legislative revision in which a rezoning will occur. These must be mailed not more than 40 nor less than 20 days from the date of the first hearing.

(D) *Quasi-judicial hearings.* Quasi-judicial hearings require notices to all affected property owners within 100 feet of the subject property be mailed at least 20 days before each hearing on the proposed amendment.

(Ord. 10-15, passed 6-9-2005)

‘ **150.130 LEGISLATIVE OR QUASI-JUDICIAL AMENDMENT PROCEDURAL PROCESS.**

The City Council shall conduct a public hearing on the proposed amendment. Within 45 days after the hearing, the City Council shall render a decision. The City Council must take final action on an amendment request. Amendments shall be made by ordinance.

(Ord. 10-15, passed 6-9-2005)

‘ **150.131 LEGISLATIVE AMENDMENTS.**

Legislative amendments are broad-based amendments which impact the whole city not just a specific neighborhood or area. Most text amendments are legislative. No specific hearing procedure is required. The City Council is acting as legislators, making new law for the city. It is suggested, in order to provide a sound format for the hearing process, that the quasi-judicial procedure be followed.

(Ord. 10-15, passed 6-9-2005)

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150.132 QUASI-JUDICIAL HEARING REQUIREMENTS.

- (A) The following criteria must be followed in deciding upon a quasi-judicial proceeding.
- (1) The burden in all land use proceedings is upon the applicant, whether a zone change, conditional use or variance is the subject of the hearing.
 - (2) The requested zone change or conditional use must be justified by proof that:
 - (a) The change is in conformance with the comprehensive plan and also the goals and policies of the Plan;
 - (b) The showing of public need for the rezoning and whether that public need is best served by changing the zoning classification on that property under consideration;
 - (c) The public need is best served by changing the classification of the subject site in question as compared with other available property; and
 - (d) The potential impact upon the area resulting from the change has been considered.
 - (3) Approval criteria for amendments.
 - (a) The applicant must show that the proposed change conforms with the comprehensive plan.
 - (b) A plan or land use regulation amendment significantly affects a transportation facility if it:
 1. Changes the functional classification of an existing or planned transportation facility;
 2. Changes standards implementing a functional classification system;
 3. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or
 4. Would reduce the level of service of the facility below the minimum acceptable level identified in the Transportation System Plan.

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(c) Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:

1. Limiting allowed land uses to be consistent with the planned function of the transportation facility;
2. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or
3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

(B) The courts will require a *graduated burden of proof* depending upon the drastic nature of the proposed rezoning.

(C) Procedural process of a quasi-judicial hearing.

- (1) Parties at a rezoning hearing must have an opportunity to be heard, to present and rebut evidence.
- (2) There must be a record which will support the findings made by the decision makers.
- (3) Pre-hearing contact must be disclosed by the decision-makers at the outset of the public hearing.
(Ord. 10-15, passed 6-9-2005)

' 150.133 NOTIFICATION OF DECISION.

Within five working days after a final decision on an amendment to the comprehensive plan, zoning ordinance text, or plan/zone map, the City Recorder shall provide the applicant and the Department of Land Conservation and Development a complete copy of the City Council decision. Within five working days after a final decision, the city shall also provide notice of the decision to all persons who participated in the local proceedings and requested in writing that they be given notice. The notice shall meet the requirements of O.R.S. 197.615.

(Ord. 10-15, passed 6-9-2005)

Land Use and Development**150.134 LIMITATION OF REAPPLICATIONS.**

No application of a property owner for an amendment to a zone boundary shall be considered by the City Council within a six-month period immediately following a previous denial of such request, except the City Council may permit a new application if, in the opinion of the City Council, new evidence or a change of circumstances warrant it.

(Ord. 10-15, passed 6-9-2005)

150.135 RECORD OF AMENDMENTS.

The Recorder shall maintain records of amendments to this chapter.

(Ord. 10-15, passed 6-9-2005)

ADMINISTRATIVE PROVISIONS**150.150 ADMINISTRATION.**

The City Recorder is appointed by the City Council and shall have the power and duty to enforce the provisions of this chapter. An appeal from a ruling by the City Recorder regarding a requirement of the chapter may be made only to the City Council.

(Ord. 10-15, passed 6-9-2005)

150.151 PUBLIC HEARING NOTICE.

(A) *Notice to affected agencies.* The city shall provide timely notice to Baker County or ODOT regarding any land use action on or adjacent to a county or state transportation facility as appropriate. Information that should be conveyed to reviewers include:

- (1) Project location;
- (2) Proposed land use action; and
- (3) Location of project access point(s).

(B) Additional information that could be supplied to the reviewer upon request (provided the information is available) includes a site plan showing the following:

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- (1) Distance to neighboring constructed access points, median openings, traffic signals, intersections, and other transportation features on both sides of the property;
- (2) Number and direction of lanes to be constructed on the driveway, plus striping plans;
- (3) All planned transportation features (lanes, signals, bikeways, walkways, crosswalks, and the like);
- (4) Trip generation data or appropriate traffic studies;
- (5) Parking and internal circulation plans for vehicles and pedestrians;
- (6) Plat map showing property lines, right-of-way, and ownership of abutting properties; and
- (7) A detailed description of any requested variance.

(C) Each notice of hearing authorized by this chapter shall be published in a newspaper of general circulation in the city and posted at the city hall and two other conspicuous places in the city at least 20 days prior to the date of hearing.

(D) In addition, a notice of hearing on a conditional use, a variance, or an amendment to a zone boundary shall be mailed to owners of property within 100 feet of the property for which the variance, conditional use, or zone boundary amendment has been requested. The notice of hearing shall be mailed at least 20 days prior to the date of the hearing. Said notice shall:

- (1) Explain the nature of the application and the proposed use or uses which could be authorized, O.R.S. 197.763(3)(a);
- (2) List the applicable criteria from the ordinance and the plan that apply to the application, O.R.S. 197.763(3)(b);
- (3) Set forth the street address or other easily understood geographical reference to the subject property, O.R.S. 197.763(3)(c);
- (4) State the date, time, and location of the hearing, O.R.S. 197.763(3)(d);
- (5) State that failure to raise an issue by the close of the record at or following the final evidentiary hearing, in person or by letter, precludes appeal to LUBA based on that issue, O.R.S. 197.763(3)(3) and O.R.S. 197.763(1)1;
- (6) State that failure to provide sufficient specificity to afford the decision-maker an opportunity to respond to an issue that is raised precludes appeal to LUBA based on that issue, O.R.S. 197.763(3)(e);

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(7) Include the name of a local government representative to contact and a telephone number where additional information may be obtained, O.R.S. 197.763(3)(9);

(8) State that a copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost, O.R.S. 197.763(3)(h);

(9) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost, O.R.S. 197.763(3)(I); and

(10) Include a general explanation of the requirements for submission of testimony and the procedure for the conduct of hearings, O.R.S. 197.763(3)(10).

(E) If a proposed zone boundary amendment has been initiated by the City Council and is declared by the City Council to be a major reclassification, the mailing of individual notice is not required, but such additional means of informing the public as may be specified by the Council shall be observed.

(Ord. 10-15, passed 6-9-2005)

‘ 150.152 BUILDING PERMIT REQUIRED.

Prior to the erection, movement, reconstruction, extension, enlargement, or alteration of any structure, a permit for such erection, movement, reconstruction, extension, enlargement, or alteration shall be obtained from the City Recorder. The applicant shall pay a fee as established by city ordinance at the time the application is filed.

(Ord. 10-15, passed 6-9-2005)

‘ 150.153 FORM OF PETITIONS, APPLICATIONS, AND APPEALS.

All petitions, applications, and appeals provided for in this chapter shall be made on the forms provided by the city.

(Ord. 10-15, passed 6-9-2005)

Land Use and Development***GENERAL PROVISIONS*****‘ 150.165 INTERPRETATION.**

Where a provision of this chapter is less restrictive than another current ordinance or requirement of the city, the provision or requirement which is more restrictive shall govern.
(Ord. 10-15, passed 6-9-2005)

‘ 150.166 SEVERABILITY.

The provisions of this chapter are severable. If a section, sentence, clause, or phrase of this chapter is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this chapter.
(Ord. 10-15, passed 6-9-2005)

‘ 150.167 ABATEMENT AND OTHER REMEDIES.

In case a building or other structure is or is proposed to be located, constructed, maintained, repaired, altered, or used, or land is or is proposed to be used, in violation of this chapter, the building or land thus in violation shall constitute a nuisance and the city may, as an alternative to other remedies that are legally available for enforcing this chapter, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use.
(Ord. 10-15, passed 6-9-2005)

‘ 150.999 PENALTY.

Violation of any provision of this chapter or of any amendment of this chapter is punishable upon conviction by a fine of not more than \$100 for each day of violation where the offense is a continuing offense.
(Ord. 10-15, passed 6-9-2005)

CHAPTER 151: FLOOD DAMAGE PREVENTION

Section

General Provisions

- 151.01 Statutory authorization
- 151.02 Statement of purpose
- 151.03 Definitions
- 151.04 Lands to which regulations apply
- 151.05 Basis for establishing the areas of special flood hazard

Provisions for Flood Hazard Reduction

- 151.20 General standards
- 151.21 Specific standards

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- 151.35 Establishment of development permit
- 151.36 Designation of the Mayor and/or City Recorder
- 151.37 Duties and responsibilities of the Mayor and/or Recorder

GENERAL PROVISIONS

' 151.01 STATUTORY AUTHORIZATION.

The Legislature of the State of Oregon has in O.R.S. Ch. 221 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council does ordain as follows in this chapter.
(Ord. passed 5-14-1987)

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' 151.02 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (A) Protect human life and health;
- (B) Minimize expenditure of public money and costly flood control projects;
- (C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) Minimize prolonged business interruptions;
- (E) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- (F) Maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (G) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (H) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(Ord. passed 5-14-1987)

' 151.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AREA OF SPECIAL FLOOD HAZARD. The land in the flood plain within a community subject to a 1% or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

BASE FLOOD. The flood having a 1% chance or being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations located within the area of special flood hazard.

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FLOOD or **FLOODING**. A general and temporary condition of partial or complete inundation of normally, dry land areas from:

- (1) The overflow or inland waters; and/or
- (2) The unusual and rapid accumulation or runoff surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's **LOWEST FLOOR**, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found at ' 151.21(A)(2).

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term **MANUFACTURED HOME** also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term **MANUFACTURED HOME** does not include park trailers, travel trailers, and other similar vehicles.

NEW CONSTRUCTION. Structures for which the start of construction@ commenced on or after the effective date of this chapter.

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START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual ***START*** means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

STRUCTURE. A walled and roofed building including a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition ***SUBSTANTIAL IMPROVEMENT*** is considered to occur when the first alteration or any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
(Ord. passed 5-14-1987)

‘ **151.04 LANDS TO WHICH REGULATIONS APPLY.**

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city.

(Ord. passed 5-14-1987)

‘ **151.05 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.**

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for the City of Halfway,” dated September 26, 1975, with accompanying flood insurance maps is hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at city hall.

(Ord. passed 5-14-1987)

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PROVISIONS FOR FLOOD HAZARD REDUCTION

' 151.20 GENERAL STANDARDS.

In all areas of special flood hazards, the following standards are required.

(A) *Anchoring.*

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA'S "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

(B) *Construction materials and methods.*

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(C) *Utilities.*

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(D) *Subdivision proposals.*

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- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- (4) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

(E) *Review of building permits.* Where elevation data is not available either through the flood insurance study or from another, authoritative source (' 151.37(B)). Applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgement and includes use of historical data, high water marks, photographs of past flooding, and the like where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

(Ord. passed 5-14-1987) Penalty, see ' 10.99

' 151.21 SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in ' 151.05, Basis for Establishing the Areas of Special Flood Hazard or ' 151.37(B), Use of Other Base Flood Data, the following provisions are required.

(A) *Residential construction.*

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - (b) The bottom of all openings shall be no higher than one foot above grade; and

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(c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(B) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(3) Be certified by a registered professional engineer or architect that the design and methods or construction are in accordance with accepted standards of practice for meeting provisions of this division based on their development and/or review of the structural design, specifications, and plans. Such certifications shall be provided to the official as set forth in ' 151.37(B).

(4) Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in division (A)(2) above.

(5) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level).

(C) *Manufactured homes.* All manufactured homes to be placed or substantially improved within Zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of ' 151.20(A)(2).

(Ord. passed 5-14-1987) Penalty, see ' 10.99

ADMINISTRATION

' 151.35 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in ' 151.05. The permit shall be for all structures including

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manufactured homes, as set forth in the definitions in ' 151.03, and for all development including fill and other activities, also set forth in the definitions.

(Ord. passed 5-14-1987) Penalty, see ' 10.99

' 151.36 DESIGNATION OF THE MAYOR AND/OR CITY RECORDER.

The Mayor and/or City Recorder is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(Ord. passed 5-14-1987)

' 151.37 DUTIES AND RESPONSIBILITIES OF THE MAYOR AND/OR RECORDER.

Duties of the Mayor and/or City Recorder shall include, but not be limited to the following.

(A) *Permit review.*

(1) Review all development permits to determine that the permit requirements of this chapter have been satisfied.

(2) Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.

(3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5.3(1) are met.

(B) *Use of other base flood data.* When base flood elevation data has not been provided in accordance with ' 151.05, the Mayor and/or City Recorder shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from federal, state, or other source, in order to administer ' 151.21 and 5.3, Floodways.

(C) *Information to be obtained and maintained.*

(1) Where base flood elevation data is provided through the flood insurance study or required as in division (B) above, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

(2) For all new or substantially improved floodproofed structures:

(a) Verify and record the actual elevation (in relation to mean sea level); and

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(b) Maintain the floodproofing certifications required in Section 4.1-3.

(3) Maintain for public inspection all records pertaining to the provisions of this chapter.

(D) *Alteration of watercourses.*

(1) Notify adjacent communities and the Division of State Lands; LCDC prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.

(2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(E) *Interpretation of FIRM Boundaries.* Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with standards of Section 60.6 of the rules and regulations of the National Flood Insurance Program (44 C.F.R. 59-76).

(Ord. passed 5-14-1987)

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TABLE OF SPECIAL ORDINANCES

Table

I. AGREEMENTS

II. ANNEXATIONS

III. FRANCHISES

IV. STREET ADOPTIONS

V. VACATIONS

VI. ZONING MAP CHANGES

TABLE I: AGREEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
Res. 12-1	12-13-2001	Authorizing the Mayor and City Council to execute and endorse an amendment to the agreement with the League of Oregon Cities
Res. 12-2	12-13-2001	Acknowledging a contractual relationship with County Insurance Services Trust with respect to coverage programs
Res. 5-24	5-23-2012	Authorizing a codification of ordinances in agreement with the League of Oregon Cities, Ordinance Services Program, and Program Partner American Legal Publishing Corporation
Res. 2.14.13	2-14-2013	Agreement between the City of Halfway and Pine Valley Recycling Committee, and resolving that the Pine Valley Recycling Committee is the sole responsible party for any recycling operations that take place in their building, located on the city=s property at the wastewater treatment facility

Vacations

TABLE II: ANNEXATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1-97 - -1997		Annexing to the current boundaries of the city the property owned by James H. Freeman and June Freeman, husband and wife, being a tract of land in the northwest quarter of the northwest quarter of Section 16, Township 8, Range 46 east of the Willamette Meridian
2-97.A 7-10-1997		Amending the description of Ord. 2-97, annexing to the current boundaries of the city the property owned by the Veterans of Foreign Wars Post #7847, being Township 8 South, Range 46 East W.M. Section 16
3-97 7-10-1997		Annexing to the city the property owned by the Pine Valley Cemetery Maintenance District, described as land in Baker County, in Township 8 South, Range 46 East W.M. 17
4-97 7-10-1997		Annexing to the city property owned by Robert D. and Debbie Schudel, described as land in Baker County beginning at a point 205 feet east of the southwest corner of Section 9, Township 8 South, Range 46 East W.M.
5-97 11-13-1997		Annexing to the city property owned by Rodney Huff described as land in Black & Motley's Addition, in Block "B" Lots 16, 17, 18
<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
7-98 7-9-1998		Annexing to the city property owned by Leslie M. Ayhens, described as land in Baker County in Township 8 South, Range 46 East, W.M.
7-98,1 7-9-1998		Annexing to the city property owned by Ralph L. and Eleanor J. Smead, described as a tract of land in the east half of the northeast quarter of Section 17, Township 8 South, Range 46 East of the W.M.
7-99,1 9-9-1999		Annexing to the city property owned by Dean K. and Norma L. Miller, described as land in Black & Motley's Addition, Block D: all of Lot 40
9.2-01 9-13-2001		Annexing to the city property owned by Donald R. Vannice and Bonnie A. Vannice, described as land in Baker County, in Township 8 South, Range 46 East, W.M.

Annexations

8-01.1 10-16-2001 Annexing to the city property owned by Betty Zachary,
rerecording to correct legal description previously recorded as B0134 0305

9.2-02 10-16-2001 Annexing to the city property owned by Donald R. Vannice and
Bonnie A. Vannice, rerecording to correct legal description

9.2-03 12-13-2001 Annexing to the city property owned by Donald R. Vannice and
Bonnie A. Vannice, rerecording to correct legal description

7-99.2 3-14-2002 Annexing to the city property owned by the city on which the
Wastewater Lagoons and Plant are located

TABLE III: FRANCHISES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
4-8-10	4-8-2010	Granting a franchise to Pine Telephone System, Inc. for five years, for general communication business

Franchises

TABLE IV: STREET ADOPTIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
Res. - 8-13-1998		Adopting Fairgrounds Road as a city street, to be maintained by the city
Res. - 11-12-1998		Adopting the following roadways as city streets to be maintained by the city: (1) Harmon Lane - East from former city limit at crossing of McMullen Slough on E. Bell to end of roadway - entire street from N. Main Street intersection to end will be named E. Bell Street (2) W. Bell Street - West from former city limits, located 545 feet east of the intersection with North Main Street, to end of roadway - entire street from N. Main Street intersection to end will be named W. Bell Street (3) Lone Fir Road - West from former city limits, located 220 feet west of the intersection of the northeast and northwest quarter-sections of Section 17, to the Lee Creek Bridge - this portion, from Main Street intersection to the bridge will be named W. Record Street. Roadway continuing west of Lee Creek Bridge will remain Lone Fir Road and under Baker County jurisdiction.
2-1 1-14-1999		Adopting certain streets and roads as city streets under jurisdiction of the city, to be known as: Fairgrounds Road West Record Street East Bell Street West Bell Street
<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
2-2 2-11-1999		Amending Ord. 2-1 as to street description

TABLE V: VACATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
2-6	2-9-1978	Vacating the alley in Block 3, F.M. Officers Addition
1-7	10-12-1978	Vacating an alley running north-south through Block 3, Claude Officer's First Addition, lying between Claude Street and Center Street and also between Record Street and Kellogg Street
10-92	12-17-1992	Vacating the 100-foot section of the platted street in the I.M. Lloyd's First Addition in the city
11-93	11-11-1993	Vacating a ten-foot portion of North Pine Street in the F.M. Officer Addition
06-06.1	6-8-2006	Vacating the platted alley in Blocks 3 and 4, F.M. Officers Addition
06-06.2	6-8-2006	Vacating the platted street between blocks 3 and 4, F.M. Officers Addition
5-17-10	5-28-2010	Vacating the platted alley in Block 4, F.M. Officers Addition

Vacations

TABLE VI: ZONING MAP CHANGES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
10-10	4-12-1990	Rezoning the property on East Record Street from Residential Zone to Commercial/Residential Zone
10-16	9-8-2005	Rezoning Lot 3800 located at 154 Center Street from Residential Zone to Commercial/Residential Zone
10-17	9-8-2005	Rezoning Lot 3800 located at 154 Center Street from Residential Zone to Commercial/Residential Zone
10-18	12-14-2006	Rezoning Lots 501 and 600 located at 140A and 140B Fairgrounds Road from Residential Zone to Commercial/Residential Zone
1-26-12	1-26-2012	Rezoning Lot 2800 located at 125 E. Dawson Street from Residential Zone to Commercial/Residential
4-12-12	4-12-2012	Incorporating certain described lands along Cornucopia Highway into the Urban Growth Boundary, redesignating such property from RR5 in Baker County to R Residential on the city comprehensive plan map

PARALLEL REFERENCES

References to Oregon Revised Statutes
References to Resolutions
References to Ordinances

References to O.R.S.

REFERENCES TO OREGON REVISED STATUTES

<i>O.R.S. Section</i>	<i>Code Section</i>
Chapter 87	110.15
Chapter 92	150.095, 150.096
92.040	150.098
92.050	150.098
92.060	150.098
92.065	150.098
92.070 - 92.120	150.098
92.080	150.098
92.090	150.096
92.105	150.098
92.122	150.098
153	70.01
161.015	130.01
161.025	130.01
161.055	130.01
161.085C161.125	130.01
161.150C161.175	130.01
161.190C161.275	130.01
161.290C161.400	130.01
161.405C161.485	130.01
161.505	130.01
161.515	130.01
161.545	130.01
161.555	130.01
161.566	130.01
161.568	130.01
161.585	130.01
161.615	130.01
161.635	130.01
161.645	130.01
161.665	130.01
161.675	130.01
161.685	130.01

162.075 <i>O.R.S. Section</i>	130.01 <i>Code Section</i>
162.085	130.01
162.095	130.01
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